
| RESEARCH ARTICLE

Parliamentary Control over the Decisions of the Special Committee of the Political Prisoners Foundation in Iraq

Rabab Naji Abd¹ ✉ and **Prof. Dr. Sadiq Muhammad Ali Al Hussein²**

^{1,2}*University of Babylon, Faculty of Law, Department of Public Law, Iraq*

Corresponding Author: Rabab Naji Abd, **E-mail:** rabababd565@gmail.com

| ABSTRACT

Parliamentary control over the executive authority is non-judicial. It is based on the Articles of the constitution. The political regime of any country determines the extent and the nature of parliamentary control. The supervisory authority in the parliamentary regime expands. It is based on mutual control by the legislative and executive authorities. The government is responsible before the parliament, which may lead to the withdrawal of confidence. In return, the government has the right of resolving the parliament. Parliamentary control is the evaluation of the executive branch with the purpose of detecting its actions to address violations that affect the basic rules drawing by the law from its administrative activity to determine the response in order to be questioned by the parliament. The present study tackles the role of parliamentary control over the decisions of the Special Committee of the Political Prisoners Foundation and implementing its rules by relevant government agencies.

| KEYWORDS

Parliamentary Control; Political Prisoners Foundation; parliament; government

| ARTICLE DOI: [10.32996/jhsss.2022.4.1.15](https://doi.org/10.32996/jhsss.2022.4.1.15)

1. Introduction

1.1 The significance of the present study

The present study is significant due to the effectiveness of the executive power of constitutional and legal means available to members of the House of Representatives in the practice of their constitutional functions as the representatives of the people to evaluate these mechanisms to improve its role.

1.2 The objectives

The present study aims to identify the parliamentary controls on the decisions of the Special Committee of the Political Prisoners Foundation, assess the effective parliamentary control in Iraq, and propose solutions and legal amendments that enhance the role of the parliament members.

1.3 The research problem

The following questions can summarize the research problem:

1. What are the most important means of parliamentary control made by the Constitution and the law of members of the House of Representatives to face the government's actions?
2. What is the influence of parliamentary control in correcting executive performance?
3. Are parliamentary control mechanisms sufficient to lead to a strong parliament?

To answer those questions, parliamentary controls over the decisions of the Special Committee of the Political Prisoners Foundation in Iraq must be studied.

2. The design of the present study

To discuss this topic, parliamentary control is tackled in section one. Section two is devoted to assessing parliamentary control.

2.1. Section one

2.1.1 Parliamentary control

It is a regulatory function that represents one of the basic functions of the House of Representatives elected by the people to take care of their interests that are not apart from the state's interests. It is one of the types of political control of the Iraqi parliament. The Permanent Iraqi Constitution of 2005 mentioned that The parliamentary control over the administration might be a comprehensive control over actions, based on appeals by people. The parliament finds good evidence that may lead to withdrawal of confidence (Radhi et al. 2020). Parliamentary control over the government's actions may be of external non-judicial control in constitutional texts (Jawad et al., 2016). The type of political system in any country determines the size of this control. Of course, the oversight of the parliamentary system appears to be based on mutual cooperation and control by the legislative and executive authorities.

In the parliamentary system, control is so strict. Ministers are appointed or dismissed by the parliament. Based on that, the legislative authority has full control over the executive authority. Whereas, in presidential systems, there is no such control over the executive authority. In such systems, authorities are independent, and there is no control over each of them.

In fact, control is more comprehensive in parliamentary systems. It is based on cooperation and mutual control between the legislative and executive authorities. Ministers are responsible for the executive actions before the legislative authority, which has the right to dissolve parliament as a means of political balance, which is closely related to the parliamentary system based on the balance between the two authorities (Abdulhassan, 2011).

Based on the foregoing, the House of Representatives has control over government performance, approval of the appointment of the head of the Political Prisoners Foundation, and questioning the officials of independent bodies according to the method of questioning followed by the Iraqi parliament. The Constitution has identified political control in Article (61/seven) as follows:

1. Questioning

Provision (7) of the article (61) of the Iraqi Constitution for 2005 allowed the member of the House of Representatives to address a certain question to the Government. Questioning is not an accusation for the minister or anyone (Shubbar, 2017). The question remains an important channel between the two authorities to exchange information.

Questioning may achieve high objectives, such as pursuing basic and important reforms that may include laws and regulations (Mahdi, 2019). In the conversation, the expansion can be observed by raising the question by the member of the House of Representatives. The question may be oral or written for the Government representative (Ubaid, 2010).

Article (27/ II) of the House of Representatives Law No. 13 of 2018 ascertained that the heads of independent bodies and heads of other agencies are within the scope of parliamentary control (Al-Waqae'e, 2018).

2. The right of clarification of a particular issue

Provision (7) of Article (61) of the Iraqi Constitution for 2005 allowed that at least (25) members of the House of Representatives raise a general subject for discussion for the policy and performance of the Council of Ministers or one of the ministries. The Prime Minister or other ministers determine when to attend before the parliament.

Clarification is more serious than the question being a type of doubt and not convinced by the legislative authority of the answer to the members of the executive authority. Accordingly, clarification leads to the government's accounting or withdrawing confidence by interrogation when they are not convinced of the answers.

A good example of such case is what the parliament member Jamal Al-Muhammadawi asked the parliament in 2019 to demand clarifications of many things as follows;

- A. How did the head of political prisoners foundation assign the administration of the medical division to a veterinarian doctor?
- B. How are political prisoners examined by a veterinarian doctor who refers them to the medical committee?
- C. How did the Foundation grant huge amounts for a number of political prisoners, and the other political prisoners were granted fewer amounts despite being affiliated to the same foundation?

D. Clarification on reports submitted by the Integrity Commission with regard to administrative mistakes of the Special Committee of lack of political prisoner files by 25% and the lack of personal documents by 45%.The parliament member clarified that the head of the foundation did not establish a committee that investigates the case, lack of refusal reasons, and did not implement the law of establishing a museum for political prisoners. In summary, the right to clarification is under the concept of cooperation and exchange between the legislative and executive authorities to access appropriate solutions and address public and important issues.

3. Interrogation

It is the most dangerous right of the House of Representatives in its relationship with the government. This right is a regulatory means of the Constitution for many parliaments in the world, including the Iraqi Constitution. One of the practical pieces of evidence is the case of the head of the Political Prisoners Foundation interrogation by the House of Representatives, which happened on 19/9/2016, through the request of the parliamentary Al-Muwatin bloc for not applying the legislation of the first amendment of Article 31 of the Iraqi House of Representatives Law, which stipulated that independent bodies and governors are responsible before the parliament.

4. Investigation

The House of Representatives has the right to intervene in the work of the executive authority. However, the legal political situation has not witnessed the practice of this means in connection with the work of the political prisoners' foundation. In this context, the Board resorted to this method when a serious mistake occurred in a governmental institution.

5. Withdrawal of confidence

It is the result of the responsibility of the Prime Minister, Ministers, or Heads of Independent Bodies. The Iraqi Constitution for 2005 addressed this situation through the text of Article (61 /8). Therefore, the non-conviction of the House of Representatives of what is provided may lead to dismissing the official.

The Iraqi parliament has the right to monitor independent bodies directly or to exempt the head of the political prisoners' foundation if his performance is not as good as required.

Practically, the parliament has a role in providing moral protection for the head of political prisoners foundation, including the legislation of laws that are in the interest of the categories covered by the Foundation Law and the amendment of laws when they are incompatible with the real situation. The President of the Parliamentary Committee called on the Federal Service Council to appoint political prisoners and re-appoint those who were dismissed for political reasons, taking into account the legal percentages of this category.

To solve the problems, meetings were held between the two authorities authorized by the First Deputy Chairman of the House of Representatives in the presence of a number of members of the executive authority. Those meetings led to some important recommendations as follows:

1. The Government shall not violate the law of the Political Prisoners Foundation, particularly with regard to the subject of probes in law.
2. Form a committee headed by the Undersecretary of the Minister of Finance and a number of heads in the relevant departments to facilitate the disbursement of accumulated payrolls for political prisoners.
3. Allocating jobs for political prisoners in the budget of each year.
4. Form a committee that applies the recommendations.

Accordingly, there is a need to overcome these difficulties facing the ministers.

2.2 Section two

2.2.1 Evaluating Parliamentary control

Parliamentary control is the control of the public administration and its aspirations and objectives. On this basis, they monitor the policies, means, and programs adopted by the Department to achieve these aspirations and objectives. The parliamentary control varies from the State's constitutional regime. Otherwise, parliamentary control is usually successful in the States with the parliamentary political system, unlike the presidential regime. Through this responsibility, the parliament watches every ministry or independent body. One of the advantages of this control is the authority of parliament by directing questions to the government

and independent bodies, investigating them and questioning and withdrawing confidence from the government and heads of independent bodies. Despite the advantages of parliamentary control, it is limited to protecting the principle of legitimacy and defending it. It is also affected by other considerations. The mechanisms used in withdrawing confidence may be unprecedented and difficult to activate.

The right to dissolve parliament was to be put in certain cases and not expanded to all cases. The Iraqi Constitution for 2005 required a request signed by 25 members of the House of Representatives to activate parliamentary control. The legislator should help members use the best control procedures to improve parliamentary control.

3. Conclusion

1. Parliamentary control is of great importance as it has a prominent role in parliamentary life.
2. Parliamentary control is constitutional control, subject to its executive power. Members can serve the public interest.
3. The parliamentary system in Iraq is based on mutual control by the legislative and executive authorities.
4. Parliamentary control was mentioned in the 2005 Constitution of the Republic of Iraq and the House of Representatives Law No. 13 of 2018.
5. Parliamentary control does not represent control over the business. It is control over people.
6. Investigation was not mentioned as a means by the constitution of the Republic of Iraq 2005.
7. There are letters between the House of Representatives and the heads of independent bodies to overcome difficulties facing independent bodies, promote these categories, and deliver their rights.

4. Recommendations

1. Activating parliamentary control and moving away from political pressures that are incompatible with public interests.
2. Establishing parliamentary control on a legal basis so as not to liquidate personal accounts and political interests or for the purpose of electoral propaganda.
3. Limiting the right of dissolving the parliament to the President of the Republic in certain situations.
4. Introducing amendments to the 2005 Constitution to include the means of investigation as a means of parliamentary control.
5. Overcoming difficulties faced by independent bodies to improve these categories and deliver their rights.

References

- [1] Abdulhassan, H. (2011). Parliamentary control over the executive authority, *Journal of Kufa Legal Studies*, 12.
- [2] Article 29 of the Law of the Iraqi Council of Representatives No. 13 of 2018 was published in the Iraqi Al-Waqae'e Newspaper 4499 in 2018.
- [3] Article 27 (II) of the Iraqi Council of Representatives Law No. 13 of 2018.
- [4] Article 30 (first) of the rules of procedure for the Law of the House No. 13 of 2018.
- [5] Article (19) of the amended law of the Political Prisoners Foundation in Iraq.
- [6] Article (19 / IX) of the amended law of the Political Prisoners Foundation in Iraq
- [7] Al-Qaisi, H. (2011). The role of the House of Representatives in Reducing Corruption, *Al-Kufa Magazine*, 1(12).
- [8] Al-Aani, W. (2020). *Administrative Judiciary*, Dar Al-Sinhour, Beirut.
- [9] Jawad, M. (2016). *Administrative Judiciary*, 6th edition, Yadkar press, University of Sulaimania.
- [10] Mahdi, M. (2019). Procedures for the parliamentary question under the Constitution of Republic of Iraq 2005: A comparative study, *Journal of Legal Sciences*, 5th Special issue.
- [11] Mahdi, G. and Ubaid, A. (2012). *Administrative judiciary*, 2nd edition, Documenting documents and books in the National Library, Baghdad.
- [12] Radhi, M. (2020). *The administrative judiciary*, 1st edition, Yadkar Press, Faculty of Law, University of Sulaimania.
- [13] Ubaid, A. (2010). *Constitutional law*, 1st edition, Najaf.
- [14] Shubbar, R. (2017). *The legislative authority in the Federal system*, 1st edition, Zain Library.