



The Emergence and Organization of the Legislative Authority (A Comparative Study)

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Abstract

Constitutions with parliamentary representative systems often strive to adhere to the rules of this system to the same degree of keenness to ensure that the constitution is appropriate to the prevailing conditions in the state. Specifically, those rules that secure the jurisdiction and powers of the legislative authority in application of the principle of separation of powers, and their coupling with the principle of the supremacy and superiority of this authority over other authorities. Whereas cases of suspension and abstention from carrying out the tasks assigned to such an authority create a state of confusion and disorder in Iraqi society, despite the existence of some constitutional periods that guarantee the regularity of the work of the Council of Representatives. This made the Iraqi constitution proceed in accordance with the provisions of the Constitution of the Republic of Iraq for the year 2005, which did not address these cases by establishing deterrent rules and provisions, including penalties that are sufficient to bring about change that serves the interests of the entire Iraqi society.

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Introduction

Some constitutions, including the Constitution of the Republic of Iraq of 2005, chose for the legislative authority some rules, sometimes related to its formation and other times related to its work. These rules were characterized by a nature and characteristics that made them unique from some of those rules that prevailed in parliamentary systems in their early origins, including the Constitution of the Republic of Iraq of 2005. This matter, in turn, was reflected in the regularity of the work of the federal legislative and judicial authorities, which exercise their powers and duties in accordance with the constitution to preserve the unity, integrity, and federal democratic system of Iraq. Despite the fact that this in reality often led to the delay in forming the Council of Representatives, postponing their convening, and disrupting the procedures for holding them accountable. Sometimes, it led to the Council not fulfilling its constitutional duties and tasks within the specified periods, i.e. the irregularity of the work of the legislative authority (according to the provisions of the Constitution of the Republic of Iraq for the year 2005, the Council of Representatives is one of the components of the legislative authority, and the other component is the Federal Council, which is suspended and has not enacted its law), which caused crises and congestion in society as a result of the suspension of the Council's work. Therefore, it was necessary to find constitutional and legislative solutions by searching for them in the constitutions of comparative countries, namely the United States of America and the Arab Republic of Egypt, because constitutional provisions are the optimal solution due to their supremacy parallel to the supremacy of the authorities.

First - The importance of the research:

This topic indicates importance from two aspects, the first of which is to establish a general theory of constitutional means that ensure the continuity of the regularity of the work of the legislative authority in the

parliamentary system. Second, it aims to review those means that were organized by the Constitution of the Republic of Iraq for the year 2005 to evaluate them through research and investigation of the constitutions of comparative countries in explaining how they overcome areas of constitutional defects, and ways to close the loopholes that occurred.

Research Problem:

The importance of the constitutional status of the legislative authority (Council of Representatives) comes from its specificity in the Constitution of the Republic of Iraq for the year 2005, with many powers, including traditional (legislative and specific to the field of other authorities), and non-legislative. This ensures the supremacy and superiority of this authority over other authorities, but the constitutional legislator did not follow the approach of the constitutions of comparative countries in ensuring the regularity of the work of the legislative authority. In particular, organizing cases of suspension in the Council of Representatives and abstention from exercising its assigned tasks, despite the existence of some constitutional periods, which created a state of confusion and disorder in society. In addition to the relationship of the Council with the constitutional judiciary (the Federal Supreme Court) with its means to address such crises. Thus, the research problem revolves around the trends followed by both the Constitution of the Republic of Iraq for the year 2005, and the authority of the Federal Supreme Court in light of the rulings issued by it, and comparing them with the constitutions of comparative countries. Based on the above, the research problem can be determined in three parts:

First: Does the Constitution of the Republic of Iraq for the year 2005 include texts governing the regularity of the work of the Council of Representatives? Second: Did the regularity of the work of the Council of Representatives proceed in accordance with the provisions of the Constitution of the Republic of Iraq for the year 2005, or in accordance with the decisions and rulings of the Federal Supreme Court? Third: Have the numerous decisions and rulings of the Federal Supreme Court contributed positively to strengthening the regularity of the work of the Council of Representatives.

Research Methodology

The research method in this study relied on the comparative analytical study method, where the constitutions of the Republic of Iraq were compared during the period of the establishment of Iraqi constitutional provisions and until now in comparison with the constitutions of countries that were used as comparative models. These are the Constitution of the United States of America for the year 1787, amended, and the Constitution of the Arab Republic of Egypt for the year 2014, amended in 2019. The focus was also on the legislation of laws and their connection to the parliamentary system, as it is the political system in the constitutions under study. The statistical method was also used to study the decisions and rulings of the constitutional judiciary authority in these legislations.

The first section

The emergence of the legislative authority

Societies' aspirations collided with many realistic and legal turns that led to the division of these societies within the traditional framework in terms of submission to the law that ends with the achievement of the principles of democracy that forced authoritarian regimes to move away from monopolizing power and resorting to a legal government. That is, the submission of everyone (rulers and ruled) to the laws and regulations in force according to the principle of legitimacy. Here, the people make laws and establish appropriate mechanisms for their implementation and undertake implementation and judiciary themselves, through an agency of an elected body called the House of Representatives (the legislative authority) (Ubaid, 2013, p. 27). This council exercises legislative, oversight and financial tasks on behalf of the people, and others, according to the system of the bicameral legislative council, or the single-chamber legislative council, with justifications and disadvantages for each direction (Al-Shukri, 2016, 201).

Then the role of the representative changed and it became his duty to present the public interest to become a representative of the nation until the end of his membership, unless he committed a crime punishable by law.

But soon the representative became bound and subject to political, national and sectarian considerations under the party system applied to all parliaments. This led to significant and influential deviations in the work of the councils. Therefore, this research was divided into the emergence of the legislative authority in Iraq in the first requirement, and the second requirement focused on the emergence of the legislative authority in the comparative countries.

The first requirement

The emergence of the legislative authority in Iraq

Iraq after the First World War was occupied by Britain, and in it the Imami jurists took two positions regarding the establishment of the state and the legitimacy of establishing the legislative authority (Al-Alawi 1990, p 43).

1- The opposing position: The illegitimacy of establishing the state in the era of occultation and its usurpation with the presence of colonialism, except from two perspectives, one of which is the establishment of a parliamentary council with the authority to perform this trust, and the other is the existence of a constitution (the basic Aristotle law) (Kraut, 2002; Al-Sayyid, 2009, p. 95)

2- The supporting position: Several theories, some of which combine ijtiḥād and the parliamentary system, as the religious state, headed by the jurist who meets the conditions, and the right to enact and legislate laws on the basis of the legitimacy of the state, while the civil state is the state of the guardianship of the jurist as he is the guardian of the Muslims and gives legitimacy to all institutions without exception (Elowitz, 1972).

The guarantees of the existence of the constitution, which is a set of laws that define the nature of authority and its duties, and distinguish the three authorities, the judicial, executive and legislative, through the principle of separation of powers, the existence of a representative authority in accordance with the achievement of legitimacy, and the parliament is the second important part in combating tyranny, and the theory of conditional government was based on realistic foundations (Al-Naini, 1998, p. 186). The first election experiment was held in Iraq in 1923, then the first royal constitution was announced in (1925), and in it the legislative authority (the National Assembly) which consists of the two Houses of Notables which specialize in establishing, amending and abolishing laws (Hamadi, 1964, p. 132). The first republican era established formal constitutional authorities with varying powers in temporary constitutions that were consistent with the requirements of the revolutionaries and the government during a transitional period until a constitution was drafted (Al-Jeddah, 1998, p. 59). With the continuation of slogans of political, economic and military reforms that indicate the instability of the constitutional and legal situations and attempts to find a permanent constitution that would save the country to safety, but to no avail, and with the ruling authorities imposing their control over the necks of those who oppose them, and the emergence of factionalism, sectarianism and racism, which led to the persecution of the Iraqi people, by placing them between two options, either death or displacement, due to the absence of laws that preserve the rights of the majority, or the existence of laws that are suspended and cannot be implemented, the coalition authority, in cooperation with the Governing Council, issued the Iraqi Interim State Administration Law in 2004, to achieve temporary stability in Iraq until the issuance of the permanent constitution in 2005 (Al-Sudani, 2004, p. 130). The system was a dual legislative authority (1921-1958), but during the republican era between (1958-2003) there was a return to a single legislative authority, but after (2003) there was a return to a dual legislative authority but without activating the Federation Council (Khalid, 2015).

The second requirement

The emergence of legislative authority in comparative countries

The legislative authority in the United States of America after the emergence of human and legal concepts in building society, and the authority in the first written constitutional document became a source of pride for the American people. This is because the constitution contains rules that overcome difficulties, and subject variables in a purely legal manner from the influence of economic factors and capitalist thought in the constitution of the United States of America in 1787. This is according to the theory of separation of powers

and its role in the prosperity of the American legal system, within a federal system after its transformation from a confederal system (Al-Majzoub, 2002, pp. 194 and 187; Obaid, 2013). Then the American Constitution laid down the rules for forming the federal parliament in two chambers, the first being a parliamentary chamber formed on the basis of the electoral rule of the legislative authority (Congress), consisting of the House of Representatives, which includes representatives representing the states in proportion to their population, and the Senate, which includes two senators from each state (Al-Zamli, 2023, p. 51).

The possibility of Congress interfering in judicial affairs was also taken into consideration, by accusing judges and removing them due to treason, bribery, or other, and considering them as serious felonies and misdemeanors with the approval of two-thirds of the members of the Senate (Al-Mashhadani, 2000, p. 170). The American constitutional legislator granted Congress many powers to raise the level and status of this constitutional institution due to its representation of most segments of American society in application of the principle of democracy. Including interfering in the organization of the judiciary and undermining its independence, but with the consolidation of the principle of separation of powers, and the existence of the only Federal Supreme Court (FSC Federal Supreme Court), which are the two guarantees that guarantee the independence of the federal authorities.

In Egypt, the 1923 constitution provided for legislative authority that was essentially composed of two councils (the Senate and the House of Representatives) (Khalil, 1930, p. 243) (), while the 1930 Egyptian constitution expanded the king's powers. Based on pressure from the Egyptian masses, the 1923 constitution was put back into effect (Abdul Wahab, 1953, p. 259). The 1953 Egyptian interim constitution focused on the legislative authority being in the hands of a single body, the Council of Ministers (Abdul Wahab, 1953, 266). While the Egyptian Constitution of 1956 confirmed that the legislative authority is represented by the National Assembly, and the presidential system of government gave the President of the Republic the right to dissolve the National Assembly, which is one of the manifestations of the executive authority's control over the legislative authority. This prompted the National Assembly to be precise and cautious in the regularity of its work. In other words, any unspecified violation issued by the National Assembly leads to the dissolution of the Assembly by the President of the Republic (Egyptian Constitution, 1956). The Egyptian Interim Constitution of 1958 confirmed that the legislative authority must organize its work without any violation that might lead to its dissolution by the President of the Republic, and the Egyptian Interim Constitution of 1964 confirmed the necessity of the regularity of the work of the National Assembly without any violation because it leads to its dissolution by the President of the Republic (Source Constitution, 1964). The Permanent Constitution of Egypt of 1971 included that the constitutional legislator adopted the system of a single parliament represented by the People's Assembly, with restrictions placed on the President of the Republic in dissolving the People's Assembly, except with the approval of the people (Abdul Wahab, 1971, p. 319) (Al-Helou, 2005, p. 894).

Section Two

Legal Organization of the Legislative Authority

The constitutional legislator, when enacting written constitutional texts, organizes provisions that clarify how the legislative authority is formed, and what its powers are. This is the means to which the legislator resorts through his will to achieve his goal of highlighting the status and supremacy of the legislative authority derived from the status and supremacy of the constitution, and thus it is the means that establishes or amends the rules of legislation. The legal organization of the legislative authority has differed in the countries of the world according to its nature and the direction of the constitutional legislator in adopting the idea of the constitution and drawing up his policy in that. Therefore, we will divide this section into two requirements. In the first requirement, we will discuss the organization of the legislative authority in Iraq, and in the second requirement, the organization of the legislative authority in the countries of comparison.

The first requirement

Organizing the legislative authority in Iraq

The constitution of the Republic of Iraq in 2005 was put into effect after adopting many modern constitutional principles and rules that are concerned with organizing the work of the legislative authority, solutions to the heavy legacy of the political and legal obstacles of the defunct regime alike, while some of them remain to appear from time to time, and from them the Iraqi constitution has become the focus of researchers and students of law in how to form the authorities, their powers, and guarantees of the regularity of their work, due to their direct impact on the national, regional and international levels, and despite the expansion of studies and research and what they contain of criticism, analysis, proposals and recommendations, once they are implemented, the best may be achieved and the unrest and crises that may sweep the country may be prevented (Shabr, Sana, p. 10) (Waisi, Sabiq, p. 456). The constitutional legislator has allocated constitutional principles and rules that clarify how the House of Representatives is formed and operates, granting it independence from other authorities, and enjoying specific powers, often within specified time periods away from the interference of other authorities, and not subject in organizing its affairs except to the authority of the law (Iraqi Constitution, 2005, p. 384, Khalid, 2015)

If the legislative authority is the one that undertakes the task of legislating the law, it is obligated to first respect this law and carry out its activity in accordance with the applicable legal rules to ensure the preservation of public order and the protection of public and private rights and freedoms. The expression of subjecting the legislative authority to the law does not constitute a restriction on its movement or an attack on it, but rather an attempt to enable this important authority to perform its effective role within the framework of constitutional rules, and it is a call to strengthen its effective authority to gain confidence for individuals and institutions that it will organize their rights, duties and relationships based on the law (Hussein, 2023, p. 60). To ensure the regularity of the work of the legislative authority and to prevent interruption, interruption, or even procrastination or slowdown in its work, we find it in the formal and objective issues and the specified constitutional periods.

1- The main issues that the constitution has set to regulate the work of the legislative authority are:

- a. The constitution requires two languages for communication 'Constitution of Iraq, 2005, p. 4' Khalid, 2015).
- b. The duality of parliament due to what the federal system requires for the importance of the tasks assigned to them, and this matter has aroused the ire of researchers and jurists regarding the constitution not organizing the rules related to the Federal Council as it did in organizing the rules of the House of Representatives, and it was satisfied with authorizing the other parallel and equal council in parliament to legislate a law imposing a new rule, which is the inequality of jurisdiction between them, and this is a defect that must be remedied by the constitutional legislator (Constitution of Iraq, 2005, p. 362).

There is a great negative impact on the regularity of the legislative authority in its performance, as there is no legal justification that makes the House of Representatives in a higher position than the Federal Council, which will be established through an ordinary law that makes it subordinate to the House of Representatives. Because the latter has the right to amend it as it amends ordinary laws and even abolish the Council itself, and despite the submission of the draft of the Federal Council Law by the Iraqi President to the House of Representatives, and the first reading was completed, the other readings were not completed due to the abundance of criticism (Al-Hindawi, 2010, 455 p.) (Ubaid, 2021, p. 103).

1. The constitution specified the number of members and the organization of their election at a rate of one seat (100,000:1) people, in the laws issued by the legislative authority before holding the elections for each legislative session (Central Bureau of Statistics, 2020).
2. The constitution set the conditions for nomination and the members of the House of Representatives began their duties after taking the constitutional oath, which is considered the criterion that separates the legal status of a member of the House of Representatives from the lack thereof, i.e. the legitimacy of belonging to the House of Representatives (Constitution of Iraq, 2005, Article 49).
3. The constitution granted the House of Representatives the power to enact an internal law to regulate its work, and the power to decide on the validity of the membership of its members within constitutional periods that cannot be violated (Sheha, 2005, p. 362) (Abdul Wahab, 2008, p. 373).

4. The constitution organized the procedures for holding the first session of the House of Representatives after completing the procedures for the membership of its members, in which the Speaker of the House of Representatives and his two deputies are chosen by inviting the President of the Republic within a period not exceeding 30 days with an extension, and it is chaired by the oldest member, with the duration of the electoral cycle being set at 4 years (Constitution of Iraq, 2005, Articles 54, 55, 56).

5. The constitution specified two legislative chapters during one year (Constitution of Iraq, 2005, Article 57)

2- The objective issues that the constitution organized for the work of the legislative authority are:

1. The supremacy of parliament as a public utility emerged from its monopoly on secondary legislation, and the exception is the parliament's delegation to the executive authority to work on a specific subsidiary legislation, and there is a detail of the stages of enacting laws (Maalouf, 1949, p. 365).

2. The jurisdiction to monitor the performance of the executive authority (Al-Jaafar, 2013, p. 212) (Khalaf, 2005, p. 67).

3. The jurisdiction of financial legislation related to the state's activity from expenditures and revenues in the general budget (Al-Janabi, 2018, pp. 13-157).

4. The competence to elect the President of the Republic and approve the ministers after the Prime Minister-designate submits their names..., and to question and dismiss the President of the Republic... 2-5. Approval of the declaration of war and a state of emergency by a two-thirds majority (Constitution of Iraq, 2005, Article 138, A, 61B).

Based on this, it can be conclude that the focus of the constitutional legislator on setting and organizing the rules for the work of the legislative authority to ensure the regularity of its work while establishing the foundations of the democratic constitutional system and its lofty principles in all fields, including the rule of law, the independence of authorities, the organization of exclusive and shared powers, the separation of powers, the protection of public and private rights and duties, and other guarantees to prevent any disruption in its activity or prevent the achievement of its goals by the House of Representatives, which leads to unrest in society by violating the guarantees of the regularity of the work of the legislative authority or concealing the principle of silence of the constitutional text to evade these principles.

1- The constitutional periods organized by the constitution to prevent the cessation or irregularity of the work of the legislative authority, including

a. The annual session of the House of Representatives is two legislative terms, the duration of which is eight months (Kazem, 2019, p. 66) ().

b. The term of membership in the House of Representatives continues for a full electoral cycle, except for exceptional cases in which a member of the House of Representatives assumes an executive position, loses one of the conditions of membership, or the House of Representatives Elections Law, the resignation of a member of the House of Representatives, dismissal, death, issuance of a judicial ruling against him for a felony, or his inability to perform his duties (Khalid, 2015, p. 360). We conclude from the above that constitutional terms must be sacred because they determine the completion of the issues related to them. The Constitution of the Republic of Iraq for the year 2005 mentioned terms twenty-five times, but the objection to the constitutional legislator did not mention constitutional consequences for them when they are violated and not implemented in accordance with them.

The second requirement

Legal organization of the legislative authority in comparative countries

The existence of solid constitutional rules capable of leading the country to safety and establishing a democratic legal state that derives its strength and prestige through respecting and applying these rules by members of society, whether rulers or ruled. In a way that ensures the regularity of the work of the legislative authority, in preventing the formation of a dictatorship of authority, individualism, and arbitrariness in its use with the cessation and failure of its work. It is known that man is the source of authority and its engine, and

when he is a legislator, he is governed by right and wrong when organizing the formation and powers of the legislative authority when we see it in the texts of the constitution and the legislation of special laws.

The organization of Congress in the amended Constitution of the United States of America in 1787, with the Senate with the smallest number of members, and the House of Representatives with the largest number of representatives. Americans see their representatives in Congress as responsible and effective legislators. However, they are relatively dissatisfied with Congress as a legislative authority, as shown by the re-election rate for vacant seats in the House of Representatives, which exceeds 90%. As for the Senate, the re-election rate for vacant seats exceeds 75%, yet Congress remains a vital component of the political system with all its 535 members (Kraut, 2002; Al-Sayed, 2009, p. 194) (Al-Husseini, 2016, p. 25). The US House of Representatives was set for a four-year term, with (435) members according to the House of Representatives Redistricting Act of 1929 on the basis of one member for every (30,000) people. While the right to vote was initially limited, it gradually expanded after women were granted the right to vote and the civil rights movement. However, the number was increased in 1963 to (437) members when Alaska and Hawaii were admitted to the union (USA, 1787, first/2/1).

The Senate was also set for a term of six years, divided into three equal classes, with the seats of the first-class senators becoming vacant at the end of the second year, the seats of the second-class senators at the end of the fourth year, and the seats of the third-class senators at the end of the sixth year. Each state elects two members, regardless of the area and population of the state, and the members of this council are elected directly, so that a third can be chosen once every two years. This makes the council and its continuity permanent without interruption, and the member of the Senate has special conditions mentioned in the constitution in addition to enjoying parliamentary immunity. The session begins on January 3 of each year, unless Congress sets another date (USA constitution 1787, first/2/1/19; Banning, 1974). The constitution also organized individual powers for each council, which are:

1. To rule on the elections of its members, their results, and their qualifications. Each of the two councils may be authorized to compel absent members to attend in the manner it sees fit and according to the penalties it deems appropriate to impose.
2. To establish its internal rules and punish its members for their disorderly conduct, and may, with the consent of two-thirds, expel a member...
3. Neither House, during the session of Congress, shall adjourn for more than three days without the consent of the other 'USA Constitution, 1787, first/5' (Banning, 1974)..
4. The Senators and Representatives shall receive for their services a compensation to be ascertained by law, and paid out of the Treasury of the United States...; no Senator or Representative shall be appointed... to any office (USA, 1787, first/6).

As for the joint powers of the two Houses (Congress)

1. To have exclusive legislative power in all laws..., in addition to amending the Constitution if approved by Congress by a majority of two-thirds (USA, 1787, first/7).
2. Financial powers, including approving the general budget..., imposing taxes, fees, and revenues and collecting them... and others (USA, 1787, first/8).
3. Judicial power of Congress: It is the only one in the country that has the authority to accuse and prosecute senior figures criminally, and in accordance with the principle of separation of powers, Congress has granted itself the right to interrogate state employees and ordinary people, and all of them are obligated to appear to answer the questions put to them.

Therefore, the American constitutional legislator wanted to focus on the regularity of the work of Congress without the interference of another authority, by granting the powers to the House of Representatives and the Senate, each over individuals, to punish and force their members to commit to attendance and not to be absent, and the punishment may reach expulsion with the approval of two-thirds of the members, and this is

the most prominent penalty in the Constitution of the United States of America, in addition to prohibiting the dissolution or postponement of the session for more than three days for either of the two chambers without the approval of the other chamber. Among the composite or united countries that adopted the two-chamber system are Germany and France (German Law, 1949, 2012 23/2) (Al-Saadoun, 2001, p. 41). Among the simple countries that adopt the single-chamber system are Syria and Kuwait. Also, the parliamentary system does not necessarily require the existence of two chambers despite their large geographical area and high population growth rate, as is the case in Turkey (Kitel, Muhammad, 1961, p. 99) (Al-Khatib, 2011, p. 347). As for the Constitution of the Arab Republic of Egypt for the year 2014, amended in 2019, it changed from the single-chamber system to the two-chamber system after the establishment of the Senate to move to the two-chamber system. From here, we see the endeavor of the Egyptian constitutional legislator to represent and represent the Egyptian people in the largest number of its members to prevent any cessation, procrastination, or irregularity in the work of this system, which is of great importance in organizing all aspects of life, which is what the constitution stipulated for each of the two chambers for a term of five years (Egyptian Constitution, 2014, Article 101' (Pillay, 2014).

The Egyptian House of Representatives consists of no less than four hundred and fifty members.. The Egyptian Constitution also organized the membership of the representative with special conditions for the candidate with additional conditions that are legislated by law (Egyptian Constitution, 2014, Article 102/ (Pillay, 2014). The Egyptian constitutional legislator organized where the representatives' remunerations are legislated by law, with the authority to amend the remunerations also by law that is legislated by the House of Representatives, provided that the amendment is not implemented except starting from the legislative session following the session in which the amendments are decided. With this condition, the door to benefiting from public money is closed because the original jurisdiction of the Council is legislation (Egyptian Constitution, 2014, Article 105).

Among the guarantees for the regularity of the work of the Egyptian House of Representatives stipulated in the Constitution:

1. A member of the Council may not, throughout the term of membership, buy or rent, in person or through an intermediary, any of the state's funds..., and any of these actions are null and void.
2. The member must submit a financial disclosure statement upon assuming membership, upon leaving it, and at the end of each year.
3. If he receives a cash or in-kind gift due to or on the occasion of membership, its ownership shall revert to the state treasury.
4. The membership of a member may be revoked in the event of loss of confidence and respect, or loss of one of the conditions of membership, or breach of its duties.
5. The House of Representatives may convene in an extraordinary meeting to consider an urgent matter in cases of invitation from the President of the Republic, or a request signed by at least one-tenth of the members of the House.
6. The House of Representatives shall elect a Speaker and two deputies from among its members for a legislative term. If the seat of one of them becomes vacant, the House shall elect someone to replace him. If one of them fails to fulfill his duties, a third of the members of the House may request his exemption, and the decision shall be issued by a two-thirds majority of the members. In all cases, the Speaker or any of the deputies may not be elected for more than two consecutive legislative terms.
7. The Council shall not convene, and its decisions shall not be taken, except in the presence of more than 225 members, with decisions being issued by an absolute majority of those present. When the opinions are equal, the legislator shall not give preference to the section in which the Speaker of the House of Representatives is present. When the opinions are equal, the matter shall be considered... rejected, and the acceptance of laws shall be by an absolute majority of those present, and not less than 150 members, with the condition that laws

supplementing the Constitution shall be issued with the approval of 300 members or more (Egyptian Constitution, 2014, Article 101/ Pillay, 2014).

8. Any draft law or proposed law rejected by the Council may not be submitted again in the same session.

9. Proposing laws, where the President of the Republic or the Council of Ministers shall submit to each member of the House of Representatives after the approval of the competent committee, a draft law submitted by the government, or one-tenth of the members of the Council, and in both cases it shall be submitted to the specialized committees competent in the House of Representatives (Egyptian Constitution, 2014, Article 122).

10. The President of the Republic has the right to issue laws and object to a draft law approved by the House of Representatives (Egyptian Constitution, 2014, Article 123). The President of the Republic shall dissolve the House of Representatives under the following conditions: ... The House may not be dissolved for the same reason for which the previous House was dissolved. The procedures for dissolution are: a) The President of the Republic shall issue a decision to suspend the House's sessions, b) Conduct a referendum on the dissolution within a maximum of twenty days, c) After the participants in the referendum approve it by a majority of valid votes, d) The President of the Republic issues the dissolution decision, e) The President of the Republic shall call for new elections within a maximum of thirty days from the date of issuance of the decision, f) Then the new House shall meet within the ten days following the announcement of the final result (Egyptian Constitution, 2014, Article 137), and the House of Representatives shall be considered dissolved if it fails to grant confidence to the government by a majority of the members of the House of Representatives twice within 60 days (Egyptian Constitution, 2014, Article 146).

The constitutional legislator also organized the Senate after the need arose to achieve political and legislative balance and complete the legislative structure within Egypt, which granted it powers that make it effective in society and achieve the desired democracy, and prevent the arbitrariness and tyranny of the legislative authority in monopolizing the legislative process. It also granted independence that leads to increasing the ability of Parliament to monitor the executive authority, accomplish the legislative process in a way that ensures transparency and benefits from national expertise (Hassan, 2018, p. 253). The term of membership in the Senate is five years, and it consists of 180 members or more, and the election and appointment are conducted by (120) members or more elected by direct secret general ballot, and (60) members or more appointed by the President of the Republic. The Egyptian Constitution has set special conditions that must be met by the candidate for membership in the Senate, in addition to the conditions stipulated by law for anyone elected or appointed to it. (Egyptian Constitution, 2014, Article 250). As for the guarantees for the regularity of the work of the legislative authority in Egypt, they are the Senate joining the Parliament, the application of all constitutional texts related to the House of Representatives to the Senate, and the appointment of (60) members or more by the President of the Republic is a weapon in his hand against any stoppage or deviation and irregularity of the work of the House of Representatives (Egyptian Constitution, 2014, Article 103-105) (Rabat, 2004, p. 706).

Based on the fore mentioned, it becomes clear to us, due to the importance of the constitution and legislation, with a vision that makes us stand at the will of the constitutional legislator, which must be far from extremism, or fanaticism and reliance on one point of view, or without bias with or against individuals of a race, religion or party. This is on the one hand, and on the other hand, the constitutional legislator must be insightful and deliberate in the seas of words and texts to achieve accuracy and clarity, to avoid deficiency or omission to avoid interpretation or amendment, and what results it leads to when applied that lead to not achieving the lofty goals of the constitution, and deviating from its contents. This is what the American constitutional legislator followed, as the American constitution, the great state, is the oldest written constitution, despite containing six articles, and more than two centuries have passed, we find it steadfast, impregnable and achieving all its legal goals. The evidence for this is the transformation of states that were suffering under colonial rule into a state that rose in status and elevation until it became a great state. The same is the case with the legislator of the Egyptian Constitution, which achieved the goals of its people in a constitution with a strict legal constitutional organization despite its frequent changes and amendments, but

it closed most of the loopholes that affect the public interest of the country and spared it major economic losses. Rather, it made it a source of revenue when it stipulated that a member of the House of Representatives or the Senate receive a cash or in-kind gift, because of or on the occasion of membership, the ownership of which reverts to the state treasury. It also required the member to submit a financial disclosure statement upon assuming membership, upon leaving it, and at the end of each year. It also set solid rules and deterrent penalties in the event of failure, cessation, or disruption of the work of the legislative authority, and even organized its work without interference from another authority.

When comparing the Iraqi constitution with the constitutions of America and Egypt, we see the great and clear deficiency in the Iraqi constitution in establishing constitutional rules that deter violations and regulate the work of the House of Representatives, which has often created disturbances and crises from which the people have suffered and are suffering. In contrast, the role of the constitutional judiciary has emerged as an alternative or complement to the provisions of the constitution when they are vacant.

CONCLUSION

The results of the comparison between the Iraqi constitution and the constitutions of America and Egypt indicate the great and clear deficiency in the Iraqi constitution in establishing constitutional rules that deter violations and regulate the work of the Council of Representatives. This created an image of unrest and crises that are not in the interest of the people, and in contrast, the role of the constitutional judiciary emerged as an alternative or complement to the provisions of the constitution when they are vacant. In the constitutions of the comparative countries, the legislative authority is the one that undertakes the task of legislation with a mandate from the constitution, which requires it to respect this legislation and carry out its activities in accordance with the applicable legal rules to ensure the preservation of public order, protect the rights of citizens, and guarantee their freedoms. Therefore, subjecting the legislative authority to the law is not a restriction, but rather an attempt to enable this important authority to perform its effective role within the framework of constitutional rules. The approach of the Constitution of the Republic of Iraq for the year 2005, when it organized the work of the Council of Representatives with specific timetables, in many cases followed these sound legal principles in the constitutions of the comparative countries. This created a legal status that makes the legislation distinguished from other authorities. However, it must be taken into consideration that the House of Representatives must convene by a Republican Decree, which did not provide other periods for stopping, disrupting and deviating, which caused harm and wasted public time and money, and made their recurrence likely. The momentum of constitutional disputes is conclusive evidence of a defect in the legal system, despite the development in the legal arena and the keeping pace with the constitutional judiciary. This, despite the attempt to establish the foundations of democracy on solid ground based on the constitution, revealed the great differences in the means of publishing everything related to constitutional judiciary in comparative countries.

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