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**| RESEARCH ARTICLE**

## **The Interpretative Jurisdiction of Constitutional Courts: A Comparative Study Between the Iraqi and Jordanian Models**

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**| ABSTRACT**

This current study aims to reveal the interpretative power of constitutional courts (using the Iraqi and Jordanian models as examples for comparative analysis). The study employs descriptive analysis and comparative methods. Several conclusions are drawn, the most significant being that Article 93/2 of the 2005 Iraqi Constitution grants the Federal Supreme Court the power to interpret the constitutional text. The 2004 Iraqi Transitional Administrative Law (later repealed by Article 44) defines the Federal Supreme Court's jurisdiction in two areas: adjudicating disputes between the federal government and regional, provincial, municipal, and local administrative bodies, and reviewing constitutional cases. Other jurisdictional powers of the court are explicitly defined by subsequent laws. In the Jordanian model, the legislature explicitly granted the constitutional court the power to interpret the constitutional text in the 2011 constitutional amendment. This study recommends a comprehensive review of the relevant provisions of Iraqi Federal Supreme Court Law No. (30) of 2005, which clearly lacks explicit provisions on the interpretation of the constitutional text. This oversight has led some legal scholars to question the legal nature of the current Federal Supreme Court.

**| KEYWORDS**

Interpretive jurisdiction of constitutional courts, Iraqi model, Jordanian model, comparative study

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**First: Introduction**

In modern constitutional systems, constitutional courts represent the highest level of institutional oversight and the ultimate judicial guarantee for upholding the principle of constitutional supremacy. Their functions include overseeing the legality of legislation and protecting the constitutional legitimacy from any legislative deviations or institutional overreach. Furthermore, they play a crucial role in maintaining the separation of powers stipulated in the constitution, defining their jurisdiction, and safeguarding the rights and freedoms established by the constitution's framers. The binding constitutional interpretations made by these courts are important tools for revealing constitutional intent and resolving interpretative disagreements; therefore, they are the highest arbitrators of national law, not merely adjudicators of disputes.

In Iraq, the 2005 constitution marked a pivotal moment in establishing an independent constitutional judicial system. This was achieved by establishing a Federal Supreme Court and granting it inherent powers, including reviewing the constitutionality of laws, interpreting the constitutional text, and adjudicating constitutional disputes related to the distribution of power among government departments. Article 93, paragraph 2 of the constitution stipulates that the Supreme Court is the final and binding judicial body for upholding constitutional principles and ensuring the legality of legislation. This role, through binding constitutional judicial rulings, directly influences the structure and credibility of the state's public order, thereby contributing to the strengthening of the rule of law, legislative stability, and institutional balance.

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Furthermore, the Jordanian legislature established the Constitutional Court through Law No. 15 of 2012, granting it the binding power to interpret the constitutional text under Article (4)(b) of that law, thus further enhancing the constitutional judicial protection mechanism. Previously, this power was exercised by a non-judicial body. The 2022 law and its subsequent amendments restructured the court's structure and mechanisms for exercising oversight and interpretation, while retaining the validity of its rulings, the right of litigants to challenge constitutionality, and the exclusive power to declare legislation that violates the constitution invalid upon review.

### **Second: The problem of the study**

Given the growing global trend towards establishing a binding constitutional judicial body to interpret texts as a benchmark for the maturity of constitutional states and a regulator of legislative legitimacy; given that both Iraq and Jordan have created two independent supreme courts for this purpose; and given that Iraq's experience shows that, despite the Supreme Federal Court's direct application of Article (93/2) of the 2005 Constitution without amending its laws or adhering to its regulations, there are difficulties in defining the scope of jurisdiction in interpretation; the core scientific questions of this study can be summarized as follows:

What are the constitutional and legal foundations upon which the interpretative jurisdiction of the Iraqi Federal Supreme Court and the Jordanian Constitutional Court rests?

To what extent do their systems provide a normative framework to define the scope, limitations, and types of their jurisdiction and regulate their practice?

What are the comparable aspects of the experiences of these two systems in terms of the impact of interpretation on the separation of powers and the maintenance of constitutional supremacy?

### **Third: Study Objectives**

I. More specifically, this study aims to explore the differences between theory and practice in challenging the constitutional interpretation and judicial oversight: a comparative analysis using the constitutional systems of Jordan and Iraq as examples.

II. The sub-objectives of this study include:

III. 1. Explaining how the oversight of the constitutionality of law has evolved in Jordan and Iraq.

IV. 2. Explaining how the Constitutional Court and the Supreme Court exercise their jurisdiction.

V. 3. Describing how recent constitutional amendments will affect the roles of the Constitutional Court and the Supreme Court in overseeing the constitutionality of law and interpreting the constitutional text.

### **VI. Fourth: Study Questions**

This study raises several questions and will attempt to answer them from the following aspects:

1. How have Jordan and Iraq developed in terms of legal constitutionality review and interpretation of legislative texts?

2. How do the Constitutional Court and the Supreme Court exercise their jurisdiction?

3. How will recent constitutional amendments affect the roles of the Constitutional Court and the Supreme Court in overseeing the constitutionality of laws and interpreting constitutional texts?

### **Fifth: The Importance of the Study**

#### **First: Theoretical Importance:**

The theoretical significance of this study stems from the seriousness of the interpretative jurisdiction enjoyed by constitutional judicial organs and its direct impact on controlling constitutional legitimacy and upholding the principle of constitutional supremacy. This is because constitutional interpretation is no longer merely a linguistic expression of the text, but a judicial control mechanism that establishes the understanding of the constitution, clarifies the goals of constitutional legislators, and distinguishes between conflicting interpretations of constitutional rules.

## Second: Practical Importance:

The practical importance stems from the practical value of the role played by the two courts in interpreting constitutional texts and ending disputes arising from their ambiguity, and the binding impact of interpretation decisions on State institutions and the limits of their authority in legislation and implementation. The importance of the study is shown in practical analysis of the Iraqi experience in carrying out constitutional interpretation based directly on Article (93/2). of the 2005 Constitution, despite the fact that the Court Law does not include detailed controls regulating this, and the realistic problems it raises about the limits of jurisdiction and the officer of its practice, in contrast to the Jordanian experience that settled on regulating this jurisdiction within the Constitutional Court Law and updating its mechanisms with successive amendments, the most prominent of which was in the 2022 law.

## VII. Sixth: Study Terminology

This study comes to define the following terms:

The Federal Supreme Court is the highest judicial body in Iraq, which is administratively and financially independent and is composed of a number of judges, experts and jurists, in addition to experts in Islamic jurisprudence. <sup>1</sup>

**The Jordanian Constitutional Court** is an independent judicial body whose functions and tasks are to verify the constitutionality of legislation in order to ensure its conformity with the Constitution. <sup>2</sup>

### Previous Studies:

#### **A study (Shukr and Shabatat, 2020) entitled "The Interpretative Jurisdiction of the Federal Supreme Court in Iraq - A Comparative Study"**

This study aims to clarify the jurisdiction of the Iraqi Federal Supreme Court in interpreting the constitutional text and compare it with that of Jordan and Egypt.

The findings indicate that the 2005 Iraqi Constitution grants the Federal Supreme Court jurisdiction to interpret the constitutional text. However, the legal mechanisms for hearing requests for constitutional interpretation under Court Law No. (30) of 2005 and its Procedural Rule No. (1) of 2005 allow for hearings by either the Constitutional Court of the Council of Ministers, the Senate, or the House of Representatives (as they are legislative bodies). Recent constitutional amendments, however, have reduced the required majority vote for a request for interpretation from an absolute majority to a majority vote of members of either house, particularly within the Legal Committee.

#### **Aufi's study (2020) entitled: "The Competence of the Federal Supreme Court in Iraq to Interpret the Constitution"**

This study aims to clarify the interpretative authority of Iraq's constitutional judicial bodies (represented by the Federal Supreme Court) over the constitutional text, focusing particularly on the interpretation and elucidation of the text governing the operation of the separation of powers, the relationship between the legislative and executive branches, and the resolution of disputes or conflicts between them. The goal is to eliminate ambiguity and clarify all meanings within the constitution.

This study employs a descriptive analytical approach, based on an analysis of the constitutional text concerning clauses related to constitutional interpretation.

The results also indicate that the courts' power to interpret the constitutional text originates from Article 93 of the 2005 Iraqi Constitution, which granted them new jurisdiction. However, the manner in which the courts exercise this jurisdiction is not explicitly stipulated in the new law, particularly in laws enacted under the current transitional national administrative law framework. This has led to constitutional issues within these laws and ultimately, instances of conflict with the constitution.

This study recommends expediting the drafting of a new court law, as the existence of the courts is crucial and requires a method that helps regulate their jurisdiction, rather than simply adhering to existing court laws. This is especially important after the 2005 Constitution came into effect, as it includes new powers not covered by current law, including jurisdiction related to the

<sup>1</sup> Saif Abbas Mikhlef, Prof. Dr. Khaled Al-Khair (2005). The Formation of the Constitutional Judiciary in Comparative Systems, Iraq-Lebanon-Kuwait, *Journal of Humanities and Natural Sciences*, 6(7), 285-307.

<sup>2</sup> Al-Rawashdeh, Amr Amjad Al-Kasasbeh, Abdul Raouf Ahmed (2022). The Judicial and Interpretive Competencies of the Constitutional Court in Jordan "A Comparative Study", Unpublished Master's Thesis, Middle East University, Amman, Jordan.

interpretation of the constitutional text. In addition, new court laws and procedural rules need to be developed to clarify the procedures that courts should follow when handling requests for interpretation.

**A study (Al-Rawashdeh and Al-Kasasbeh, 2022) entitled: "The Judicial and Interpretive Competencies of the Constitutional Court in Jordan - A Comparative Study"**

This study aims to clarify the judicial and interpretative powers of the Jordanian Constitutional Court, as well as Jordan's comparative legislation, and to elucidate its effectiveness, efficacy, and degree of achievement of its intended objectives in defending unconstitutionality. Furthermore, this study explores the concept of the Constitutional Court and its legal organization, examines the types of interpretation and disclosure, the objectives and real-world contexts behind constitutional texts, and analyzes the most important legislation and legal provisions related to the Jordanian Constitutional Court's spatial jurisdiction and interpretative powers.

This study employs a descriptive analytical approach, aiming to analyze and understand specific phenomena, providing accurate and detailed descriptions, and then analyzing collected data and information to understand the relationships and interactions between different elements.

The findings indicate that the impact of unconstitutional rulings revolves around Jordan's comparative constitutional system, which employs three forms of post-judicial control mechanisms: non-application of the text ruled unconstitutional, or revocation of the text or cancellation of the power to enforce it. This study suggests that the Constitutional Court should have the power to defend the unconstitutionality of laws and regulations independently, rather than limiting this power to the legislative and executive branches, and that it can defend itself through pending litigation. Study Methodology

The descriptive-analytical approach will be relied on by relying on researches, previous studies, and books that will be relied on as the main sources of information regarding the interpretive authority in the constitutional judiciary, an analytical study comparing the jurisdiction of the Federal Supreme Court in Iraq and the Constitutional Court in Jordan. This approach will also be relied upon, which is based mainly on the analysis of legal texts, trying to derive appropriate rulings, and explaining the differences in the jurisdiction of changing constitutional texts between the Federal Supreme Court and the Constitutional Court. The researcher will also rely on the comparative method, which is mainly based on making a comparison between the interpretive jurisdiction of the constitutional texts between the Federal Supreme Court in Iraq and the Constitutional Court in Jordan, to clarify the similarities and differences between them and to know what can be benefited from them.

**The first topic**

**Aspects of agreement and differences in constitutional organization**

In this context, the Constitution of the Republic of Iraq of 2005 and the Jordanian Constitution of 1952 and its amendments stand out as models that reflect a remarkable development in the establishment of constitutional control, with a clear difference in the manner of its organization and scope of exercise, especially with regard to interpretative jurisdiction.

This chapter begins by examining the constitutional organizational structure of interpretative jurisdiction through a comparison of the 2005 Constitution of the Republic of Iraq and the 1952 Constitution of Jordan and their amendments. It then explores the differences between the two systems in three main aspects: the scope of interpretative jurisdiction between the Jordanian Constitutional Court and the Iraqi Federal Supreme Court; and the procedures for exercising and implementing that jurisdiction. Furthermore, this chapter will also interpret the legal framework governing their interpretative decisions. To this end, this topic needs to be subdivided into the following requirement:

The first requirement: in terms of jurisdiction

The second requirement: in terms of procedures

The third requirement: in terms of the authority of decisions

## The first requirement

### In terms of competence

The constitutional judiciary is one of the most important constitutional institutions, its purpose being to ensure the integrity of legislative policy and uphold the principle of constitutional supremacy. Constitutional judges oversee the actions of legislators to ensure that public rights and freedoms are protected from any legislative acts that violate the constitution, while also considering the stability of the legal system and the impact of constitutional provisions on the legislative process.

Like other judicial systems (whether administrative or general), the constitutional judiciary possesses specific powers stipulated by the constitution and relevant laws, which clearly define its scope of work and functions..<sup>3</sup>

### Section One: Monitoring the Constitutionality of Laws

If oversight of the constitutionality of laws fails, the goals and objectives of the French Constitutional Council will help define the rules of political maneuvering between the government and parliament. In the early days of the constitutional judiciary, oversight of the constitutionality of laws was one of its most important functions, a function also adopted by legislators in Iraq and Jordan when drafting constitutional and legal texts defining the functions of this judiciary. Oversight of the constitutionality of laws is defined as a legal procedure aimed at verifying the extent to which legislation conforms to constitutional provisions and revealing whether the legislature has complied with or exceeded the scope of its constitutional jurisdiction.

Article 93/A of the 2005 Iraqi Constitution stipulates the Federal Supreme Court's jurisdiction over oversight of the constitutionality of laws, and this jurisdiction has been extended to include existing regulations. As can be seen from the text of Article (5/II), Iraqi legislators expanded the scope of the Federal Supreme Court's review of the constitutionality of laws to include not only laws and regulations, but also decisions, instructions, and orders made by any government agency authorized to issue such documents.

Iraqi legal scholars have criticized this expansion, arguing that if the term "decision" refers to a legislative decision, there is no problem because legislative decisions have legal force; however, if it includes "orders," these orders should be understood as individual administrative decisions, which is considered inconsistent with the nature of the Constitutional Court's work, as such reviews should fall under the primary jurisdiction of ordinary and administrative courts. The text also acknowledges the inaccuracy of the phrase "decision, directive, and order made by any body authorized to issue such documents," since administrative bodies do not exercise absolute power but are subject to legal limitations and constraints.

This researcher supports the critical jurisprudential trend regarding the aforementioned text, arguing that including the Federal Supreme Court's jurisdiction within the constitutional oversight of administrative decisions and orders could lead to confusion between the functions of ordinary and administrative judicial bodies, resulting in issues of authority allocation and potential jurisdictional conflicts between these bodies.

As for Jordan's legislation, it is clear that it shares similarities with Iraq's legislation in this area. This is reflected in the text of Article (59/1) of the 1952 Constitution of the Hashemite Kingdom of Jordan and its 2011 amendment, which stipulates that the jurisdiction for constitutional review is not limited to laws but also includes existing regulations.

Article (4/A)<sup>4</sup> of the Constitutional Court Law No. (15) of 2012 and its amendments explicitly stipulates this jurisdiction, As constitutional oversight expands to include existing regulations, a question arises: can this oversight extend beyond laws and regulations to include rulings issued by the Special Court for Legal Interpretation?

Regarding this question, case law holds that, according to Article 123, Paragraph 4 of the Jordanian Constitution, the Constitutional Court's jurisdiction over the constitutionality of laws naturally extends to rulings issued by the Special Court for Legal Interpretation. This article stipulates that "rulings issued by the Special Court and published in the Official Gazette have legal effect." Therefore, once these rulings meet constitutional requirements, they are considered legal texts and subject to the oversight of the Constitutional Court.

This trend reinforces the clear definition of the Constitutional Court's jurisdiction in this area within the Constitutional Court's Establishment Law, thereby eliminating any ambiguity regarding the scope of such oversight. The term "rules" in Article 59/1 of

<sup>3</sup> Al-Sharif, Aziza (1990). *The Egyptian Constitutional Judiciary*, Cairo, Dar Al-Nahda Al-Arabiya, p. 60.

<sup>4</sup> Article (4/A) of the Constitutional Court Law No. (15) of 2012 stipulates that "the Constitutional Court shall have jurisdiction over the following: a. Constitutional oversight of the laws and regulations in force."

the Constitution should be understood to include rules promulgated pursuant to Article 31 of the Constitution, which are part of the legislative system and subject to constitutional oversight.

Returning to the classification of Jordanian law, it becomes clear that Jordanian law falls into two categories: permanent laws promulgated by the legislature, and temporary laws promulgated by the executive branch in necessary and special circumstances (especially when the House of Representatives is dissolved). Therefore, temporary laws promulgated by the executive branch are subject to the supervision of the Constitutional Court because they are based on legislative authorization from the legislature in special circumstances and have legal force and binding force.

On the other hand, Iraqi law does not have similar provisions. Unlike Jordan, the Iraqi legislature does not authorize the executive branch to promulgate temporary laws in emergency situations; instead, it regulates emergency situations through a special law called the Emergency Law.

In both Jordan and Iraq, draft laws submitted by the executive branch are not subject to review by the Constitutional Court because the prerequisite for exercising constitutional review is that the legislative text must be legally valid and procedurally complete, and a draft law can only achieve this purpose after being approved by parliament and published in the official gazette. Constitutional supervision of draft laws aims to track the drafting and enactment stages of the law, but the essence of this supervision remains to verify whether the legislature's intentions in the final text conform to the existing constitutional rules.

## **Section Two: Interpretation of the Provisions of the Constitution**

The importance of interpreting constitutional texts as legal rules is self-evident, as they are superior to other rules, occupy the highest position in the national legal system, and these texts are characterized by precise and thoughtful wording, as well as universality and flexibility, which enables them to adapt to various new and changing realities.<sup>5</sup>

Therefore, constitutional drafters strive to ensure the interpretability and comprehensibility of constitutional rules to ensure their long-term effectiveness without repeated revisions or replacement with new rules, thereby enhancing the stability and continuity of the constitutional system.<sup>6</sup>

When we examine the text of Federal Supreme Court Law No. (30) of 2005, we find that it does not explicitly mention the jurisdiction of the Federal Supreme Court, leading some legal scholars to question the legal nature of the current Federal Supreme Court. This view holds that the court established under this law is not the court envisioned in Article (92) of the Iraqi Constitution. This article stipulates that a Federal Supreme Court should be established under a special law, but according to this view, such a special law has not yet been enacted.

However, the reality of the constitution and the law is developing in different directions. The Federal Supreme Court established under Law No. (30) of 2005 still exists and is in operation because there is currently no legislative text to abolish it. Article 130 of the Iraqi Constitution states: "The existing laws shall continue to be in force unless they are abolished or amended in accordance with the provisions of this Constitution."<sup>7</sup>

Researchers argue that while the Federal Supreme Court Law does not explicitly grant it jurisdiction to interpret the constitutional text, this does not mean the court lacks such jurisdiction; rather, its jurisdiction stems from the constitutional text itself, not from the laws governing court operations. This view is based on the principle of progressive legal rules and the principle that constitutional rules supersede lower-level rules, meaning the constitution is the supreme authority determining the powers of constitutional judicial bodies. In contrast, in Jordan's constitutional judicial system, jurisdiction to interpret constitutional provisions previously belonged to the Supreme Council for Constitutional Interpretation, which was abolished with the enactment of the Constitutional Court Law. After the 2011 constitutional amendments, Jordanian legislators regulated this jurisdiction in Article 59/2 of the constitution, and it was confirmed by Article 4. The Constitutional Court Law No. 15 of 2012 explicitly stipulates this jurisdiction.

It should be noted that this jurisdiction differs from the scope of authority for legal constitutionality audits. The latter is responsible for reviewing the compatibility of legislation with constitutional provisions, while the power to interpret ordinary

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<sup>5</sup> Kanaan, Waf, *op. cit.*, p. 329.

<sup>6</sup> Al-Hisban, Eid Ahmed (2008). *The Legal System for the Interpretation of Constitutional Texts in Constitutional Systems, A Comparative Study*, Journal of the Faculty of Law, University of Bahrain, Issue (8), p. 87.

<sup>7</sup> Hamad, *The Order of the Sun* (2011). *Jurisdictions of the Supreme Court of Iraq*, Beirut: Zain Library of Law and Literature, p. 165.

laws and regulations falls under the jurisdiction of the competent judiciary within its scope of application, not within the jurisdiction of the Constitutional Court.

## **The second requirement**

### **In terms of procedures**

The procedural organization of constitutional judicial institutions is one of the important pillars for ensuring effective oversight of the constitutionality of laws and achieving legal stability. Against this backdrop, the 2005 Iraqi Constitution provided a rather general outline for the organizational structure of constitutional judicial institutions, only specifying the scope of the Federal Supreme Court's powers without detailing the specific procedures for exercising those powers. This resulted in many procedural issues being referred to the Iraqi Federal Supreme Court Law No. 30 of 2005 and its supplementary internal regulations, creating some loopholes, particularly regarding the mechanisms and conditions for submitting requests for constitutional interpretation.

On the other hand, the Jordanian constitution tends to provide more specific provisions for procedures, clearly defining the parties entitled to request interpretation, and delegating the remaining organizational details to Jordan Constitutional Court Law No. 15 of 2012. This law establishes a clearer and more standardized procedural framework for constitutional litigation. Therefore, a comparison of these two systems shows that while both rely on general legislation in terms of procedural organization, they differ in detail and clarity, and this difference is also reflected in the effectiveness of the Iraqi and Jordanian judicial systems.

### **Section One: Procedures followed in Iraq:**

Article (9) of Iraqi Federal Supreme Court Law No. 30 of 2005 is the legal basis for regulating the proceedings of the Federal Supreme Court. This law grants the court the power to formulate internal rules to regulate its workflow and to stipulate how to handle applications, proceedings, and all matters conducive to the implementation of the law, provided that such rules are published in the Official Gazette. Accordingly, the Federal Supreme Court issued Procedural Rule No. 1 of 2005, which includes procedural provisions for cases submitted to the court for trial and appeals, as well as a description of the case hearing mechanism.<sup>8</sup>

The Federal Supreme Court's Rule of Procedure No. 1 of 2005 establishes a series of procedures and general procedures governing the hearing of cases in court. This rule requires that requests be submitted by lawyers under Article (22) and allows notification via email, fax, and telex, in addition to the traditional notification methods provided for under Article 21 of the Iraqi Civil Procedure Law No. 83 of 1969. Therefore, these procedural rules apply to requests for interpretation of the constitutional text heard by the courts.

Based on this, related matters can be addressed by clarifying the scope and limitations of litigation in the Federal Supreme Court. It is noteworthy that, despite the importance of the procedural rules, they do not cover all necessary procedural details, as they do not explicitly define the mechanism for submitting requests for interpretation of the original constitutional text or the manner of hearing such requests. This is because the 2005 Iraqi Constitution does not explicitly define the jurisdiction of courts to hear direct interpretation requests, and the laws governing the courts do not provide detailed provisions on this issue, resulting in a legislative gap in this area.

However, the Rules of Procedure contain general procedural rules, such as requiring applications to be filed by lawyers and allowing notifications to be given in various ways, including electronically, in addition to the traditional methods provided for in Iraqi Civil Procedure Law No. 83 of 1969. These rules apply to all types of applications, including requests for interpretation. Regarding the formal statement and conditions of an application, this Court invokes the Civil Procedure Law as the general procedural law, Article 1 of which stipulates that all matters not specifically provided for shall be governed by the Law. This is also affirmed by the Rules of Court Procedure, which provide for the fulfillment of application requirements.<sup>9</sup>

Indirect requests for interpretation of the text of the Constitution can be made under Rules 3 through 5 of the Supreme Court's Rule of Procedure, No. 1 of 2005. This rule establishes a mechanism for challenging the constitutionality of legislation, allowing courts, official bodies, and any interested party to request a review of the constitutionality of a law. In practice, this means that courts must interpret the text of the Constitution when hearing such requests.

<sup>8</sup> Ali, Othman Yassin (2018). The Federal Supreme Court's Attitude in the Interpretation of Constitutional Texts, An Applied Analytical Study, *Journal of Scientific Science*, Lebanese French University, 3(1), p. 639.

<sup>9</sup> Article (1) of the Iraqi Code of Civil Procedure No. 83 of 1969.

One of the most common forms of indirect requests for interpretation of the text of the Constitution is a request made by the Supreme Court in cases within its jurisdiction, such as those concerning the unconstitutionality of laws, or decisions on disputes arising from the application of federal laws, decisions, regulations, directives, and procedures, and decisions on disputes between the federal government and district governments or between district governments and provincial governments. The court's jurisdiction also includes hearing appeals directly brought by council ministers or relevant individuals, as well as other appeals to which it has jurisdiction under law.<sup>10</sup>

Requests for indirect interpretation of the text of the Constitution can be made under Rules 3 through 5 of the Supreme Court's Rule of Procedure No. 1 of 2005. This rule establishes a mechanism for challenging the constitutionality of legislation, allowing courts, official bodies, and any interested party to request a review of the constitutionality of laws. In practice, this means that courts must interpret the text of the Constitution when hearing such requests.

One of the most common forms of indirect interpretation of the text of the Constitution is a request made by the Supreme Court within its jurisdiction, such as in cases involving the unconstitutionality of laws, or in decisions concerning disputes arising from the application of federal laws, decisions, statutes, directives, and procedures, as well as decisions concerning disputes between the federal and local governments or between local and provincial governments. The court's jurisdiction also includes hearing appeals brought directly by cabinet ministers or relevant individuals, and other appeals to which it has legal jurisdiction.

### **Section Two: Procedures followed in Jordan:**

Jordanian legislators regulated the working procedures of the Constitutional Court through Law No. 15 of 2012, the "Constitutional Court of Jordan." This law clarified the procedural basis of the Constitutional Court's work, emphasizing its composition, powers, and mechanisms for overseeing the constitutionality of laws and regulations. The law also addresses the procedures and their stability.<sup>11</sup>

In Jordan, the most important procedure of the Constitutional Court is the referral mechanism for unconstitutional appeals. This is because constitutional challenges are not raised directly by individuals, but rather through the courts during the case proceedings. If the competent court deems a payment seriously unconstitutional, it can suspend the proceedings and transfer the payment case to the Constitutional Court.<sup>12</sup>

This provision reflects the nature of Jordan's constitutional oversight, which, in most cases, employs indirect judicial oversight, thereby strengthening procedural control and preventing abuse of the constitutional appeal right.

Regarding the acceptance of suits and their formal requirements, acceptance of constitutional suits requires meeting both formal and objective conditions. Most importantly, the defense must be serious and relevant to the original trial court's dispute, and its purpose must not be to delay or postpone the original trial court's judgment. The Jordanian Supreme Court emphasizes: "According to Article (11) of the Constitutional Court Law, any defense of the unconstitutionality of any system or law must be serious and feasible."<sup>13</sup>

Judicial precedents have established that courts must ascertain the seriousness of the claims before accepting a case. As stated in a Supreme Court ruling: "The legislature failed to consider that two conditions must be met for accepting a case: first, the law or system claiming unconstitutionality must apply to the subject matter of the case; and second, the defense must be serious; and the appellate court's grounds for dismissing the appeal were erroneous."<sup>14</sup>

After the payment matter is submitted to the Constitutional Court, the court will accept the case, notify the litigants, and provide an opportunity to submit written statements and responses. A hearing will then be held following a written judicial procedure primarily based on investigation, and the appeal will be heard. The court adheres to the principle of confrontation between the parties, guarantees their right to defense, and allows for the hearing of statements submitted by relevant official bodies.<sup>15</sup>

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<sup>10</sup> Shukr, Mustafa Latif (2020). *The Interpretative Jurisdiction of the Federal Supreme Court in Iraq, A Comparative Study*, Master's Thesis, Middle East University, Amman, p. 33.

<sup>11</sup> Article 12 of the Jordanian Constitutional Court Law No. (15) of 2012.

<sup>12</sup> Article (11) of the Jordanian Constitutional Court Law No. 15 of 2012.

<sup>13</sup> Cassation of Rights No. 1676 of 2014 Jordanian Court of Cassation 2015-01-04 Qestas Publications.

<sup>14</sup> Discrimination of Rights No. 3048 of 2024 Date 2024-12-29 Qestas Publications.

<sup>15</sup> Article 13 of the Jordanian Constitutional Court Law

## The third requirement

### In terms of the authority of decisions

The authority of the Constitutional Court's rulings, particularly in the area of constitutional interpretation, is one of the fundamental issues ensuring the supremacy of the constitution and the stability of the legal system.

The differences between the Iraqi and Jordanian regimes in their authoritative rulings will be discussed in the following two sections:

#### Section One: The Position of the Iraqi Legislator

Article 93 of the 2005 Iraqi Constitution stipulates that the Federal Supreme Court has the power to interpret constitutional provisions, which fall within its jurisdiction (interpreting constitutional provisions). However, similar to Jordanian legislation, the Iraqi Constitution does not explicitly define the authority or binding scope of interpretative rulings, raising questions about the legal basis and binding force of these rulings.

Despite the lack of explicit textual provisions, Iraqi constitutional precedent holds that interpretative rulings by the Federal Supreme Court have absolute authority and are binding on all. This is based on the nature of judicial jurisdiction, as interpreting the constitutional text reveals its true content and the legislator's intent, granting these rulings power beyond other ordinary judicial decisions. Constitutional interpretation is not limited to resolving specific disputes; its influence extends to all public institutions and limits their exercise of power.<sup>16</sup>

This trend is reinforced by the principle of constitutional supremacy. The principle of constitutional supremacy is the cornerstone of Iraq's constitutional system. Article Thirteen stipulates that the constitution is the supreme law of the state, fully binding, and no law that contradicts the constitution is permitted. Since the Federal Supreme Court is the authoritative body responsible for upholding this principle of supremacy through interpretation and oversight, its interpretative rulings are an extension of this principle and therefore have universal binding force.<sup>17</sup>

While Federal Supreme Court Law No. (30) of 2005 does not explicitly define the effect of interpretative decisions, it grants the court supreme constitutional jurisdiction, meaning that its decisions, including interpretative ones, possess a special nature that transcends the scope of traditional judicial proceedings. Iraqi judicial practice has developed a system where the legislative, executive, and judicial branches follow these decisions, reflecting a practical recognition of their validity.<sup>18</sup>

#### Section Two: The Position of the Jordanian Legislator

The 1952 Constitution of the Hashemite Kingdom of Jordan (revised in 2011) stipulates that the Constitutional Court of Jordan has the power to interpret constitutional provisions. Article (59/2) states that the Constitutional Court has the power to interpret constitutional provisions upon request from a body designated in the Constitution, but its rulings only become effective after being published in the Official Gazette.

It is noteworthy that the Jordanian constitutional legislators did not explicitly define the authority or scope of the interpretative rulings, which has raised questions about their legal validity.

Although the Jordanian Constitution does not contain a specific text, Jordanian constitutional case law almost unanimously holds that the interpretations made by the Constitutional Court have absolute effect and are binding on all persons. This is based on the nature of constitutional jurisdiction itself, as interpretations made by the highest constitutional judicial body are a formal expression of the will of the constitutional legislators and therefore have the same effect as the interpreted constitutional text, and are considered a supplement to the constitutional text.<sup>19</sup>

This authenticity is further evidenced by the requirement that the decision be published in the Official Gazette as a condition for its enforcement, which gives it the character of generality and abstraction, and makes it addressed to all public authorities and

<sup>16</sup> Article 13 of the Constitution of the Republic of Iraq of 2005.

<sup>17</sup> Al-Shammari, Qahtan Abdulrahman (2018). Jurisdictions of the Federal Supreme Court of Iraq, *Journal of Legal Sciences*, University of Baghdad, 33(2), 100.

<sup>18</sup> Al-Musawi, Muhammad Hussein (2016) *Interpretation of the Constitution in the Iraqi Legal System*, Najaf, Dar Al-Diaa Printing, p. 201.

<sup>19</sup> Al-Kilani, Mahmoud Ahmed (2015). *The Constitutional Judiciary in Jordan*, Amman, Dar Al-Farqa for Publishing and Distribution, p. 215.

individuals. Publication here is not limited to being a formality, but is also a presumption that the interpretative decision goes beyond the scope of the specific litigation to take on the character of a binding general rule<sup>20</sup>.

"The jurisprudence is also based on the principle of the supremacy of the constitution as the basis for the authority of these decisions, as the Constitutional Court exercises its role in protecting this superiority by interpreting constitutional texts and determining their limits, which makes its decisions binding on all legislative, executive and judicial authorities, so that none of them may contradict or deviate from the interpretation issued by it <sup>21</sup>.

However, the lack of a clear text regarding the authority to interpret rulings raises a problem, as courts may deviate from previous interpretations. This is because case law is divided: one view holds that, to maintain the stability of legal positions, previous interpretations should not be revoked; another view holds that, within the narrow scope required by constitutional necessity, previous interpretations can be revoked. It is noteworthy that the Jordanian constitution does not address this issue; therefore, court case law must conform to the requirements of constitutional development<sup>22</sup>.

In conclusion, it is clear that while the Jordanian legislature has not explicitly defined the authority of its interpretative decisions, it has established an implicit framework that, based on the nature of constitutional jurisdiction and the principle of constitutional supremacy, makes these decisions universally binding.

## **Second Topic**

### **Evaluation of interpretative authority and its impact on the consideration of the two constitutions**

Although the 2005 Constitution of the Republic of Iraq and the revised 1952 Constitution of the Hashemite Kingdom of Jordan agree on the general framework of adopting a parliamentary system, they differ fundamentally in structure and application, and also in the organization of the authorities responsible for interpreting the constitutional texts, reflected in the scope and extent of their governing bodies and powers. Therefore, this topic needs to be divided into two requirements:

The first requirement: the extent to which the interpretation is consistent with the principle of the supremacy of the constitution

The Second Demand: The Effect of Interpretation on the Balance of Powers

#### **The first requirement: The extent to which the interpretation is consistent with the principle of the supremacy of the constitution**

First of all, and before dealing with the extent to which interpretation is consistent with the principle of a stable constitution, it must be clarified that interpretation means: Clarifying the vague words of the legislation, completing what was shortened from its texts, puncturing what was missing from its provisions, and reconciling its contradictory parts"<sup>23</sup>.

The principle of constitutional supremacy means that public authorities must abide by the rules and provisions of the constitution. Therefore, no state organ may exercise power beyond the scope of its constitutional authority. In the case of the legislature, this principle means that constitutional rules supersede other applicable laws. Therefore, no law promulgated by the state may conflict with the constitution, whether written or customary law. Even if not explicitly stated in the constitutional text, the principle of constitutional supremacy is considered one of the recognized principles in constitutional case law.<sup>24</sup> Interpretation is considered one of the most important judicial tasks of judges, aiming to correctly apply constitutional and legal texts by clarifying ambiguous or potentially related concepts.

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<sup>20</sup> Article 59/2 of the Constitution of the Hashemite Kingdom of Jordan of 1952 and its amendments.

<sup>21</sup> Al-Zoubi, Ahmed Youssef (2017). The Constitutional Court in the Jordanian Constitutional System, *Derasat Magazine*, University of Jordan, 44(2), p. 95

<sup>22</sup> Al-Khawaldeh, Mohamed Abdulkarim (2019). The Authenticity of the Decisions of the Jordanian Constitutional Court, *Journal of Law, Kuwait University*, 43(1), pp. 233–260

<sup>23</sup> Obeid, Abdulrahman (2016). The Interpretive Competence of the Constitutional Judiciary: A Comparative Study, *Al-Muhaqqiq Al-Hilli Journal of Legal and Political Sciences*, University of Babylon, 8(4), p. 416.

<sup>24</sup> Al-Tahrawi, Hani Ali (2011). Monitoring the Constitutionality of Laws and the Position of the Jordanian Judiciary, Research Published on [www.osamabahar.com](http://www.osamabahar.com) Website.

Constitutional rules are superior to all other legal rules (whether ordinary or written), both in form and substance; this is the meaning of constitutional supremacy, namely the supreme authority and sovereignty of the constitution.<sup>25</sup>

Based on this, this demand addressed the extent to which the interpretation is consistent with the principle of the constitution in the Iraqi and Jordanian systems through the following two sections:

### **Section One: The Extent to which the Constitutional Interpretation is Consistent with the Principle of the Supremacy of the Constitution in the Iraqi System**

The principle of constitutional supremacy is the cornerstone of Iraq's constitutional system. Article 13 of the 2005 Iraqi Constitution stipulates that the Constitution is "the supreme law of Iraq, with full binding force," and states that any legal text that contradicts the Constitution is invalid. This establishes the principle of progressive legal effect and places the Constitution at the top of the legal system.

Based on this principle, the Constitution empowers the Federal Supreme Court to uphold the constitutional supremacy, including overseeing the constitutionality of laws and interpreting constitutional provisions according to Article 93.

The coordination between constitutional interpretation and the principle of constitutional supremacy is reflected in a series of interconnected constitutional texts, the most important of which is Article 13 of the Iraqi Constitution, which establishes the supreme status of the Constitution and the invalidity of any text that contradicts it. In addition to Article 93, the Federal Supreme Court is also granted jurisdiction to interpret the Constitution. Article 94 states that "the decisions of the Federal Supreme Court are final and binding on all bodies."

Therefore, the connections between these provisions reveal a complete constitutional system. The supreme status of the Constitution requires a competent authority to uphold it. This upholding is manifested not only in repealing unconstitutional laws but also in interpreting the constitutional text in a uniform and binding manner, thereby avoiding multiple interpretations or conflicts. The judicial practice and actual trends of the Supreme Court confirm that constitutional interpretation is a means of upholding the Constitution, because the courts can eliminate ambiguities in the constitutional text, resolve disputes between public authorities, and prevent unconstitutional interpretations<sup>26</sup>.

Jurisprudence and the judiciary point out that the courts "correct misinterpretations of constitutional rules" and ensure that all laws are enacted in accordance with the constitution. The Iraqi constitutional judiciary has consistently emphasized that interpretation is inseparable from the function of protecting the constitution, and is one of the most important tools of the constitution, reflecting a clear harmony between interpretative jurisdiction and the principle of constitutional supremacy.

Iraqi constitutional jurisprudence also holds that constitutional interpretation is a natural extension of the principle of constitutional supremacy for the following reasons: interpretation embodies the supreme will of the constitution: it does not create new rules, but rather determines the true meaning of the constitutional text; interpretation prevents legislation from deviating from the constitution by defining the boundaries of legislative power, thereby avoiding legislative conflicts; furthermore, interpretation unifies the application of laws, prevents legal instability, and prevents conflicts between clauses.<sup>27</sup>

Some jurisprudence has argued<sup>28</sup> that constitutional interpretation represents "a tool to control the relationship between public authorities", especially in light of the texts regulating that relationship, which may be the subject of dispute or ambiguity.

<sup>25</sup> Obeid, Abd al-Rahman, *The Interpretive Competence of the Constitutional Judiciary, A Comparative Study*, previous reference, p. 417?

<sup>26</sup> Federal Supreme Court Decision No. (54/Federal/2017) Decision No: 54/Federal/2017 Issue Date: 21/5/2017 *Journal of Legal Sciences – University of Baghdad*, where this decision states: "The Federal Supreme Court finds that the application of the provisions of Article (126) of the Constitution ... It shall not be until after the amendments have been decided... In accordance with the established procedures", and the decision of the Federal Supreme Court Decision No. (48/Federal/2021) Decision Number: 48/Federal/2021 Issue Date: 6/6/2021 *Iraqi Legal Website and Analysis (Published Jurisprudential Commentary)*, as this decision stated: "The Court has decided: its jurisdiction in the interpretation of constitutional texts is the possibility of interpretation, whether on the occasion of a dispute or at an independent request from the authorities."

<sup>27</sup> A. Waqi, Mohamed Abdel Kazem (2020). *The Jurisdiction of the Federal Supreme Court in Iraq to Interpret the Constitution*, *Kuwait International Law College Journal*, 8(31), pp. 637–694.

<sup>28</sup> Al-Zaidi, Kazem Abd Jassim (2017). *Federal Supreme Court and Protection of the Constitution*, *Iraqi Supreme Judicial Council*, Online: <https://www.sjc.iq/view.3860/> Published on 16/7/2017.

## **Section Two: The Extent to which the Constitutional Interpretation is Consistent with the Principle of the Supremacy of the Constitution in the Jordanian System**

In Jordan's constitutional system, the principle of constitutional supremacy is one of the fundamental principles of the country's legal structure. The 1952 Hashemite Kingdom Constitution of Jordan sits at the top of the legislative system, and the legitimacy of all legal rules derives from it. Therefore, constitutional interpretation should be a tool to ensure that the principle of constitutional supremacy is respected, not a means to weaken or supersede it.

Article 59/2 of the Jordanian Constitution grants the Constitutional Court jurisdiction to interpret constitutional provisions. This article stipulates that, upon request from a designated body, the Constitutional Court has the power to interpret constitutional provisions, and its rulings take effect from the date of publication in the official gazette.<sup>29</sup>

The Constitutional Court Law No. (15) of 2012 also affirms this jurisdiction through Article (4), which stipulates the same mechanism for supervising the constitutionality of laws and regulations and interpreting the constitutional text. This demonstrates that Jordanian legislators wish to establish constitutional interpretation as the highest judicial function related to constitutional protection.

Through the connection between these texts, it is clear that constitutional interpretation is an extension of the principle of constitutional supremacy, as assigning it to an independent judiciary aims to unify the understanding of the constitutional text, prevent conflicts in its application, and thus strengthen the constitution's supremacy over other authorities.

The judicial practice of the Jordanian Constitutional Court confirms that constitutional interpretation is a means of protecting the constitution. Through constitutional interpretation, the court eliminates ambiguities in the constitutional text, controls the boundaries between legislative and executive powers, and protects the rights and freedoms stipulated in the constitution.<sup>30</sup>

The court's official statement indicates that its jurisdiction over interpretation and oversight aims to "protect the constitution in a country where constitutional supremacy and the rule of law are upheld," a statement that clearly reflects the connection between interpretation and the principle of constitutional supremacy.

Court precedents in overseeing the constitutionality of laws demonstrate that it not only repeals unconstitutional clauses but also relies on the interpretation of the constitutional text to determine the boundaries of legislation, particularly in the areas of rights and freedoms. This makes interpretation a practical tool for ensuring respect for the constitution.

Jordanian constitutional precedent holds that constitutional interpretation is consistent with the principle of constitutional supremacy for several reasons: interpretation reveals the will of the constitution; it does not create new rules but rather determines the true meaning of the text, thus supplementing it; interpretation avoids conflict of interpretations and ensures the stability of legal affairs.<sup>31</sup>

Some precedents hold that interpretative rulings by the Constitutional Court have an authority similar to that of the constitutional text itself, because they embody the official binding force of the Constitution.<sup>32</sup>

In conclusion, Jordan's constitutional interpretation system largely conforms to the principle of constitutional supremacy. This is reflected in the following aspects: first, granting the power of interpretation to an independent judiciary, thereby ensuring its impartiality; second, linking the effectiveness of interpretative decisions to their publication in the official gazette, making them universal and binding; and third, using interpretation as a means of supervising the work of public institutions, especially in the areas of rights and freedoms. However, the overall trend of the Jordanian system indicates that constitutional interpretation is an important tool for upholding constitutional supremacy and consolidating the rule of law.

### **The second requirement :The Impact of Interpretation on the Balance of Powers**

Constitutional interpretation is one of the most important judicial tools that directly affect the redrawing of the boundaries of jurisdiction between public authorities, as its role is not limited to revealing the meaning of constitutional texts, but also extends

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<sup>29</sup> Article 59/2 of the Jordanian Constitution and its amendments.

<sup>30</sup> Interpretative Decision No. 1/2014 on the Interpretation of Constitutional Articles Related to the Formation of the House of Representatives, Interpretative Decision No. (1) of 2019 on the Interpretation of Constitutional Texts Related to Public Authorities, and Interpretative Decision No. (1) of 2020 on the Interpretation of Constitutional Texts Related to the Distribution of Competence.

<sup>31</sup> Al-Kilani, Mahmoud Ahmed, *The Constitutional Judiciary in Jordan*, op. cit., p. 219.

<sup>32</sup> Al-Zoubi, Ahmed Youssef, *The Constitutional Court in the Jordanian Constitutional System*, op. cit., p. 96.

to form a mechanism to control the balance between the legislative, executive and judicial branches. This role is within constitutional and legal frameworks that vary in terms of breadth or restriction.

### **Section I: The Impact of Interpretation on the Balance of Powers in the Iraqi System**

In the Iraqi system, constitutional interpretation is one of the primary tools used by the Federal Supreme Court to exercise its functions and regulate relations between public authorities. This function is based on the 2005 Iraqi Constitution, particularly Article 93. This article grants the court jurisdiction to oversee the constitutionality of laws and to adjudicate disputes between federal, regional, and provincial governments. This jurisdiction makes constitutional interpretation a practical means of determining the scope of authority of each authority and preventing it from infringing upon the jurisdiction of other authorities.<sup>33</sup>.

The impact of interpretation on the balance of power is clearly demonstrated in the exercise of jurisdiction by the Iraqi Federal Supreme Court to interpret the constitutional text, directly or indirectly, to adjudicate constitutional disputes, as such interpretation helps to control the relationship between the legislative, executive, and judicial branches and prevents any branch from expanding its power of interpretation in a manner that violates the principle of separation of powers.<sup>34</sup>.

In one of its rulings, the Court affirmed that its function of interpretation is inseparable from its function of constitutional oversight, as it stated in its decision that "the Court shall refrain from expressing its opinion on a matter that constitutes a dispute before it in the future"<sup>35</sup>, which reflects its keenness not to interfere in the work of the The power of the judiciary or legislature already exists before a ruling is made. This trend strengthens the balance of power by preventing unlawful interference between different branches of government.

Some schools of thought in Iraqi constitutional law argue that Iraqi judicial interpretations have expanded the role of the Federal Supreme Court in regulating power relations, but have also created "broad discretionary power" for the courts. The lack of clear standards to regulate this discretionary power could raise questions about the boundaries of the separation of powers.<sup>36</sup>.

It is worth noting that Iraq's Federal Supreme Court Law No. 30 of 2005 did not provide detailed provisions for a direct interpretation mechanism, which made interpretation a flexible tool in the hands of the constitutional judiciary. This enhanced its role in achieving a balance of power, but on the other hand, it may have raised the problem of a lack of precise legislative control over this role.

### **Section Two: The Impact of Interpretation on the Balance of Powers in the Jordanian System**

Jordan's constitutional interpretation is based on the Jordanian Constitution. Articles 58 and 59/2 of the Jordanian Constitution establish a Constitutional Court as the competent authority to oversee the constitutionality of laws and interpret the constitutional text. This makes constitutional interpretation an important tool for regulating the relationships between various branches of power within a clear and specific constitutional framework.<sup>37</sup>.

The Jordanian Constitutional Court exercises this function through Constitutional Law No. 15 of 2012. This law explicitly establishes a mechanism for submitting cases defending constitutionality to the Constitutional Court, ensuring that disputes reach the court only through specific judicial channels. This reflects the legislator's determination to achieve a balance of power through controlling the constitutional oversight mechanism.

The precedents of the Jordanian Constitutional Court demonstrate that its role in interpreting the constitution is closely related to the disputes it adjudicates. In one of its rulings, the court affirmed the requirement for seriousness in debating constitutionality, aiming to prevent the court from becoming merely an advisory body and thus maintaining a balance between the judiciary and other branches of power.<sup>38</sup>.

<sup>33</sup> Article 93 of the Iraqi Constitution of 2005.

<sup>34</sup> Iraqi Federal Supreme Court Judgment No. (19/Federal/2013), Iraqi Constitutional Judiciary Publications.

<sup>35</sup> Decision of the Federal Supreme Court of Iraq No. (19/Federal/2013) on 6/5/2013.

<sup>36</sup> Al-Moussawi, Ahmed (2021). Constitutional Judiciary in Iraq, Dar al-Kutub al-Qanooniyyah, Baghdad, p. 178.

<sup>37</sup> Article 58 and Article 59 of the Jordanian Constitution and its amendments.

<sup>38</sup> Jordanian Constitutional Court Judgment No. (3) of 2013, National Center for Legal Research Publications.

Jordanian constitutional precedents hold that the law strengthens the principle of separation of powers by limiting access to the Constitutional Court and preventing abuse of the right of appeal; however, it also limits the role of individuals in directly initiating constitutional oversight, making the balance of power dependent on indirect judicial oversight<sup>39</sup>.

Another legal trend is that Jordan's clear procedural system fosters a delicate balance of power, preventing the unchecked expansion of judicial power while ensuring the effectiveness of constitutional oversight through specific legal channels.

By comparing the constitutional systems of Iraq and Jordan, analysis shows that Iraqi constitutional interpretation tends to expand the role of the Supreme Court in regulating the balance of power through flexible case law, while Jordan's system controls this balance based on strict procedural rules, limiting access to the Constitutional Court. This makes Jordan's balance of power more standardized, while Iraq's is more flexible and closer to case law.

## **Conclusion, Findings and Recommendations**

### **First: Conclusion**

The study dealt with the subject of the interpretative jurisdiction of the Constitutional Courts (a comparative study between the Iraqi model and the Jordanian model), and at the end of this study, a number of results were reached and a number of recommendations were formulated in the light of them.

### **Second: Results**

1. The power of interpretation is one of the most important powers of the Constitutional Court, its duty being to eliminate ambiguity and vagueness in the constitutional text. In most political systems, constitutional interpretation is considered one of the fundamental powers of the Constitutional Court.
2. The Supreme Federal Court of Iraq is responsible for hearing cases related to the unconstitutionality of laws or parts thereof, and for ruling on immunity arising from the application of such laws, procedures, or decisions—immunities granted by the Iraqi federal authorities in lawsuits challenging their unconstitutionality.
3. In Jordan, the constitutional basis for the power to interpret the constitutional text is a fundamental issue in constitutional judicial research and falls under the jurisdiction of the Constitutional Court. Clarifying the legal basis for the competent authority to exercise jurisdiction plays a decisive role in elucidating the meaning of the constitutional text.
4. Oversight of the constitutionality of laws has not yet fully achieved its intended goals, but the French Constitutional Council has contributed to defining the rules of political maneuvering between the government and parliament. Since the establishment of the constitutional judiciary, reviewing the constitutionality of laws has been one of its most important functions, and legislators in Iraq and Jordan have also adopted this principle when drafting constitutional and legal texts defining the powers of this judiciary.
5. In Jordanian legislation, Article 59/1 of the 1952 Hashemite Kingdom Constitution of Jordan and its 2011 amendments clearly demonstrate a convergence with Iraqi legislation in this area. This article stipulates that the jurisdiction of constitutional review extends beyond laws to include existing regulations.
6. In Jordan's constitutional judicial system, the jurisdiction to interpret constitutional provisions was previously exercised by the High Commission for Constitutional Interpretation, which was abolished with the enactment of the Constitutional Court Law.
7. The procedural working organization of the constitutional judicial body is one of the important pillars for ensuring effective oversight of the constitutionality of laws and achieving legal stability.
8. The Jordanian legislature, through Law No. 15 of 2012 – the Constitutional Court Law – has regulated the working procedures of the Constitutional Court. This law establishes the procedural basis of the Constitutional Court, including its composition, powers, and mechanisms for overseeing the constitutionality of laws and regulations.

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<sup>39</sup> Al-Nisour, Muhammad Ali, *The Constitutional Judiciary in Jordan*, op. cit., p. 152.

9. Jordan's system is more specific and rigorous. The legislature restricts the avenues for appealing to the Constitutional Court on the grounds of unconstitutionality during the trial process. This makes constitutional oversight indirect in most cases, requiring high fees and statutory interest.
1. The authority of Constitutional Court rulings, especially in the area of constitutional interpretation, is one of the key issues in ensuring constitutional supremacy and the stability of the legal system. This means that these rulings are binding on all institutions and individuals.

### Third: Recommendations:

1. Researchers recommend unifying the institutions responsible for interpreting constitutional and legal texts by establishing a Constitutional Court in Jordan and a Federal Supreme Court in Iraq.
2. Expand the powers of the Jordanian Constitutional Court and the Iraqi Federal Supreme Court to allow them to review draft laws and regulations before their promulgation and publication, and to interpret any ambiguous provisions.
3. A review of Iraqi Federal Supreme Court Law No. (30) of 2005 reveals a lack of explicit provisions regarding the interpretation of constitutional texts. This has led some legal scholars to question the legal nature of the existing Federal Supreme Court. Therefore, we recommend explicitly designating the Federal Supreme Court as the institution responsible for interpreting constitutional texts in its laws.
4. Review certain provisions in the laws of the Constitutional Court and the Federal Supreme Court to expand their powers to require interpretation of constitutional, legal, and regulatory texts.
5. Clarify how the Constitutional Court and the Federal Supreme Court, having been granted the power to interpret all legislation, should exercise their powers to interpret laws.
6. Examine the experiences of other countries, particularly the legislatures of France and Egypt, in interpreting constitutional, legal, and regulatory texts.

## Bibliography and Sources

### The Holy Qur'an

#### Books:

- Al-Hisban, Eid Ahmed. (2008). The Legal System for the Interpretation of Constitutional Texts in Constitutional Systems, A Comparative Study, Journal of the Faculty of Law, University of Bahrain, Issue (8).
- Hamad, The Order of the Sun (2011). Jurisdictions of the Supreme Court of Iraq, Beirut: Zain Law and Literature Library.
- Al-Khawaldeh, Mohammed Abdulkarim (2019). The Authenticity of the Decisions of the Jordanian Constitutional Court, Journal of Law, Kuwait University, 43(1).
- Al-Dulaimi, Mahmoud Halil (2016). Organization of the Constitutional Judiciary in Jordan and Iraq, A Comparative Study, Master's Thesis, Al al-Bayt University, Mafraq, Jordan,
- Al-Rawashdeh, Amr Amjad and Al-Kasasbeh, Abdel Raouf Ahmed (2022). Judicial and Interpretative Jurisdictions of the Constitutional Court in Jordan: A Comparative Study of an Unpublished Master's Thesis, Middle East University, Amman, Jordan
- Al-Zoubi, Ahmed Yousef (2017). The Constitutional Court in the Jordanian Constitutional System, Derasat Magazine, University of Jordan, 44(2).
- Al-Zaghoul, Abdul Karim (2020). Oversight of the Constitutionality of Laws, Dar Wael, Amman.
- Al-Zaidi, Kazem Abd Jassim (2017). Federal Supreme Court and Protection of the Constitution, Iraqi Supreme Judicial Council, Online: <https://www.sjc.iq/view.3860/> Published on 16/7/2017.
- Al-Shaer, Ramzy (1983). The General Theory of Constitutional Law, Cairo: Ain Shams Press.
- Al-Shawi, Munther (2007). The General Theory of Constitutional Law, 1st Edition, Amman, Dar Ward for Publishing and Distribution.

Al-Sharif, Aziza. (1990). *The Egyptian Constitutional Court*, Cairo, Dar Al-Nahda Al-Arabiya.

Shukr, Mustafa Latif (2020). *The Interpretative Jurisdiction of the Federal Supreme Court in Iraq, A Comparative Study*, Master's Thesis, Middle East University, Amman.

Al-Shammari, Qahtan Abdulrahman (2018). *Competencies of the Federal Supreme Court in Iraq*, Journal of Legal Sciences, University of Baghdad.

Al-Sada, Abdel Moneim Faraj (1978) *Fundamentals of Law*, Beirut, Sader Publishing House.

Al-Tahravi, Hani Ali (2011). *Monitoring the Constitutionality of Laws and the Position of the Jordanian Judiciary*, Research Published on [www.osamabahar.com](http://www.osamabahar.com) Website.

Obeid, Abdulrahman (2016). *The Interpretive Competence of the Constitutional Judiciary: A Comparative Study*, Al-Muhaqqiq Al-Hilli Journal of Legal and Political Sciences, University of Babylon.

Ali, Othman Yassin (2018). *The Federal Supreme Court's Attitude in Interpreting Constitutional Texts, An Applied Analytical Study*, Journal of Scientific Science, Lebanese French University, 3(1).

Aufi, Mohamed Abdel Kadhim. (2020). *The Jurisdiction of the Federal Supreme Court in Iraq to Interpret the Constitution*. Journal of the Kuwait College of Law, Eighth Year, Issue 3, Serial Issue 31.

Issa, Yahya Hamid (2022). *The Federal Supreme Court and its Role in Protecting the Constitutional Order in Iraq*, Yarmouk Magazine.

Al-Kilani, Mahmoud Ahmed (2015). *Constitutional Judiciary in Jordan*, Amman, Dar Al-Farqa for Publishing and Distribution.

Mikhliif Saif Abbas and Al-Khair Khaled (2025). *The Formation of the Constitutional Judiciary in the Approaches Systems (Iraq-Lebanon-Kuwait)*, Journal of Humanities and Natural Sciences.

Mahdi, Ghazi Faisal (2014). *Competencies of the Federal Supreme Court*, Baghdad, University of Baghdad Press.

Al-Moussawi, Ahmed (2021). *Constitutional Judiciary in Iraq*, Dar al-Kitab al-Qanuuniyya, Baghdad.

Al-Moussawi, Muhammad Hussein (2016) *Interpretation of the Constitution in the Iraqi Legal System*, Najaf, Dar Al-Diaa Printing.

#### **Legislation:**

- Jordanian Constitutional Court Law No. (15) of 2012.
- Iraqi Code of Civil Procedure No. 83 of 1969.
- The Constitution of the Hashemite Kingdom of Jordan of 1952 and its amendments.
- Jordanian Constitution Amended for 2011
- The Constitution of the Republic of Iraq of 2005.

#### **Decisions and Judgments:**

- Jordanian Constitutional Court Decision No. (7) of 2025
- The Constitutional Court. Interpretation Decision No. (1) of 2015 published in the Official Gazette No. 5340 of 11 May 2015, p. 5772.
- Cassation of Rights No. 1676 of 2014 Jordanian Court of Cassation 2015-01-04 Qestas Publications.
- Iraqi Federal Supreme Court Judgment No. (19/Federal/2013), Iraqi Constitutional Judiciary Publications.
- Jordanian Constitutional Court Judgment No. (3) of 2013, National Center for Legal Research Publications.
- Decision of the Federal Supreme Court of Iraq No. 19/unilateral 2007, issued on 16/9/2007.