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Authors: Mohammed Hameed Al-Shajlawe

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Cases of the End of Parliamentary Interrogation in the Constitution of the Republic of Iraq for the Year 2005 (Comparative Study)

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Abstract: In the interim period, ie the period between the submission of the motion and discussed in the parliament, challenged opposed held its impact on the events, and ends pursued procedural. Shall be transferred without reaching its destination and this casual but that leads to recover or fall. Perhaps it is worth mentioning that the rules governing these exhibitors representing the general rules applicable to other means of media and parliamentary control on the work of the government or one of its members Calcaal Parliamentary with minor variations required by the subjective nature. Thus, the questioning ends the Bostrdadeh by the introduction unless adopted by another member or by the left and the downfall ends and have it in certain cases Kazhoal recipe introduction or demise described from the face of him or it may be the end of the duration of the legislative parliament

Keywords: Parliamentary Interrogation, Iraqi Constitution 2005, Legislative Oversight

Introduction

Given the seriousness of the repercussions that may result from the interrogation, which requires that before starting to discuss the parliamentary interrogation, the Speaker of the House of Representatives ensure that the interrogation has not been retrieved from the member of Parliament (its submitter). This is done by the representative or member of Parliament withdrawing the request for the interrogation or not attending at the time specified for him to discuss the interrogation. The Speaker of the House also ensures that the interrogation has not been dropped in any of the cases stipulated in the constitutions and internal regulations of the parliamentary councils.

Importance of research:

The importance of the research stems from the importance of its topic (cases of ending parliamentary interrogation in the Constitution of the Republic of Iraq for the year 2005), as it deals with the most important obstacles or cases that, if present, would prevent the submitted interrogation from achieving the dangerous effect resulting from it, and thus it

obstructs the procedural path of this dangerous supervisory method, which leads to its recovery or its fall if it is present.

Research problem:

Our research topic raises a number of questions worthy of investigation, including:

1. What are the referrals that lead to the recall or lapse of an interpellation?
2. Are there conditions for recalling an interpellation request? Has our constitutional or regulatory legislator stipulated these conditions? Was it successful in doing so?
3. Is the expiration of the parliament's term a valid reason for the lapse of an interpellation? What is our legislator's position on this situation?
4. Was our Iraqi legislator's position successful in its constitutional and regulatory texts addressing this issue?

All of these questions and others compel us to investigate this topic, as it relates to the most important means of oversight exercised by Parliament over the actions of the government or one of its members.

Research objectives:

This research aims to attempt to cover all matters related to the cases of parliamentary interpellation being terminated, which may prevent it from achieving the impact that could result from this important oversight mechanism. It also attempts to identify the shortcomings that marred the constitutional or regulatory provisions that addressed these issues by our legislators, with the aim of avoiding them in the future.

Methodology

God willing, we will adopt the analytical approach in dealing with the issues that have been raised, by relying on the texts of the Iraqi Constitution of 2005, as well as the internal regulations of the Iraqi Parliament of 2007, and also analyzing the constitutional and legal texts of the comparative countries in this research of ours.

Research plan:

This research is divided into two sections, arranged as follows:

Section One: Reclaiming the parliamentary interpellation.
Section Two: The lapse of the parliamentary interpellation.
Conclusion: Conclusions and recommendations.

Result and Discussion

Section One: Recovering the Parliamentary Interrogation

Any member of Parliament, upon submitting an interpellation to the Speaker of the House of Representatives, may withdraw it. This withdrawal occurs in two ways: The first is by withdrawing it from its submitter unless another member adopts it. The second is by abandoning it due to the absence of its submitter during the session to discuss the interpellation they submitted. Therefore, we will address this in two sections, as follows:

First demand: withdraw the parliamentary interpellation

Every member of the House of Representatives has the right to withdraw the interpellation submitted by him at any time after its submission, provided that no decision has been issued by the House regarding the interpellation, and that one or more members do not request that the House of Representatives adopt it, otherwise the House can consider it. This ruling is consistent with the nature of the interpellation to which the House's right relates, because the interpellation is a general right for the entire House (1). If the one who submitted it withdraws it, any other member can adopt it, whether one member or more than one member. This ruling is established in France, which is considered the cradle of the interpellation (2). However, withdrawing the interpellation must be after it is read, not before. The reason for this is that reading the interpellation in the House is an expression that the House realizes that there is an interpellation. However, before reading, withdrawal is not permissible in order to leave the opportunity for someone other than the member who submitted the interpellation to adhere to the interpellation and adopt it (3). Adopting the interpellation can be for all or part of it, so any member has the right, if the interpellator refrains from speaking about part of the interpellation, to adopt this part (4), because the interpellation after Its presentation and inclusion on the agenda transcends the relationship between its proposer and the respondent. The proposer of the interpellation does not discuss it alone, but participates with the other members of the House in discussing and voting on it (5). The internal regulations of the Jordanian House of Representatives of 1996 provided for the possibility for a member to withdraw an interpellation submitted to the Speaker of the House if he is satisfied with the answer given by the party to whom the interpellation was directed. The Speaker of the House then declares the discussion over, unless one or more members adopt the subject of the interpellation. In this case, the procedures stipulated in these regulations are followed (6). One application of this in Jordan is the interpellation submitted by a member of the Jordanian House of Representatives. The subject of the interpellation was directed to the Minister of Finance at the time, due to the latter's withholding of the letter of intent addressed to the International Monetary Fund from the representatives. This interpellation was withdrawn by its proposer and not adopted by another member of the House, resulting in its withdrawal (7). The internal regulations of the Kuwaiti National Assembly for the year 1963 AD (8) followed the same approach, and in implementation of that, the interpellation submitted by the three members of the Kuwaiti National Assembly, namely (Mishari Al-Anjari, Khaled bin Issa, and Khaled Jumaan Salem) to the Minister of Social Affairs (Muhammad Al-Raheeb), where its subject was the issue of distributing housing units from the Ministry of Housing, the result of this interpellation was that its submitter withdrew it and thus ended it. In this regard, we note that the Iraqi legislator in Article (59) of the Internal Regulations of the Iraqi Council of Representatives for the year (2007 AD) stipulated that (the interrogator has the right to withdraw his request for interrogation at any time.....), and this means that our legislator in the aforementioned internal regulations considered the interrogation a personal right of its submitter and allowed him to withdraw it at any time before discussing it. Therefore, the internal regulations of our country, Iraq, have provided provisions that distinguish it from

other regulations in the field of withdrawing the interrogation, by making it, as we said, a personal right between the one submitting the interrogation and the one against whom it is submitted, making it similar to the question in terms of its nature. However, this trend is unacceptable from several sides, as it is, on the one hand, in violation of the established parliamentary traditions in this regard (9), in addition to its departure from what the internal regulations of parliaments have stated since the era of the Third French Republic (10). On the other hand, not allowing members to adopt the interpellation allows the government to make political deals with the member who submitted the interpellation, because the one who submitted the interpellation's waiver prevents the rest of the members from adopting the interpellations and continuing with them (11). It can also be noted that our Iraqi legislator in the internal regulations of the House of Representatives for the year (2007 AD) did not stipulate the manner in which the interpellated person is withdrawn from his interpellation, whether this withdrawal is done by a written request submitted to the Speaker of the Council or verbally. This is a legislative deficiency that must be remedied by stipulating a statement of the mechanism through which the interpellation is withdrawn except in the case of the interpellation being adopted by a member of the Council.

The second requirement: the interrogator's failure to attend the specified session (abandoning the interrogation)

Jurisprudence holds that the failure of the person submitting the interrogation to attend the session designated for discussing his interrogation constitutes a recall of the interrogation, unless his absence from the session was excused and the excuse was acceptable to the Council. In this case, the Council postpones consideration of the interrogation to a subsequent session, only once, after hearing the government's opinion, if the person submitting it is absent for an acceptable excuse (12). However, if the member submitting the interrogation is absent from the scheduled time for the session designated for the interrogation, and the absence is for an unacceptable excuse or without an excuse, this is considered an implicit recall of the interrogation, and has the same effect as a recall by written or oral request. This ruling is sound and beyond dispute, because the member submitting the interrogation must make his interrogation the focus of his consideration and attention, and he is well aware of the date of the session designated for its discussion, and thus devotes himself to it so as not to waste his opportunity to monitor the government unless he has an excuse acceptable to the Council (13).

Some believe that the wisdom behind not considering the absence of the member submitting the interpellation due to an acceptable excuse as a waiver of the interpellation is that the interpellation often contains strong grounds for the member submitting the interpellation, which does not justify other members' adherence to it (14). This is the opposite of what the Kuwaiti legislator did in the internal regulations of the Kuwaiti National Assembly, where he emphasized that the absence of the member who submitted his interpellation to the Assembly from the session designated for its consideration is not considered by the Assembly unless the interpellation is adopted in the session or before it by one of the Assembly members (15). This is closer to the nature of the interpellation,

considering it a public right that is not affected by the circumstances related to its submitter. The Lebanese legislator did not eliminate this issue in the internal regulations of the House of Representatives for the year (1994 AD), and the internal regulations of the Jordanian House of Representatives for the year (1996 AD) also did not stipulate this issue, which constitutes a deficiency in their internal regulations. In fact, our Iraqi legislator did not address this issue, i.e. the absence of the member who submitted the interpellation from the session designated for discussing his interpellation. We wish that our Iraqi legislator had addressed this issue in the organization, with the necessity of addressing this deficiency or defect in its legislation and stipulating the cases in which the one submitting the interpellation is considered to have recovered it, including the absence of the one submitting it without an excuse or the presence of an excuse but it is not acceptable to the House of Representatives. This matter opens the way for the emergence of an important question, which is: in the event that the member submitting the interpellation does not attend the session designated for its consideration, is this interpellation considered valid or dropped, or is it permissible for another member to adopt it.

Section Two: The Fall of the Parliamentary Interrogation

Interpellation is a right granted to every member of the House of Representatives. Such interpellation may be directed to the Prime Minister or submitted to a minister who is a member of the government, concerning a matter within the government's jurisdiction or within the jurisdiction of the minister. Membership in the House of Representatives, and the status of the person to whom the interpellation is directed, are not merely conditions for acceptance, but rather conditions that must be maintained for the person to whom this status applies in order for the interpellation to proceed. If the person submitting the interpellation loses his status as a member of the House of Representatives, or the person to whom the interpellation is directed loses his status as a minister responsible for the subject of the interpellation at any stage of the interpellation, the interpellation is dropped and deemed null and void. As we note, the Kuwaiti legislator, in its 1963 bylaws, stipulated the cases that would lead to the expiration of an interpellation, in Article (142), which states that "an interpellation shall be dropped if the person to whom the interpellation is directed relinquishes his position, if the person submitting the interpellation ceases to be a member, or if the legislative session ends." It is also noted that the internal regulations of the Lebanese Parliament for the year (1994 AD), as well as the internal regulations of the Jordanian Parliament for the year (1996 AD), did not contain any text regarding the lapse of the interpellation. Article (59) of the internal regulations of the Iraqi Parliament for the year 2007 stipulated this case, as it stated (...the interpellation lapses with the loss of the capacity of the one who submitted it or the one to whom it was directed). However, it is logical that the interpellation lapses in three cases: with the loss of the capacity of its submitter or the loss of the capacity of the one to whom it was directed, or with the end of the period in which it was presented, although the Iraqi legislator only stipulated the first two cases (16). Therefore, the reasons for the lapse of the interpellation are three demands, as follows:

First requirement: The loss of the status of the person submitting the parliamentary interpellation

An interpellation is dropped when any of the circumstances that would remove the person submitting the interpellation for any reason occur (resignation, dismissal, death, loss of membership, etc.). Some jurists believe that the loss of the person submitting the interpellation's status for any reason does not in itself lead to the expiration of the interpellation. Any other member of the House of Representatives may adopt the interpellation if they see a justification for its continued existence (17). We support this view, because, as we have previously discussed, an interpellation is a general right for all members of the House of Representatives, not a personal right of the person submitting it. Therefore, any member of the House of Representatives may adopt the interpellation if the person submitting the interpellation waives it or the MP submitting the interpellation loses his or her status as a member of Parliament, rendering the latter a person without the status of a member. In this case, the MP is considered an ordinary individual, like any other individual in the state who does not enjoy the status of a member of the House of Representatives (18). An important question may be raised: Is the status of a member of parliament required to exist only upon submitting the interpellation? Or must this status remain in place until the interpellation is discussed and a decision is issued? To answer this, it can be said that the legislators of comparative countries did not stipulate this matter, neither directly nor indirectly. As for the Iraqi legislator, he did not stipulate this in the internal regulations of the Iraqi Council of Representatives for the year (2007 AD), which constitutes a legislative deficiency that our national legislator must address. To answer this question, we see that the right to interrogate is a personal right to submit it, but it is a collective right of the Council to discuss it. There is no doubt that the representative's status must be present at the time of the interrogation, but it is not necessary to remain until the time of discussion and the issuance of a decision on it by the Council. If the Council's right to interrogate is related to including it in the agenda and setting a date for its discussion, then every member becomes aware of the existence of the interrogation, and every member has the right to adhere to it. In this case, the Council considers the interrogation (19), and this status is removed from the representative when the reasons are available that would work to drop this status from him (representation), and these reasons are multiple, and therefore we will address these reasons in several branches as follows:

Section One: Resignation of the Representative

Resignation refers to a representative's written expression of desire to permanently leave office, by putting an end to the legislative duties entrusted to him and severing his representative relationship (20). Accordingly, election does not mean a representative is permanently bound to parliament within the constitutionally mandated term of office. He has the right, in principle, to resign at any time, in accordance with the generally accepted constitutional and administrative rules (21). Countries differ in their provisions for resignation. Some stipulate it in the constitution (22), others in the internal regulations of their parliaments (23), and others, such as Iraq, have incorporated these grounds into a

special law. A resignation is submitted to the Speaker of the House of Representatives of a free will, without coercion, and free of any conditions. If the resignation is accompanied by any conditions, it is considered null and void. A resignation must be submitted in writing and explicitly; verbal or telephone resignations are not acceptable and do not produce any legal effect (24).

The internal regulations of the Lebanese Parliament for the year 1994 stipulated that a member of Parliament must submit his resignation to the Speaker of the Parliament, who must inform the Parliament of the resignation by reading it out in the first session following its submission. It is considered final as soon as the Parliament becomes aware of it, and he may retract it if he submits a written letter to the Speaker of the Parliament requesting to retract the resignation before the Parliament becomes aware of it. In this case, the resignation submitted by the representative is considered as if it had never existed (25). In Jordan, the internal regulations of the Jordanian House of Representatives for the year 1996 stipulate that a member submit his resignation in a written request to the Speaker of the House of Representatives, provided that it is not bound by any conditions. The Speaker of the House of Representatives must present it to the House in the first subsequent session to decide whether to accept or reject it. The resigned representative may withdraw his resignation, but only by a written letter submitted to the Speaker of the House of Representatives, provided that the House has not issued a decision to accept it. The Speaker of the House informs the Prime Minister of the absence of electoral districts as soon as the House announces the acceptance of the resignation (26). In addition, for the resignation to have its effect and be considered valid, it must be approved by the King and be free of any conditions (27). In Kuwait, the National Assembly is the body responsible for accepting resignations from membership. A member submits their resignation to the Assembly, even though they are elected by the electoral college. The resignation is not official or effective from the date of submission unless approved by the Assembly. The resigning member retains his membership, with all the rights and obligations that accrue thereto, until the Assembly accepts his resignation (28). The Constitution does not stipulate a specific majority for acceptance of the resignation; this means that acceptance must be by an absolute majority of the members present (29).

In Iraq, the legislator stipulated the resignation of a deputy member in Law No. (49) of 2007 on the Replacement of Members of the House of Representatives, in Article (1), paragraph (30), which states: "Membership in the House of Representatives shall terminate for one of the following reasons: the resignation of a member from the Assembly in a case other than that stipulated in paragraph (31) of this Article," and considered this to be one of the reasons that lead to the loss of a member's representative status. As for the internal regulations of the Iraqi Council of Representatives for the year (2007 AD), we did not see in its texts anything that indicates the resignation of a representative, but it stipulated the possibility of a member of the Presidency resigning from his position, but after obtaining the approval of the majority of the number of members of the Council present. Accordingly, it can be said that what applies to a member of the Presidency with regard to resignation applies to a member of the Council of Representatives who wishes to submit his resignation

from the Council (31). Based on that, it can be said that the resignation of any member must be submitted in writing to the Speaker of the Council of Representatives, and that it must be submitted by the member personally, and it cannot be accepted even if it is submitted by the bloc to which that member belongs. After that, the approval of the majority of its members present must be obtained (32). This is what we can sense through the resignation request that was submitted by Representative Jaber Khalifa Jaber, which was approved by the Council, so the resignation was accepted, because the Council's approval of it is one of the necessary conditions for this resignation to be effective, and then another representative from his bloc takes his place after he takes the constitutional oath before the Council (33).

Section Two: Death

Death is a natural cause for the loss of the representative status of a member of Parliament, whether this death was natural or planned (assassination, for example). Constitutions, including the Iraqi Constitution of 2005, have referred to it as a reason for the loss of the status of the interrogator. However, the internal regulations of the Iraqi Council of Representatives of 2007 stipulated the possibility of the Council of Representatives legislating a law that addresses the case of replacing its members in several cases, including death (34). Indeed, Law No. (49) of 2007 was legislated, which stipulated death in Article (1), Paragraph (4) thereof, after which it was a case of replacing members, stating: Membership in the Council of Representatives ends for one of the following reasons: 4- Death.

Section Three: The invalidity of the member's membership in Parliament.

The invalidity of a member's membership in Parliament is one of the reasons that may lead to the loss of the member's status in the House of Representatives. The Kuwaiti constitutional legislator has made the decision on the membership of one of its members (members of the National Assembly) the responsibility of the Council itself. Accordingly, the Constitution has stipulated that the National Assembly shall decide on the membership of its members, and the membership of a member in the Council shall not be invalidated except by a majority of the members of which the Council is composed. In the event that this majority is present, the election shall be considered invalid (35). The Jordanian legislator also considered the failure of one of the membership conditions as a reason for the loss of representation from the representative. The Jordanian Constitution of 1952 AD gave the right to decide on the membership of the representative in the House of Representatives, as every voter has the right to submit to the Secretariat of the Council, within a period of (15) days from the date of announcing the election results in the district in which he is located, an appeal, provided that this appeal states the legal reasons for the invalidity of the representation of the person being challenged. The representation shall not be considered invalid except by a decision issued by a two-thirds majority of the members of the Council (36). The Lebanese constitutional legislator followed this approach, as he ruled that the failure to meet one of the conditions required of the candidate shall be a reason for the loss of his representative status. The Council is competent to decide on the membership of its

members, and the election of the representative may not be invalidated except by a decision issued by a two-thirds majority of the total members of the House of Representatives (37). The Iraqi Election Law No. (16) of 2005 AD required a number of conditions that must be met by the candidate for membership in Parliament, as follows (38):

1. He must be of Iraqi nationality.
2. He must be of full legal capacity.
3. To be registered to vote in accordance with the procedures issued by the Independent High Electoral Commission
4. To have completed eighteen years of age in the month in which the elections are held. The candidate must also be a voter, in addition to the following (39):
   a. To be at least (30) years old.
   b. Not to be subject to the de-Baathification laws (accountability and justice).
   c. Not to have gained illicit enrichment at the expense of the country.
   d. Not to have been convicted of a dishonorable crime.
   e. To hold a preparatory school certificate or its equivalent.
   f. Not to be a member of the armed forces at the time of nomination. The Iraqi Council of Representatives has been given the right to decide on the validity of the membership of its members, and this shall be within a period not exceeding (30) days from the date of registering the objection, and this shall be by an absolute majority of its members. The Council's decision on the validity of the membership of its members may be appealed before the Federal Supreme Court within a period of thirty days from the date of its issuance (40). Membership shall not be withdrawn from any member of the Iraqi Council of Representatives except after the approval of two-thirds of the members of the Council of Representatives (41).

Fourth section: Dismissal.

The status of a representative in Parliament is lost for another reason, which is dismissal. This means stripping the parliamentary representatives of their legal authority by withdrawing the voters' confidence from them before the end of their term, on the basis that the representative is considered an agent of the citizens, and must implement their instructions and maintain their confidence. If he fails to fulfill his mandate, they may remove him (42). Dismissal differs from resignation, as the latter is submitted by the free will of the representative, unlike the dismissal that is issued by the council when he commits an act that causes him to lose the confidence and respect required by the parliamentary function (43). In Jordan, dismissal is considered a reason for the loss of the representative's representative status. Therefore, a representative may not be dismissed from Parliament except in the event of a decision being issued by the council to which that member belongs. The dismissal decision is issued against the member with the approval of a two-thirds majority of the members of which the council is composed. If the dismissal is related to a member of the Senate, the council's decision is submitted to the King for approval (44). Neither the Kuwaiti nor the Lebanese legislator spoke about the dismissal of a member of Parliament, whether it was constitutional or bylaw. The Iraqi Constitution of 2005 AD or the

internal regulations of the Iraqi Council of Representatives of 2007 AD did not stipulate the dismissal of a member from Parliament, but it stipulated the possibility of dismissing any member of the Presidency by a decision issued by the Council of Representatives, and this is in accordance with the law (45). However, dismissal was stipulated in the Law on the Replacement of Members of Parliament No. (49) of 2007 AD in its Article (1) (Item First) of Paragraph (7), which stipulated (the dismissal of a member who exceeds his absences without A legitimate excuse for more than a third of the Council's sessions from the total of one legislative term), and that dismissal is issued against any member of the Council and this is done by an absolute majority of the representatives (46).

Section Five: Lifting parliamentary immunity.

Immunity is a constitutional privilege granted to members of parliament in their capacity and not as individuals, whether elected or appointed, by which no criminal action may be taken - except in the case of flagrante delicto - against a member of parliament during its session without the permission of the council to which that member belongs (47). This immunity only aims to prevent the executive authority from fabricating a crime to attribute to a member of parliament in order to arrest him or take other criminal action against him, in an effort to prevent him from attending sessions if he is among those who take an opposition position (48). This immunity is not intended for the representative or member of parliament personally, but rather its purpose is to achieve the interest of society and to demonstrate the prestige of parliament as a body with its independence and dignity, given that this council represents all classes of the people and segments of the nation (49). This immunity is based on the concept of functional necessity, which stipulates that members of parliament must enjoy constitutional immunity to enable them to perform their parliamentary duties in an atmosphere of freedom and confidence that they will not be subjected to arbitrary and pressured by the executive authority. Jurisprudence considers this immunity to be one of the most important guarantees for the performance of the parliamentary or representative function (50).

This immunity also qualifies as substantive immunity, whereby members of parliament are not held liable for the ideas and opinions they express during their deliberations in the House or one of its committees, with the aim of ensuring freedom of parliamentary discussion (51). This immunity extends beyond the member of parliament in its effects, extending to a certain extent to protect others. A journalist who publishes the statements of a member of parliament, including all the slander or defamation they contain, is not considered liable as long as they present them to the public as a recording of the proceedings of the House of Representatives. However, if they add even a single sentence to the statement that suggests they support the member of parliament in what he said, they will be held accountable for that in accordance with the general rules of the Penal Code (52). There is also procedural immunity, established by the Constitution for members of legislative councils, meaning that criminal proceedings may not be taken against them without obtaining permission from the House of Representatives (53). This immunity continues as long as the member continues to enjoy parliamentary status. It should be noted

that approval to lift a member's parliamentary immunity has no effect on their continued enjoyment of parliamentary status. Procedural immunity therefore remains with them in cases other than those to which the lifting of their immunity was subject. This immunity is removed when the member's parliamentary status is removed (54). If a lawsuit is brought before the judiciary before parliamentary immunity is lifted, the court must rule that it is inadmissible due to the invalidity of its procedures. The court will rule on this of its own accord, even if the member does not raise it.

This plea of invalidity is valid at any stage of the lawsuit, even if it is brought before the Court of Appeal or the Court of Cassation (55). The Jordanian Constitution and the internal regulations of the Jordanian House of Representatives for the year (1996 AD) stipulated the cases that could lead to the lifting of immunity from the representative if one of these cases is present, which is in the case of being caught in the act, or the issuance of permission from the competent council, or in the case of the end of the council's term, or in the case of the absence of a session (56). The internal regulations of the Lebanese Parliament of 1994 stipulate that the immunity of a member of parliament is lifted by a request submitted by the Minister of Justice, accompanied by a memorandum from the Public Prosecutor at the Court of Cassation, including the type of crime, the time and place of its commission. This request is submitted to the Speaker of the Council, who invites the Council's Bureau and the Justice Administration Committee to a joint session to submit a report on it within a period of two weeks. If the Bureau does not submit its report within the specified period, the Speaker of the Council must inform the Council of this in the first session it holds. The Council may decide to grant the joint body an additional period of time sufficient to take over the request and decide on it directly. When the Council begins to discuss the matter, the discussion must continue until a final decision is made on the matter. The decision to lift immunity is taken by a relative majority in accordance with Article (34) of the Lebanese Constitution of 1926 AD, as amended. The joint committee and the Council must also ensure, when studying and discussing the request to lift immunity, that the request is far from partisan and political aims and does not aim to deprive the member of the exercise of his parliamentary work (57).

The Iraqi Constitution of 2005 stipulated the parliamentary immunity of the member of parliament, both substantive and procedural, and stipulated the possibility of lifting the immunity of the member and then the possibility of arresting him in the event that he is accused of committing a felony or in the event that he is caught red-handed in a felony. This shall be during the legislative session and the approval of the members and by an absolute majority of the House of Representatives is required. However, in the event that the member is outside the legislative session, in order to arrest the member and then lift his parliamentary immunity, the approval of the Speaker of the House of Representatives is required, in the event that he is accused of a felony or caught red-handed in a felony (58). There must be a judicial order issued by the Supreme Judicial Council in order for the immunity of the representative to be lifted, and this order must be sent to the Speaker of the House of Representatives, and the latter must inform the member from whom the parliamentary immunity is to be lifted (59). One of the applications of this is when the House

of Representatives voted on the request of the Supreme Judicial Council to lift the immunity of the representative (Mishaan Al-Jubouri) for accusing him of seizing more than one hundred billion dinars that were spent to feed three oil protection regiments, and this is the first time that the House of Representatives has taken on the lifting of immunity from one of its members with a majority of (141) votes, and this request was for the purpose of referral to the investigative court (60).

Section Six: Combining council membership with any other official work.

Another reason for the loss of a member's representative status is that a member of parliament takes on another job or position in addition to his work in the council. This is considered a guarantee for carrying out the parliamentary function so that the member can devote himself to parliamentary work and stay away from the influence or temptation of public authorities, or in order to remove any suspicion of that. Among the established rules in Jordan is what the Jordanian constitutional legislator stipulated, which is the impossibility of combining membership in either of the two councils (the House of Representatives - the Senate) with public office (61). Public office means any job whose holder receives his salary from public funds. The wisdom behind this is to avoid weakening parliament in terms of its being a watchdog over the actions of the executive authority by including individuals from the executive authority among the members of the council (62). In Kuwait, the rule in effect is that it is not permissible to combine membership in the National Assembly with holding public office, as holding a public office by a member of the National Assembly is considered a reason for the loss of membership in the Assembly, except in cases where it is permissible to combine them according to the Constitution (63).

The Iraqi Constitution of 2005 stipulated the impossibility of combining membership in the House of Representatives with any other position in Article 49/6, stating that "it is not permissible to combine membership in the House of Representatives with any other work or official position." This matter was also stipulated in the Law on the Replacement of Members of the House of Representatives, No. (49) of 2007, as one of the reasons that would terminate membership in the Iraqi House of Representatives, stating: "A member of the Assembly holds a position in the Presidency of the State, in the Council of Ministers, or in any other official position." Therefore, we find that the Iraqi legislator in its current constitution has prohibited combining membership in the House of Representatives with any other position, regardless of whether this position is public or political. Thus, it has taken a direction opposite to what we saw with regard to the aforementioned comparative countries in terms of the possibility of combining membership in Parliament and the ministry. We find that the Iraqi legislator has prohibited this combination despite its violation of the principles of the parliamentary system in effect in parliamentary systems. We, in turn, support what the Iraqi legislator has gone to in this regard in order for the representative to devote himself to his work in Parliament and perform it in the best possible way. This is what relates to the cases that would lead to the loss of the parliamentary status of the member of Parliament, in addition to the existence of another reason that leads to the same result, which is the loss of membership status from the representative, which is

stipulated in the Law for the Replacement of Members of Parliament No. (49) of (2007 AD), which is as follows (64): "Suffering from a terminal illness, disability, or inability to perform his duties in the Council, accompanied by a report from a specialized medical committee, provided that the total of his sick leave does not exceed (65) months during two consecutive legislative terms. In the event that it exceeds it, he is referred to Retirement and the Council has the right to appeal the decisions of the Medical Committee (66).

The second requirement: the removal of the status of the person to whom the parliamentary interrogation was directed

An interpellation lapses when the person to whom it is directed ceases to be in office. An interpellation lapses and is removed from the parliament's agenda. If it is directed at the Prime Minister, it lapses if the government resigns or is dismissed. If it is directed at a minister, it lapses if that minister resigns or is dismissed. This is because the most that an interpellation can achieve is a lack of confidence in the minister, which would result in his resignation. As long as the resignation or dismissal has already occurred, there is no reason to consider the interpellation (67). This situation is stipulated by the internal regulations. However, the lapse of an interpellation with the fall of the government or minister is actually due to fundamental constitutional rules that do not need to be explicitly stated. The purpose of an interpellation is to monitor the government and hold it accountable for its actions. If the government or the minister in question resigns, the interpellation, as a means of Parliament's oversight of government actions, has achieved its purpose. The government or minister can no longer be held accountable through the old interpellation; instead, it can be held accountable through another means, such as legal prosecution (68). Therefore, there are cases that lead to the lapse of the interrogation due to the loss of the status of the person to whom it was directed. We will discuss these cases in several branches, as follows:

Section One: Resignation of the Prime Minister or Minister.

Resignation is one of the reasons for the removal of the person to whom the interrogation is directed. The Jordanian Constitution of 1952 stipulated that the prime minister's resignation be submitted to the king, who has the authority to accept the resignation (69). In Kuwait, the prime minister's resignation is submitted to the emir, according to the Kuwaiti Constitution of 1962. The emir has the authority to appoint the prime minister and ministers and accept their resignations (70). In Jordan, the Jordanian Constitution of 1952 stipulates that the prime minister's resignation be submitted to the king, who is the one with the authority to accept the prime minister's resignation. Similarly, the king accepts the resignation of a minister upon the prime minister's recommendation after the minister submits it to the prime minister (71). In Iraq, we note that a minister's resignation can lead to the dismissal of the interpellation, as the person to whom it was directed no longer has the authority to do so.

The resignation is submitted by the minister to the Prime Minister. This resignation becomes effective as soon as it is signed by the Prime Minister, who requires that it be presented with sufficient evidence from the latter (72). A member of the National Coalition

bloc, close to the government, stated that all ministers in this bloc had submitted their resignations to the Prime Minister, and as we previously mentioned, these resignations become effective as soon as they are signed by the Prime Minister (73). We believe this is a method used to evade interpellation by accepting the resignation and then ending the interpellation. We note that our Iraqi legislature does not regulate the resignation of the Prime Minister, which, in our view, is a serious flaw, as it raises controversy over the entity to which the resignation should be submitted: should it be submitted to the President of the Republic or to the Speaker of Parliament? Such a question may be settled in established countries, but in the light of constitutions that are new to parliamentary systems, such as the Iraqi Constitution, the matter remains a matter of dispute (74). If we assume, for the sake of argument, that the resignation is submitted to the Speaker of the House of Representatives, just like the resignation of the President of the Republic (75), is it effective from the date of its submission or after (7) days have passed from the date of its deposit with the House of Representatives, and equally with the resignation of the President of the Republic? (76), or does the ministry remain in place to manage daily affairs for a period not exceeding (77) days, in analogy to the case of withdrawing confidence from the government? These questions and perhaps others should have been regulated by the Iraqi constitutional legislator to settle any dispute that could be raised regarding them, especially since the Constitution has regulated the resignation of the President of the Republic (78).

Section Two: Dismissal of the Prime Minister or Minister

This is also one of the cases that can lead to the loss of the person to whom the parliamentary question is directed, and thus the latter's downfall. In Jordan, the Jordanian legislature has stipulated that the dismissal directed at the prime minister is issued by the king, as is the dismissal issued against a minister, but based on the recommendation of the prime minister. The dismissal of the prime minister results in the dismissal of the entire government (79). The reason for this dismissal is either the withdrawal of confidence from him (the prime minister) by an absolute majority of the House of Representatives, or in the event of an accusation directed against him by the House of Representatives by a two-thirds majority of its members and supported by the Judicial Council on this accusation. The dismissal is accepted exclusively by the king (80). In Kuwait, the emir is the one who dismisses the prime minister and ministers, based on the prime minister's nomination. In the event of the dismissal of the prime minister, this dismissal is tantamount to the dismissal of all ministers from their positions (81). In Iraq, the dismissal of the Prime Minister may be due to a political reason, represented by the withdrawal of confidence from the Prime Minister upon the submission of a request to do so by the President of the Republic or one-fifth (1/5) of the members of the Council of Representatives. In the latter case, the request for dismissal must be preceded by an interrogation and the passage of (7) days from the submission of the request, with the necessity of obtaining the approval of an absolute majority of the Iraqi Council of Representatives (82).

The other reason is criminal. It is noteworthy that the Iraqi Constitution of 2005 did not stipulate this reason. However, by referring to Article 93/Sixth of the same Constitution,

we can say that it is possible to dismiss the Prime Minister for this reason, as this article stipulates that (the Federal Supreme Court... is competent to adjudicate the accusations directed... and the Prime Minister...). However, the matter requires legislative treatment to determine the criminal charges that may be directed against him, the party that files the accusation, and the party that has the right to dismiss the Prime Minister after his conviction by the Federal Supreme Court. As for the dismissal of a minister, the Iraqi Constitution of 2005 stipulated that the dismissal of a minister is the right of the Prime Minister with the approval of the Council of Representatives (83). A minister may be dismissed in the event of a vote of no confidence being withdrawn from him after an interpellation directed at him by any member of Parliament and with the approval of (25) members (5). The result of the dismissal may be a criminal reason, and this can be deduced from the text of the aforementioned Article (93/Sixth) of the Iraqi Constitution, which states that (the Federal Supreme Court is competent to adjudicate the accusations directed against... and the ministers...). However, we see that the matter remains in need of legislative treatment by approving the internal regulations of the Iraqi Council of Ministers in order to clarify many of the vague matters in this area and others.

The third section: disability (84)

Disability is defined as a total or partial loss of ability to work due to an illness (85). Through our study of comparative constitutional systems, we found a number of problems surrounding the disability that may befall those holding a sovereign position in the state. The most important of these problems can be summarized as follows:

1. What are the criteria that define disability, and when is disability permanent or temporary?
2. What body determines the degree of disability and ensures its existence?
3. Most constitutions do not explicitly and in detail define disability, including the Iraqi Constitution (86).

Regarding the issue of determining temporary or permanent disability, this matter falls under the purview of the Ministry of Health, which determines such cases through a medical report specifying the condition of the disabled person and the degree of disability. If a minister, prime minister, or someone of similar standing suffers a temporary impediment to undergoing surgery inside or outside the country, preventing them from exercising their duties for a specified period, they have the right to delegate some of their powers to their deputy. The Iraqi Constitution did not address the case of permanent disability for the Prime Minister or one of the ministers or those who are in their position, which requires us to refer in the case of physical or mental disability to the Civil Retirement Law No. (35) of 1966 AD, as it specified the cases in which referral to retirement is permissible, including the case of inability to perform the job regardless of service and age (1).

Section Four: Death:

Death: It means death, an existential characteristic created in opposition to life, and it is the suppression of the desires of the soul. Whoever dies of their desires has been revived by their guidance (88). There are several types of death:

1. Natural death, when the body's organs, brain cells, heart, and respiratory system cease to function permanently.
2. De jure death, which is the result of loss. It is said that someone is missing, meaning that neither his whereabouts nor his condition are known—whether he is alive or has passed away—for a long period of time. This applies to missing persons for a period of (4) years, and a ruling of his death is issued from the date of his disappearance by the competent courts.
3. Death resulting from a crime committed against a public employee that led to the deliberate loss of the employee's life during or as a result of his work (98).
4. Natural death of a public employee while performing his duties (90).

We did not find any reference in the Iraqi Constitution of 2005 regarding the issue of death as a reason for the termination of the term of office in the leadership of the government or ministry or those in its position, because this matter is implicitly understood, and the effect resulting from death during service is the termination of the job relationship and referral to retirement (91).

The third requirement: The interrogation shall lapse upon the end of the session during which it was submitted.

This is one of the cases in which the interrogation is dropped, and this dropping is a natural thing, as the House is supposed to finish all the interrogations submitted to it before the end of the regular session, and if some interrogations remain without being discussed, then their fate is to drop (92). The right of the representative to renew the interrogation in the next session is a right that cannot be denied, whether the regulations stipulate it or not. It may happen that the House begins to discuss one of the interrogations and refer it to one of the committees to examine its subject, then the parliamentary session ends before the committee's report is presented to the House. In this case, there is nothing to prevent – if the committee has prepared its report on it – from examining the report in the next session. The House may decide to consider the interrogations submitted in a session that is about to end as existing after the end of this session, until they are answered in the next session. It happened in the second regular session of the House of Representatives in the year (1937 AD) in Egypt that interrogations were read and the government requested to postpone the answer for two weeks – that is, after the end of this session – so the Speaker of the House said that it is known that interrogations and proposals are dropped at the end of the session unless their submitters renew them. Does the government consider these interrogations as existing until After the end of the session? Or does it need to be renewed after the opening of the regular session? The Prime Minister – at that time – commented on this by saying, "This is a matter related to the internal regulations of the Council, and he is the one responsible for this matter, and the government is ready to respond after two weeks." Here,

the Speaker of the House of Representatives presented to the Council the matter of agreeing to discuss the interpellations in the next session, and the Council agreed to that (93). Moreover, the lapse of the interpellation at the end of the Council's term (94) leads to the Council losing its mandate, as its term of representation of the nation ends and it becomes incapable of holding the government accountable. The Council's term may end naturally through dissolution (95).

In Kuwait, a parliamentary interpellation can lapse if the legislative session ends, but the end of the session cannot lead to the lapse of the parliamentary interpellation. Rather, the Council resumes its consideration as it is at the beginning of the next session, and this is what the internal regulations of the Kuwaiti National Assembly of 1963 stipulated (96). In Jordan, the internal regulations of the Jordanian House of Representatives for the year (1996 AD) stipulated this case, which is the lapse of the parliamentary interpellation at the end of the legislative session of the House of Representatives, as in the event that the interpellations are included in the agenda of the House and the parliamentary session ends without considering them, they cannot be included in the agenda of the next session unless their submitters declare their adherence to them, and this is done in a written letter submitted to the Speaker of the House (97). It is noteworthy that the Iraqi legislator failed to mention this case among the cases of the lapse of the interpellation, and questions can be raised on this subject, namely, does the end of the legislative session lead to the lapse of the interpellation or not? What is the difference between this case and the end of the session? And the extent of its impact on the interpellation? (98) We would have preferred - as long as the internal regulations of the House of Representatives were largely taken from the internal regulations of the Egyptian House of Representatives - that it had adopted the text of Article (207) of the Egyptian regulations, which stipulates that "the interpellation shall lapse upon the loss of the capacity of the person who submitted it or the person to whom it was directed, or upon the end of the term in which it was submitted" (99). What can be noted is that the Iraqi legislator has reversed the session and the chapter, as he called the session a chapter and the chapter a session when speaking about the periods of Parliament's convening (100). We see that the lapse of the interpellation upon the end of the term of the House during which the parliamentary interpellation was submitted is an unjustified situation, because saying otherwise leads to the lapse of many of the interpellations submitted to the House, which leads to the disruption of one of the means of Parliament's oversight of the work of the executive authority, which affects the failure to create a balance between the two authorities and moves us away from a system other than the parliamentary system. It may also lead to the government getting rid of many of the interpellations that may be of great importance in order to achieve the public interest.

Conclusion

After completing our research, we must present here the most important findings and recommendations we have reached:

1. We have concluded that there are a number of cases stipulated by our Iraqi legislator, the presence of which would lead to the interruption of the procedural path of the interpellation, leading to its lapse or revocation.
2. We have concluded that our Iraqi legislator has made the interpellation a personal right in terms of its withdrawal, as its submitter may withdraw it at any time, similar to a parliamentary question.
3. We have concluded that our Iraqi legislator did not specify the mechanism by which a parliamentary interpellation may be withdrawn, except in the event that it is adopted by another member of the House of Representatives.
4. We have concluded that our Iraqi legislator, in the 2007 Internal Regulations of the House of Representatives, did not address an important issue, namely the non-attendance (absence) of the parliamentarian submitting the interpellation at the session scheduled to discuss the interpellation, whether with or without an excuse, and whether the non-attendance of the submitter constitutes the validity of the interpellation or its lapse. 5- We have concluded that our Iraqi legislator has been satisfied with stipulating the cases in which the interpellation is dropped, namely the case of the loss of the capacity of the one who submitted it and the loss of the capacity of the one to whom it was directed, and without including the case of the end of the parliament's term as a case in which the interpellation is dropped, due to its negative impact on the work of the council from the oversight perspective.

Recommendations:

1. We recommend that the Iraqi legislator include in the 2007 House of Representatives' Bylaws a provision specifying the manner in which a request to withdraw an interpellation may be submitted to the Speaker of the House of Representatives, and whether it should be submitted in writing or orally. Therefore, we propose that the provision be as follows: "The interpellator has the right to withdraw his interpellation at any time, with the approval of (25) members. This can be done through a written request submitted to the Speaker of the House of Representatives, or orally during the session; otherwise, the House will not consider it."
2. We recommend that the Iraqi legislator specify the penalty for the member submitting the interpellation's failure to attend a discussion session, unless the absence was due to a legitimate excuse acceptable to the House. Therefore, we propose that the provision be as follows: "The failure of the interpellation submitter to the session designated for discussing his interpellation shall be deemed a withdrawal of his interpellation, unless the absence was due to an excuse acceptable to the House. In this case, the House shall postpone consideration of the interpellation for a session, and only once."
3. We recommend that the Iraqi legislator stipulate that the interpellation shall not be invalidated in the event of the Prime Minister's resignation. Or the minister (whom the interpellation is directed to), because this matter will constitute an obstacle for the House of Representatives when accusing the minister of committing constitutional or legal violations. The Prime Minister can reject the interpellation by accepting the resignation of the government member, especially since the minister's resignation is considered effective once accepted by the Prime Minister. An example of this is what happened when the Prime Minister dismissed the Minister of Electricity from his position when

the House of Representatives directed an interpellation to him regarding the fictitious contracts that were revealed by one of the representatives of the National Alliance list.

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