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THE ROLE OF PARLIAMENT IN RESTRICTING THE POWERS OF THE GOVERNMENT RESEARCH ON INSTITUTIONAL BALANCE IN IRAQ AFTER 2005 (COMPARATIVE STUDY)

Asst. Lect. Raed Ibrahim Anoun

Ministry of Education, Najaf Education Directorate, Iraq

Abstract

This research deals with the relationship between the ministry and parliament under the current Iraqi constitution of 2005, with a comparison to the current Egyptian constitution of 2014, which examines the role of parliament in restricting the powers of the government and achieving an institutional balance between the two authorities (legislative and executive). The importance of the research lies in analyzing the impact of the balance between the two authorities on political and administrative stability in Iraq and seeking to find solutions to improve the balance and cooperation between them to achieve the state's public interest. It also aims to study the factors that lead to balance or imbalance between the ministry and parliament in Iraq and find practical solutions to improve them to achieve more excellent political stability. The research relied on the comparative approach between the two constitutional systems (Iraqi and Egyptian) and analyzed both countries' legal and constitutional texts. It adopted the hypothesis that there is a mutual influence between the ministry and parliament in Iraq and that improving the balance between them, in turn, leads to the stability of the political system in Iraq. It showed that the executive authority is dominant at the expense of the legislative authority in Iraq, with a limited influence of the legislative authority in legislation laws. This research showed that strengthening parliamentary oversight methods can be used to achieve institutional balance and political stability.

KEYWORDS: Leads, political, ministry and parliament.

INTRODUCTION

After Iraq moved from a simple state to a federal federal state, the system of government in it is parliamentary democratic, based on equality and balance between the legislative and executive authorities, and separation with cooperation between the authorities, because the 2005 Constitution addressed the flexible separation of powers, based on collaboration and mutual oversight explicitly according to Article (1), which

stipulated that "the Republic of Iraq is a single, independent, fully sovereign federal state, the system of government in it is republican, parliamentary, democratic, and this constitution guarantees the unity of Iraq", so we will discuss in the first section (the manifestations of the balance between the legislative and executive authorities) and then we will discuss in the second section (the manifestations of the imbalance between the

legislative and executive authorities) under the Iraqi Constitution of 2005, with a comparison with the constitutional system in the Arab Republic of Egypt under its effective Constitution of 2014.

The success of constitutions is not measured by the extent of the principles they contain, but rather by the way they are applied And the implementation of the rules it contained, and that Iraq during the past era since the era of the monarchy in 1921 until 2003 witnessed a failure in transferring it to the stage of constitutional legitimacy based on the foundations of constitutional institutions, and in light of Iraq entering the new constitutional stage and its transition from a simple state to a federal state with a parliamentary democratic system of government, it is based on three constitutional foundations, which are (equality, separation with cooperation, and balance), and that any transgression by one of the two authorities "the executive and legislative" on the constitutional rules in exercising its powers will lead to a large extent to an imbalance and the dominance of one over the other, and then its work is considered a departure from the principle of legitimacy and is characterized by unconstitutionality, which is one of the most essential pillars on which the legal state is based, and from here comes the subject of our study "Researching the balance between the executive and legislative authorities in Iraq and the extent of its impact on the principle of separation of powers under the Iraqi Constitution of 2005, compared to the constitutional situation in Egypt." This research contributes to understanding the relationship between the executive and legislative authorities in Iraq and knowing the principle of power and balance between them. It also leads to finding ways to improve the relationship between the ministry and parliament to achieve political and administrative stability. This leads to valuable results in enhancing cooperation and harmony between the executive and legislative institutions.

The research problem is of significant importance, as it is represented in the challenges that Iraq is currently facing. These challenges are characterized by the absence of balance between the legislative and executive authorities. As the influence of one of them increases at the expense of

the other, it results in the disruption of the issuance of important legislation by parliament or the implementation of government policies. This disruption stems from the abundance of opposition or conflict in decision-making.

As for the research hypothesis, it is of paramount importance. It is represented in the belief that there is a relationship of mutual influence between the executive and legislative authorities. Furthermore, it suggests that improving the balance between them necessarily leads to harmony and stability of the political and institutional system. The research aims to analyze the relationship between the ministry and parliament and assess the balance of power between them, in addition to studying the causes of disputes or tensions that led to conflicts between them and analyzing them. It then presents strategies and mechanisms for the purpose of enhancing cooperation and balance between the ministry and parliament according to the principles and rules set by the Iraqi Constitution of 2005, compared to the constitutional system in the Arab Republic of Egypt under its effective constitution of 2014, which adopts the mixed system.

The research questions are pivotal to our study and were formulated as follows:

- What is the impact of balance and its lack between Iraq's legislative and executive authorities?
- How can the relationship between these two institutions be improved to achieve the best political and administrative performance?
- What are the main obstacles that hinder this balance between them in Iraq?

As for the research methodology: The research relied on descriptive, analytical and comparative research. This methodology was chosen for the purpose of reviewing the relationship of balance between the ministry and parliament (the executive authority and the legislative authority). The first topic: Aspects of the balance between the government and parliament

Constitutions under the parliamentary system

grant the legislative authority certain rights it exercises in the face of the executive authority and determine its responsibility. In return, the latter has means of oversight in the face of the legislative authority. The Iraqi Constitution of 2005 included oversight by the legislative authority over the ministry by directing questions to the Prime Minister and ministers, forming investigation committees, raising a general topic for discussion and interrogation, and withdrawing confidence from it. As for the means of oversight by the executive authority in the face of the legislative authority, they are represented by interfering in the work of parliament and dissolving parliament, which is one of the most dangerous weapons of the government against parliament. Therefore, achieving a mutual balance between the two authorities prevents one from being arbitrary towards the other. As for the means of oversight under the Egyptian Constitution of 2014 in force, it provided the People's Assembly with influence over the government through the right to direct questions and suggestions willingly and raise a general topic for discussion, submit requests for information, and the right to form investigation and interrogation committees. In return, the executive authority has means that enable it to direct The People's Council and its influence on its work, as well as its right to dissolve it so that we will discuss in the first requirement (Means of parliamentary oversight in the face of the executive authority) and in the second requirement (Means of oversight of the executive authority in the face of the parliament, as follows:

First requirement: Means of parliamentary oversight in the face of the government

Most parliamentary constitutions grant rights to the legislative authority in the face of the government, emphasizing the importance of the balance between the legislative and executive authorities. The majority of these means may appear to be the same, even if some differ partially in oversight of the government's actions. We will discuss the means of parliamentary oversight in the face of the government in the Iraqi and Egyptian constitutional system through the following branches (parliamentary question,

raising a general topic for discussion, parliamentary investigation, parliamentary interpellation - ministerial responsibility) as follows:

The first section: The right to direct a parliamentary question and raise a general topic for discussion

The question is: Is there the right to enable members of parliament to inquire about matters they are ignorant of, to clarify the ministry's objectives or the competent minister's objective regarding this topic? It does not involve an accusation against the person it is directed to. A member of the House of Representatives has the right, under the Iraqi Constitution of 2005 and the Egyptian Constitution of 2014, to direct questions to the Prime Minister and ministers on any topic that falls within their jurisdiction as a parliamentary means of confronting the government. As for the method of answering the parliamentary question, in the Iraqi Constitution of 2005, the right of the representative to obtain an answer to the question that he previously directed remains dependent on the will of the responsible minister and setting a date for the answer does not exceed two weeks, while the internal system did not include any deterrent measures against the minister who failed to answer, as the system dealt with organizing the provisions of oral questions, which made the parliamentary question as a means of oversight of minor importance and impact. Still, in the Egyptian Constitution, the minister must answer the question directed to him within the specified period. However, the minister is not obligated to answer in parliamentary constitutions. Still, the minister's answer is mandatory if the provisions of the internal regulations organizing the rules of the question are observed based on the text of Article (129) of the Constitution. In general, under the two systems mentioned above, if the minister does not answer the question or the questioner is not convinced by the answer, he may convert the question into an interrogation as a penalty for refraining from answering or being late for the specified period for answering, or if his answer was not convincing. The internal regulations of the Iraqi House of Representatives

did not address this procedure, while the Egyptian system allowed the member to convert the question into an interrogation. The member of the House of Representatives also has the right to withdraw the question he raised, which may be either explicitly upon his request or implicitly by his repeated absence from the answer sessions. The question also falls with losing the member's membership or status. As for raising a general topic for discussion: Members of Parliament resort to this procedure in order to follow up on the government's activity and obtain information and clarifications regarding the government's policy in A specific matter, and the discussion takes a collective form, and is similar to the question in that they do not lead to determining the responsibility of the ministry and withdrawing confidence from it, and the subject of discussion must be related to the jurisdiction of the Council of Ministers or one of the ministries, as the Iraqi Constitution of 2005 and the internal regulations of the House of Representatives approved the right of twenty-five members of the House of Representatives to raise a general topic for discussion to clarify the policy and performance of the Council of Ministers or one of the ministries, and required that the topic of the request of debate meet two conditions: (generality, the connection of the topic to the government's jurisdiction), while the Egyptian Constitution of 2014 gave the right to at least twenty members of the People's Assembly to request the discussion of a general topic to clarify the government's policy regarding it. From the above, the researcher believes that the Iraqi constitutional legislator successfully stipulated the number of those with the right to discuss (25 members). However, the number of the Iraqi House of Representatives is (329 members), compared to the members of the Egyptian People's Assembly, which gave the right to (20 members) for discussion, compared to the number of its members, which is (450 members), and this is credited to the Iraqi legislator. The second section: Parliamentary investigation and interrogation

The parliamentary investigation is considered an essential oversight method that enables the parliament to stand on the truth of a specific subject, learn the truth about the defects of a

government's interests, or verify the corruption of some administrations. A consensus has been reached on this right in parliamentary and presidential countries, where parliaments exercise it as an original jurisdiction even if it is not mentioned in the Constitution. We note that the Iraqi Constitution of 2005 was devoid of explicit text on parliamentary investigation committees, while the internal regulations of the Iraqi Council of Representatives stipulated the Council's powers to extend its oversight over the executive authority and conduct an investigation with any of the officials who are members of the executive authority regarding any incident that the Council sees as affecting the rights of individuals or the public interest. The parties that have the right to form investigative committees in the Council are (the presidency of the Council of Representatives or fifty members). As for the Egyptian Constitution of 2014 in force, it approved the People's Assembly to form a special committee or a committee from its committees to investigate the facts in any public subject. The internal regulations of the People's Assembly also indicated The number of committee members must not be less than seven and not more than twenty-five members chosen by the Council based on the Council's nomination, taking into account specialization and experience in the topics for which it was formed and the representation of parliamentary parties. The committee shall submit a report on its work and details of its procedures to the Council, which shall discuss it in the first session following its submission. At the same time, the internal regulations of the Iraqi Council of Representatives did not specify a specific period obligating the Council to present the report of the fact-finding committees and leave it subject to the discretion of the Council's presidency.

Therefore, the investigative committees formed by the Council, despite their importance, are a limited means in their inability to impose punitive measures or any other pressures, as their reports did not receive the attention of the Council, in addition to the fact that the decisions issued by the Council regarding the reports of the fact-finding committees did not have an echo with the government and its agencies, in addition to the lack of interest of the largest parliamentary bloc to

which the Prime Minister belongs to the results of the investigation of the committees in determining the government's responsibility. The researcher believes that the Iraqi constitutional legislator is held accountable for not stipulating the competence of the Council of Representatives to conduct the parliamentary investigation in the heart of the Iraqi Constitution, and this requires constitutional intervention to regulate this. As for parliamentary interrogation (ministerial responsibility), Interrogation is considered one of the most dangerous rights of parliament in its relationship with the government, as it is an inquiry based on an accusation intended to hold ministers accountable and criticize their policies, as it leads to the activation of ministerial responsibility either by withdrawing confidence from the Prime Minister or one of the ministers, and Interrogation is not considered an individual right for the representative, but rather for the Council as a whole, the purpose of which is to hold the government accountable for matters that fall within its jurisdiction within the framework of real discussions that end with a decision issued by the Council. Suppose the answer does not convince the interrogated person of the minister or the prime minister. In that case, he and other members of the Council may raise the issue of confidence in the government or the minister. The Iraqi constitution of 2005 approved the right to interrogate for every member of the Council to exercise it with the approval of (25 members). The internal regulations of the Iraqi Council of Representatives mentioned the conditions that the Council of Representatives passes through (formal and substantive), and the Egyptian constitution in force also addressed them. The People's Council regulations confirmed them as follows: First - Conditions Formal: The internal regulations of the Iraqi House of Representatives stipulated formal conditions for accepting the interpellation, which is that the interpellation be submitted in writing to the Speaker of the House, accompanied by a memorandum explaining the main serious reasons addressed by the interpellation, to allow the person to whom the interpellation is directed to defend himself and prepare his answer. These conditions were also considered by the Egyptian People's Assembly's

internal regulations. At the same time, the Egyptian constitution stipulated that the interpellation has the right for each member to exercise it individually. Second - Objective conditions: The internal regulations of the Iraqi House of Representatives and the internal regulations of the Egyptian People's Assembly stipulated the objective conditions that must be followed, which are (the interpellation must not include a violation of the provisions of the constitution and the law, the interpellation must fall within the limits of the government's jurisdiction, and the interpellation must not be harmful to the public interest or related to a personal interest). The Iraqi constitutional legislator also specified the conditions for discussing the interpellation: it may not be discussed except after at least seven days from its submission. As for the Egyptian constitutional legislator, it specified a maximum time limit for discussing the interpellation, which is (sixty days). The interpellation may also be subject to an obstacle that prevents the start of its discussion in the specified session and leads to its end without a result, and this occurs in two cases: (retrieving the interpellation, which is represented by the member withdrawing the interpellation submitted by him explicitly or implicitly, while the lapse of the interpellation means the loss of the status of the person who addressed the interpellation - the representative, or the person to whom it was directed). As for the political responsibility of the head of state, the current Iraqi constitution stipulates that the House of Representatives has the right to question the President of the Republic based on a reasoned request from an absolute majority of its members, despite the limited powers it enjoys, which is a departure from the rule of the balance of power and responsibility. He is politically responsible to the parliament for his actions by an absolute majority after the Federal Supreme Court convicts him in one of the following cases (perjury, high treason, violation of the constitution), and the conviction decision has no effect except after the approval of the House of Representatives. As for the current Egyptian constitution, it has confirmed the responsibility of the head of state before the People's Assembly, as it has approved the Council's

withdrawal of confidence from the President of the Republic based on a reasoned request signed by a two-thirds majority of the members of the People's Assembly. After approving the withdrawal of confidence, it is put to a general referendum, and when the majority of voters approve the withdrawal of confidence, he is relieved of his position. If the referendum's result is rejected, the People's Assembly is considered dissolved. As for the political responsibility of the ministry, The ministry's exercise of real and actual authority has made parliamentary constitutions always work to determine its responsibility, as ministerial responsibility has two forms (individual and joint). As for individual responsibility, the Iraqi constitutional legislator has given the House of Representatives the right to withdraw confidence from a minister by an absolute majority, and he is considered resigned from the date of the decision to withdraw confidence. Confidence in a minister may not be raised except based on his desire or a request signed by fifty members following the discussion of an interpellation directed at him, and the Council does not issue its decision except after at least seven days from the date of its submission. As for joint responsibility, it means that the ministry is jointly responsible for the government's general policy of the government, and since the Prime Minister is the government's representative and its spokesman, his responsibility before the House of Representatives means the responsibility of the entire ministry. He also has the right to be in solidarity with any minister, provided that he announces this before voting on the responsibility.

The Egyptian Constitution of 2014 Required the issuance of a decision to withdraw confidence from the Prime Minister or one of his deputies or one of the ministers or their deputies by a majority of the council members and that the minister or Prime Minister submit his resignation. This direction of the Egyptian constitutional legislator is different from the requirements of the parliamentary system, which requires the ministry to resign as soon as parliament withdraws its confidence in it. A question may arise about the legitimacy of directing an interpellation to the Prime Minister if he combines the positions of Prime Minister and a ministerial position, as is the case in Iraq, where the

Prime Minister for the period (2010-2014) held three ministerial portfolios by proxy (the Ministries of Defense, Interior, and National Security). His ministry gained the House of Representatives' confidence despite his ministerial staff's incompleteness. It is permissible to accept this as long as the Prime Minister agrees with its assumption by proxy. He must take it with its burdens, and his practice of the ministry's affairs by proxy does not exempt him from its constitutional consequences in questioning it. The second requirement is means of government oversight in the face of parliament.

In affirmation of the principle of mutual oversight between the legislative and executive branches, the Iraqi Constitution of 2005 has endowed the executive branch with certain oversight tools vis-à-vis the legislative branch. The oversight tools granted to the House of Representatives take two forms, the first - is intervention in the course of parliamentary legislative work, and the second is the right to dissolve the House of Representatives, as follows:

The first branch: Interference in the course of parliamentary work

The executive authority carries out the work related to interfering in the course of parliament's work so that its oversight of parliament is parallel to parliament's oversight of it, and among the manifestations of the executive authority's oversight of the legislative authority are the following:

First - Calling the Council to convene and requesting an extension of the legislative term: The Iraqi Constitution of 2005 has granted the President of the Republic the right to call the Council to convene by a Republican Decree issued within (fifteen days) from the date of ratification of the election results. It also gave the President of the Republic and the Prime Minister the right to call the Council of Representatives to hold an extraordinary session. It restricted this right to discussing the topics that necessitated the call. The Constitution also recognized the right of the President of the Republic and the Prime Minister of the Council of Representatives to Ministers to submit a request to extend the legislative term of

the House of Representatives session for no more than thirty days.

Extending the legislative term based on a request from the executive authority without clearly specifying the reasons that prompted this does not agree with the independence of the work of the parliamentary councils, which requires that the House of Representatives be independent in determining its sessions and working period without the intervention of the executive authority.

The Egyptian constitutional legislator stipulated that the People's Assembly shall convene by the Constitution, and the rationale behind this is to prevent the executive authority from disrupting the work of the parliament. The Speaker of the Council also has the power to dissolve the parliament session, but under strict conditions, ensuring the People's Assembly remains the master of its decisions.

The researcher believes that the Egyptian legislator made a prudent decision in this regard, ensuring that the People's Assembly is not bound by the President of the Republic's call to convene. Instead, it is convened by the Constitution on a date before the first Thursday of October, maintaining its independence.

Second - Attending the sessions of the Council: The internal regulations of the Iraqi Council of Representatives approved the right of members of the Presidency Council and the Council of Ministers to attend the sessions of the Council of Representatives after submitting a request to attend and the approval of the Council Presidency. This entails the right to participate in discussions related to the affairs of the ministry headed by the minister or related to the government. The justification for this is that the ministers are jointly responsible for the government's general policy before the Council of Representatives. As for Egypt, the 2014 Constitution addressed the organization of the attendance of the Prime Minister and his deputies or ministers and their deputies to the sessions of the People's Assembly or one of its committees. Attendance is mandatory if requested by the Council, and they may seek the assistance of senior employees in the ministry. The Constitution also authorized the President of the Republic to

deliver a statement before the People's Assembly, which is considered permissible and is considered a means of pressure by the executive authority on the policy of the Council of Representatives, whether legislative or oversight, especially since the speech will receive the support of the parliamentary majority that supports the government. The second section: Dissolving Parliament

The right to dissolve Parliament is considered one of the most dangerous weapons of the government in confronting Parliament, as it is based on achieving a balance between the authorities and it means ending Parliament before the legal date specified for the end of its agency for the people. The Iraqi constitutional legislator did not give this right to the executive authority according to the traditional concept followed by parliamentary systems that enable it to dominate the legislative authority. The Iraqi Constitution of 2005 explicitly adopted the self-dissolution of the House of Representatives, meaning that it gave the right to dissolve the House of Representatives itself either by an absolute majority of its members based on a request from one-third of its members or by a request from the Prime Minister with the approval of the President of the Republic. The Council may not be dissolved during the period of questioning the Prime Minister, as the use of the weapon of dissolution by the executive authority in confronting the legislative authority has become impossible in the event of a lack of harmony and agreement between them. This potential for abuse of power in the dissolution of Parliament should invoke a sense of caution in the audience. As for the right to dissolve under the Egyptian Constitution of 2014, it adopted the presidential dissolution and the popular dissolution, because it gave the President of the Republic the right to dissolve the People's Assembly when necessary and by a reasoned decision, and after The referendum of the people, if the participants in the referendum agree by a majority of valid votes, the President of the Republic issues the dissolution decision, and calls for new elections within the ten days following the announcement of the final result, as the Egyptian constitutional legislator was keen to restrict the right of the President of the Republic to dissolve the

House of Representatives with restrictions that are consistent with the means of establishing a balance between the legislative and executive authorities through the means of oversight that each of them possesses for the purpose of mutual influence on the work of the other authority. The researcher believes that the Iraqi legislator was not successful when he tied the hands of the executive authority denied the right to dissolve and did not recognize it for the executive authority, and considered it a means in the hands of the head of state by which he could paralyze the work of parliament to undermine the democratic system and consider it an attack on the rights of the representatives of the nation and a departure from the principle of separation of powers, which consequently leads to an imbalance between the legislative and executive authorities, unlike his counterpart, the Egyptian legislator, who was successful in placing restrictions on parliamentary dissolution in a manner that is consistent with achieving a balance between the legislative and executive authorities. The second topic: Imbalance between the government and parliament

Practical reality has proven that equality and balance between the legislative and executive authorities are only sometimes achieved in light of the dominance of the executive authority and its possession of broad powers at the expense of the diminishing role of the legislative authority in legislation and oversight. It is noted that the texts that included cooperation between the two authorities are nothing more than a theoretical framework that must be objectively evaluated to clarify the reasons that led to the imbalance between the legislative and executive authorities. Therefore, we will address this imbalance in two requirements: (Aspects of imbalance between the legislative and executive authorities) and (The effects of that imbalance), as follows:

First requirement: Aspects of imbalance between the government and parliament

The relationship between the legislative and executive authorities was defined by the Iraqi constitution according to the rules of the parliamentary system, which is based on cooperation and exchange between the authorities.

However, political reality often goes beyond the texts, as the existence of multiple bodies that exercise authority without equality between them in jurisdiction places the real authority and important jurisdictions in the hands of one body, and several The reasons imposed by reality made the executive authority dominate the work of the legislative authority, despite the establishment of this right in the constitution. However, the difficulty lies in the conflict between the government's priorities in what it presents of draft laws and the priorities of the House of Representatives. This potential for conflict should invoke a sense of the complexity of the legislative process in the audience. However, the legislative works that do not receive the government's approval or support remain unimplemented. In this section, we will discuss the imbalance between the legislative and executive authorities in two branches, as follows:

The first section: The increasing legislative role of the government and the reduction of the role of parliament

The parliamentary traditions that have become stable have been based on giving the leader of the party that wins the parliamentary majority in the elections the right to head the government with the largest number of members. The reasons for the increasing role of the executive authority in the legislative field lie in the method followed in choosing the Prime Minister, as the formation of the Council of Ministers is subject to the rules of the parliamentary system adopted by the Iraqi Constitution of 2005 based on Article (76), in which the President of the Republic is bound to choose the Prime Minister (Prime Minister) from the parliamentary majority, and then the latter selects his fellow ministers inside or outside the House of Representatives, taking into consideration the formation of the ministry that gains the confidence of the House of Representatives and is happy with its support. The Prime Minister is obligated to form a coalition government that reflects the religious and national diversity of the parties and political blocs that won the general elections. This political diversity results in the absence of homogeneity in the formation of

the government and the weakness of harmony and understanding between ministers, in addition to weakening the prestige of the state when religious and political affiliation predominates in choosing candidates to assume portfolios. The ministerial authority depends on competencies and experiences.

On the other hand, it has an impact on significantly increasing the influence of the executive authority on the work of the House of Representatives, the most important of which is the legislative function, which has become in the grip of the government, as it is the leader of the parliamentary majority. Also, the existence of harmony and initial agreement between the political parties in choosing the ministerial cabinet will make the executive authority, which is based on the duality of the executive apparatus, work within the framework of unity and consistency by belonging to the same principles that the parliamentary majority in the House of Representatives adheres to. The second section: The general jurisdiction of the executive authority over independent bodies

The Iraqi Constitution of 2005 created for the first time independent bodies in various political, supervisory, and financial fields to practice their work independently of the three authorities, as these bodies are considered one of the fundamental pillars of building a civil society based on the foundations of democracy and respect for the rights and freedoms of citizens. The Constitution did not clarify the ambiguity surrounding independent bodies in terms of stating the precise definition of the powers that these bodies follow in practicing their work according to the Constitution, as the constitutional texts were brief, and did not set the formal and substantive controls that govern their independence in a way that enables them to play a fundamental role in protecting the basic rights and freedoms of citizens. This is an unintended omission that led to the emergence of several interpretations between the legislative and executive authorities regarding determining the constitutional reference that governs the work of these bodies, as the constitutional text made some independent bodies subject to the oversight and

connection of the House of Representatives, and some connected to the Council of Ministers, and left others without specifying their connection, for example (the General Authority for Monitoring the Allocation of Federal Revenues and the Federal Service Council). These bodies were established for the first time under the new Iraqi Constitution of 2005. Therefore, the conflict between the legislative and executive authorities during the previous period regarding determining the affiliation of the independent bodies and the attempt of each authority to dominate them is a decline in democratic development, which requires that these bodies work to maintain the center of balance between the authorities in a way that guarantees the success and stability of the political system. The current Egyptian Constitution included the creation of independent bodies, whether established for the first time (such as the National Elections Authority) or stipulated in the laws and emphasized in the Constitution (such as the Central Bank). The reality indicates the independence of the bodies from the financial and administrative functional point of view, and this does not mean that they are not subject to oversight and accountability. The Egyptian constitutional legislator explained the general features of the independent bodies and oversight agencies in a way that clarified their framework of work in detail and referred to the law on the matter of their formation and system of work in a way consistent with the rules of the Constitution. Article 217 of the Constitution came to clarify the course of work of the independent bodies and oversight agencies in a way that reveals the will of the constitutional legislator in linking these bodies and agencies to the People's Assembly, despite his consideration of the balance in their work by submitting their annual reports to the President of the Republic, the House of Representatives, and the Prime Minister immediately upon their issuance. The Federal Supreme Court of Iraq had previously issued Decision No. (88/Federal/2010) on 18/1/2010, based on the initiative of the Prime Minister, which included a request to interpret the constitutional texts that dealt with independent bodies and oversight agencies, in terms of determining the authority to which they are linked

in a manner consistent with the nature of the work and activity of those bodies and agencies of an executive nature. The decision of the Federal Supreme Court came in accordance with its jurisdiction in Article (93/Second) of the Constitution when linking these bodies either to the House of Representatives or the Council of Ministers, it did not specify the nature of the link and its limits, as the Federal Supreme Court considered that what the Constitution stipulated regarding linking some independent bodies of an executive nature to the House of Representatives is something that does not conform to its main jurisdictions stipulated in Articles of the Constitution (61 and 62), which are the jurisdiction of legislation and the jurisdiction of oversight of the work of the executive authority, and it also conflicts with the principle of separation of powers adopted by the Constitution in Article (47). The Court also finds that linking some bodies to the House of Representatives does not prevent the Council of Ministers from supervising their activities. Based on the provisions of Article (80/First) of the Constitution, the Court also considered that the independent bodies for which the Constitution did not specify a reference and which exercise executive tasks, and which the Constitution subjected part of them (to the oversight of the House of Representatives, or made them accountable to the House of Representatives, their reference is to the Council of Ministers).

Therefore, the decision of the Federal Court to link the independent bodies to the executive authority led to the weakening of the role of the authority of the House of Representatives over the work of the independent bodies, at the expense of the superiority of the executive authority in extending its influence over them in a way that enhances the concentration of its powers over them, which makes the balance between the legislative and executive authorities practically lean towards the side of the executive authority and provides it with the legal cover to dominate the state institutions. The researcher believes that despite the respect of the legislative and executive authorities for the decisions of the Federal Court and working according to it, despite the fact that this decision has had negative effects on some parliamentary

political forces, and considered it a means for the executive authority to be able to extend its will and policy over the independent bodies, especially the important ones that play a fundamental role in the political process, which was born in the 2005 Constitution, including (the Independent High Electoral Commission, the Central Bank). The second requirement is: Effects of the imbalance between the government and parliament

After we discussed the means that led to the increasing role of the executive authority, in contrast to the weakness of the legislative authority in confronting the expansion of government activity that did not stop at a certain limit in parliamentary systems, we will shed light on the most important effects of the imbalance between the legislative and executive authorities in favor of the latter, and the absence of the principle of separation of powers was achieved. We will, therefore examine this imbalance in two branches and agencies:

The first branch: The broad powers of the Prime Minister

The Prime Minister exercises broad powers of an executive nature and others of a legislative nature, as he exercises individual work in his capacity as head of government, and others with the Council in his capacity as a member of it. The Constitution has defined the powers of the Prime Minister within the powers of the executive authority, which were brief compared to the breadth of the powers of the Council of Ministers. The practical reality of the Iraqi political system clearly shows the consecration of sectarianism in the mechanism for assuming the position of Prime Minister. Previous governments have limited the Prime Minister to Shiite candidates, the Speaker of the House of Representatives to Sunni candidates, and the President of the Republic to the Kurds Therefore, the Prime Minister's balance tipped, and the executive authority was enshrined in his hands, meaning that the cohesion and harmony in the Council of Ministers is through the Prime Minister, who is the one who has the power to maintain it throughout the term of rule, as he alone can assess the efficiency of the ministers and their cooperation with him. Among the reasons that

show the breadth of the Prime Minister's authority and make him the center of gravity in the government is his position as (the Prime Minister is the direct executive president of the general policy of the state, the commander-in-chief of the armed forces, his management of the Council of Ministers, determining the priorities of its work, his undertaking of preparing the ministerial program, chairing the meetings of the Council of Ministers, and the right to dismiss ministers with the approval of the House of Representatives) in addition to his joint powers with the President of the Republic.

The second section: The abuse of the members of parliament in using oversight methods

Parliamentary oversight aims to monitor government activity in all its situations, based on the powers assigned to it by the constitution towards the executive authority. It is not limited by any restrictions except those limits that indicate the system of government according to the principle of separation of powers adopted by the Iraqi constitution, and the legislative authority while using its means of oversight, arbitrarily resorts to these tools, which leads to an imbalance between harm and benefit, and all of this occur from the member of parliament who cannot be familiar with all aspects of oversight work that requires him to have a legislative sense and the ability to continuously follow up on the work of the government in a manner consistent with the interests of the people, and the most critical oversight methods that members of parliament abuse when resorting to are:

First - Parliamentary investigation committees: - Despite the absence of a text in the 2005 constitution that recognizes the right of the Iraqi Council of Representatives to form investigation committees, it derives this right from the nature of the parliamentary system itself, and the internal regulations of the Council of Representatives recognized the right of the Council to conduct an investigation with members of the Presidency Council The Prime Minister and members of the Council of Ministers and any official in the executive authority, and the parliamentary investigation committees enjoy broad powers in

the field of listening, reviewing and inspecting, and in contrast to these powers that the parliamentary investigation committees possess, this means no longer reflects its goal of extending control over the government's activity in the precise sense of the concept of parliamentary investigation, as it has become a means of merely inquiring about the government's activity, and the arbitrariness in the use of this right appears in the formation of investigation committees by the House of Representatives, which originally fall within the jurisdiction of the permanent committees, and it is clear from the investigation committees formed by the Council that they deal with the investigation of works related to providing the Council with the necessary information (about the truth of the financial, administrative, security or economic situation) that falls under the jurisdiction of the executive authority, and political consensus between the parliamentary blocs plays a prominent role in the formation of the investigation committees and the nature of their work, as they were not at the required level, and lacked efficiency and professionalism in their work, as well as the lack of cooperation of the executive authorities with the communications of the investigation committees in the required manner, which made them more of a media show than a means of revealing the truth. Second: - Abuse in resorting to the right of interrogation: The interrogations submitted by members of the Iraqi Council of Representatives in previous years showed a means of settling scores between parliamentary blocs in a way that led to the weakness of the Council's oversight role in holding the government accountable due to the lack of formal and objective conditions in its interrogations, as most of the interrogations submitted by members of the Council of Representatives did not include evidence showing the shortcomings or legal violations of the minister to whom the interrogation was directed according to the conditions required by the interrogation, which requires reconciliation between the constitutional right of the Council of Representatives to oversight and the right of the minister to have the interrogation directed to him restricted by controls and conditions, and these

two rights stand in a reciprocal and balanced manner and each of them takes into account the achievement of the public interest, and it is worth noting that it is necessary to address the guarantees that maintain the balance between the legislative and executive authorities, as the majority of parliamentary systems resort to approving some guarantees that ensure the enforcement of the constitutional rule and its proper application, and not to deviate from it by the public authorities in the state, and these guarantees are represented by (Legal guarantees and popular guarantees).

First - Legal guarantees: - One of the most critical legal guarantees that achieve the rule of law and organize the state apparatus in a way that prevents tyranny and leads to the protection of individuals' rights and freedoms is (the principle of separation of powers and oversight of the constitutionality of laws). The first form of the legal guarantee, which is the legal meaning of the principle of separation of powers, relates to the relationship between the different authorities. The Iraqi constitution adopted the parliamentary system based on the principle of equality and cooperation between the authorities. That is the government's responsibility before parliament, and the power to dissolve parliament enjoyed by the head of state allows this relationship to remain balanced between the role of the head of state and parliament as two equal powers. The Egyptian constitution of 2014 adopted a system of government based on the parliamentary system within the framework of the idea of a single legislative council, where the People's Assembly exercises legislative authority and monitors the work of the executive authority by the constitution while the organization of the executive authority tended towards the presidential system pattern about the election of the President of the Republic and the powers he exercises in his capacity as head of state and head of the executive authority in the manner specified in the constitution. Therefore, the constitution is closer to being a mixture of the system. The second form of legal guarantees represented (monitoring the constitutionality of laws) is defined by most constitutions of democratic countries referring the task of monitoring the constitutionality of laws to

the judiciary, which examines the constitutionality of laws issued by parliament. Monitoring the constitutionality of laws takes many forms to preserve the sovereignty of the constitution, some of which are prior monitoring of the issuance of laws, some of which combine the two, and some of which are subsequent monitoring of its issuance (monitoring of cancellation). In the Iraqi constitution, monitoring the constitutionality of laws is the responsibility of the Federal Supreme Court, whose formation and powers were stipulated in the constitution. It includes monitoring all ordinary laws issued by the legislative authority and subsidiary legislation issued by the executive authority. That is, the constitutional legislator has adopted the broad concept and objective meaning of monitoring, and the constitutional role practiced by the Federal Court is the real guarantor of the enforcement of the constitutional rule. As for monitoring the constitutionality of laws in Egypt in 2014, the Supreme Constitutional Court adopted monitoring of The constitutionality of laws and regulations and the interpretation of legislative texts according to the most extensive doctrine, where it is considered that every general legislative rule in the objective sense is a legal rule contained in a law or regulation, and this protection aims to protect the existing constitution and confirm respect for it and protect it from violating its provisions. The general rule adopted by the Supreme Constitutional Court in monitoring the constitutionality of laws is subsequent monitoring. Secondly - Popular guarantees: The legal guarantees included in constitutional systems are not sufficient alone to achieve this guarantee because practical results have proven that respect for the enforcement of constitutional rules does not depend on the amount of penalties and guarantees surrounding them, as much as it depends on the people's faith and the strength of public opinion in adhering to them and being keen on them. Due to the ineffectiveness of legal guarantees, it is necessary to search for more effective guarantees, which can be used if legal guarantees fail to achieve their goals. Among the most important popular guarantees are (the popular referendum, popular objection, popular proposal, individual dismissal,

collective dismissal - dissolution of the House of Representatives). These guarantees are the most critical manifestations of semi-direct democracy, and (public opinion oversight) is the most crucial famous guarantee that is relied upon to achieve balance because of its effect in obligating the public authorities in the state to the limits drawn by the constitution. This oversight involves several parties forming public opinion (political parties, civil society organizations, media).

CONCLUSIONS

The most important findings of the research are:

1—The government over the legislative field through the increase in laws of governmental origin and the support that the draft laws submitted by the government receive under the dome of parliament by the parliamentary majority supporting the government weakens the council's ability to propose laws and limits its role in this field.

2- The coalition government method followed in forming the government in the absence of the party that won the majority in the elections led to instability in the government and approach due to the difference in the political programs of the participating forces and parties, which made the political opposition absent within the council.

3- The failure to establish an internal system to organize the work of the Council of Ministers is the most crucial factor that leads to the dominance of the one-party system over the executive authority and the emergence of the precise role of the Council of Ministers, which weakens the collective leadership in managing the Council of Ministers in a way that disrupts the balance between the legislative and executive authorities in favor of the latter.

4- The weakness of the members of the House of Representatives in resorting to less effective oversight methods towards government institutions, such as questioning and raising a general topic for discussion, and the continuous resort to investigation and interrogation methods that would increase the political responsibility of the government and dismiss it without adhering to objective methods, which negatively affected the

government's cooperation with the House of Representatives and its specialized committees.

5- The failure of the internal regulations of the House of Representatives to organize parliamentary oversight methods in a way that clarifies their details and determines the effects of not dealing with them positively by government members.

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