

The Constitutionality Of Contemporary Political Systems: A Comparative Study Between The British And American Political Systems

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Abstract:

This study aimed to state what is the principle of separation between constitutional system and authorities, and to identify the constitutional basis for the formation of the three authorities in both British and American political and constitutional systems and the competences of those authorities to find out the extent to which this is compatible with the principle of separation of authorities and the claim of the constitutionality of the state, and to achieve this, the researcher relied on The analytical descriptive approach and the comparative approach, and the study concluded that the principle of separation of authorities is the basis through which the state can be considered a constitutional state, where the characteristic of the constitutional state has disappeared from the British political system with regard to the formation of the three authorities and the competences of each of them, in contrast to the American political system, which was characterized by the constitutionality of the state due to its commitment to the optimal application of the principle of separation of authorities.

Keywords: the principle of separation of powers, political systems, the constitution, the United Kingdom, the United States of America.

Introduction

Successive developments throughout the different stages of history contributed to the emergence of many forms of political systems and manifestations of their rule over their societies during successive human civilizations. Forms of governance have varied throughout history between fair and reformist political systems and others that are dictatorial and corrupt. Peoples were negatively affected, and as a result of massive revolutions claimed the lives of many people, not to mention the collapse of centuries-

old political systems, in addition to the collapse of states, their weakness, and their lagging behind the global community and its strength, development, and various forms of human development. From here, the political systems realized that imposing the means of democracy represented by justice and equality leads to the stability and sustainability of the political system and achieving the desired development and evolution for the state as a whole until the present time and the emergence of contemporary political systems.

However, many political systems struck the rights and freedoms of individuals and the application of justice and equality against the wall, and returned to imposing dictatorial policies whose features were dominated by the nature of corruption and tyranny, especially during the eighteenth century, which led to the return of popular revolutions, the most important of which was the French revolutions that overthrew the Royal politics system and the establishment of the French republican system in the last quarter of the eighteenth century, and many European countries were affected by the French Revolution and got rid of the tyranny of the ruler and his control over all the authorities of the country, and as a result for the disturbances that took place in that period, human needs grew to set limits for any political system from encroaching on the rights and freedoms of individuals and society as a whole, a number of thinkers and scholars emerged from here to lay the foundations, rules and systems that guarantee the realization of the commitment of the political system to respect human rights and society, and the most prominent of those thinkers was the French scholar Charles Louis Montesquieu, who undertook the establishment of the principle of separation of authorities, which is the principle that gives the people the right to elect their representatives to form the legislative authority, so that this authority, represented by its members, forms the executive authority as well as the judicial authority, within what is known as the principle of separation of authorities, so that the functional separation of these authorities takes place with the existence of cooperation among them.

Basing on this, it was possible to say that the principle of separation of authorities is the decisive factor in determining the extent of the constitutionality of the state and the legitimacy of its political system. Hence, global political systems have adopted this principle as a basis for establishing their constitutions. Therefore, the state and the political system that does not adopt the principle

of separation of authorities is stripped of its constitutional character, especially the contemporary Royal and presidential political systems in the current study, which is the basis for which the current study was established, to investigate whether these political systems are constitutional systems or not through a comparative study between royal and presidential systems.

the problem of the study and its questions

After the contemporary political systems realized the importance of establishing the bonds of democracy to ensure the stability of the country and the continuity of government system, it was useful to realize that the legitimacy of the political systems and the claim of their constitutionality are closely related to the articles of the constitution regulating the forms of life in the contemporary states, on the grounds that the contemporary political systems cannot take the status of constitutionalism without the ideal and true application of the principle of separation of authorities, which is the principle that is concerned with achieving true democracy and the legitimacy of political systems.

Accordingly, many contemporary political systems depend in the formulation of their constitutions on the principle of separation of authorities, and either achieve the formulation of this principle on the ground or endorse it in their constitutions without applying it, which is what drops the constitutionality status from it, so the problem of the study lies in The existence of a scientific and knowledge gap that revolves around the constitutionality of contemporary political systems, represented by comparing royal and presidential systems. The problem of the study can also be represented through the main questioning of the study, which is:

How constitutional are the contemporary royal and presidential political systems?

From this question, the following questions emerge:

- 1- What is the principle of separation and the constitutional system?
- 2- What is the constitutional basis according to which the three authorities are formed in the British and American constitutions to claim their constitutionality?
- 3- What are the specialties of the three authorities in the British and American systems to say their constitutionality?

Study objectives

The current study stems from a main objective: to reveal the extent of the constitutionality of contemporary political systems represented by the British royal and the American presidential system.

From this goal, each of the following sub-goals emerges:

- 1- Explaining the principle of separation of authorities and the constitutional system.
- 2- Disclosure of the constitutional basis according to which the three authorities are formed in the British and American systems to assert their constitutionality.
- 3- Identifying the competences of the three authorities in the British and American systems to assert their constitutionality.

Significance of the study

The importance of the study is divided into two parts as follows:

- **The scientific importance of the study:** The importance of the scientific study appears from the importance of the subject itself, which affects the lives of all individuals around the world, at a time when many regional and international changes have emerged from revolutions, wars, the growth of tyranny and corruption in global political systems, and the search for ways to end the conflicts and the massive revolutions that roamed many countries of the world. The importance of the practical study also appears through the study's endeavor to cover the knowledge gap between the theoretical and practical aspects of the principle of separation of authorities, which is the basis for saying the constitutionality of contemporary political systems represented by the British parliamentary monarchy and the American presidential system, thus presenting real results that form a knowledge base on the subject of the study and make it a scientific basis for future research studies related to the topic of the current study.
- **The practical significance of the study:** The importance of the practical study lies in the practical effort of the study to show the constitutionality of contemporary political systems by relying on appropriate research methods, and by relying on theoretical literature, previous studies, and constitutional materials for the comparative countries under study and analyzing them according to the trend of the study. The importance of the practical study also appears through the ability to solve the problem of the study and to answer its questions and to achieve its objectives, which will

constitute useful study results that will help political decision-makers and political systems in contemporary countries to fulfill the constitutionality of the state and ensure the optimal application of the principle of separation of authorities, which will benefit the individual, society and the political system as a whole, from the stability of the country and the political system and the verification of the desired democracy.

study concepts

The main study concepts are the following:

- **The principle of separation of authorities:** It is "the principle that is based on distributing the main legislative, executive and judicial functions of government on separated and equal organisms, each of which is independent of the other in carrying out its functions" (Al-Azmi, 2010).
- **The constitutional state:** is: "the state that is based on the principles of democracy, human rights, and the rule of law (United Nations, 2018).

study methodology

The study relied on the following methodological integration:

- **The analytical descriptive approach:** The current study relied on the analytical descriptive approach, because this approach gives an opportunity to describe the problem of the study and explain it through the theoretical study framework and analyze all the axes of the study, including the legal and constitutional articles related to the three authorities within the constitutions of the political systems under study, to reach to real answers for the questions of the study, to solve its problem, and to reach clear study results that do not tolerate ambiguity in their understanding and lead to an explicit statement whether the systems under study are constitutional or not.
- **The comparative approach:** The current study relies on the comparative approach by presenting the main texts and information, including the constitutional articles for each of the two systems under study in both the royal and the presidential system, and contrasting them with the information and constitutional texts of the other comparative countries under study, in order to enrich the subject of the study in a more clear and comprehensive way to reach the results of the study correctly and to reveal whether there is a constitutional insufficiency in each of the two political systems, taking into consideration the principle

of separation of authorities to separate the extent of the constitutionality of the royal and presidential political systems in the current study.

previous studies

We have reviewed previous studies related to the subject of the current study, and the following is a brief presentation of the most important of these studies:

- **Ismail's Study (2022) entitled: The Basic Elements of the State between Legitimacy Rooting and Contemporary Constitutional Systems.** This study aimed to demonstrate the elements of the state represented by its political system, taking into consideration the role of the constitutional system as a basis for achieving the legitimacy and permanence of the state. The study relied on the comparative, fundamentalist, inductive, deductive analytical approaches, and the study reached several results, the most important of which was that the legitimacy of contemporary political systems is closely related to the rule of law and the constitution, because constitutional law is responsible for regulating all forms of internal life of contemporary states, including individual rights and freedoms, and prevents any conflict between the work of the three authorities by relying on the principle of separation of authorities and thus not causing any conflict between the people and the political system and moving both sides towards developing the state and achieving the legitimacy of the country's political system.
- **Al-Bahri's study (2021) entitled: Comparative Political Systems.** This study aimed to study the contemporary political systems by showing the legitimacy of these systems based on the principle of separation of authorities and its applications in the systems of those organizations, by comparing the Syrian constitutional political system and other contemporary political systems, and to achieve this, the study relied on the descriptive analytical approach. The study concluded that the principle of separation of authorities represents the basis through which it is possible to say the legitimacy and validity of the rule of the political system in general, whether it is a parliamentary monarchy or a presidential system, and that the countries that adopt the principle of separation of authorities according to its conditions in the complete separation of those powers from each other with cooperation between them, are the systems that led to making the state a developed country in various activities and fields and

led to the perpetuation of political stability in it, such as the French and American political systems as well as the Swiss and French, and the Syrian political system adopted the principle of separation of authorities in its constitution without addressing any information indicating the application of this principle in the Republic of Syria on the ground.

- **Oñati (2021), entitled: The role of constitutional policy in the formation of a democratic society and the rule of law in the conditions of the Russian legal system.** This study aimed to demonstrate the role of constitutional politics in shaping a democratic society and the rule of law in the circumstances of the Russian political and legal system, and to determine the priorities of the constitutional values of the Russian political system through the method of comparison with other political systems, and to achieve this, the study relied on the descriptive and analytical approach, and the study concluded that there is no clear correlation between the actual level of realization of rights and freedoms and the potential for social development on the one hand, and the constitutional provisions on the other hand in various constitutions in contemporary political systems in general, and that what is written in the constitution is not important at all such as the independence and conscience of judges, appropriate parliamentary representation, etc., because the tools for implementing these principles are stipulated in most constitutions around the world, it is not fully adhered to in practice.
- **Loughlin (2019) study, entitled: The Contemporary Crisis of Constitutional Democracy.** This study aimed to reveal the contemporary crises of political systems in general while highlighting the constitutional democracy of these systems, in addition to revealing the reasons for the decline of the features of constitutional democratic systems around the world since 2010. And to reach the results of the study, this study relied on the analytical descriptive approach. The results of the study were that democratic political systems have clearly suffered during the past ten years, as a result of moving away from the constitutional features of the state represented by the proper application of the principle of separation of authorities. The study also showed that achieving democracy gives the state a constitutional character, in condition that democracy is based on the principle of separation of authorities.

Chapter Two: Theoretical Framework

Global political systems seek to achieve the claim of their constitutionality, because the constitution of the state necessarily means giving the character of legitimacy to the rule of the political system, at a time where international constitutions rely explicitly on the principle of separation of authorities, which is the principle that achieves the legitimacy of the political system on the one hand, as it achieves the determination of the rule of people themselves by themselves through democracy, showing images of justice and equality, and distancing themselves from forms of violence, tyranny and oppression, so it is not possible to separate the legitimacy of the regime from the democracy of individuals in international constitutions, which is explicitly endorsed by the principle of separation of authorities, which constitutes the real basis for establishing any constitution in the world. The principle of separation of authorities has received widespread attention at the global level, especially after this principle became the main preamble to the Declaration of Human Rights and the Universal Citizen on August 26, 1789 AD, which was drawn up as a preamble to the constitution on September 3, 1791 AD, within Article (16) of this constitution, which stipulates that: "Any organism in which the rights of individuals are not effectively guaranteed by the public authority, and in which the legislative power (i.e. Parliament) and the executive power (i.e. the government) are not completely separated from one another is an unconstitutional body" (The Universal Declaration of Human Rights and the Universal Citizen of 1791, Article (16)).

So, the correct application of the principle of separation of authorities is the basis that gives the political system its legitimacy and the constitutionality of the state. Hence, it was necessary to shed light on what the principle of separation of authorities and its upbringing, in addition to clarifying the constitutional basis and the extent to which this principle is applied in the political systems under study, represented by The British Royal system and the American presidential system, through the following investigations:

The first topic: What is the principle of separation of authorities and its origins

The principle of separation of authorities is considered one of the most important solutions that enabled peoples to achieve their

destiny and reach the meanings of freedom, justice and equality that they have long sought to achieve, and reject any of the meanings of authoritarianism and tyranny of the ruler, also this principle and its application is important in terms of the political system's quest to achieve the endeavors of all individuals to reach a generous living desired by them, which pushes the individuals themselves to elect political segments that achieve their goals, or to maintain a political system that adopts the application of the principle of separation of authorities, and to stand up to political forces that do not adopt its application, which necessarily means achieving the legitimacy of the political system. The principle of separation has evolved between the authorities and dividing them into legislative, executive and judicial authorities by the French scholar Montesquieu until his principle of separation of authorities became the basis for the establishment of international constitutions, and in this regard it was possible to define the principle of separation of authorities as: " The non-exclusivity of one body with all powers within the state, or in other words the principle of separation of authorities means the division of power between several bodies so that these organisms may practice the power entrusted to them, in accordance with the applicable legal rules, and this means that one person may not assume more than one of the functions of the state (Muhammad, 2008).

Ali (2017) believes that the principle of separation of authorities is based mainly on the correct formation of the legislative authority, which is formed through parliamentary elections by individuals for candidates who in turn form members of the legislative authority, so that they also form the executive authority represented by the government as the presidency and ministers, including the formation of the judicial authority also, by naming a Minister of Justice or the Judiciary, or whatever his name is, for this minister, in cooperation with the legislative and executive authorities, to form members of his authority and conduct its work without any of the three authorities intruding on the work of the other authority (Ali, 2017).

Accordingly, the principle of separation of authorities guarantees the rule of the people themselves, which is the most clear definition of democracy, as no authority can interfere in the course of these elections, in order to ensure the optimal formation of the legislative authority, which in turn works to achieve the demands of all individuals in terms of legislation and

laws regulating the life of these individuals, along with the formation of the executive and judicial authorities, and their monitoring and accountability of the executive authority to constantly evaluate its performance, taking into account the necessity of not having any functional interference of any authority on the performance of the second authority, but rather creating cooperation between the three authorities to conduct all its work, such as the enactment of legislation by the legislative authority, and its application by the judiciary and its implementation by the executive branch.

In the same field as well, we shed light on the constitutional system, where the constitutional system is called a system because it is organized through rules, regulations and laws that regulate all forms of life, which all revolve around justice, equality, freedom of individuals and ensuring the rule of the people themselves through the application of the principle of separation between the authorities, as the constitutional system or the constitution itself explains how the three authorities are formed in the country, the competencies of each authority and its role in conducting its work in line with the principle for which the constitutions were established represented by the optimal application of the principle of separation of powers, and more clearly, the constitutional system shows and clarifies the mechanism by which the three authorities of the country work, while ensuring their cooperation and not encroaching on each other, and demonstrating the manifestations of the independence of those authorities and their cooperative integration among them (Al-Ajmi, 2012).

The second topic: the constitutional basis for the formation of the three authorities in the British and American systems.

The constitutional basis of contemporary states, including the British and American systems, stems from the proper formation of the three authorities. The current research shows the constitutional basis in the formation of the three authorities in the two systems under study through the following demands:

The first requirement: the constitutional basis for the formation of the legislative authority in the British and American constitutional and political systems

First: The constitutional basis for the formation of the legislative authority in the British constitutional system

Before starting to explain that basis in the countries under study, we must first point out that the United Kingdom (Britain) does

not have a constitution in the explicit sense, but rather has what is called the common law or system of rules, which includes a set of laws and regulations that govern the course of life in it, and shows the British and Irish political rule, as the British constitution was not collected in a single document called the constitution like the rest of the world, but rather it is a set of laws that all revolve around the constitutional system of the country (Al-Madhi, 2021).

Accordingly, the legislative authority in the British constitutional and political system is formed from two chambers, namely the House of Lords and the House of Commons. As for the House of Lords, which is the first part of the legislative authority, is characterized by relative stability, as this council is not formed through legislative elections, but rather the members of this council are appointed or positions are obtained through inheritance and their number is (800) members (Al-Dulaimi, 2011) As for the rest of the 100 members of the House of Lords, they are chosen according to the Parliament Law issued on November 13, 1948 AD by the authority of the royal crown, which is inconsistent with the principle of separation of powers that the legislative authority is the choice of the people only (Al-Jamal, 1981). As for the second part of The British legislative authority is represented by the British House of Commons and the number of its members (650) members who are elected by direct vote by the people for a period of five years. They are elected by the British people who have completed (21) years (Al-Shimi, 2009).

Second: The constitutional basis for the formation of legislative authorities in the American constitutional and political system After the independence of the United States from Britain in 1776 AD, the American political system began to form the political and constitutional system of the state, where the first American constitution was issued, which is the first constitution in the world in 1787 AD, and in it the formation of the first authority in the country, which is the legislative authority, was announced through the establishment of the American Congress, followed by the executive and judicial branches (Shiha, 1999).

As for the American legislative authority, it is called the Congress, which consists of two councils, the first council which is the Senate, and the second section is the House of Representative , which is stipulated in Article (1/1) of the US Constitution: "All legislative powers granted here are vested in the Congress of the United States which consists of the Senate and the House of

Representatives", and the following is a statement of the composition of the two councils:

- The US Senate: The Senate was usually formed by electing two members from each of the US states, where they are elected by members of the US House of Representatives (Hussein, D.D), but constitutional amendments No. (17), denied the election of this council by the House of Representatives, and became formed by popular elections, as stipulated in this amendment in the US Constitution, which stipulates: "The Senate of the United States shall consist of two members from each state elected by the inhabitants of that state for a period of six years....".
- The US House of Representatives: With regard to the US House of Representatives, it is formed according to direct popular elections, and the share of each state from the number of representatives therein follows the number of its population. The greater the population of the state, the greater the number of deputies, as the number of deputies in this council was (65) deputies in the past, each representative representing approximately (30) thousand of the population, then the number began to increase as the population increased in the United States until the total number reached 435 deputies (Hussein, D.D).

]The second requirement: the constitutional basis for the formation of the executive authority in the British and American constitutional and political systems.

The current requirement discusses the constitutional basis for the formation of the executive authority in the British and American systems through the following:

First: The constitutional basis for the formation of the executive authority in the British constitutional and political system: The British executive authority is a dual authority headed by the King and the Ministry. The following is a description of what the British executive authority consists of:

- 1- The Crown (King / Queen): The British Crown is considered the head of the executive authority along with the head of government, and the king or queen obtains a position by inheritance (Al-Shafei, 2018).
- 2- The Ministry: In the past decades, the Ministry shifted from an advisory shape to the royal crown to the head of the first executive authority in Britain. The Ministry also has a broader

executive role than the role of the King himself because the Crown often gives up its executive powers. And the Ministry has the right to dissolve Parliament, which indicates the executive authority prevails over the legislative authority, and the ministry consists of two parts, namely the cabinet and the prime minister. As for the cabinet, which is the government, which consists of the most important state ministers in addition to the president of the Royal Council, and the owner of the special seal, the cabinet is concerned with accountability in front of the legislative authority because it represents the government and the real executive authority in Britain. As for the second part of the executive authority, it is (the prime minister), which is like the head of ministers, who is appointed according to the vote of the majority of the members of the British parliament, who also appoints some other ministers after the most prominent of them are appointed by the authority of the ministry (Shiha, 2006).

Second: The constitutional basis for the formation of the executive authority in the American constitutional and political system

The President of the United States of America presides over his office for a period of four years, renewable only once, according to the law and constitution of the country, and his authority is completely separated from the legislative and judicial powers, and each of the last two authorities is separated from any of the actions of the executive authority headed by the President of the United States, and the presidency is formed through the elections, which in turn go through two stages, as for the first stage, a president for the United States is nominated in both the American Republican and Democratic parties for each of the American states, and the candidates are voted by members of the same party to become a potential president for each party, and the second step takes place from during popular elections, in which elections are held for all individuals and segments of American society for any of the presidential candidates, which gives great legitimacy to the formation of the executive authority. And the President of the United States represents the head of the executive authority in the country (Al-Madhi, 2021), according to the text of Article (1/1) of the American Constitution, "The executive authority is entrusted to the President of the United States of America", then the American

government, which is what is known as the American administration, which includes a number of ministers and a list of the secretariat of the President of the United States (Sadek, 2013).

The third requirement: the constitutional basis for the formation of the judicial authority in the British and American constitutional and political systems

First: The constitutional basis for the formation of the judicial authority: the judiciary is appointed in the British constitutional system with the approval of the Council of Ministers first, and then a royal decree is issued to appoint them, and judges are chosen according to their capabilities and competence in legal work (El-Gamal & Ibrahim, 2000).

Second: The constitutional basis for the formation of the judicial authority in the American political system

The judicial authority in the American presidential system is composed of several courts as follows:

- **Federal Courts:** These courts include the Supreme Court, which is formed by virtue of the decision of the President of the United States of America, which is entrusted with the presidency of the judicial authority in the country and is occupied by nine judges, including the Chief Justice himself, followed by this type of courts, the Courts of Appeal, which are distributed over the various American states, followed by federal courts in all states, which deal with felonious cases and crimes against the national security of the country (Swerrett, 1964).
- **State courts:** This type of court is distributed to every state of the American United States, and judges are appointed in it according to the choice of the state governor to be elected by popular elections within each of these states (Al-Madhi, 2021).

According to the foregoing, we find that there is a difference in the formation of the legislative authority in both the British and American systems, where the British legislative authority is formed in two parts, the first part represents the popular elections represented by the British House of Commons, and the second part, which is the House of Lords, is formed by its members assuming their legislative positions by inheritance and direct appointment by the royal crown, which denies the British constitutional system a constitutional character with regard to the formation of the most important authority in the country, which is the legislative authority. Unlike what was stated in the formation of the American legislative authority, which is formed

in its two parts by popular elections only without any interference from the executive authority, which leads us to say the constitutionality of the American political system, starting with the formation of the legislative authority that coincided with the principle of separation of authorities.

We also find that the British political and constitutional system has the influence of the executive authority at the expense of the legislative authority, by giving the right to the executive authority represented by the ministry to dissolve parliament, which is the representative of the legislative authority, which is the first authority and the strength of the three authorities in the international constitutional systems, this is what differs from the American constitutional political system in which the constitution gives the right to continue the powers of the legislative authority according to a period of time, according to which the tasks of members of the US Congress end, so that the elections are repeated as claimed by the time period stipulated in the US constitution, which gives the American constitutional political system a more legal and constitutional character than it is with regard to the British side. And with regard to the judicial authority, we find that there is a similarity between the two systems in the formation of the judiciary authority to some extent without the encroachment of any of the legislative and executive authorities on the entity of the judicial authority.

The third topic: the competences of the three authorities in the British and American political and constitutional systems

According to the international constitutional systems, the competencies of the three authorities are very similar, but we still have the issue of applying these competencies on the ground in accordance with the provisions of the constitution and what is also consistent with the principle of separation of authorities, so the current topic discusses the competencies of the three authorities in the two political systems of the British monarchy and the US Presidential Council through the following demands:

The first requirement: the competences of the legislative authority in the British political and constitutional systems:

The current requirement clarifies the powers of the legislative authority in the two British political and constitutional systems as follows:

First: Competences of the Legislative Authority in the British Constitutional System: The legislative authority in Britain

consists of the House of Lords and the House of Commons, and the following is a statement of the competencies of each:

- The British House of Lords: After the powers of this council were expanding and controlling the course of legislative business in the United Kingdom, they began to shrink at the beginning of the twentieth century with regard to financial affairs and the approval of the country's general budget according to a popular vote on the terms of reference of this council, which has long stood as an obstacle to the development of the country with regard to approving the general budget and public expenditures in the country, so that the scope of competence of this council with regard to legislative advisory matters became far from financial affairs and the general budget. Others, this council also have the right to approve laws or disable them during voting on general laws in the country, as well as to object to some laws and approve others, this council also has the capacity and competence of the judiciary, as it results from its members nine judges representing the British Court of Appeal, and thus appears to be an encroachment on the legislative power by the House of Lords, which did not reach its position through popular elections, but its members obtained their positions by inheritance or the advantages granted by the crown to them as we mentioned in the previous section (Faisal, 2021).
- The British House of Commons: The British House of Commons has several jurisdictions, the most prominent of which is the jurisdiction of legislation, where members of this house discuss the laws available or derived from the executive authority and express their opinion on them and enact them as laws in force in the country or reject them in partnership with the House of Lords, in addition to expressing an opinion on Financial reports and its legislation or not as well. On the other hand, the House of Commons has the competence to monitor the performance of the executive authority represented by the ministries, departments and institutions affiliated to it to ensure and enclose the proper functioning of the executive authority in the country. Ministers are also held accountable and discussed with their work entrusted to them during the sessions of the legislative authority. Also, there is a special competence for the House of Commons, which is the competence of financial affairs, as the Council approves the general budget and expenditures in the country, as well as imposing taxes and expanding or reducing their circle (Saygin, and Al-Ajati, & Ahmad, 2016).

Second: Competences of the Legislative Authority in the American Constitutional System:

Unlike the British political and constitutional system, the legislative authority in the American constitutional system is confined to the Representative Council or the so-called US Congress and the Senate, each of which is formed by popular will without the intervention of the executive authority, which explicitly expresses the correct application of the principle of separation of powers, and in accordance with the American constitution this authority is responsible for legislation and drafting laws regulating all life affairs in the country. The US Congress is also concerned with managing financial affairs, the general budget, imposing taxes, managing foreign trade with the United States and all financial and economic affairs in it, along with imposing deterrent penalties for financial and economic crimes such as forgery, tax evasion and otherwise, as well as the selection of federal judges and their appointment to their positions, on the other hand, the US Congress is entrusted with the task and competence of managing knowledge, science, publishing, authoring and maintaining an advanced level of scientific achievements and managing them in the state, not to mention those deterrent laws for any of the traditional crimes such as murder, fraud or contemporary crimes such as cybercrime. On the other hand, the competence of the US Congress also includes the management of land and sea border protection affairs and the development of the necessary laws to protect the country's borders from any possible external aggression, in addition to the management of national security and the preparation of popular groups and their training to maintain internal security and the development of the necessary laws to equip Armies and reserve forces as well, not to mention the accountability of ministers and employees of state government institutions in the course of their executive work so that the American legislative authority is the strength of the three authorities and the most important of them is that it is the will of the people explicitly.

The second requirement: the competencies of the executive authority in the British political and constitutional systems:

First: Competences of the executive authority in the British constitutional system: The functions and competencies of the

executive authority in the United Kingdom are divided into each of the crown authority represented by the king or queen, the prime minister who is the head of ministers, and the cabinet, i.e. the government, and the following is a statement of the competencies of each of them:

- **Crown power:** One of the powers of the crown influence represented by the King of the United Kingdom is to appoint the prime minister, who in turn forms the government, after the legislative authority nominates this minister to the king, meaning that this competence is only symbolic. On the other hand, the king also has power Judicial authority to rule in some cases, which leads us to say that the executive authority, represented by the king himself, has penetrated the judicial authority, even if this jurisdiction is paper and has not been applied on the ground for decades, and the king has also allowed the Council of Ministers this function or competence, which confirms the pervasiveness of this authority over the judicial authority (Raafat, 1974).
- **Competences of the Prime Minister (Head of Ministers):** The scope of competence of the British Prime Minister expands to include the right to dissolve parliament before its term expires, and this is an explicit encroachment on the legislative authority, which is the strength of the three authorities in the country, and this parliament should not be dissolved until after the expiry of its legal term. The terms of reference of the Prime Minister include the appointment or removal of ministers from their positions, who should be chosen by parliamentary referendum, not to mention his power to impose control over ministers and all their work, and the Prime Minister is the first representative of the state and the possibility of giving decisions regarding waging wars or negotiating on behalf of the state with other external parties (Ismail, 1977).
- **Functions of the government:** The powers of the government, represented by its ministers, are to provide advice to the prime minister and carry out all the work entrusted to them in order to conduct the work of their ministries in line with the public interest in the country. The ministers also occupy other competencies such as the competence of the chancellery for the government and the prime minister. There is also the position of the Attorney General for the Minister of Justice and a number of ministers occupy legal positions such as providing legal advice, and a number of ministers are chosen to occupy positions in the House of Lords as well as the presidency of this council, which is

the second part of the legislative authority, which means that the executive authority also overpowers the legislative authority (Ismail, 1977).

Second: Competences of the Executive Authority in the American Constitutional System:

The President of the United States of America assumes the presidency of the executive authority, and also entrusts the executive tasks to a number of his assistants, who are ministers and secretaries, where the President of the country undertakes the implementation of laws and legislation derived from the legislative authority through the ministers and public institutions in the country. The president, through these institutions, including security institutions, is responsible for implementing all judicial directives and orders emanating from the judicial authority represented by its various courts, and presiding over the various armed forces, including land, air and sea, not to mention that the president is the first outlet for the country's foreign policies and diplomatic relations with the countries of the world.

The third requirement: the jurisdiction of the judiciary in the British political and constitutional systems:

First: Competences of the Judicial Authority in the British Constitutional System:

The jurisdiction of the executive authority overlaps with the judicial authority in the British constitutional system. In addition to the jurisdiction of the judiciary itself and the adjudication of judicial cases and disputes, this authority is also managed by those known as law officers who have the competence to provide advice to the executive authority in general legal affairs in the country, and also to provide advice to ministers with regard to their job behavior, and that the Attorney General in this authority is the minister responsible for the Public Prosecution of the Royal Crown (Al-Madhi, 2021).

Second: Competences of the Judicial Authority in the American Constitutional System:

The jurisdiction of the judiciary is limited to the American constitutional system in accordance with the constitution, by stating the provisions of the constitution, general laws, and legislation in the country that are derived from the legislative authority and explaining them clearly to the people, as well as adjudicating cases and implementing the law in various cases after reviewing them, and striving to achieve justice in cases

without considering any of the parties' issues and his social or political standing, on the other hand, the judiciary, represented by its courts and judges, considers issues related to national security, not to mention foreign issues that link the United States of America with other countries.

According to the foregoing in the current research, there are clear differences in the competencies of the three authorities in the British and American political and constitutional systems, where it appears that there is a clear encroachment between the three authorities in the British system in contrast to the explicit separation of authorities in the American political system with tangible cooperation among them. As there is an encroachment of the British legislative authority on the judicial authority by giving nine members of the House of Lords the right to form the Court of Appeal outside the scope of the popular will or the legislative authority in both parts, at a time when the formation of the House of Lords is contrary to the principle of separation of authorities that gives the state's political system a constitutional character.

And the presence of the British executive authority represented by the king or the cabinet overpowering the judicial power by allowing them enough space to decide on some issues and ruling on them without the judicial power itself, and the executive authority also overpowers the legislative authority through the possibility of the prime minister to dissolve the British Parliament before the expiration of its legal term. Not to mention the existence of the executive authority's encroachment on the legislative authority through one of the ministers occupying the presidency of the House of Lords, which is the second part of the legislative authority, which contradicts the principle of separation of powers and international constitutional principles, which leads us to say the constitutionality of the American political and constitutional presidential system without saying the constitutionality of the United Kingdom.

Conclusion

According to the foregoing of the course of the current study, and based on the research methods, the study reached the following results:

- **First:** The claim of the constitutionality of contemporary political systems is closely linked with the ideal application of the principle of separation of authorities, as this principle is the basis on which political systems are based in the manufacture and drafting of

their constitutions to give legitimacy to the state and its progress, and without the optimal application of this principle, the state is denied a constitutional status according to international articles and covenants.

- **Second:** The United Kingdom has no constitutional state in applying the principle of separation of authorities in the formation of the legislative authority, by excluding the character of popular elections in the British political system with regard to the first part of the legislative authority represented by the House of Lords, which is formed through inheritance or royal appointment of its members which is inconsistent with the principle of separation of authorities, which leads to the formation of the legislative authority in its two parts through popular elections and the will of the people. As for the second part of this authority, which is the British House of Commons, it takes place according to popular elections that agree with the principle of separation of authorities. However, the existence of a royal or hereditary appointment for the first part, is considered as the executive authority encroachment on the British legislative authority, and unlike what was stated in the formation of the legislative authority in the American political and constitutional system in which the legislative authority consists of two parts: the council of Representatives and the Senate and both chambers are formed according to popular elections. The British executive represented by the government, also encroaches on the legislative authority through the possibility of dissolving Parliament before the expiration of the legal period allowed to dissolve the British Parliament, unlike the American system, which is committed to the expiry of this period.
- **Third:** The British political system has no constitutional character with regard to the competences of the three authorities, as the British public law has given the right to hold judicial positions represented in the formation of the Court of Appeal for members of the legislative authority represented by the council of Lords, whose composition was not compatible with the principle of separation of authorities, unlike the American political system who instructed this competence to judges who are chosen and appointed by members of the legislative authority in it, and the British executive authority's encroachment on the judicial authority appeared by giving the council of ministers the right to decide on some cases outside the scope of the approved judicial system in the country in contrast to the apparent independence

judge in the American system. The study also showed that there is a pervasiveness of the British executive power, and finally it was possible to say the constitutionality of the American political system and the lack of constitutionality of the British political system according to the principle of separation of authorities.

Recommendations

In light of the aforementioned results of the study, the researcher recommends the following:

- Although there are expressions of the principle of separation of authorities in most international constitutions, it has not been applied effectively on the ground. Therefore, it is necessary for global political systems, including the study countries, to pay attention to applying the principle of separation of authorities and adhere to it for the purposes of competition between members of the elected legislative authority to provide the best for the country, without the existence of obstacles represented by another part of this authority, where its members are appointed or chosen according to class backgrounds.
- It seems that the ideal application of the United States of America to the principle of separation of authorities led to become a superpower state after it was a British colony, and the decline of the latter that did not go to the proper application of this principle, so it is necessary to apply the principle of separation of authorities in global political systems to maximize the status of the state and its various powers..
- The need to conduct more research and scientific studies related to the topic of the current study, which is a field of knowledge that is still available for research and provide real results that may lead to the optimal application of the principle of separation of authorities for global political systems.

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