

The Role of the Federal Supreme Court in Regulating Parliament's Exercise of Its Oversight Powers under Iraqi and Egyptian Law

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Abstract

This article examines the role of constitutional adjudication in Iraq, represented by the Federal Supreme Court of Iraq, in regulating Parliament's exercise of oversight over the executive, and compares that role with the corresponding position of the Supreme Constitutional Court of Egypt. The article is divided into two principal sections. The first addresses the role of the Federal Supreme Court of Iraq in regulating Parliament's exercise of its oversight powers under Iraqi law, whereas the second considers the role of the Supreme Constitutional Court of Egypt in regulating Parliament's exercise of its oversight powers under Egyptian law. The nature of the inquiry required the adoption of a descriptive, analytical, inductive, and comparative methodology. This methodology was used to examine the constitutional and statutory provisions governing parliamentary oversight and to analyze the judgments and decisions of the Federal Supreme Court of Iraq and the Supreme Constitutional Court of Egypt concerning the exercise of parliamentary oversight in both jurisdictions. The article reaches several findings and recommendations. Most importantly, the Federal Supreme Court of Iraq has played a prominent role in regulating and developing the oversight powers of the Iraqi Council of Representatives through its judicial decisions. By contrast, the Supreme Constitutional Court of Egypt has played no significant role in relation to the Egyptian House of Representatives' oversight of executive performance. The article recommends that the Federal Supreme Court of Iraq reconsider its position and permit the Council of Representatives to exercise oversight over a caretaker government charged with conducting day-to-day affairs. It further recommends that the Egyptian legislature follow the Iraqi approach by expressly permitting direct proceedings before the Supreme Constitutional Court, thereby safeguarding members of the executive against abusive use by Parliament of its constitutionally prescribed oversight mechanisms. Keywords: Federal Supreme Court of Iraq; Supreme Constitutional Court of Egypt; parliamentary powers; parliamentary oversight; Iraqi Constitution; Egyptian Constitution.

Introduction

First: Statement of the Research Issue

A parliamentary system rests on cooperation and balance between the legislative and executive authorities. In addition to its primary legislative function, Parliament exercises oversight over the various activities of government. This oversight function is one of the essential pillars of the parliamentary system, because it enables Parliament to monitor and hold the executive accountable through the powers and oversight instruments vested in it. Legislatures in parliamentary systems are therefore granted various mechanisms designed to prevent the executive from exercising its powers in a manner inconsistent with the public interest. Constitutional courts are also fundamental to establishing a state governed by the rule of law. They safeguard the supremacy of the Constitution as the highest legal norm that preserves balance and institutional complementarity among the branches of government. Their legitimacy and governing principles derive from the Constitution itself, and they operate within a legal order binding on rulers and citizens alike. The existence of constitutional courts is among the principal indicators distinguishing democratic systems, whether long established or comparatively recent. Their judgments and decisions are of particular importance because of their effects on both the legislative and executive authorities. Just as constitutional adjudication is required in relation to Parliament's legislative function, it is also required in relation to Parliament's non-legislative powers, in order to ensure that each authority remains within its constitutional boundaries and does not exceed the role assigned to it by the constitutional framers. This promotes complementarity and balance among the powers of the different branches of government.

Second: Significance of the Research

The significance of this research lies in identifying the role of the Federal Supreme Court of Iraq in regulating parliamentary activity and directing Parliament toward the proper exercise of its constitutionally prescribed oversight powers. This contributes to strengthening the performance of the legislative authority and permits comparison with the experience of the Supreme Constitutional Court of Egypt in the same field.

Third: Research Problem

The central problem addressed by this article concerns the manner in which the Federal Supreme Court of Iraq, through its judgments and decisions, regulates Parliament's exercise of oversight over executive performance, and how that role compares with the corresponding role of the Supreme Constitutional Court of Egypt.

Fourth: Research Objectives

This article aims to determine the effect of the judgments and decisions of the Federal Supreme Court of Iraq on the regulation and development of parliamentary oversight instruments directed at the executive. It also examines whether the Supreme Constitutional Court of Egypt performs an analogous role.

Fifth: Research Methodology

The article adopts a descriptive, analytical, inductive, and comparative methodology in order to examine the constitutional and statutory provisions governing parliamentary oversight and to analyze the judicial judgments and decisions issued by the Federal Supreme Court of Iraq and the Supreme Constitutional Court of Egypt concerning Parliament's exercise of its oversight powers in both countries.

Sixth: Structure of the Research

The article is divided into two principal sections. The first examines the role of the Federal Supreme Court of Iraq in regulating Parliament's exercise of its oversight powers under Iraqi law. The second examines the role of the Supreme Constitutional Court of Egypt in regulating Parliament's exercise of its oversight powers under Egyptian law.

Section One: The Role of the Federal Supreme Court of Iraq in Regulating Parliament's Exercise of Its Oversight Powers under Iraqi Law

Parliament's oversight function exists alongside its legislative function. To exercise effective oversight over the executive, Parliament requires information supplied by the government itself. This demonstrates the close relationship between parliamentary oversight and the principle of balance among the branches of government.¹ Through oversight, parliaments seek to rationalize executive action, provided that oversight is effective and capable of fulfilling its functions. Oversight should not become an instrument for settling political disputes between the government and the opposition, nor a publicity mechanism through which certain members seek electoral support. Rather, it should operate as a means of evaluating governmental policies and measures and ensuring that they are directed toward serving the public interest.²

The nature of parliamentary oversight varies according to the political system. Oversight in parliamentary systems differs from oversight in presidential systems in its forms, effectiveness, and substantive content. Under a parliamentary system, the ministry bears political responsibility, whether individually at the level of a particular minister or collectively at the level of the government. Political responsibility is the essential foundation of the parliamentary system and constitutes the most prominent, consequential, and serious form of oversight exercised by the legislature.³

Governmental responsibility before Parliament is the cornerstone of the parliamentary system. Accordingly, the Constitution of the Republic of Iraq of 2005 vested the Council of Representatives with several mechanisms for overseeing executive action: parliamentary questions, requests for a general debate, parliamentary interpellation, and withdrawal of confidence. The Rules of Procedure of the Iraqi Council of Representatives also prescribe an additional instrument, namely parliamentary investigation. Certain constitutions, including the Iraqi Constitution of 2005, further recognize Parliament's authority to oversee independent bodies. Because these mechanisms embody reciprocal influence between the legislative and executive authorities, they constitute a form of constitutional balance between them. An effective institution is therefore required to prevent either authority from encroaching upon the other. Oversight is a fundamental component of political activity; democracy cannot be complete or sustainable without it. Respect for law and the proper functioning of institutions are essential guarantees for consolidating democracy and the rule of law. In a democratic system, the legislature's role cannot be confined to enacting legislation and exercising sovereignty in the name of the people and the nation. Continuous popular oversight is also necessary. Since such oversight cannot be exercised directly by all citizens, it is entrusted to the elected legislature as the genuine representative of the people, which performs that function on their behalf just as it performs the legislative function. In this context, the Iraqi Constitution of

¹Fahd Abu al-Atham al-Nusur, *Constitutional Adjudication: Theory and Practice*, 1st ed. (Jordan: Dar al-Thaqafa for Publishing and Distribution, 2016), pp. 106–107.

²Ahmed Yahya al-Zuhairi, *The Oversight Role of the Iraqi Parliament after 2003*, 1st ed. (Baghdad: Al-Sanhuri Library, 2016), pp. 48–49.

³Aqil Muhammad Abd, *The Relationship between Government and Opposition in the British Political System*, master's thesis, College of Political Science, University of Baghdad, 1995, p. 27.

2005 grants the Council of Representatives broad powers over both the executive authority and independent bodies, including the authority to oversee and remove them. To clarify the role of the Federal Supreme Court in this field, this section is divided into the following subsections:⁴⁵⁶

Subsection One: The Position of the Federal Supreme Court on Parliament's Exercise of the Parliamentary Question

Subsection Two: The Position of the Federal Supreme Court on Requests for a General Debate

Subsection Three: The Position of the Federal Supreme Court on Parliament's Exercise of Parliamentary Investigation

Subsection Four: The Position of the Federal Supreme Court on Parliament's Exercise of Parliamentary Interpellation

Subsection Five: The Position of the Federal Supreme Court on Withdrawal of Confidence (Political Responsibility)

Subsection Six: The Position of the Federal Supreme Court on Holding the President of the Republic Accountable

Subsection Seven: The Position of the Federal Supreme Court on Parliament's Oversight of Independent Bodies

These subsections are addressed in sequence below.

Subsection One: The Position of the Federal Supreme Court on Parliament's Exercise of the Parliamentary Question

A parliamentary question has been defined as "a request for clarification addressed to a minister for the purpose of obtaining information concerning a matter related to the work of the ministry, drawing the government's attention to a particular matter, or identifying violations connected with a given subject, whether the question is submitted in writing or orally."⁷

It has also been defined as "a written request that any member of Parliament may address to ministers, the prime minister, or other members of the government in contemporary systems, seeking information about a matter unknown to the member, clarification of a specific issue, or an indication of the government's intended position regarding a particular matter."⁸

The right to submit a question, as an oversight instrument, is confined to the member who asks the question and the minister to whom it is addressed. No other person may intervene in the discussion or request clarification. The member may withdraw the question at any time, and the question automatically lapses if either the questioner or the person to whom it is addressed loses the relevant official capacity.⁹

A parliamentary question is an important means of monitoring governmental performance, verifying the discharge of governmental responsibilities, and assessing compliance with legislation, particularly constitutional requirements. It is "a means of guiding the government toward the proper course by identifying its violations and exposing deficiencies in its performance." The Iraqi Constitution of 2005 recognizes the parliamentary question, providing that: "A member of the Council of Representatives may direct questions to the Prime Minister and the ministers on any matter falling within their respective competence. Each shall answer the questions of the members, and the questioner alone shall have the right to comment on the answer."¹⁰¹¹

The Rules of Procedure of the Council of Representatives subsequently regulated the mechanism for submitting questions in five consecutive provisions. Article 50 grants members of the Council of Representatives the right to address written questions to the President of the Republic, the Prime Minister, the Prime Minister's deputies, the heads of independent bodies, the heads of entities not affiliated with a ministry, or any member of the government, concerning matters falling within their respective competence, provided that the Speaker and the two Deputy Speakers are notified. Under this provision, questions may be addressed to members of the Presidency Council. This is inconsistent with the Constitution because no constitutional provision permits questions to be directed to them; accountability of the President of the Republic is governed exclusively by the constitutionally prescribed mechanism. Article 50 also permits questions to be addressed to heads of

⁴Falah Matroudi al-Aboudi, *Balance of Power and the Effectiveness of the Political System: An Analytical Study of Parliamentary and Governmental Performance under the Iraqi Constitution of 2005*, 1st ed. (Beirut: Zain Legal Publications, 2018), p. 186.

⁵Article 82 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

⁶Article 61(Seventh and Eighth) of the Constitution of the Republic of Iraq of 2005, as in force.

⁷Amr Hasabu, *Political Systems and Constitutional Law* (Cairo: Dar al-Nahda al-Arabiya, 2004), p. 374.

⁸Faris Imran, *Parliamentary Investigation in Arab, American, and European States* (Cairo: National Center for Legal Publications, 2008), p. 357.

⁹Article 54 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

¹⁰Article 61(Seventh)(a) of the Constitution of the Republic of Iraq of 2005, as in force.

¹¹Muhammad Rifaat Abd al-Wahhab, *Political Systems* (Alexandria: Dar al-Jamia al-Jadida, 2006), p. 302.

independent bodies and entities not affiliated with a ministry, although the Constitution does not expressly provide for such a procedure.¹²¹³

When a member of the Council of Representatives directs a question to a particular minister, the minister is required to answer it. Pursuant to Article 51 of the Rules of Procedure, the Speaker and the two Deputy Speakers may place a question requiring an oral answer on the agenda of the nearest suitable sitting, provided that the minister concerned is notified at least one week in advance. The minister may not delay the response for more than two weeks.¹⁴

A two-week period appears sufficient because it gives the competent minister an adequate opportunity to prepare a response, especially when the question concerns matters requiring reports from experts or administrators or relates to financial issues. A question listed on the agenda is therefore subject to two limitations. First, no question may be raised concerning a matter referred to a parliamentary committee, or placed on the agenda, before the committee submits its report to the Council. Second, a member may not submit more than one question during the same sitting. This limitation is inconsistent with the Constitution, which refers to “questions” in the plural rather than to a single question.¹⁵

Because a parliamentary question is a personal right of the member who submits it, clarification and comment on the answer should, in principle, be confined to that member. The Rules of Procedure, however, expanded this rule by permitting other members, in addition to the questioner, to comment on the responsible minister’s answer. In this context, the Speaker of the Council of Representatives may, depending on the importance of the question, authorize the chair of the competent committee or another member to make a brief comment or observation on the answer.¹⁶ Some commentators consider this provision inconsistent with the Constitution, which grants the questioner alone the right to comment on the answer.¹⁷ This article supports that view and considers that Article 53 of the Rules of Procedure should be amended to conform to the Constitution.

An examination of Article 61(Seventh)(a) of the Iraqi Constitution of 2005 and the provisions governing parliamentary questions in the Rules of Procedure shows that the Iraqi legislature did not specify the formal and substantive requirements for submitting a question, including requirements relating to its formulation. A question should be concise and limited to the matter on which information is sought; it should not concern a personal or private interest; and it should contain no improper expression affecting the dignity or standing of the minister to whom it is addressed. It should also avoid matters pending before the judiciary, in order to preserve judicial independence and prevent interference in judicial affairs. The legislature did not regulate urgent questions concerning matters affecting the national interest that require an immediate governmental response and for which time is critical to the member. Nor did it designate a weekly sitting for answering oral questions.¹⁸ The position of the Federal Supreme Court concerning the Council of Representatives’ exercise of the parliamentary question may be identified through the following decisions:

First, Decision No. 121/Federal/2017, issued on 5 November 2017, concerned a request for an opinion on whether a written question could be addressed to the President of the Republic under Article 61(Second) of the Iraqi Constitution of 2005, which assigns the Council of Representatives oversight over executive performance, given that the President is one of the two components of the executive under Article 66. The Court held that “addressing a written question to the President of the Republic on the basis of Article 61(Second) of the Constitution conflicts with Article 61(Sixth), which specifically governs the subject of the requested interpretation. A specific provision restricts the general provision that precedes it; accordingly, addressing a written question to the President of the Republic conflicts with Article 61(Sixth) of the Constitution.”¹⁹

Second, Decision No. 42/Federal/2019, issued on 6 May 2019, interpreted Article 61(Seventh)(a) of the Iraqi Constitution of 2005 and considered whether a member’s power to submit questions extended to the President of the Republic and the Vice-Presidents, or was confined to the offices identified in that constitutional provision and Article 50 of the Rules of Procedure. The Court noted that the Presidency Council had ceased to exist after the first parliamentary term following the entry into force of the Constitution pursuant to Article 138(First). It concluded that Article 61(Seventh), in its subparagraphs (a), (b), and (c), authorizes members of the Council of Representatives, as appropriate, to direct questions, requests for clarification, and interpellations only to the offices identified in that provision. It further held that the authority granted under Article 50 of the Rules of

¹²Zirak Majid, *The Extent of Balance between the Legislative and Executive Authorities*, 1st ed. (Beirut: Al-Halabi Legal Publications, 2014), p. 77.

¹³Article 50 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

¹⁴Article 51 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

¹⁵Article 52 of the Rules of Procedure cited above.

¹⁶Article 53 of the Rules of Procedure cited above.

¹⁷Hamid Hanoun Khalid, *Principles of Constitutional Law and the Development of the Political System in Iraq* (Baghdad: Al-Sanhuri Library, 2012), p. 123.

¹⁸Zirak Majid, previously cited, pp. 78–79.

¹⁹Federal Supreme Court of Iraq, Decision No. 121/Federal/2017, 5 November 2017, published on the Court’s official website (www.iraqfsc.iq), accessed 5 September 2025.

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Procedure to submit written questions is confined to the Prime Minister, the Prime Minister's deputies, ministers, heads of independent bodies, and heads of entities not affiliated with a ministry who form part of the government. The offices of the President and Vice-Presidents cannot be analogized to the former Presidency Council because their legal status, powers, and appointment requirements differ. The Court therefore decided that the power granted to a member of the Council of Representatives under Article 61(Seventh)(a) of the Constitution and Article 50 of the Rules of Procedure does not extend to the President of the Republic or the Vice-Presidents.²⁰

These two decisions demonstrate that the Court did not permit a member's authority to submit a parliamentary question to extend to the President of the Republic, because the constitutional framers established a special mechanism for presidential accountability, notwithstanding the differences between a question and formal accountability proceedings. The Court nevertheless recognized Parliament's authority to direct questions to the Prime Minister, the Prime Minister's deputies, ministers, heads of independent bodies, and heads of entities not affiliated with a ministry who are members of the government. The Court based its interpretation on the constitutional provisions and the Rules of Procedure, and its conclusions are consistent with the text and purposes of the Constitution.

Third, Decision No. 38/Federal/2009, issued on 20 July 2009, addressed whether governorates not incorporated into a region constitute entities not affiliated with a ministry, are directly linked to the Council of Ministers, and remain subject to the oversight and supervision of the provincial council. The Court answered that governorates not incorporated into a region had become entities not affiliated with a ministry, were subject to the oversight of the Council of Representatives, and were required to follow the resolutions issued by the body established under Article 45(First) of the Law of Governorates Not Incorporated into a Region.²¹

In another decision, the Federal Supreme Court held that, upon examining the Constitution and Law No. 21 of 2008 on Governorates Not Incorporated into a Region, the constitutional provision assigning the Council of Representatives oversight over executive performance was framed in general terms. This general authority extended to officials of the federal executive and local governments, foremost among them the governor. The Council of Representatives could therefore address parliamentary questions to both the governor and the chair of the provincial council.²²

The Court likewise held that the Council of Representatives is competent to oversee the federal executive and that this competence, being expressed in general terms, extends to executive officials, including the Mayor of Baghdad and the Secretary-General of the Council of Ministers.²³

In these decisions, the Federal Supreme Court relied on constitutional provisions to recognize the Council of Representatives' authority to oversee several executive entities. Article 61(Second) generally grants Parliament oversight over the executive, whereas Article 61(Seventh)(a), appearing later in the same article, specifically identifies the offices to which a member may direct a parliamentary question: the Prime Minister and ministers. The Constitution contains no express provision authorizing questions to other entities. The Court nevertheless developed Parliament's oversight competence by bringing additional entities, not expressly identified in the Constitution, within the scope of parliamentary oversight. It therefore contributed materially to regulating and strengthening Parliament's exercise of its constitutional authority to submit parliamentary questions.

Subsection Two: The Position of the Federal Supreme Court on Requests for a General Debate

In constitutional scholarship, a request for a general debate is regarded as a comparatively moderate oversight instrument. It seeks to initiate dialogue between the government and Parliament on a matter of particular importance with a view to reaching a mutually acceptable solution.²⁴ This explains why some scholars regard it as a means of exchanging views and coordinating between Parliament and the government in service of the public interest.²⁵ It therefore occupies a distinctive place among oversight instruments. On the one hand, it enables Parliament to ascertain and debate the government's policy on a matter of domestic or foreign policy. On the other, it allows the government to identify Parliament's position on the issue under discussion and the

20 Federal Supreme Court of Iraq, Decision No. 42/Federal/2019, 6 May 2019, published on the Court's official website (www.iraqfsc.iq), accessed 5 September 2025.

21 Article 45(First) of Law No. 21 of 2008 on Governorates Not Incorporated into a Region provides for the establishment of the Higher Commission for Coordination among Governorates, chaired by the Prime Minister and comprising the specified ministers, governors, and chairs of provincial councils. See Federal Supreme Court of Iraq, Decision No. 38/Federal/2009, 20 July 2009, published on the Court's official website (www.iraqfsc.iq), accessed 6 September 2025.

22 Federal Supreme Court of Iraq, Decision No. 80/Federal/2017, 15 August 2017, published on the Court's official website (www.iraqfsc.iq), accessed 6 September 2025.

23 Federal Supreme Court of Iraq, Decision No. 14/Federal/Media/2018, holding that the general wording of Article 61(Second) extends parliamentary questions to officials of the federal executive, published on the Court's official website (www.iraqfsc.iq), accessed 6 September 2025.

24 Ihab Zaki Salam, *Political Oversight of Executive Action in the Parliamentary System* (Cairo: Alam al-Kutub for Publishing and Distribution, 1983), p. 88.

25 Yahya al-Jamal, *The Constitutional System of the Arab Republic of Egypt* (Cairo: Dar al-Nahda al-Arabiya, 1974), p. 226.

degree of support for the measures taken, thereby helping the government avoid political accountability before Parliament.²⁶

A request for a general debate may be defined as “a parliamentary oversight mechanism under which a specified number of members may request that a matter of general concern relating to domestic or foreign policy be raised for open debate in the chamber, in which any member may participate.”²⁷

This oversight mechanism therefore occupies an intermediate position between the right to submit a parliamentary question and interpellation, the latter carrying a critical and accusatory character toward the government.²⁸

The Iraqi Constitution of 2005 expressly recognizes this mechanism. It provides that “at least twenty-five members of the Council of Representatives may raise a matter of general concern for debate in order to clarify the policy and performance of the Council of Ministers or a ministry. A date shall be set for the Prime Minister or the minister to appear before the Council of Representatives to discuss the matter.”²⁹

A defined period should be prescribed for the Council of Ministers or the relevant minister to attend the parliamentary sitting, so that the necessary explanations concerning the matter under discussion may be prepared. A maximum period compelling attendance should also be established. The constitutional provision does not set such a period, and Article 55 of the Rules of Procedure, which governs requests for a general debate, likewise does not establish a specific period for ministerial attendance. It merely states that the Prime Minister shall set a date, within a specified time limit, to appear before the Council of Representatives for discussion.³⁰

This raises the question of the legal consequence if the Prime Minister does not respond to the request or fails to attend the debate. In practice, no specific obligation or sanction applies to the Prime Minister or ministers. The members’ recourse is to employ a more effective oversight instrument, namely interpellation.³¹

Some commentators observe that a request for a general debate is often replaced in practice by inviting an official to appear before the Council of Representatives. The use of such an “invitation” as an oversight device is problematic because it lacks an express constitutional basis.³² This article supports that view. Parliamentary oversight instruments are constitutionally enumerated and cannot be expanded, or supplemented by additional mechanisms, without constitutional amendment.

As to the Federal Supreme Court’s position, a review of its decisions disclosed no ruling addressing requests for a general debate. This may be attributed to the Council of Representatives’ limited use of this mechanism compared with other instruments, such as parliamentary questions and interpellations. Because the mechanism is rarely employed, it has not generated a dispute requiring the Court’s intervention.³³

Subsection Three: The Position of the Federal Supreme Court on Parliament’s Exercise of the Power of Parliamentary Inquiry

Parliamentary inquiry performs an important practical function as a mechanism through which Parliament may oversee the activities of the executive. It is an oversight device employed by the legislature to uncover facts concerning a specific matter related to governmental activity and performance. Parliamentary inquiry has been defined from several perspectives, including the authority conducting it, its subject matter, and its parties. One definition describes it as “a political investigation conducted by the legislative authority for the purpose of identifying deficiencies in an executive body and holding it accountable, or of pursuing a particular legislative reform.”³⁴ Another defines it as “a means of parliamentary oversight exercised by Parliament through its members in order to ascertain the facts concerning a specific matter connected with executive activity.”³⁵ A particularly comprehensive definition describes it as “a form of oversight exercised by the representative assembly over the government, carried out by a committee composed of members elected by Parliament, whose purpose is to reveal all material and non-material elements of a matter or case of public interest, with authority

26 Muhammad Bahi Abu Yunus, *Parliamentary Oversight of Government Action in the Egyptian and Kuwaiti Systems* (Alexandria: Dar al-Jamia al-Jadida, 2002), p. 93.

27 Sulayman Muhammad al-Tamawi, *Political Systems and Constitutional Law: A Comparative Study* (Cairo: Ain Shams University Press, 1988), p. 589.

28 Sarhang Hamid al-Barzanji, *Foundations of a Democratic Constitution and Mechanisms for Its Defense*, 2nd ed. (Beirut: Zain Legal Publications, 2019), p. 261.

29 Article 61(Seventh)(b) of the Constitution of the Republic of Iraq of 2005, as in force.

30 Hanan Muhammad al-Qaisi, *Bicameralism in Iraq: A Study of the Federation Council* (Baghdad: Bayt al-Hikma, 2012), p. 236.

31 Mazhar Turki Abd al-Jubouri, *The Role of the Federal Supreme Court in Overseeing the Balance among the Federal Authorities in Iraq: A Comparative Study*, 1st ed. (Karbala, Iraq: Dar al-Kafeel for Printing, Publishing and Distribution, 2023), p. 356.

32 Faiq Zaidan Khalaf, *Constitutional Judicial Review of the Constitutional Boundaries among the Authorities* (Karbala, Iraq: Dar al-Warith for Printing and Publishing, 2021), p. 148.

33 Al-Jubouri, previously cited, p. 356.

34 Aidan Saad al-Ta’an, “The Extent of the Authority of Parliamentary Investigative Committees to Administer Oaths to Witnesses,” *Kuwaiti National Assembly Journal* (Kuwait, July 2007), p. 25.

35 Muhammad Anas Qasim Ja’far, *The Relationship between the Legislative and Executive Authorities* (Algiers: Office of University Publications, 1982), p. 162.

to examine documents and records, summon officials to appear before it, and inquire into all relevant circumstances and facts.”³⁶

Although Article 61 of the Constitution of the Republic of Iraq of 2005 enumerates several forms of parliamentary oversight, it does not expressly identify parliamentary inquiry as one of them. Given the importance of this mechanism in strengthening parliamentary oversight and activating the role of the legislature, the Constitution should have recognized it explicitly. The Rules of Procedure of the Council of Representatives nevertheless authorize the Council to establish investigative committees, providing that “the Council may form subcommittees, temporary committees, and investigative committees as required by the work and the matters before it.”³⁷ An investigative committee is formed with the approval of a majority of the members present, upon a proposal submitted by the Speaker and the two Deputy Speakers or by fifty members of the Council.³⁸ Accordingly, a request to conduct an inquiry must be signed by fifty members, a comparatively high threshold, unless it is proposed by the Presidency of the Council. A political bloc comprising fewer than fifty members must therefore seek the support of members from other blocs in order to propose the formation of an investigative committee.³⁹

The Rules of Procedure do not specify the mechanism for selecting the members of investigative committees or the number of members to be appointed. In practice, political consensus among parliamentary blocs therefore influences both the selection and the size of such committees.⁴⁰

Under Article 84 of the Rules of Procedure, an investigative committee possesses several powers. It may summon any person to give evidence in accordance with the applicable legal procedures and formalities. It may also examine files, documents, and records relevant to the matter before it, provided that it does not interfere with cases pending before the judiciary, and it may seek expert assistance when necessary.⁴¹

Upon completing its inquiry, the committee submits its findings and recommendations in a report to the Presidency of the Council pursuant to Article 85 of the Rules of Procedure. The report is then presented to the Council for debate and an appropriate decision, whether by approving it and referring it to the government or by declining to adopt it. The Council is not legally bound by the committee's recommendations. Moreover, the investigative committee may not impose sanctions; its function is confined to establishing and presenting the facts and recommending the measures it considers appropriate.⁴²

The provisions regulating investigative committees omit several matters that should have been addressed. They do not, for example, prescribe a period within which a committee must complete its work, although a defined timeframe is necessary to ensure the effectiveness of its oversight function.⁴³ Nor do they expressly require the committee to follow up on the government's implementation of recommendations approved by Parliament when the report is debated. They also fail to specify the procedures to be followed where the government rejects those recommendations or declines to implement them.

The Federal Supreme Court's position on parliamentary inquiry is illustrated by Decision No. 90/Federal/2013, issued on 6 November 2013. The Council of Representatives had formed a committee of thirteen members to investigate the budget of Salah al-Din Governorate. The Governor challenged the committee on the ground that the Constitution did not authorize the Council of Representatives to establish parliamentary investigative committees and that oversight of the governorate's budget fell within the competence of the Provincial Council. The Court held that Article 2(Second) of Law No. 21 of 2008 on Governorates Not Incorporated into a Region provides that provincial and local councils are subject to the oversight of the Council of Representatives. Article 61(Second) of the Constitution likewise grants the Council oversight authority, and one means of exercising that authority is the formation of committees under Articles 82 and 84 of the Rules of Procedure, which confer the powers necessary to ascertain the facts. The Court therefore found that the formation of the parliamentary committee to investigate the budget of Salah al-Din Provincial Council rested on valid legal grounds. It emphasized, however, that the committee could not itself take executive action. Where it identified a breach of law, it was required to notify the competent authorities—such as the Public Prosecution, the Commission of

³⁶ Abd al-Wahhab al-Kayyali, *Encyclopedia of Politics*, vol. 2, 4th ed. (Beirut: Arab Institution for Studies and Publishing, 2001), p. 699.

³⁷ Article 82 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

³⁸ Article 83 of the Rules of Procedure cited above.

³⁹ Dana Abd al-Karim Saeed, *The Role of Parliament in Contemporary Parliamentary Systems amid Weak Legislative and Oversight Performance and Executive Dominance: A Comparative Analytical Study*, 1st ed. (Beirut: Al-Halabi Legal Publications, 2013), p. 251.

⁴⁰ Mazhar Turki Abd al-Jubouri, previously cited, p. 358.

⁴¹ Article 84 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

⁴² Yasin Abd al-Amir Tu'ma al-Kufi, *Constitutional Regulation of Parliamentary Systems*, 1st ed. (Beirut: Zain Legal Publications, 2018), p. 262.

⁴³ Dana Abd al-Karim Saeed, *The Role of Parliament in Contemporary Parliamentary Systems amid Weak Legislative and Oversight Performance and Executive Dominance*, previously cited, p. 252.

Integrity, or the Federal Board of Supreme Audit—so that those authorities could take the legally prescribed measures.⁴⁴

The decision demonstrates that the Court regarded parliamentary investigative committees as one of the oversight mechanisms available to the Council of Representatives, consistently with the Rules of Procedure. At the same time, the Court confined the role of such committees, where a legal breach is identified, to referring their findings to the competent authorities, including the Commission of Integrity, the Public Prosecution, and the Federal Board of Supreme Audit. Some commentators argue that this limitation diminishes the role of investigative committees and makes this mechanism less effective than other parliamentary oversight devices.⁴⁵ Others maintain that parliamentary investigative committees may not substitute themselves for courts, issue binding judgments, or impose penalties, because such sovereign adjudicative authority belongs exclusively to the judiciary. Their reports do not constitute conclusive proof of a legal violation; rather, the committees must transmit the supporting evidence to the competent authorities, which then determine whether the allegation is substantiated. Although parliamentary investigative committees possess significant fact-finding powers, sometimes comparable to powers available to courts, this does not authorize them to convict individuals or issue punitive decisions on the basis of the evidence they collect. This article supports the latter view because the Federal Supreme Court's approach is consistent with the general principles governing parliamentary inquiry and with the distinction between parliamentary and criminal investigations.⁴⁶

Subsection Four: The Position of the Federal Supreme Court on Parliament's Exercise of the Power of Parliamentary Interpellation

Parliamentary interpellation is a constitutional right conferred upon members of Parliament, alongside the other instruments of parliamentary oversight over government activity. It is exercised by a member of Parliament against members of the government and is generally regarded as the most serious parliamentary oversight mechanism because it entails holding the government, or one of its members, politically accountable for conduct relating to public affairs entrusted to the executive authority. An interpellation may ultimately lead to the withdrawal of confidence from the government and compel its resignation. Some constitutional-law scholars define interpellation as "holding a minister, or the ministry as a whole, accountable for an erroneous policy or a failed project of serious importance."⁴⁷ Others define it as "a written request submitted by a member, or a number of members, to the Speaker of Parliament, accusing the government, a minister, or any other office-holder whom the Rules of Procedure permit to be interpellated, concerning a specific matter falling within the competence of the person addressed, for debate before the assembly and the adoption of a decision thereon."⁴⁸ A more persuasive definition describes it as "a parliamentary oversight mechanism consisting of an accusation supported by evidence and documents, submitted by a member of Parliament and directed to the head of government or one of its members concerning violations falling within their competence, thereby opening debate before Parliament with a view to engaging the political responsibility of the government or one of its members."⁴⁹

The Constitution of the Republic of Iraq of 2005 recognizes interpellation as an oversight mechanism for holding the government accountable. It provides that "a member of the Council of Representatives, with the consent of twenty-five members, may direct an interpellation to the Prime Minister or the ministers in order to hold them accountable in matters falling within their competence. Debate on the interpellation shall not take place until at least seven days after its submission."⁵⁰

A reading of this constitutional provision together with the provisions governing interpellation in the Rules of Procedure of the Iraqi Council of Representatives shows that the legislature established a number of formal and substantive requirements to regulate this parliamentary right, prevent its misuse, and ensure that it fulfils its constitutional purpose of strengthening parliamentary oversight over government activity. The first formal requirement is that the interpellation be submitted in writing to the Speaker of the Council.⁵¹ An oral request made during a sitting is therefore inadmissible. The writing requirement provides documentary evidence of the allegations and grounds relied upon, while also enabling the person interpellated to prepare an effective defence. The request must also be signed by the initiating member and supported by at least twenty-five

44 Federal Supreme Court of Iraq, Decision No. 90/Federal/2013, 6 November 2013, published on the Court's official website (www.iraqfsc.iq), accessed 8 September 2025.

45 Al-Jubouri, previously cited, p. 361.

46 For further discussion of the distinction between parliamentary and criminal investigations, see Sayyid Muhammad Ibrahim Muhammad, *Parliamentary Inquiry*, PhD dissertation, Faculty of Law, Ain Shams University, 2014, p. 7 et seq.

47 Asim Ahmad Ajila and Muhammad Rif'at Abd al-Wahhab, *Political Systems*, 3rd ed. (Cairo: Dar al-Nahda al-Arabiyya, 1985), p. 268.

48 Midhat Ahmad Yusuf Ghanayim, *Means of Parliamentary Oversight over Government Activity in the Parliamentary System*, 2nd ed. (Cairo: National Center for Legal Publications, 2011), p. 376.

49 Ibrahim Mahdi Juwair, "Interpellation as a Means of Parliamentary Oversight," *Al-Iraqia University Journal*, University of Al-Iraqia, Center for Research and Studies, vol. 21, no. 43, pt. 1 (Baghdad, 2019), p. 435.

50 Article 61(Seventh)(c) of the Constitution of the Republic of Iraq of 2005, as in force.

51 Article 58 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

members before it may be admitted and placed on the Council's agenda. Debate may not begin until at least seven days have elapsed from the date of submission.⁵² The interpellation may be directed to the Prime Minister, one of the Deputy Prime Ministers, or the minister concerned.⁵³ It must not contain improper or offensive expressions.⁵⁴ Although the Constitution and parliamentary rules authorize members to accuse a minister or the government, that authority does not extend to abusive or indecent language. The Speaker may amend the wording to remove offensive expressions. Article 32 of the Council of Representatives and Its Formations Law No. 13 of 2018 further provides for the establishment of a committee to advise on whether the conditions required for an interpellation under the Rules of Procedure have been satisfied. Some commentators argue that the expression "improper language" is so broad that it could be used to block virtually any interpellation.⁵⁵

The substantive requirements include that the interpellation must not contravene the Constitution or the law. Since an interpellation is, in essence, an accusation that the government or one of its members has violated the Constitution or the law, it is an oversight mechanism intended to protect constitutional legality and uphold the rule of law. The subject matter must fall within the temporal and subject-matter competence of the government, because political accountability for misconduct or violation presupposes that the conduct falls within the authority of the government or the minister concerned.⁵⁶ The initiating member must clearly identify the subject of the interpellation, state its reasons and grounds, explain the alleged violation, and provide the supporting evidence. The matter must not relate to a private or personal interest of the member, because parliamentary oversight, including interpellation, is intended to serve the public interest rather than individual interests.⁵⁷ Finally, to avoid disrupting parliamentary business through repeated interpellations concerning matters already resolved by the Council, the Rules of Procedure provide that "an interpellation may not be submitted concerning a matter previously decided by the Council unless new facts have arisen that justify its reconsideration."⁵⁸ This requirement excludes interpellations based on matters already determined unless subsequently discovered facts warrant reopening the issue.⁵⁹

An interpellation lapses if the initiating member withdraws it at any time, if that member ceases to hold parliamentary office, or if the person to whom it was addressed ceases to hold the relevant office.⁶⁰ The Iraqi legislature thus treats interpellation, like a parliamentary question, as a personal right of the initiating member that may be waived. This differs from the conventional understanding of interpellation as a parliamentary oversight instrument in which all members may participate once the request has been submitted, at which point it becomes a matter belonging to the assembly and may be adopted and pursued by another member.⁶¹

Debate on an interpellation may conclude either with the Council being satisfied by the answers given by the person interpellated or with the withdrawal of confidence from the government and the engagement of its political responsibility.⁶²

The position of the Federal Supreme Court on parliamentary interpellation may be examined through the following decisions.

First, in Decision No. 35/Federal/2012, issued on 2 May 2012, the Minister of Higher Education and Scientific Research requested an interpretation of Article 61(Seventh)(c) of the Constitution after an interpellation had been directed to him by the Council of Representatives. The Court held that an interpellation submitted under Article 61(Seventh)(c) to the Prime Minister or a minister must identify specific facts constituting a violation of the Constitution or the law and must show that the violation caused serious material or moral harm. In the Court's view, an interpellation under the Constitution and the Rules of Procedure closely resembles a formal charge under Article 187 of the Criminal Procedure Law No. 23 of 1971, which specifies the alleged act, its legal characterization, time and place, and the penal provision applicable to it, and then requires the accused to respond before a determination is made in light of the available evidence.⁶³

⁵² Article 61(Seventh)(c) of the Constitution of the Republic of Iraq of 2005, as in force, and Article 56 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

⁵³ Article 56 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

⁵⁴ Article 58 of the Rules of Procedure cited above.

⁵⁵ Juwair, previously cited, p. 437.

⁵⁶ *Ibid.*, p. 438.

⁵⁷ Salam Salih Khamis al-Ma'muri, *The Balance between the Executive and Legislative Authorities in Democratic Systems: A Comparative Analytical Study*, PhD dissertation, Faculty of Law, Mansoura University, 2021, p. 280.

⁵⁸ Article 58 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

⁵⁹ Wafa Badr al-Sabah, *Parliamentary Interpellation in the Kuwaiti Constitutional System: A Comparative Study*, PhD dissertation, Faculty of Law, Ain Shams University, 2006, p. 101.

⁶⁰ Article 59 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

⁶¹ Ghanayim, previously cited, pp. 396 and 431.

⁶² Article 61 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

⁶³ Federal Supreme Court of Iraq, Decision No. 35/Federal/2012, 2 May 2012, published on the Court's official website (www.iraqfsc.iq), accessed 10 September 2025.

This decision underscores the seriousness of parliamentary interpellation and treats it as an express accusation directed against members of the government, rather than a mere request for information or clarification. Accordingly, it must satisfy requirements comparable to those of a formal charge and be supported by evidence and official documents substantiating the allegations made by the initiating member.⁶⁴ The decision should therefore be understood not as an impermissible restriction on Parliament's right of interpellation, but as a form of regulation consistent with the constitutional provisions governing that right. In this respect, it contributes to strengthening and developing the oversight competence of the Iraqi Council of Representatives.

The same decision further held that an attempted interpellation that fails to satisfy the legal requirements may instead be treated as a parliamentary question or a request for clarification. The Court stated that, given the seriousness of interpellation as a means by which the legislative authority oversees the executive authority, it must comply with the requirements of Article 61(Seventh)(c) of the Constitution and Article 58 of the Rules of Procedure. Otherwise, it loses its constitutional and legal basis and may be treated as a question or request for clarification under Article 61(Seventh)(a) and (b), provided that the requirements of those mechanisms are satisfied.⁶⁵

Under this approach, an interpellation that does not satisfy its governing conditions becomes a mere request for clarification addressed to the government. A parliamentary question seeks information concerning a particular matter through the answer of the competent official, whereas questions raised in an interpellation are accusatory and must be supported by evidence. If the formal requirements prescribed by the Constitution and the Rules of Procedure are absent, the interpellation may be converted into a parliamentary question where the conditions governing such a question are met. A question may be submitted by a single member, in contrast to an interpellation, which requires the support of at least twenty-five members.⁶⁶ The decision therefore strengthened parliamentary oversight by recognizing that, although a defective interpellation is invalid as such, it may still produce limited legal effects by operating as a parliamentary question when the relevant conditions are present.

Second, in Decision No. 39/Federal/Media/2015, issued on 22 June 2015, concerning the interpretation of Article 61(Seventh)(c) of the Constitution, the Court held that an interpellation must be submitted by one member of the Council with the consent of twenty-five members. A member who signed and supported the request may withdraw that support only by submitting a written request to the Speaker expressly stating the withdrawal and requesting removal of the signature. Since such a supporting member assumes a legal position analogous to that of the initiating member, the Rules of Procedure permit withdrawal in the absence of any constitutional or statutory prohibition. If the withdrawal reduces the number of supporting members below twenty-five, the request ceases to satisfy the constitutional threshold and becomes invalid. This remains so even after a date has been fixed for the interpellation sitting. The Court further indicated that Article 59 of the Rules of Procedure applies only where the interpellation otherwise remains legally valid.⁶⁷

This decision regulated several matters that the Rules of Procedure had not addressed in sufficient detail, particularly the procedure for withdrawal by the initiating member and the consequences of withdrawal by one of the twenty-five supporting members. Article 59 recognizes the initiating member's right to withdraw the request, but does not prescribe the procedure for doing so, nor does it address the effect of a supporting member's subsequent withdrawal on the required numerical threshold. The Court clarified that withdrawal must be made through a written request addressed to the Speaker and that, where the withdrawal causes the number of supporting members to fall below twenty-five, the interpellation becomes invalid even if a date for debate has already been set. Although parts of the Court's reasoning are not expressed with complete clarity, the decision is sound in substance because it develops the procedural framework of the constitutional provision regulating parliamentary interpellation and contributes positively to the organization of the Council's oversight practice.

Third, Decision No. 78/Federal/2013, issued on 12 November 2013, concerned a challenge to the validity of an interpellation directed to the Minister of Electricity. The Court held that a member's withdrawal of an earlier interpellation does not extinguish the right to submit a new request when the legal grounds for doing so exist. The right lapses only if the initiating member ceases to hold parliamentary office or the person interpellated ceases to hold the relevant position, pursuant to Article 59 of the Rules of Procedure. The Court found that both

64 Sadiq Muhammad Izzat, "The Effectiveness of Parliamentary Interpellation in Correcting Governmental Performance," *Journal of the College of Law for Legal and Political Sciences*, vol. 11, no. 40 (2022), p. 460 et seq.; Ali Sahib Jasim al-Sharifi, "The Constitutional Regulation of the Interpellation of Ministers in Iraq," *Wasit Journal for Humanities and Social Sciences*, vol. 15, no. 43 (2019), p. 407 et seq.

65 Federal Supreme Court of Iraq, Decision No. 35/Federal/2012, 2 May 2012, previously cited.

66 Hanan Muhammad al-Qaysi, "Oversight by the Council of Representatives over Government Activity: A Study of Parliamentary Interpellation," *Journal of Law*, vol. 3, no. 10 (2010), p. 194 et seq.

67 Article 59 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022 provides: "The interpellating member may withdraw the request for interpellation at any time, and the interpellation shall lapse if the initiating member or the person to whom it was directed ceases to hold the relevant capacity."

68 Federal Supreme Court of Iraq, Decision No. 39/Federal/Media/2015, 22 June 2015, published on the Court's official website (www.iraqfsc.iq), accessed 11 September 2025.

parties continued to hold their respective offices and that the initiating member had identified the principal matters on which the Minister was to be interpellated. It also held that whether the underlying motives were personal or related to the public interest was a question of fact for the Council of Representatives to determine through its constitutional procedures and the debates conducted during the interpellation sittings, rather than a matter falling within the jurisdiction of the Federal Supreme Court.⁶⁹

The decision confirms that a member may submit a new interpellation after withdrawing a previous one, provided that both the initiating member and the person interpellated retain their legal capacities and that legally sufficient grounds exist. Withdrawal of an earlier request does not extinguish the member's constitutional right to employ this oversight mechanism. Where new or continuing legal grounds warrant interpellation, the member may submit a fresh request.⁷⁰ In this respect, the Court affirmed an existing constitutional right without adding a new procedural rule or imposing restrictions beyond those contained in the Constitution and the Rules of Procedure. The Court also properly declined to determine the alleged personal motives of the initiating member, leaving that factual inquiry to the Council of Representatives. The decision therefore supports the Council's authority to exercise oversight through interpellation.

Fourth, Decision No. 37/Federal/2017, issued on 18 April 2017, addressed the interpellation of a minister in absentia. The Court held that a minister may be interpellated in accordance with the Constitution and the Rules of Procedure where, after being duly notified, the minister fails to attend the interpellation sitting without submitting a lawful excuse. Such failure may be treated as an admission of the matters alleged and as a waiver of the right to respond.⁷¹ The Court reaffirmed this position in Decision No. 33/Federal/2017, issued on 8 May 2017, holding that Parliament may proceed with an interpellation in absentia after the official has been notified and fails to attend without an excuse accepted by the Council, and that the absence may be treated as an admission of the allegations.⁷² In another decision, the Court held that a claimant who failed to attend the duly notified interpellation sitting and answer the alleged violations had forfeited the right to defend himself.⁷³

These decisions recognized what has come to be described as parliamentary interpellation in absentia and helped curb the practice of officials refusing to attend interpellation sittings. Neither the Constitution of 2005 nor the Rules of Procedure had expressly regulated this form of interpellation. The Court treated the unexplained failure of the person interpellated to attend as a waiver of the right to answer the allegations and as an implied admission of the acts attributed to that person, thereby enhancing the effectiveness of parliamentary oversight over the government. The legislature subsequently incorporated this form of interpellation into Article 36 of the amended Council of Representatives Law No. 13 of 2018, which provides: "If the person interpellated fails to attend, the Council may debate the interpellation in that person's absence, unless an excuse accepted by the Council is submitted, in which case another date shall be fixed for the debate."⁷⁴

Subsection Five: The Position of the Federal Supreme Court on the Withdrawal of Confidence (Political Responsibility)

The withdrawal of confidence is one of the most important and consequential forms of parliamentary oversight over government activity. Parliament may withdraw confidence from an individual minister or from the Council of Ministers as a whole whenever the conduct of the minister or the government warrants political accountability.⁷⁵ The general tendency of constitutions based on the parliamentary system is to recognize the political responsibility of the government before Parliament while excluding the President of the Republic from such responsibility, because the President ordinarily does not exercise the effective governing powers that would justify political accountability. Governmental responsibility may be individual or collective: individual responsibility concerns the conduct of a particular minister, whereas collective responsibility arises from the general policy of the ministry or from the acts of the Prime Minister.⁷⁶

Political responsibility has been defined as "the right of Parliament to withdraw confidence from the ministry as a whole or from one of its ministers, with the consequence that the ministry or the minister must resign."⁷⁷ It has also been defined as "the right of Parliament, by the majority prescribed by the Constitution, to withdraw

⁶⁹ Federal Supreme Court of Iraq, Decision No. 78/Federal/2013, 12 November 2013, published on the Court's official website (www.iraqfsc.iq), accessed 12 September 2025.

⁷⁰ Zaynab Mahdi Salih and Ayat Salman Shuhayb, "Parliament's Right to Withdraw Confidence from the Ministry under a Consociational Political System pursuant to the Permanent Constitution of Iraq of 2005," *Al-Iraqia University Journal*, vol. 57, no. 3 (2023), p. 396 et seq.

⁷¹ Federal Supreme Court of Iraq, Decision No. 37/Federal/2017, 18 April 2017, published on the Court's official website (www.iraqfsc.iq), accessed 13 September 2025.

⁷² Federal Supreme Court of Iraq, Decision No. 33/Federal/2017, 8 May 2017, published on the Court's official website (www.iraqfsc.iq), accessed 13 September 2025.

⁷³ Federal Supreme Court of Iraq, Decision No. 141/Federal/Cassation/2012, 2 October 2012, published on the Court's official website (www.iraqfsc.iq), accessed 13 September 2025.

⁷⁴ Article 36 of the amended Iraqi Council of Representatives Law No. 13 of 2018.

⁷⁵ Sa'id al-Sayyid Ali, *Political Responsibility in the Balance* (Cairo: Dar Abu al-Majd for Printing, 2008), p. 67.

⁷⁶ Maha Bahjat Yunus al-Salihi, *The Constitutional and Legal Regulation of the Foundations and Mechanisms for Combating Corruption under the Constitution of the Republic of Iraq of 2005*, 1st ed. (Baghdad: College of Law, University of Baghdad, 2015), p. 46.

⁷⁷ Salih Jawad al-Kazim and Ali Ghalib al-Ani, *Political Systems* (Baghdad: Dar al-Hikma, 1991), p. 67.

confidence from the government as a result of serious negligence or a grave error in implementing its programme or the State's general policy."⁷⁸

Under the Constitution of the Republic of Iraq of 2005, the Prime Minister and the ministers are collectively and individually responsible before the Council of Representatives.⁷⁹ The Iraqi constitutional legislature thus adopted both branches of political responsibility. Individual responsibility means that each minister is personally accountable for the work of the ministry under that minister's authority. Collective or joint responsibility means that the government as a whole is answerable for serious error or failure and may consequently be required to resign in its entirety. The Constitution regulates individual responsibility by providing that the Council of Representatives may withdraw confidence from a minister by an absolute majority, whereupon the minister is deemed to have resigned from the date of the decision. The question of confidence in a minister may be raised only at the minister's own request or on the basis of a request signed by fifty members following debate on an interpellation directed to that minister. The Council may not decide the request until at least seven days have elapsed from the date of its submission.⁸⁰

This provision seeks to ensure the seriousness of a request to withdraw confidence by requiring the support of at least fifty members after debate on the relevant interpellation, unless the minister personally requests that the question of confidence be raised. It would have been more precise to require a written request from the minister, because a mere expression of willingness might be made either orally or in writing.⁸¹ The Constitution also grants the minister at least seven days from the date of submission to prepare a defence and respond to the allegations. It does not, however, establish a maximum period within which the Council must decide the request. Nor is the expression "absolute majority" entirely free from ambiguity, as the provision does not expressly state whether it means an absolute majority of the total membership of the Council or an absolute majority of the members present.⁸²

The collective responsibility of the ministry before the Council of Representatives may arise either through the initial request for confidence or through a subsequent withdrawal of confidence. When a Prime Minister-designate presents the names of the proposed ministers and the ministerial programme to the Council, confidence is obtained through approval by an absolute majority.⁸³ The Constitution authorizes both the President of the Republic and the Council of Representatives to initiate the withdrawal of confidence from the Prime Minister. It provides that the President may submit such a request to the Council; that the Council may withdraw confidence from the Prime Minister at the request of one-fifth of its members, but only after an interpellation directed to the Prime Minister and after at least seven days have elapsed from the submission of the request; and that the decision must be adopted by an absolute majority of the total membership of the Council.⁸⁴

For the Council to exercise this power, the Constitution therefore requires a request supported by no fewer than one-fifth of its members, equivalent to at least sixty-five members. The request must be preceded by an interpellation directed to the Prime Minister, and no decision may be taken until seven days have elapsed from the date of submission. A decision withdrawing confidence is valid only if approved by an absolute majority of the total statutory membership of the Council, rather than merely a majority of the members attending the sitting.⁸⁵

Withdrawal of confidence from the Prime Minister results in the resignation of the entire ministry.⁸⁶ Some commentators note that neither the Constitution nor the Rules of Procedure expressly regulate how the governmental vacuum is to be filled after the ministry is deemed to have resigned. They argue that Article 61(Eighth)(d) should apply: the Prime Minister and ministers should continue to conduct day-to-day affairs for a period not exceeding thirty days, during which the President of the Republic should designate another nominee from the largest parliamentary bloc to form the Council of Ministers in accordance with Article 76 of the Constitution.⁸⁷ This view is persuasive because it promotes continuity and stability within the parliamentary system.

The Federal Supreme Court's position on the political responsibility of the government may be traced through several decisions. In Joined Decisions Nos. 74 and 75/Federal/2016, issued on 20 December 2016, the Court

78 Muhammad Rif'at al-Mahjub et al., *Constitutional Law, with a Study of the Yemeni Constitutional System*, 2nd ed. (Cairo: Nahdat Misr Press, 1984–1985), p. 317.

79 Article 83 of the Constitution of the Republic of Iraq of 2005, as in force.

80 See Article 61(Eighth)(a) of the Constitution of the Republic of Iraq of 2005, as in force, and Article 63 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

81 Hamid Hanun Khalid, *Principles of Constitutional Law and the Development of the Political System in Iraq*, previously cited, p. 126.

82 Mazhar Turki Abd al-Juburi, previously cited, pp. 376–377.

83 Article 76(Fourth) of the Constitution of the Republic of Iraq of 2005, as in force.

84 Article 61(Eighth)(b) of the Constitution cited above.

85 Zarak Majid, previously cited, p. 98.

86 Article 61(Eighth)(d) of the Constitution of the Republic of Iraq of 2005, as in force.

87 Hamid Hanun Khalid, *Principles of Constitutional Law and the Development of the Political System in Iraq*, previously cited, p. 127.

held that a secret ballot on the withdrawal of confidence from a minister during a public sitting does not violate the Constitution unless a majority of the members of the Council object. The Court distinguished between a secret sitting and a secret ballot. Article 53 establishes that sittings of the Council are public unless necessity requires otherwise, but no constitutional provision prohibits the use of a secret ballot during a public sitting. Article 55 itself expressly provides for the direct secret election of the Speaker and the two Deputy Speakers. The Court treated the method of voting as a procedural matter falling within the competence of the Speaker and the Deputy Speakers, provided that the members do not object. It further held that the “absolute majority” required by Article 61(Eighth)(a) means a majority of the members present after the quorum prescribed by Article 59(First) has been achieved, because the constitutional text does not use the additional expression “of the total number of members of the Council.” The Court had previously adopted this interpretation in Decision No. 23/Federal/2007. Finally, even assuming that some ballot papers or names were duplicated or erroneous, the number of members voting to withdraw confidence from the Minister of Defence exceeded the majority constitutionally required, and the alleged irregularities did not affect the result.⁸⁸

In another decision, the Court reiterated that choosing between voting by a show of hands, electronic buttons, or deposited ballot papers is an internal procedural matter for the Speaker and the Deputy Speakers, provided that a majority of members does not object to the selected method.⁸⁹ These decisions accordingly leave the Council of Representatives discretion to determine the voting method used in deciding a request to withdraw confidence, subject to the absence of a majority objection. This approach appropriately organizes the Council's exercise of its oversight powers.

The Prime Minister may also dismiss a minister without stating reasons, provided that the dismissal is approved by the Council of Representatives. The Federal Supreme Court held that Article 78 of the Constitution authorizes the Prime Minister to dismiss a minister with the Council's approval and that no constitutional provision prevents the Council from adopting, in a single sitting and by one decision, both the approval of the dismissal and the appointment of a replacement minister.⁹⁰

This position properly distinguishes dismissal from withdrawal of confidence. Withdrawal of confidence is preceded by an interpellation and is decided by Parliament by the constitutionally required absolute majority. Dismissal, by contrast, does not require a prior interpellation, is initiated upon the Prime Minister's recommendation, and may be approved by an ordinary majority. The Court's approach is also consistent with the general principle that an administrative authority is not required to give reasons for its decisions unless the law expressly imposes such a duty.⁹¹

The Court has further held that withdrawal of confidence from a minister may have future consequences for eligibility to hold another sovereign office. In Decision No. 17/Federal/2022, issued on 13 February 2022, the Court examined the eligibility of a candidate for the Presidency of the Republic who had previously been interpellated as Minister of Finance and from whom the Council of Representatives had withdrawn confidence. The respondent argued that withdrawal of confidence is a political decision concerning performance and does not amount to a judicial conviction for corruption or negligence. The Court nevertheless emphasized that Article 68 of the Constitution requires a presidential candidate to possess a good reputation and political experience and to be known for integrity, uprightness, justice, and loyalty to the homeland, in addition to not having been convicted of an offence involving moral turpitude. These conditions reflect the constitutional importance and representative character of the presidency.⁹²

The decision indicates that withdrawal of confidence may produce consequences extending beyond the immediate loss of ministerial office, even though the Constitution does not expressly enumerate them. The Court treated the prior withdrawal of confidence as incompatible with the constitutional qualifications required of a presidential candidate, annulled the Council's acceptance of the candidacy, and thereby precluded that candidacy. Some commentators describe the ruling as an affirmation of the Court's impartiality and of its role in safeguarding the Constitution.⁹³ Although the judgment did not expressly state that the disqualification resulted from the candidate's prior individual political responsibility, that reasoning is implicit in the Court's reliance on the earlier loss of parliamentary confidence.

⁸⁸ Federal Supreme Court of Iraq, Joined Decisions Nos. 74 and 75/Federal/2016, 20 December 2016, published on the Court's official website (www.iraqfsc.iq), accessed 15 September 2025.

⁸⁹ Federal Supreme Court of Iraq, Decision No. 68/Federal/Media/2016, 10 October 2016, published on the Court's official website (www.iraqfsc.iq), accessed 15 September 2025.

⁹⁰ Federal Supreme Court of Iraq, Decision No. 25/Federal/Media/2016, 5 April 2016, published on the Court's official website (www.iraqfsc.iq), accessed 15 September 2025.

⁹¹ Adnan Ajil Ubayd, *The Quality of the Judgments of the Federal Supreme Court in Iraq*, 1st ed. (Najaf, Iraq: Dar al-Salam Legal Publications, 2021), p. 116 et seq.

⁹² Federal Supreme Court of Iraq, Decision No. 17/Federal/2022, 13 February 2022, published on the Court's official website (www.iraqfsc.iq), accessed 15 September 2025.

⁹³ Ahmad Talal Abd al-Hamid al-Badri, “Comment on Federal Supreme Court Decision No. 17/Federal/2022,” article published on the official website of the Federal Supreme Court of Iraq (www.iraqfsc.iq), accessed 15 September 2025.

With respect to parliamentary oversight over a caretaker government, the Federal Supreme Court issued one of its most significant and controversial decisions in Decision No. 97/Federal/2022, dated 15 May 2022. The Court reasoned that political responsibility of the government before Parliament is a fundamental rule of parliamentary and related representative systems. A government must enjoy the confidence of the people's representatives and remains subject to interpellation and a possible vote of no confidence. Once a government has resigned, however, parliamentary oversight becomes, in the Court's view, detached from its sanction because a government that is already deemed resigned cannot again be removed. The Court therefore considered oversight of a resigned government legally ineffective and cautioned that a caretaker government must not exploit the absence of effective parliamentary accountability to take decisions contrary to the will of the people's representatives.⁹⁴

In the same decision, the Court defined the conduct of day-to-day affairs as matters that are current by their nature or essence and necessary for the orderly and continuous functioning of public services.⁹⁵ It explained that an ordinary government becomes a caretaker government upon resignation or when it is constitutionally deemed resigned. The continuation of such a government is indispensable to the parliamentary system because periods of governmental transition often require time for the parties represented in Parliament to agree on a new Prime Minister. When Parliament is dissolved, it cannot exercise its legislative and oversight powers under Article 61, and the fully empowered government must therefore be transformed into a caretaker government limited to acts necessary for the continuity of the State and its public services. During the period between dissolution and the election of a new Parliament, the government must refrain from major political decisions with lasting effects on the nation and restrict itself to routine and day-to-day business. During the subsequent period after the certification of election results and before a new government receives confidence, the outgoing government likewise remains limited because it derives its former confidence from the dissolved Parliament rather than from the newly elected Council. The Court concluded that withdrawal of confidence from such a government would be legally and politically futile and that a caretaker government is instead subject to constitutional and administrative judicial review, through which the courts may determine whether it has exceeded the limits of day-to-day administration.⁹⁶ A caretaker government is therefore a transitional necessity that preserves institutional continuity while confining governmental activity to urgent or non-deferrable matters.⁹⁷

Several propositions follow from this decision. First, the Court regards parliamentary oversight over a resigned government as ineffective because it cannot culminate in the ordinary sanction of withdrawal of confidence. Second, the caretaker government remains subject to constitutional and administrative judicial review. Third, it must avoid acts that would ordinarily engage political responsibility before the Council of Representatives. The Court's reasoning may be understood in two ways. On a narrow reading, it excludes only those mechanisms whose intended outcome cannot be achieved against a resigned government, particularly interpellation followed by withdrawal of confidence, while leaving parliamentary questions and investigations available. On a broader reading, it excludes all forms of parliamentary oversight. The latter reading is unconvincing. If the Court intended the narrower interpretation, it should have expressly confined its holding to interpellation and withdrawal of confidence. In either event, the decision did not adequately reinforce the oversight mechanisms that can operate without producing the government's resignation. The Council may still direct parliamentary questions to a caretaker government, conduct parliamentary investigations, and even use interpellation to establish facts and public accountability.⁹⁸ These mechanisms may produce meaningful effects even where the government is already resigned. Parliamentary oversight over a caretaker government should therefore continue, while being adapted to that government's restricted legal status.⁹⁹¹⁰⁰

Subsection Six: The Position of the Federal Supreme Court on Holding the President of the Republic Accountable

The Constitution of the Republic of Iraq of 2005 does not contain a provision comprehensively regulating the criminal responsibility of the Prime Minister and ministers. Nor does it identify the authority competent to

⁹⁴ Federal Supreme Court of Iraq, Decision No. 97/Federal/2022, 15 May 2022, published on the Court's official website (www.iraqfsc.iq), accessed 16 September 2025.

⁹⁵ The conduct of current affairs has been defined as "the government's performance of acts and adoption of decisions that do not involve political motives and are necessary for the continuity of public services in a manner appropriate to the circumstances of the State." See Ghassan La'ibi Manati, *The Caretaker Government*, PhD dissertation, Faculty of Law, Al-Nahrain University, 2010, p. 10.

⁹⁶ Federal Supreme Court of Iraq, Decision No. 97/Federal/2022, 15 May 2022, previously cited.

⁹⁷ Hisham Jalil Ibrahim al-Zubaydi, "The Caretaker Government in Iraq," *Imam Ja'far al-Sadiq University Journal for Humanities and Social Sciences*, no. 4 (2022), p. 261 et seq.

⁹⁸ Baqir Abd al-Kazim Ali al-Kar'awi, "Oversight over the Ministry Conducting Day-to-Day Affairs," *Journal of Arts, Literature, Humanities and Social Sciences*, no. 56 (2020), p. 132.

⁹⁹ Ghassan La'ibi Manati, previously cited, p. 119.

¹⁰⁰ Rafi' Khudr Salih Shubbar, *Separation of the Executive and Legislative Authorities in Iraq's Parliamentary System*, 1st ed. (Baghdad: Al-Sanhuri Library, 2012), pp. 129, 135.

bring charges or the procedures to be followed when charges are initiated. The principal exception is Article 93, under which the constitutional legislator placed the President of the Republic, the Prime Minister, and ministers on the same footing by assigning jurisdiction over accusations directed against them to the Federal Supreme Court. Even so, Article 93 does not establish a complete and clearly defined constitutional and legal framework governing criminal responsibility.¹⁰¹

This constitutional omission concerning the criminal responsibility of the Prime Minister and ministers requires legislative intervention. The legislature should enact a framework that clearly determines the stages of trial and specifies the appropriate penalties applicable where the alleged acts are proved.¹⁰²

With respect to the President of the Republic, the Constitution assigns the power to hold the President accountable to the Council of Representatives as one component of the legislative authority. Article 61(Sixth)(a) provides for "holding the President of the Republic accountable, upon a reasoned request, by an absolute majority of the total membership of the Council of Representatives."¹⁰³

This provision shows that the constitutional legislator entrusted the Council of Representatives alone with initiating the process. The Council exercises this power unilaterally, without participation by the Federation Council. It is also notable that Article 61 uses the term "accountability" rather than "accusation," whereas Article 93 employs the term "accusations" when defining the jurisdiction of the Federal Supreme Court.¹⁰⁴

Article 61(Sixth)(b) defines the substantive grounds on which the President of the Republic may be removed. It provides that the President may be relieved of office by an absolute majority of the total membership of the Council of Representatives after conviction by the Federal Supreme Court for: (1) perjury of the constitutional oath; (2) violation of the Constitution; or (3) high treason. The provision thus broadens the scope of presidential responsibility, notwithstanding the conceptual overlap among these grounds. It also describes them as "cases," rather than "offences," and lists them exhaustively. Accordingly, the President may not be held accountable on grounds outside those expressly enumerated in the Constitution.¹⁰⁵

The procedural requirements for initiating proceedings against the President are derived from Article 61(Sixth)(a). They may be summarized as follows: a request must be submitted to the Council of Representatives; the request must be reasoned by identifying one or more constitutionally recognized grounds of accountability; and the request must secure the approval of an absolute majority of the total statutory membership of the Council. Failure to state the grounds would invalidate the accusation because the requirement of reasons is a guarantee of procedural legality and enables scrutiny of the legal and factual motives underlying the request. Once the President is convicted by the Federal Supreme Court, the Council may remove the President by the constitutionally required absolute majority.¹⁰⁶

The Federal Supreme Court addressed this competence in Decision No. 41/Federal/2017, concerning an application seeking the conviction of the President of the Republic for alleged breach of the constitutional oath and violation of the Constitution under Article 61(Sixth)(b)(1) and (2). The Court held that Article 93(Sixth), which assigns it jurisdiction to adjudicate accusations directed against the President of the Republic, the Prime Minister, and ministers, expressly requires that such jurisdiction be regulated by legislation. Because the constitutionally required law had not been enacted, the Court concluded that the conditions necessary for exercising that jurisdiction had not been satisfied and dismissed the application. The Court adopted the same position in Decision No. 101/Federal/2017.¹⁰⁷¹⁰⁸

The researcher supports the Court's position. In the absence of the legislation contemplated by Article 93(Sixth), adjudicating accusations against the President of the Republic cannot validly fall within the Court's operative jurisdiction. It is not the function of the Federal Supreme Court to create the missing procedural and substantive rules, as legislation belongs to the constitutionally competent legislative and executive authorities.

101Rafi' Khudr Salih Shubbar, *Separation of the Executive and Legislative Authorities in Iraq's Parliamentary System*, 1st ed. (Baghdad: Al-Sanhuri Library, 2012), pp. 129, 135.

102Mazhar Turki Abd al-Juburi, previously cited, p. 383.

103Article 61(Sixth)(a) of the Constitution of the Republic of Iraq of 2005, as in force, and Article 57 of the Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

104Article 93 of the Constitution of the Republic of Iraq of 2005, as in force, provides: "The Federal Supreme Court shall have jurisdiction over the following: ... Sixth: adjudicating accusations directed against the President of the Republic, the Prime Minister, and ministers; this shall be regulated by law."

105Ghanim Abd Dahsh Atiya al-Kar'awi, *Regulation of Constitutional Competences in a Bicameral Parliamentary System: A Comparative Study*, 1st ed. (Cairo: Arab Center for Studies and Scientific Research; Baghdad: Nippur Publishing, Printing and Distribution House, 2017), p. 468.

106Muhammad Ali Salim Jasim and Mina Sattar al-Husayni, "Rules Governing the Trial of the President of the Republic before the Federal Supreme Court," *Al-Muhaqqiq Al-Hilli Journal for Legal and Political Sciences*, College of Law, University of Babylon, Iraq, vol. 5, no. 1 (2013), p. 81.

107Federal Supreme Court Decision No. 101/Federal/2017, issued on 7 November 2017, published on the official website of the Federal Supreme Court of Iraq (www.iraqfsc.iq), accessed 18 September 2025.

108Federal Supreme Court Decision No. 41/Federal/2017, issued on 13 June 2017, published on the official website of the Federal Supreme Court of Iraq (www.iraqfsc.iq), accessed 18 September 2025.

The Council of Representatives should therefore remedy this legislative vacuum and activate its oversight role by enacting a law governing the adjudication of accusations directed against the President of the Republic, the Prime Minister, and ministers.

Subsection Seven: The Position of the Federal Supreme Court on Parliament's Oversight of Independent Bodies

One of the modern mechanisms adopted by a number of States to strengthen oversight over administrative action and safeguard the principle of legality is the establishment of bodies independent of the legislative and executive authorities. Some of these bodies monitor administrative conduct and verify its conformity with the law. Independent bodies have therefore become an essential component of the institutional structure of the State. Their emergence is associated with the expansion of executive activity and the diversification of governmental tasks in the political, economic, social, and administrative spheres. The term "independent bodies" generally refers to institutions created by the legislative or executive authority for the purpose of monitoring the administrative apparatus, while remaining functionally independent from the authorities that established them, including independence in personnel and financial matters.¹⁰⁹

Independent bodies have been defined as "organs possessing a particular organizational structure within State institutions and enjoying a set of privileges and powers that may permit them to take decisions, thereby giving them the character of an independent authority."¹¹⁰ They have also been described as "regulatory organs that monitor the legality and regularity of administration, in addition to reviewing performance, effectiveness, economy, and efficiency in public administration, with authority to issue decisions for those purposes."¹¹¹ A further definition describes them as "bodies established by legislation whose governing framework may not be unilaterally altered by the executive authority and which are granted legal personality and genuine administrative and financial independence."¹¹²

Among the principal reasons for establishing such bodies are the development of the modern State, advances in science and technology, and the desire to strengthen public confidence in governmental policies by supporting institutions responsible for developing and monitoring those policies in a manner that promotes effectiveness and transparency.

The Federal Supreme Court addressed the meaning of technical independence in an advisory opinion issued in response to an inquiry from the Integrity Committee of the Council of Representatives concerning the independence provided for in Article 102 of the Constitution. The Court stated that the personnel of the relevant body are independent, each within the scope of their functions, in performing the duties prescribed by the body's governing legislation; that no authority other than the law may control their performance; and that no entity may interfere with or influence the body's discharge of its duties. The Court nevertheless emphasized that the body remains subject to the oversight of the Council of Representatives. If it departs from or exceeds its statutory functions, the Council alone may hold it accountable and adopt the appropriate measures. The Court added that the body administers itself under its own law, in the same manner as the Central Bank, whose independence enables it to perform its tasks free from external interference.¹¹³

The Constitution of the Republic of Iraq of 2005 created a number of administrative institutions designated as independent bodies. These may be classified into three principal categories.

First, bodies subject to the oversight of, attached to, or accountable before the Council of Representatives include the following:

1. Bodies subject to parliamentary oversight:

a. The High Commission for Human Rights, which was established under Law No. 53 of 2008.¹¹⁴¹¹⁵ It possesses legal personality and financial and administrative independence, is headquartered in Baghdad, is attached to the Council of Representatives, and is accountable before it.¹¹⁶

109 Hanan Muhammad al-Qaysi, "The Concept of Independence and Independent Bodies under the Constitution of 2005," *Al-Huq Journal*, Al-Mustansiriyah University, Baghdad, vol. 4, nos. 23–24 (2014), p. 4.

110 Fahmi Mahmud Shukri, *Supreme Financial Oversight: General Concept and Organization of Its Institutions in Arab States and Selected Foreign States* (Amman, Jordan: Dar Majdalawi, 1984), p. 15.

111 Izz al-Din Issawi, "The Constitutional Status of Independent Administrative Bodies," *Al-Fikr al-Arabi Journal*, Faculty of Law and Political Science, Mohamed Khider University of Biskra, Algeria, no. 4 (2007), p. 210.

112 Hisham Jamil Kamal Rahim, *Independent Bodies and Their Relationship with the Legislative Authority in Iraq*, PhD dissertation, College of Law, Tikrit University, Iraq, 2012, p. 16.

113 Federal Supreme Court of Iraq, Advisory Opinion No. 228/T/2006, 9 October 2006, unpublished; cited in a study available at www.iasj.net, accessed 19 September 2025.

114 Article 102 of the Constitution of the Republic of Iraq of 2005, as in force.

115 High Commission for Human Rights Law No. 53 of 2008, *Official Gazette of Iraq*, no. 4103, 30 December 2008.

116 Article 2 of High Commission for Human Rights Law No. 53 of 2008.

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b. The Independent High Electoral Commission, established under Law No. 31 of 2019.¹¹⁷ It is an independent, professional, and impartial body possessing legal personality and financial and administrative independence and is subject to the oversight of the Council of Representatives.¹¹⁸

c. The Federal Commission of Integrity, established under Law No. 30 of 2011.¹¹⁹ It is an independent body subject to the oversight of the Council of Representatives, possesses legal personality and financial and administrative independence, and is represented by its chairperson or an authorized representative.¹²⁰

2. Bodies attached to the Council of Representatives:

a. The Federal Board of Supreme Audit, established under Law No. 31 of 2011.¹²¹ It is financially and administratively independent, possesses legal personality, constitutes the highest financial oversight body, is attached to the Council of Representatives, and is represented by its president or an authorized representative.¹²²

b. The Iraqi Media Network, established under Law No. 26 of 2015.¹²³ It is an independent body possessing legal personality, represented by the President of the Iraqi Media Network or an authorized representative, operating according to the principles of independence, inclusiveness, diversity, and excellence, reflecting the democratic, social, cultural, and Islamic values of Iraqi society, and attached to the Council of Representatives.¹²⁴

3. Bodies accountable before the Council of Representatives include the Central Bank of Iraq, established under Coalition Provisional Authority Order No. 56 of 2004, as amended by Law No. 82 of 2017.¹²⁵

Second, bodies attached to the Council of Ministers include the following:

a. The Shiite Endowment Office, established under Law No. 57 of 2012.¹²⁶ It is attached to the Council of Ministers, possesses legal personality, and is represented by its president or an authorized representative.¹²⁷

b. The Sunni Endowment Office, established under Law No. 56 of 2012.¹²⁸ It is attached to the Council of Ministers, possesses legal personality, and is represented by its president or an authorized representative.¹²⁹

c. The Endowment Office for Christian, Yazidi, and Mandaean Religions, established under Law No. 58 of 2012.¹³⁰ It is attached to the Council of Ministers, possesses legal personality, and is represented by its president or an authorized representative.¹³¹

d. The Martyrs Foundation, established under Law No. 2 of 2016.¹³² It is attached to the Council of Ministers, possesses legal personality, is represented by its president or an authorized representative, and is headquartered in Baghdad.¹³³

Third, bodies not expressly attached to a particular authority include the following:

a. The General Commission for Guaranteeing the Rights of Regions and Governorates Not Organized in a Region, established under Law No. 26 of 2016.¹³⁴ It possesses legal personality, is represented by its president or an authorized representative, enjoys financial and administrative independence, and operates under the chairmanship and supervision of the Council of Representatives.¹³⁵

b. The General Commission for Monitoring the Allocation of Federal Revenues, established under Law No. 55 of 2017.¹³⁶ It possesses legal personality and is represented by its president or an authorized representative.¹³⁷

117 Independent High Electoral Commission Law No. 31 of 2019, Official Gazette of Iraq, no. 4569, 30 December 2019.

118 Article 1 of Independent High Electoral Commission Law No. 31 of 2019.

119 Federal Commission of Integrity Law No. 30 of 2011, Official Gazette of Iraq, no. 4217, 14 November 2011.

120 Article 2 of Federal Commission of Integrity Law No. 30 of 2011.

121 Federal Board of Supreme Audit Law No. 31 of 2011, Official Gazette of Iraq, no. 4217, 14 November 2011.

122 Article 5 of Federal Board of Supreme Audit Law No. 31 of 2011.

123 Iraqi Media Network Law No. 26 of 2015, Official Gazette of Iraq, no. 4378, 31 August 2015.

124 Article 2 of Iraqi Media Network Law No. 26 of 2015.

125 Central Bank of Iraq Law issued under Coalition Provisional Authority Order No. 56 of 2004, as amended by Law No. 82 of 2017, Official Gazette of Iraq, no. 4475, 2 January 2018.

126 Shiite Endowment Office Law No. 57 of 2012, Official Gazette of Iraq, no. 4254, 15 October 2012.

127 Article 1 of Shiite Endowment Office Law No. 57 of 2012.

128 Sunni Endowment Office Law No. 56 of 2012, Official Gazette of Iraq, no. 4254, 15 October 2012.

129 Article 1 of Sunni Endowment Office Law No. 56 of 2012.

130 Endowment Office for Christian, Yazidi, and Mandaean Religions Law No. 58 of 2012, Official Gazette of Iraq, no. 4254, 15 October 2012.

131 Article 1 of Endowment Office for Christian, Yazidi, and Mandaean Religions Law No. 58 of 2012.

132 Martyrs Foundation Law No. 2 of 2016, Official Gazette of Iraq, no. 4395, 25 January 2016.

133 Article 2 of Martyrs Foundation Law No. 2 of 2016.

134 General Commission for Guaranteeing the Rights of Regions and Governorates Not Organized in a Region Law No. 26 of 2016, Official Gazette of Iraq, no. 4416, 19 May 2016.

135 Article 1 of the General Commission for Guaranteeing the Rights of Regions and Governorates Not Organized in a Region Law No. 26 of 2016.

136 General Commission for Monitoring the Allocation of Federal Revenues Law No. 55 of 2017, Official Gazette of Iraq, no. 4443, 17 April 2017.

137 Article 1 of the General Commission for Monitoring the Allocation of Federal Revenues Law No. 55 of 2017.

c. The Federal Public Service Council, established under Law No. 4 of 2009.¹³⁸ It is attached to the Council of Representatives, possesses legal personality and financial and administrative independence, and is represented by its president or an authorized representative.¹³⁹

For independent bodies to discharge their functions effectively, they must be provided with the guarantees and immunities necessary for institutional independence. Foremost among these safeguards is the method of appointing their heads. Article 80(Fifth) of the Constitution limits the role of the Council of Ministers to submitting recommendations to the Council of Representatives for approval of the appointment of deputy ministers, ambassadors, and holders of special grades, without expressly referring to the heads of independent bodies. It is therefore inappropriate to apply by analogy the principle of parallel competence in appointment and removal. The Governor of the Central Bank, for example, is appointed upon nomination by the Prime Minister and approval by the Council of Representatives, as head of an independent body operating under the applicable legislation and Article 130 of the Constitution.¹⁴⁰

The oversight powers of the Council of Representatives extend to the activities of independent bodies. In exercising such oversight, the Council may employ the same general mechanisms used in supervising the executive authority, including parliamentary questions, interpellation, and the constitutionally prescribed procedure for removing the heads of independent bodies. Those officials may be interpellated and removed in accordance with procedures comparable to those applicable to ministers.¹⁴¹

The position of the Federal Supreme Court on parliamentary oversight over independent bodies may be illustrated through the following decisions.

First, in Decision No. 88/Federal/2010, the Prime Minister requested the Court to clarify the nature of the relationship between independent bodies, the Council of Representatives, and the Council of Ministers. The Court held that attachment of certain independent bodies to the Council of Representatives does not preclude the Council of Ministers from supervising their activities pursuant to Article 80(First) of the Constitution. Bodies whose attachment is not expressly specified by the Constitution and which perform executive functions are, according to the Court, referenced to the Council of Ministers, while their work remains subject to parliamentary oversight. The Court reasoned that such attachment is necessary where the Constitution does not expressly connect the body to the Council of Representatives. It further explained that the constitutional expressions “attached to the Council of Representatives or the Council of Ministers,” “subject to the oversight of the Council of Representatives,” and “accountable before the Council of Representatives” must be understood in a manner that provides each body with an institutional reference point, ensures orderly administration, and secures oversight of its performance. Independent bodies are not a fourth federal authority alongside the legislative, executive, and judicial authorities exhaustively identified in Article 47; rather, each forms part of one of those authorities, and its institutional reference must be determined by the nature of its statutory functions.¹⁴²

Second, in Decision No. 89/Federal/2016, the Court interpreted whether officials acting in an interim capacity as heads of independent bodies fall within Article 61(Eighth)(e) of the Constitution. It held that the constitutional provision subjects officials of independent bodies to interpellation before the Council of Representatives under procedures applicable to ministers and authorizes their removal by an absolute majority. Because the provision is expressed in general terms and does not distinguish between officials appointed substantively and those serving in an acting capacity, the same rule applies to both categories.¹⁴³

This decision established that the Council of Representatives may interpellate the heads of independent bodies whether they occupy their positions substantively or in an acting capacity. The position is sound because no holder of such an office should fall outside the scope of parliamentary oversight and accountability, which are defining features of the parliamentary system.

The Court subsequently applied the same principle to an acting head of the Communications and Media Commission. It held that the official had been constitutionally interpellated as the acting head of an independent body under Article 61(Eighth)(e), that the interpellation was conducted in absentia after repeated failure to attend without an excuse accepted by the Council, and that the Council’s decision to remove the official was supported by evidence it regarded as sufficient. The Court confirmed that interpellating acting heads of

138 Federal Public Service Council Law No. 4 of 2009, Official Gazette of Iraq, no. 4116, 6 April 2009.

139 Article 2 of Federal Public Service Council Law No. 4 of 2009.

140 Iqbal Naji Sa’id al-Azzawi, previously cited, p. 125.

141 Ismail Fadi Halwas al-Shammari, *The Legal Nature of Decisions of the Iraqi Council of Representatives: A Comparative Study*, PhD dissertation, College of Law, Al-Nahrain University, Baghdad, 2015, p. 147.

142 Federal Supreme Court of Iraq, Decision No. 88/Federal/2010, 18 November 2010, published on the Court’s official website (www.iraqfsc.iq), accessed 20 September 2025.

143 Federal Supreme Court of Iraq, Decision No. 89/Federal/2016, 8 November 2016, published on the Court’s official website (www.iraqfsc.iq), accessed 20 September 2025.

independent bodies in absentia was consistent with the established direction of Iraqi constitutional adjudication.¹⁴⁴

These decisions are consistent with Article 61(Eighth)(e), which authorizes the Council of Representatives to interpellate officials of independent bodies, whether serving substantively or in an acting capacity. They strengthen parliamentary scrutiny over offices of considerable institutional importance and prevent such officials from exercising public functions without accountability.

Third, in Decision No. 80/Federal/2017, the Court was asked whether the heads of independent bodies could be removed without prior interpellation. It held that their removal must follow the procedures applicable to ministers and must be approved by an absolute majority after interpellation, pursuant to Article 61(Eighth)(e) of the Constitution.¹⁴⁵

This interpretation follows from the express wording of Article 61(Eighth)(e), which grants the Council the authority to remove the heads of independent bodies by an absolute majority after expressly confirming its authority to interpellate them under procedures relating to ministers.¹⁴⁶

In a later decision, however, the Court refined its earlier position by distinguishing between the withdrawal of confidence from ministers and the removal of officials of independent bodies. It explained that although the mechanism of interpellating the latter follows the mechanism applicable to ministers, the Council does not withdraw confidence from them under Article 61(Eighth)(a). Ministers form part of the executive authority and receive parliamentary confidence individually when the government and its programme are approved. The Council may therefore withdraw that confidence. Officials of independent bodies, by contrast, are removed by an absolute majority under the distinct authority conferred by Article 61(Eighth)(e). Following interpellation, their removal does not require a request by the interpellating member or by fifty members, because those conditions apply specifically to the withdrawal of confidence from ministers. The Court concluded that “withdrawal of confidence” and “removal” are legally distinct concepts and that the special constitutional power to remove officials of independent bodies may not be extended by analogy to other positions merely because parliamentary approval is required for their appointment.¹⁴⁷

The researcher supports the Court's distinction. The Constitution does not identify the authority that grants confidence to the heads of independent bodies in the same manner as it does for ministers, nor does it establish a uniform method for selecting those heads; their appointment is governed by the legislation applicable to each body. The Council of Representatives therefore possesses the authority to remove them, but not to withdraw confidence from them. Withdrawal of confidence remains a mechanism specifically associated with ministers under the procedure established by the Constitution.

Section Two: The Role of the Supreme Constitutional Court in Regulating Parliament's Exercise of Its Oversight Powers under Egyptian Law

The Egyptian constitutional legislator has recognized a wide range of mechanisms through which the legislative authority may supervise the activities of the executive authority. These mechanisms include parliamentary questions and interpellations addressed to members of the executive, the formation of parliamentary committees to collect information and investigate matters connected with the exercise of constitutional powers, requests for briefing, urgent statements, motions for general discussion, proposals expressing a parliamentary recommendation, withdrawal of confidence as a form of ministerial responsibility, and, finally, the accountability of the President of the Republic.

Accordingly, this section is divided into two subsections. The first examines the mechanisms available to Parliament for overseeing the activities of the executive authority. The second considers the position of the Supreme Constitutional Court on Parliament's exercise of its oversight competence.

Subsection One: Mechanisms of Parliamentary Oversight over the Executive Authority

First: Parliamentary Questions

A parliamentary question is an oversight device by which a member of Parliament seeks information concerning a matter unknown to that member, verifies whether a reported event has occurred, or determines what the Government intends to do in relation to a particular issue.¹⁴⁸ It may also be used to ascertain how the Government is performing its duties. By contrast, the view that a parliamentary question is intended to draw the

¹⁴⁴ Federal Supreme Court of Iraq, Decision No. 51/Federal/Media/2017, 27 July 2017, published on the Court's official website (www.iraqfsc.iq), accessed 20 September 2025.

¹⁴⁵ Federal Supreme Court of Iraq, Decision No. 80/Federal/2017, 15 August 2017, previously cited.

¹⁴⁶ Article 61(Eighth)(e) of the Constitution of the Republic of Iraq of 2005 provides: “The Council of Representatives may interpellate officials of independent bodies in accordance with the procedures relating to ministers and may remove them by an absolute majority.”

¹⁴⁷ Federal Supreme Court of Iraq, Decision No. 122/Federal/2022, 29 May 2022, published on the Court's official website (www.iraqfsc.iq), accessed 20 September 2025.

¹⁴⁸ Ramadan Muhammad Batikh, *Political and Constitutional Systems: A Study in Egyptian Constitutional Documents, 1805–2009* (Cairo: Dar al-Nahda al-Arabiyya, 2009), p. 269.

Government's attention to violations relating to a matter within its jurisdiction is open to criticism because such a function is inconsistent with the essential nature of a question.¹⁴⁹

The parliamentary question is among the most important oversight mechanisms because it constitutes the logical starting point for more serious procedures, including interpellation. Its importance is reflected in the fact that constitutions have elevated it to the level of a parliamentary right of constitutional character. Article 129 of the Constitution of the Arab Republic of Egypt of 2014, as amended and currently in force, provides that every member of the House of Representatives may address questions to the Prime Minister, a deputy prime minister, a minister, or a deputy minister on any matter falling within their competence; that the addressee must answer during the same parliamentary session; that the member may withdraw the question at any time; and that the question may not be converted into an interpellation during the same sitting.¹⁵⁰

Parliamentary questions are divided into two principal types. The first consists of written questions, which are submitted in writing and answered by the Government in writing in order to obtain clarification on a matter of public interest. Article 201 of the Rules of Procedure of the Egyptian House of Representatives of 2016 provides that a question shall be submitted in writing to the Speaker and that requests to address questions shall be entered in a special register according to the order in which they are received. The Rules of Procedure further distinguish between questions according to whether the response requested is written or oral.¹⁵¹

The second type consists of oral questions. Article 209 of the Rules of Procedure provides that the procedures governing questions answered orally do not apply to questions addressed to ministers or other members of the Government during consideration of a matter already before the House.¹⁵² This provision permits members to employ oral questions spontaneously while a matter is under debate, including during the consideration of draft legislation or the State budget.¹⁵³

A parliamentary question must be submitted in writing,¹⁵⁴ must be clear and concise,¹⁵⁵ and must not contain improper language.¹⁵⁶ These are formal requirements. Substantively, the question must be addressed to the Prime Minister or the competent minister concerning a matter falling within that official's jurisdiction. It must concern an issue of public importance, seek clarification on a matter within the official's competence, or verify the accuracy of a particular fact. It must not pursue a private or personal interest.¹⁵⁷ A question lapses if withdrawn by its author¹⁵⁸ or if the membership of the member who submitted it comes to an end.¹⁵⁹

Second: Requests for Briefing and Urgent Statements

Article 134 of the Constitution of 2014, as amended, provides that every member of the House of Representatives may submit a request for briefing or an urgent statement to the Prime Minister, a deputy prime minister, a minister, or a deputy minister concerning urgent matters of importance.¹⁶⁰

The Rules of Procedure regulate requests for briefing by providing that every member may submit such a request to the Prime Minister, a deputy prime minister, a minister, or a deputy minister in order to bring to that official's attention a matter of public importance falling within the official's competence. The request must be submitted in writing to the Speaker, must specify the matters it contains, and must demonstrate their public character. Requests are entered in a special register according to the date and time of receipt.¹⁶¹

A request for briefing differs from a parliamentary question. Through a request for briefing, the member informs the Government of a matter of which it may be unaware or urges it to act in relation to a matter of public importance. By contrast, a parliamentary question seeks information from the Government concerning a matter unknown to the member but presumed to be known to the Government.¹⁶²

The Speaker transmits the request for briefing to the authority to which it is addressed within thirty days from the date of submission. The Bureau of the House then places duly transmitted requests on the agenda of a sitting held after at least seven days have elapsed from notification, taking into account the importance and seriousness of the subject matter.¹⁶³

149 Muhammad Bahi Abu Yunus, *Parliamentary Oversight of Government Action in the Egyptian and Kuwaiti Systems*, previously cited, p. 54.

150 Article 129 of the Constitution of the Arab Republic of Egypt of 2014, as amended and currently in force.

151 Articles 201 and 202 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

152 Article 209 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

153 Lubna Muhammad Ali Makhluaf, *Legal Guarantees for the Independence of Parliament*, PhD dissertation, Faculty of Law, Assiut University, Egypt, 2016, p. 173.

154 Article 201 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

155 Article 199 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

156 Ibid.

157 Article 198 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

158 Article 129 of the Constitution of the Arab Republic of Egypt of 2014, as amended and currently in force.

159 Article 210 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

160 Article 134 of the Constitution of the Arab Republic of Egypt of 2014, as amended and currently in force.

161 Article 212 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

162 Ramzi Taha al-Sha'ir, *A Concise Account of the Egyptian Constitutional System*, previously cited, pp. 203–204.

163 Article 213 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

Urgent statements are separately regulated by the Rules of Procedure. A member may request the Speaker's permission to deliver an urgent statement addressed to the Prime Minister or a member of the Government on a matter not listed on the agenda, provided that the matter is urgent and of general importance. The request must be submitted in writing before the sitting and must identify the matters on which the member seeks to speak and the reasons for urgency. If the Speaker grants permission, the member presents the statement briefly before consideration of the agenda. No debate may take place unless the House so decides.¹⁶⁴

Third: Motions for General Discussion

Article 132 of the Constitution of 2014, as amended, permits at least twenty members of the House of Representatives to request a general discussion in order to clarify Government policy on a particular matter.¹⁶⁵

A motion for general discussion differs from an interpellation because it does not contain an accusation against the Government. It is intended to exchange views on a matter that the Government has not yet concluded or on which it has not adopted a final measure. An interpellation, by contrast, concerns accountability for actions already taken and decisions already made. A motion for general discussion is also not an individual right like a parliamentary question; it belongs to a group of members and opens the debate to the entire House rather than only to those who initiated it.¹⁶⁶

The Rules of Procedure require the motion to be submitted in writing to the Speaker, who notifies the competent ministers and the chairs of the relevant standing committees. The motion is then placed on the agenda of the nearest sitting so that a date may be fixed for discussion. Motions for general discussion may not be placed on the agenda until the Government has presented its programme, the House has debated it, and a decision has been taken concerning it.¹⁶⁷

To avoid wasting the House's time, the Rules of Procedure provide that if all or some of the sponsors withdraw the motion in writing after it has been placed on the agenda or after a date has been fixed for debate, and the number of sponsors consequently falls below the statutory minimum, the House or the Speaker, as appropriate, shall remove it. A sponsor who is absent without an acceptable excuse from the sitting fixed for discussion is deemed to have withdrawn. The debate does not proceed if the number of sponsors falls below the minimum, unless other members present insist on the discussion and complete the required number.¹⁶⁸

Fourth: Proposals Expressing a Parliamentary Recommendation

Article 133 of the Constitution of 2014, as amended, provides that every member of the House of Representatives may submit a proposal expressing a recommendation on a matter of general concern to the Prime Minister, a deputy prime minister, a minister, or a deputy minister.¹⁶⁹ Such a proposal is a request submitted by a member concerning a matter connected with the national or public interest, with the aim of persuading the House to adopt it and transmit it to the Government for whatever action it considers appropriate.¹⁷⁰

The Rules of Procedure require the proposal to be submitted in writing to the Speaker.¹⁷¹ No more than fifty members may join in submitting a proposal. It must not contravene the Constitution or the law, contain improper or defamatory language concerning persons or institutions, or address a matter outside the competence of the House. If these requirements are not met, the Speaker may order that the proposal be filed and must notify its sponsor in writing.¹⁷² The Rules also regulate the inclusion of proposals on the agenda and permit a sponsor to withdraw a proposal by written request before the relevant committee's report is placed on the agenda. The proposal lapses at the end of the legislative term, upon termination of the sponsor's membership, or at the beginning of the following parliamentary session unless the sponsor expressly requests that it be maintained.¹⁷³

Fifth: Parliamentary Investigation

Parliamentary investigation is one of the inherent powers enjoyed by representative assemblies in different parliamentary systems. It has also become an established principle in states with presidential systems. Parliamentary investigation constitutes an effective oversight instrument in the hands of the legislative authority vis-à-vis the executive authority, because it provides a practical means of identifying deficiencies and irregularities in governmental performance, whether administrative, financial, or political. Through such an

¹⁶⁴ Article 215 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

¹⁶⁵ Article 132 of the Constitution of the Arab Republic of Egypt of 2014, as amended and currently in force.

¹⁶⁶ Ramzi Taha al-Sha'ir, *A Concise Account of the Egyptian Constitutional System*, previously cited, pp. 204–205.

¹⁶⁷ Articles 231 and 232 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

¹⁶⁸ Article 233 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

¹⁶⁹ Article 133 of the Constitution of the Arab Republic of Egypt of 2014, as amended and currently in force.

¹⁷⁰ Ramzi Taha al-Sha'ir, *A Concise Account of the Egyptian Constitutional System* (Egypt, 2023), p. 206.

¹⁷¹ Article 234 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

¹⁷² Article 235 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

¹⁷³ Article 239 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

investigation, Parliament may determine the shortcomings and deviations that may affect the work of the public administration.¹⁷⁴

Article 135 of the Constitution of the Arab Republic of Egypt of 2014, as amended and currently in force, provides that the House of Representatives may form a special committee, or assign one of its committees, to investigate facts concerning a matter of public importance or to examine the activities of an administrative authority, public body, or public undertaking. The purpose is to ascertain the facts concerning a particular matter, inform the House of the actual financial, administrative, or economic conditions, conduct investigations into any matter connected with those activities or otherwise, and enable the House to adopt whatever decision it considers appropriate.¹⁷⁵

For the performance of its mandate, the committee may collect such evidence as it considers appropriate and may request to hear any person whose testimony it deems necessary. All relevant authorities are required to comply with the committee's requests and to provide the documents, records, and other information required by the nature of the investigation.¹⁷⁶

The Rules of Procedure of the Egyptian House of Representatives of 2016 provide that a fact-finding committee shall be formed by a decision of the House upon a request from the General Committee, one of the other committees, or a written proposal submitted to the Speaker by twenty members. The House selects the members upon the Speaker's nomination, taking into account specialization and experience relevant to the subject for which the committee is formed. Representation must also be afforded to parliamentary bodies of opposition parties and to independent members where their number in the House is not fewer than ten. The decision establishing the committee determines its chair, mandate, and period of operation, and the committee selects its secretariat from among its members or employees of the General Secretariat of the House upon the proposal of the chair.¹⁷⁷

The committee's report must state the procedures undertaken to ascertain the facts concerning the matter referred to it, the information obtained regarding the economic, financial, and administrative conditions of the authority under examination, and the extent of that authority's compliance with the rule of law, the general plan, and the State budget. The report must also contain the recommendations and proposals necessary to address the deficiencies or adverse practices identified. Reports of fact-finding committees are presented to the House at the first sitting following their submission, and priority in speaking during the debate is given to members who submitted written requests to the Speaker before the scheduled discussion.¹⁷⁸

Sixth: Parliamentary Interpellation

Interpellation is the most forceful form of parliamentary oversight and the one with the most serious consequences for the Government. It entails an accusation that the Government or one of its members has failed or been negligent in the performance of ministerial duties, and it may result in the withdrawal of confidence from the Government as a whole or from an individual member.¹⁷⁹

Article 130 of the Constitution of 2014, as amended, provides that every member of the House of Representatives may address an interpellation to the Prime Minister, a deputy prime minister, a minister, or a deputy minister in order to hold that official accountable for matters falling within the official's jurisdiction. The House debates the interpellation no earlier than seven days and no later than sixty days from the date of submission, except in cases of urgency recognized by the House and with the Government's consent.¹⁸⁰

The Rules of Procedure prescribe the conditions governing interpellation. The request must be submitted in writing to the Speaker and must concern a matter capable of constituting a proper subject of interpellation. It must be accompanied by an explanatory memorandum setting out its substance and must not include abusive or improper expressions. These are formal conditions. Substantively, the request must not contain matters contrary to the Constitution or the law; it must relate to affairs falling within the powers and jurisdiction of the Government; and it must not be intended to secure a private or personal interest for the interpellating member.¹⁸¹

An interpellation lapses if its sponsor withdraws it or fails to attend the sitting without an acceptable excuse.¹⁸² It also lapses upon termination of the sponsor's membership, loss of the official capacity of the person to whom it is addressed, or expiry of the parliamentary session in which it was submitted.¹⁸³ The debate

174 Ramadan Muhammad Batikh, *The General Theory of Constitutional Law and Its Applications in Egypt* (Cairo: Dar al-Nahda al-Arabiyya, 1996), p. 272.

175 Article 135 of the Constitution of the Arab Republic of Egypt of 2014, as amended and currently in force.

176 Article 242 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

177 Article 241 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

178 Article 243 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

179 Ramzi Taha al-Sha'ir, *A Concise Account of the Egyptian Constitutional System*, previously cited, p. 208.

180 Article 130 of the Constitution of the Arab Republic of Egypt of 2014, as amended and currently in force.

181 Article 217 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

182 Article 224 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

183 Article 225 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

concludes by a decision of the House. The House may terminate the interpellation if it is satisfied with the Government's response and no proposals are submitted by members, or it may decide upon any proposals submitted. Such proposals may culminate in a motion to withdraw confidence from the person interpellated, provided that the motion is supported by one tenth of the members of the House.¹⁸⁴

Seventh: Withdrawal of Confidence (Political Responsibility of the Cabinet)

Political responsibility is the cornerstone of the parliamentary system and one of its essential foundations. In both theory and practice, a system of government cannot properly be described as parliamentary in the absence of this principle. Ministerial political responsibility therefore occupies a position of central importance in regulating the relationship between the legislative and executive authorities.¹⁸⁵

As noted in relation to interpellation, the debate must conclude with one of three possible outcomes. Parliament may express its appreciation of the minister, which constitutes a political victory for the Government; it may proceed to the agenda without praise or censure; or it may withdraw confidence from the minister, in which event the minister's political responsibility is engaged and the minister must leave office.¹⁸⁶

Article 131 of the Constitution of 2014, as amended, provides that the House of Representatives may withdraw confidence from the Prime Minister, a deputy prime minister, a minister, or a deputy minister. A motion of no confidence may be presented only after an interpellation and upon the proposal of at least one tenth of the members. The House issues its decision following the debate, and withdrawal of confidence requires the approval of a majority of all members. A motion concerning a matter already determined by the House may not be submitted again during the same parliamentary session. If confidence is withdrawn from the Prime Minister, a deputy prime minister, a minister, or a deputy minister and the Government declares its solidarity with that official before the vote, the Government must submit its resignation. If the decision concerns an individual member of the Government, that member must resign.¹⁸⁷

The Rules of Procedure regulate the relevant procedure by requiring a motion to withdraw confidence from the Prime Minister, a deputy prime minister, a minister, or a deputy minister to be submitted in writing to the Speaker and signed by at least one tenth of the members of the House.¹⁸⁸ A motion concerning individual responsibility, or a determination of collective responsibility, may not be submitted until the House has completed its debate on an interpellation addressed to the Government or to the official from whom confidence is sought to be withdrawn.¹⁸⁹

After debate on the members' proposal to withdraw confidence from a minister or to determine the responsibility of the Prime Minister has concluded, the Speaker submits the proposal to the House for approval. For the decision to be valid, it must be adopted by a majority of all members of the House. The required majority is therefore an absolute majority of the statutory membership of the House, namely more than half of the total number of members.¹⁹⁰

Article 131 of the Constitution specifies the consequences of withdrawal of confidence. If confidence is withdrawn from the Prime Minister, a deputy prime minister, a minister, or a deputy minister and the Government has declared its solidarity with the official before the vote, the Government must resign. If the decision concerns an individual member of the Government, that member must resign. The provision thus unifies the legal consequence in both circumstances, unlike the position under the repealed Constitution of 1971: whether confidence is withdrawn from the Cabinet or from an individual minister, resignation must be submitted to the competent authority.¹⁹¹

Eighth: Accountability of the President of the Republic

Most Arab and comparative constitutions entrust a special body with the authority to accuse and try the Head of State, in recognition of the President's distinctive constitutional position and in order to protect the office from vexatious accusations. Criminal accountability of the President constitutes a fundamental oversight mechanism through which the legislature, represented by Parliament, may supervise the executive authority headed by the President. The Egyptian constitutional legislature therefore empowered Parliament to accuse the President for acts committed in the exercise of presidential functions where they amount to a violation of the Constitution, high treason, or a criminal offence. The attribution of criminal responsibility to the President is thus one form of legislative oversight over the executive. The Constitution of 2014, as amended and currently in force,

¹⁸⁴ Ramzi Taha al-Sha'ir, *A Concise Account of the Egyptian Constitutional System*, previously cited, p. 210.

¹⁸⁵ Lubna Muhammad Ali Makhluף, previously cited, p. 211.

¹⁸⁶ Muhammad Bahi Abu Yunus, *Parliamentary Oversight of Government Action in the Egyptian and Kuwaiti Systems*, previously cited, p. 164.

¹⁸⁷ Article 131 of the Constitution of the Arab Republic of Egypt of 2014, as amended and currently in force.

¹⁸⁸ Article 226 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

¹⁸⁹ Article 227 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

¹⁹⁰ Article 228 of the Rules of Procedure of the Egyptian House of Representatives of 2016.

¹⁹¹ Lubna Muhammad Ali Makhluף, previously cited, pp. 213–214.

did not confine presidential accountability to criminal responsibility; in specified circumstances, it also established political accountability and permitted the withdrawal of confidence from the President.¹⁹²¹⁹³

The Egyptian Constitution confines the President's criminal responsibility to three grounds: violation of the Constitution, high treason, and commission of a criminal offence. A violation of the Constitution means contravening, amending, or suspending one of its provisions without following the procedures prescribed by the Constitution. The constitutional text distinguishes high treason from a criminal offence, indicating that high treason is treated as a distinct constitutional ground of responsibility rather than merely as an ordinary criminal offence.¹⁹⁴¹⁹⁵

Under the Constitution of the Arab Republic of Egypt of 2014, as amended, the House of Representatives may accuse the President of violating the Constitution, committing high treason, or perpetrating a criminal offence. The accusation must be initiated by a motion signed by at least a majority of the members of the House, and the decision to indict requires the approval of two thirds of all members, following an investigation conducted by the Public Prosecutor. Once the accusation is approved, the President is suspended from office. Article 159(2) treats this suspension as a temporary impediment preventing the President from exercising presidential powers until judgment is delivered. The Prime Minister then temporarily assumes the presidential functions pursuant to Article 160. The acting President may not amend the Constitution, dissolve the House of Representatives, dismiss the Government, or stand as a candidate in the presidential election.¹⁹⁶¹⁹⁷

Article 159(3) provides that the President shall be tried before a special court. That court is chaired by the President of the Supreme Judicial Council and includes the most senior Deputy President of the Supreme Constitutional Court, the most senior Deputy President of the State Council, and the two most senior Presidents of the Courts of Appeal; the Public Prosecutor conducts the prosecution. The entirely judicial composition of this court reflects the nature and gravity of the offences for which the President may be tried. By contrast, the Iraqi Constitution of 2005 assigns the adjudication of accusations against the President to the Federal Supreme Court. Article 61(Sixth)(b) provides for the removal of the President after conviction by the Federal Supreme Court for violation of the constitutional oath, violation of the Constitution, or high treason. This provision corresponds with Article 93(Sixth), which empowers the Federal Supreme Court to adjudicate accusations directed against the President of the Republic, the Prime Minister, and ministers, with the procedure to be regulated by law. The Iraqi constitutional legislature should reconsider Article 61(Sixth) and provide for trial of the President before a special court, because the Federal Supreme Court is principally entrusted with constitutional adjudication. In this respect, the Egyptian model offers a more specialised institutional arrangement.¹⁹⁸¹⁹⁹

Article 161 of the Egyptian Constitution regulates the political responsibility of the President. It permits the House of Representatives to propose the withdrawal of confidence from the President and the holding of an early presidential election on the basis of a reasoned motion signed by at least a majority of the members and approved by two thirds of the House. Such a motion may be submitted only once during a presidential term for the same reason. Once approved, the proposal is submitted to a public referendum called by the Prime Minister. If the majority approves withdrawal of confidence, the President is removed from office, the presidency becomes vacant, and an early presidential election must be held within sixty days from announcement of the referendum result. If the referendum rejects the proposal, the House of Representatives is deemed dissolved and the President must call an election for a new House within thirty days. This provision adopts the principle that authority and responsibility must remain concomitant: authority without responsibility fosters despotism, whereas responsibility without authority produces injustice. Given the extensive powers conferred on the Egyptian President, the absence of political responsibility would create a serious imbalance between presidential authority and accountability.²⁰⁰

Second Requirement: The Position of the Supreme Constitutional Court on Parliament's Exercise of Oversight over the Executive Authority

A review of the judgments of the Supreme Constitutional Court of Egypt did not identify any judgment directly addressing parliamentary oversight of the executive authority, whether in relation to parliamentary questions, interpellations, fact-finding committees, withdrawal of confidence from the Government, or accountability of the

¹⁹² Lubna Muhammad Ali Makhoul, *op. cit.*, p. 256.

¹⁹³ Ali Yusuf al-Shukri, *A Concise Account of the Iraqi Constitutional System*, 1st ed. (Beirut: Zain Legal Publications, 2017), p. 217.

¹⁹⁴ Abdullah Ibrahim Nasif, *The Extent of Balance between Political Authority and Responsibility in Modern States* (Cairo: Dar al-Nahda al-Arabiyya, 1981), p. 439.

¹⁹⁵ Yahya Muhsin Nasir al-Maswari, *The Balance between the Legislative and Executive Authorities in the Constitutional System: A Comparative Study* (Egypt: Dar al-Kutub wa-al-Dirasat al-Arabiyya, 2018), p. 310.

¹⁹⁶ Muhammad al-Sa'id Abu Hajar, *The Political Responsibility of the Head of State in the Anglo-American and Egyptian Systems and Islamic Law*, doctoral dissertation, Faculty of Law, Helwan University, Egypt, 2011, p. 465.

¹⁹⁷ Article 159 of the Constitution of the Arab Republic of Egypt of 2014, as amended and currently in force.

¹⁹⁸ Article 93(Sixth) of the Constitution of the Republic of Iraq of 2005, as in force.

¹⁹⁹ Abdullah Ibrahim Nasif, *op. cit.*, p. 438.

²⁰⁰ Lubna Muhammad Ali Makhoul, *op. cit.*, p. 263.

President of the Republic. This appears to result from the fact that the Supreme Constitutional Court does not entertain original constitutional actions filed directly by interested persons.²⁰¹

Article 27 of Law No. 48 of 1979 on the Supreme Constitutional Court, as amended, provides that the Court may, in all cases, rule unconstitutional any provision of a law or regulation that arises in connection with the exercise of its jurisdiction and is relevant to the dispute before it, after observing the procedures prescribed for preparing constitutional cases. Article 29 of the same Law provides that the Supreme Constitutional Court exercises judicial review of the constitutionality of laws and regulations in two principal ways. First, where a court or judicial body, while hearing a case, considers that a statutory or regulatory provision necessary to determine the dispute is unconstitutional, it shall stay the proceedings and refer the matter, without fees, to the Supreme Constitutional Court. Second, where a litigant raises a plea of unconstitutionality before a court or judicial body and that body considers the plea serious, it shall adjourn the case and grant the litigant a period not exceeding three months within which to institute the constitutional action; if the action is not instituted within that period, the plea is deemed not to have been made.

These provisions demonstrate that Egyptian law does not recognise an original direct action as a means of bringing a constitutional dispute before the Supreme Constitutional Court. Access to constitutional review is confined to referral by a court or judicial body, a plea of unconstitutionality raised during pending proceedings, and the Court's own incidental power to address a relevant constitutional issue. Direct proceedings challenging legislation or statutory provisions before the Supreme Constitutional Court are therefore inadmissible. This differs from Iraqi law, which recognises direct access as one of the methods of seising the Federal Supreme Court.²⁰²²⁰³

The Supreme Constitutional Court has repeatedly affirmed that constitutional actions may not be instituted directly before it. In Judgment No. 10, Judicial Year 13 (Constitutional), delivered on 7 May 1994, the Court explained that Articles 27 and 29 of its Law prescribe the exclusive routes through which a constitutional action may be admitted. Neither article authorises natural or legal persons to challenge legislative provisions directly. Article 27 enables the Supreme Constitutional Court, where a relevant provision arises incidentally in the exercise of its jurisdiction, to rule on its constitutionality after following the procedures for preparing constitutional cases. Article 29 permits a court hearing the merits to refer, of its own motion, a legislative provision necessary to resolve the dispute if it considers the provision unconstitutional; it also permits that court to authorise a litigant whose plea of unconstitutionality is considered serious to institute a constitutional action within a period not exceeding three months. Accordingly, the Court held that the Law on the Supreme Constitutional Court excludes original direct challenges filed by natural or legal persons.²⁰⁴

In another judgment, the Supreme Constitutional Court held that its jurisdiction in constitutional cases arises only where the case is brought before it through one of the legally prescribed routes set out in Articles 27 and 29 of Law No. 48 of 1979. Those provisions do not permit an original action or incidental application to be filed directly before the Court for the purpose of challenging legislation. A claimant's direct request for a declaration that a statutory provision was unconstitutional was therefore inadmissible.²⁰⁵

The Court reiterated the same principle in Judgment No. 31 of 1987, ruling that a constitutional action is admissible only where the matter reaches the Court through the procedural avenues prescribed by its governing Law. Direct recourse by individuals, independently of a substantive dispute before a competent court or judicial body, does not establish the Court's jurisdiction.²⁰⁶

Likewise, Judgment No. 59 of 1994 confirmed that the Court's jurisdiction cannot be activated by an original claim submitted directly by a litigant. Constitutional review is contingent upon a legally valid connection between the constitutional issue and proceedings pending before a competent adjudicative body, or upon the Court's exercise of its incidental power in a dispute already properly before it.²⁰⁷

201 Ramzi Taha al-Sha'ir, *Judicial Review of the Constitutionality of Laws* (Najaf: Dar al-Salam Legal Library, 2004), pp. 383–384.

202 Article 4(Third) of the Federal Supreme Court Law No. 30 of 2005, as amended, provides: "Adjudicating cases arising from the application of federal laws, decisions, regulations, instructions, and procedures issued by the federal authority; the law guarantees the Council of Ministers and interested persons, including individuals and others, the right of direct challenge before the Court."

203 Fahima Ahmad Ali al-Qammari, *The Supreme Constitutional Court as a Model of Judicial Specialisation* (Alexandria: Dar al-Kutub wa-al-Dirasat al-Arabiyya, 2008), p. 138.

204 Judgment of the Supreme Constitutional Court of Egypt No. 10 of 1994, published on the Court's official website (www.sccourt.gov.eg), accessed 2 October 2025.

205 Judgment of the Supreme Constitutional Court of Egypt No. 8 of 1981, published on the Court's official website (www.sccourt.gov.eg), accessed 2 October 2025.

206 Judgment of the Supreme Constitutional Court of Egypt No. 31 of 1987, published on the Court's official website (www.sccourt.gov.eg), accessed 2 October 2025.

207 Judgment of the Supreme Constitutional Court of Egypt No. 59 of 1994, published on the Court's official website (www.sccourt.gov.eg), accessed 4 October 2025.

Judgment No. 40 of 1996 adopted the same approach and dismissed the direct constitutional claim because it had not reached the Court by referral, a serious plea authorised by the court hearing the merits, or the Court's incidental consideration of a provision connected with a dispute within its jurisdiction.²⁰⁸

The absence of a direct individual constitutional action weakens access to constitutional justice and limits the ability of persons affected by unconstitutional conduct or legislation to obtain immediate protection. Comparative scholarship has consequently emphasised the role of individual constitutional complaints in strengthening judicial protection of constitutional rights. The Egyptian legislature should therefore follow the Iraqi approach by expressly allowing every person with a legal interest, including individuals, to bring a direct action before the Supreme Constitutional Court. Such access would protect members of the executive authority against abusive use of parliamentary oversight mechanisms and would also safeguard constitutional rights and freedoms against violations by any public authority.²⁰⁹

Conclusion

Having completed this research on "The Role of the Federal Supreme Court (Constitutional Court) in Regulating Parliament's Exercise of Its Oversight Powers in Iraqi and Egyptian Legislation," the study reached a number of findings and recommendations, which may be summarised as follows:

First: Findings

1. The oversight jurisdiction of representative assemblies is most clearly manifested in parliamentary systems. It rests on several principles, foremost among them the separation of powers based on cooperation and balance. This principle is realised through reciprocal oversight between the legislature and the executive. Parliamentary oversight is one of its most important forms because it ensures the legality of governmental action, beginning with the grant of confidence, continuing through supervision of governmental performance, and extending to political accountability of individual ministers or the Government collectively when legal violations occur.
2. Through its judicial decisions, the Federal Supreme Court of Iraq has contributed to regulating and developing the oversight jurisdiction of the Iraqi Council of Representatives. The principal aspects of that contribution are set out below.
3. The Federal Supreme Court did not permit the authority of a member of the Council of Representatives to address a parliamentary question to extend to the President of the Republic. The constitutional legislature established a special mechanism for presidential accountability, and the Court based its position on the constitutional provisions and the Rules of Procedure of the Council of Representatives.
4. The Federal Supreme Court subjected additional executive bodies not expressly mentioned in the Constitution to parliamentary oversight.
5. The Federal Supreme Court recognised parliamentary investigative committees as an instrument of oversight exercised by the Council of Representatives, notwithstanding the absence of an express constitutional provision. Its position accords with the Rules of Procedure, which recognise this instrument. The Court further held that where such a committee discovers a violation of law, its role is confined to notifying the competent authorities and providing the supporting evidence.
6. The Federal Supreme Court emphasised the seriousness of parliamentary interpellation and characterised it as an express accusation directed against members of the Government. It required an interpellation to satisfy conditions analogous to those applicable to a formal charge: it must be supported by documented evidence and official records establishing the accuracy of the allegations and implicating the person to whom it is addressed.
7. The Federal Supreme Court held that the sponsor of an interpellation may withdraw it, provided that a written request expressly stating the intention to withdraw is submitted to the Speaker of the Council of Representatives. The Court also held that withdrawal of any signature necessary to satisfy the required number of supporters renders the interpellation void, even after a date has been fixed for its debate.
8. The Federal Supreme Court permitted a member of the Council of Representatives to submit a new interpellation after withdrawing an earlier one, provided that both the sponsor and the person addressed retain their legal capacities and the legal grounds for interpellation are present.
9. The Federal Supreme Court recognised what may be described as an interpellation in absentia. It held that failure of the person addressed to attend constitutes a waiver of the right to answer the accusations and an implied acknowledgment of the attributed acts. This approach strengthens the effectiveness of parliamentary oversight over the Government.
10. The Federal Supreme Court established that the Council of Representatives may interpellate the heads of independent bodies whether they occupy office substantively or in an acting capacity. This is a sound

²⁰⁸ Judgment of the Supreme Constitutional Court of Egypt No. 40 of 1996, published on the Court's official website (www.sccourt.gov.eg), accessed 4 October 2025.

²⁰⁹ Ahmad Issa Abu al-Ghayt Jawhar, "The Role of the Individual Constitutional Action in Strengthening Judicial Protection of Constitutional Rights: A Comparative Analytical Study," paper derived from a doctoral dissertation, Faculty of Law, Mansoura University, 2022, pp. 35–36.

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approach because no public office of this kind should fall outside oversight and accountability, both of which are defining features of parliamentary government.

11. The Federal Supreme Court distinguished withdrawal of confidence from ministers from removal of the heads of independent bodies. The Iraqi Constitution does not identify an authority that grants confidence to the heads of independent bodies, as it does in relation to ministers, nor does it uniformly determine the authority responsible for selecting those heads. The relevant enabling statute must therefore be consulted. Consequently, the Council of Representatives may remove the head of an independent body following interpellation, but may not withdraw confidence in the constitutional sense reserved for ministers.
12. The Federal Supreme Court held that the Prime Minister may request the removal of a minister without having to state reasons, provided that the Council of Representatives approves the removal and votes on the appointment of a new minister in the same sitting.
13. The Federal Supreme Court ruled that withdrawal of confidence from a minister prevents that minister from subsequently standing for another sovereign office. This position reflects the Court's institutional neutrality and its role in protecting and preserving the Constitution.
14. The Federal Supreme Court did not facilitate oversight of a caretaker Government through mechanisms that could be exercised without causing the Government's resignation. Instead, it prevented the Council of Representatives from exercising oversight over a caretaker Government on the ground that such oversight would be ineffective because it would lack the power to impose a political sanction.
15. The Iraqi Constitution of 2005 assigns conviction of the President of the Republic to the Federal Supreme Court. The Court is not a specialised presidential tribunal; it exercises this power in addition to numerous constitutional functions. By contrast, the Egyptian Constitution of 2014, as amended, entrusts the trial of the President to a special court chaired by the President of the Supreme Judicial Council and composed of the most senior Deputy President of the Supreme Constitutional Court, the most senior Deputy President of the State Council, and the two most senior Presidents of the Courts of Appeal, with the Public Prosecutor conducting the prosecution.
16. The Iraqi Council of Representatives has not enacted the law required by Article 93(Sixth) of the Constitution to regulate the procedures for considering and determining accusations against the President of the Republic, the Prime Minister, and ministers. Because of this legislative omission, the Federal Supreme Court held in Decision No. 41/Federal/2017 of 13 June 2017 that it could not adjudicate accusations against the President until the required procedural law was enacted.
17. Egyptian law does not recognise an original direct constitutional action before the Supreme Constitutional Court. It confines access to constitutional review to referral, a plea of unconstitutionality, and the Court's incidental power. A statute or legal provision alleged to violate the Constitution therefore cannot be challenged directly before the Supreme Constitutional Court. Iraqi law differs by recognising a direct action as one method of bringing a case before the Federal Supreme Court.
18. The Supreme Constitutional Court of Egypt has played no discernible role in parliamentary oversight of the executive authority. It has issued no judgment concerning parliamentary questions, interpellations, investigative committees, withdrawal of confidence from the Government, or accountability of the President. This is attributable to the Court's lack of jurisdiction over direct constitutional actions, which deprives members of the executive authority of an effective means of protecting their rights where Parliament abuses its oversight instruments.

Second: Recommendations

1. When amending the Constitution of the Republic of Iraq of 2005, the constitutional legislature should include parliamentary investigation among the oversight mechanisms enumerated in Article 61(Seventh), thereby strengthening and constitutionally entrenching parliamentary oversight in a manner comparable to the Egyptian Constitution.
2. The Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022 should be amended to specify the method of selecting members of parliamentary investigative committees, the number of committee members, and the duration of their work. The Rules should also require follow-up on the Government's implementation of recommendations approved by Parliament and regulate the measures to be taken where the Government rejects or fails to implement those recommendations.
3. The Iraqi legislature should include in the Rules of Procedure a provision codifying the restriction recognised by the Federal Supreme Court whereby withdrawal of confidence from a minister prevents that person from standing for any other sovereign office. Because this restriction is a legal consequence of withdrawal of confidence, it should bar future candidacy for President of the Republic, Prime Minister, or any other ministerial office.
4. The Federal Supreme Court should reconsider Decision No. 97/Federal/2022, which prevented the Council of Representatives from exercising oversight over a caretaker Government on the ground that such oversight would be devoid of sanction. Parliament should be permitted to question a caretaker Government, conduct

parliamentary investigations, and interpellate its members. These mechanisms can produce meaningful results even where the Government has resigned. Oversight of a caretaker Government is fundamentally the same constitutional oversight exercised over an ordinary Government, subject to adaptation to the caretaker Government's particular legal status.

5. The Iraqi constitutional legislature should reconsider Article 61(Sixth) of the Constitution of 2005 and provide for the trial of the President of the Republic before a special court, given that the Federal Supreme Court is principally responsible for constitutional adjudication. The Egyptian constitutional arrangement provides an appropriate comparative model.
6. The Iraqi legislature should promptly enact a law regulating the accountability of the President of the Republic, the Prime Minister, and ministers in order to activate the jurisdiction of the Federal Supreme Court and restore one of the most important mechanisms of parliamentary oversight.
7. The Egyptian legislature should follow the Iraqi approach by expressly permitting every person with a legal interest, including individuals, to institute a direct action before the Supreme Constitutional Court. This would protect members of the executive authority against abusive parliamentary oversight, safeguard constitutional rights and freedoms against violations by any authority, and strengthen the Supreme Constitutional Court's role in regulating the House of Representatives' oversight of executive action.

REFERENCES

Books

- Abd al-Wahhab, Muhammad Rif'at. Political Systems. Alexandria: Dar al-Jamia al-Jadida, 2006.
- Abu Yunus, Muhammad Bahi. Parliamentary Oversight of Government Action in the Egyptian and Kuwaiti Systems. Alexandria: Dar al-Jamia al-Jadida, 2002.
- Ajila, Asim Ahmad, and Muhammad Rif'at Abd al-Wahhab. Political Systems. 3rd ed. Cairo: Dar al-Nahda al-Arabiyya, 1985.
- Al-Aboudi, Falah Matroud. Balance of Power and the Effectiveness of the Political System: An Analytical Study of Parliamentary and Governmental Performance under the Iraqi Constitution of 2005. 1st ed. Beirut: Zain Legal Publications, 2018.
- Al-Ani, Ali Ghalib, and Salih Jawad al-Kazim. Political Systems. Baghdad: Dar al-Hikma, 1991.
- Al-Barzanji, Sarhang Hamid. Foundations of a Democratic Constitution and Mechanisms for Its Defense. 2nd ed. Beirut: Zain Legal Publications, 2019.
- Al-Jamal, Yahya. The Constitutional System of the Arab Republic of Egypt. Cairo: Dar al-Nahda al-Arabiyya, 1974.
- Al-Jubouri, Mazhar Turki Abd. The Role of the Federal Supreme Court in Overseeing the Balance among the Federal Authorities in Iraq: A Comparative Study. 1st ed. Karbala, Iraq: Dar al-Kafeel for Printing, Publishing and Distribution, 2023.
- Al-Kar'awi, Ghanim Abd Dahsh Atiya. Regulation of Constitutional Competences in a Bicameral Parliamentary System: A Comparative Study. 1st ed. Cairo: Arab Center for Studies and Scientific Research; Baghdad: Nippur Publishing, Printing and Distribution House, 2017.
- Al-Kayyali, Abd al-Wahhab. Encyclopedia of Politics. Vol. 2. 4th ed. Beirut: Arab Institution for Studies and Publishing, 2001.
- Al-Kufi, Yasin Abd al-Amir Tu'ma. Constitutional Regulation of Parliamentary Systems. 1st ed. Beirut: Zain Legal Publications, 2018.
- Al-Mahjub, Muhammad Rif'at, et al. Constitutional Law, with a Study of the Yemeni Constitutional System. 2nd ed. Cairo: Nahdat Misr Press, 1984–1985.
- Al-Maswari, Yahya Muhsin Nasir. The Balance between the Legislative and Executive Authorities in the Constitutional System: A Comparative Study. Egypt: Dar al-Kutub wa-al-Dirasat al-Arabiyya, 2018.
- Al-Nusur, Fahd Abu al-Atham. Constitutional Adjudication: Theory and Practice. 1st ed. Jordan: Dar al-Thaqafa for Publishing and Distribution, 2016.
- Al-Qaisi, Hanan Muhammad. Bicameralism in Iraq: A Study of the Federation Council. Baghdad: Bayt al-Hikma, 2012.
- Al-Qammari, Fahima Ahmad Ali. The Supreme Constitutional Court as a Model of Judicial Specialisation. Alexandria: Dar al-Kutub wa-al-Dirasat al-Arabiyya, 2008.
- Al-Salihi, Maha Bahjat Yunus. The Constitutional and Legal Regulation of the Foundations and Mechanisms for Combating Corruption under the Constitution of the Republic of Iraq of 2005. 1st ed. Baghdad: College of Law, University of Baghdad, 2015.
- Al-Sayyid Ali, Sa'id. Political Responsibility in the Balance. Cairo: Dar Abu al-Majd for Printing, 2008.
- Al-Sha'ir, Ramzi Taha. A Concise Account of the Egyptian Constitutional System. Egypt, 2023.
- Al-Sha'ir, Ramzi Taha. Judicial Review of the Constitutionality of Laws. Najaf: Dar al-Salam Legal Library, 2004.
- Al-Shukri, Ali Yusuf. A Concise Account of the Iraqi Constitutional System. 1st ed. Beirut: Zain Legal Publications, 2017.
- Al-Tamawi, Sulayman Muhammad. Political Systems and Constitutional Law: A Comparative Study. Cairo: Ain Shams University Press, 1988.
- Al-Zuhairi, Ahmed Yahya. The Oversight Role of the Iraqi Parliament after 2003. 1st ed. Baghdad: Al-Sanhuri Library, 2016.
- Batikh, Ramadan Muhammad. Political and Constitutional Systems: A Study in Egyptian Constitutional Documents, 1805–2009. Cairo: Dar al-Nahda al-Arabiyya, 2009.
- Batikh, Ramadan Muhammad. The General Theory of Constitutional Law and Its Applications in Egypt. Cairo: Dar al-Nahda al-Arabiyya, 1996.
- Ghanayim, Midhat Ahmad Yusuf. Means of Parliamentary Oversight over Government Activity in the Parliamentary System. 2nd ed. Cairo: National Center for Legal Publications, 2011.
- Hasabu, Amr. Political Systems and Constitutional Law. Cairo: Dar al-Nahda al-Arabiyya, 2004.
- Imran, Faris. Parliamentary Investigation in Arab, American, and European States. Cairo: National Center for Legal Publications, 2008.
- Ja'far, Muhammad Anas Qasim. The Relationship between the Legislative and Executive Authorities. Algiers: Office of University Publications, 1982.

- Khalaf, Faiq Zaidan. *Constitutional Judicial Review of the Constitutional Boundaries among the Authorities*. Karbala, Iraq: Dar al-Warith for Printing and Publishing, 2021.
- Khalid, Hamid Hanoun. *Principles of Constitutional Law and the Development of the Political System in Iraq*. Baghdad: Al-Sanhuri Library, 2012.
- Majid, Zirak. *The Extent of Balance between the Legislative and Executive Authorities*. 1st ed. Beirut: Al-Halabi Legal Publications, 2014.
- Nasif, Abdullah Ibrahim. *The Extent of Balance between Political Authority and Responsibility in Modern States*. Cairo: Dar al-Nahda al-Arabiyya, 1981.
- Saeed, Dana Abd al-Karim. *The Role of Parliament in Contemporary Parliamentary Systems amid Weak Legislative and Oversight Performance and Executive Dominance: A Comparative Analytical Study*. 1st ed. Beirut: Al-Halabi Legal Publications, 2013.
- Salam, Ihab Zaki. *Political Oversight of Executive Action in the Parliamentary System*. Cairo: Alam al-Kutub for Publishing and Distribution, 1983.
- Shubbar, Rafi' Khudr Salih. *Separation of the Executive and Legislative Authorities in Iraq's Parliamentary System*. 1st ed. Baghdad: Al-Sanhuri Library, 2012.
- Shukri, Fahmi Mahmud. *Supreme Financial Oversight: General Concept and Organization of Its Institutions in Arab States and Selected Foreign States*. Amman, Jordan: Dar Majdalawi, 1984.
- Ubayd, Adnan Ajil. *The Quality of the Judgments of the Federal Supreme Court in Iraq*. 1st ed. Najaf, Iraq: Dar al-Salam Legal Publications, 2021.

Master's Theses and Doctoral Dissertations

- Abd, Aqil Muhammad. *The Relationship between Government and Opposition in the British Political System*. Master's thesis, College of Political Science, University of Baghdad, 1995.
- Abu Hajar, Muhammad al-Sa'id. *The Political Responsibility of the Head of State in the Anglo-American and Egyptian Systems and Islamic Law*. PhD dissertation, Faculty of Law, Helwan University, Egypt, 2011.
- Al-Azzawi, Iqbal Naji Sa'id. *The Legal System of Independent Bodies in Iraq*. PhD dissertation, College of Law, University of Baghdad, 2015.
- Al-Ma'muri, Salam Salih Khamis. *The Balance between the Executive and Legislative Authorities in Democratic Systems: A Comparative Analytical Study*. PhD dissertation, Faculty of Law, Mansoura University, 2021.
- Al-Sabah, Wafa Badr. *Parliamentary Interpellation in the Kuwaiti Constitutional System: A Comparative Study*. PhD dissertation, Faculty of Law, Ain Shams University, 2006.
- Al-Shammari, Ismail Fadil Halwas. *The Legal Nature of Decisions of the Iraqi Council of Representatives: A Comparative Study*. PhD dissertation, College of Law, Al-Nahrain University, Baghdad, 2015.
- Makhluf, Lubna Muhammad Ali. *Legal Guarantees for the Independence of Parliament*. PhD dissertation, Faculty of Law, Assiut University, Egypt, 2016.
- Manati, Ghassan La'ibi. *The Caretaker Government*. PhD dissertation, Faculty of Law, Al-Nahrain University, 2010.
- Muhammad, Sayyid Muhammad Ibrahim. *Parliamentary Inquiry*. PhD dissertation, Faculty of Law, Ain Shams University, 2014.
- Rahim, Hisham Jamil Kamal. *Independent Bodies and Their Relationship with the Legislative Authority in Iraq*. PhD dissertation, College of Law, Tikrit University, Iraq, 2012.

Journal Articles and Research Papers

- Abu al-Ghayt Jawhar, Ahmad Issa. "The Role of the Individual Constitutional Action in Strengthening Judicial Protection of Constitutional Rights: A Comparative Analytical Study." Paper derived from a doctoral dissertation, Faculty of Law, Mansoura University, 2022.
- Al-Badri, Ahmad Talal Abd al-Hamid. "Comment on Federal Supreme Court Decision No. 17/Federal/2022." Official website of the Federal Supreme Court of Iraq. Accessed 15 September 2025.
- Al-Issawi, Izz al-Din. "The Constitutional Status of Independent Administrative Bodies." *Al-Fikr al-Arabi Journal*, Faculty of Law and Political Science, Mohamed Khider University of Biskra, Algeria, no. 4 (2007): 210.
- Al-Kar'awi, Baqir Abd al-Kazim Ali. "Oversight over the Ministry Conducting Day-to-Day Affairs." *Journal of Arts, Literature, Humanities and Social Sciences*, no. 56 (2020): 132.
- Al-Qaisi, Hanan Muhammad. "Oversight by the Council of Representatives over Government Activity: A Study of Parliamentary Interpellation." *Journal of Law* 3, no. 10 (2010): 194 et seq.
- Al-Qaisi, Hanan Muhammad. "The Concept of Independence and Independent Bodies under the Constitution of 2005." *Al-Huquq Journal*, Al-Mustansiriyah University 4, nos. 23-24 (2014): 4.
- Al-Sharifi, Ali Sahib Jasim. "The Constitutional Regulation of the Interpellation of Ministers in Iraq." *Wasit Journal for Humanities and Social Sciences* 15, no. 43 (2019): 407 et seq.
- Al-Ta'an, Aidan Saad. "The Extent of the Authority of Parliamentary Investigative Committees to Administer Oaths to Witnesses." *Kuwaiti National Assembly Journal*, July 2007.

The Role of the Federal Supreme Court in Regulating
Parliament's Exercise of Its Oversight Powers under Iraqi and Egyptian Law

- Al-Zubaydi, Hisham Jalil Ibrahim. "The Caretaker Government in Iraq." *Imam Ja'far al-Sadiq University Journal for Humanities and Social Sciences*, no. 4 (2022): 261 et seq.
- Izzat, Sadiq Muhammad. "The Effectiveness of Parliamentary Interpellation in Correcting Governmental Performance." *Journal of the College of Law for Legal and Political Sciences* 11, no. 40 (2022): 460 et seq.
- Jasim, Muhammad Ali Salim, and Mina Sattar al-Husayni. "Rules Governing the Trial of the President of the Republic before the Federal Supreme Court." *Al-Muhaqqiq Al-Hilli Journal for Legal and Political Sciences* 5, no. 1 (2013): 81.
- Juwair, Ibrahim Mahdi. "Interpellation as a Means of Parliamentary Oversight." *Al-Iraqia University Journal* 21, no. 43, pt. 1 (2019): 435–438.
- Salih, Zaynab Mahdi, and Ayat Salman Shuhayb. "Parliament's Right to Withdraw Confidence from the Ministry under a Consociational Political System pursuant to the Permanent Constitution of Iraq of 2005." *Al-Iraqia University Journal* 57, no. 3 (2023): 396 et seq.

Constitutions and Parliamentary Rules

- Constitution of the Arab Republic of Egypt of 2014, as amended.
- Constitution of the Republic of Iraq of 2005, as in force.
- Rules of Procedure of the Egyptian House of Representatives of 2016.
- Rules of Procedure of the Iraqi Council of Representatives No. 1 of 2022.

Legislation

- Central Bank of Iraq Law, Coalition Provisional Authority Order No. 56 of 2004, as amended by Law No. 82 of 2017.
- Endowment Office for Christian, Yazidi, and Mandaean Religions Law No. 58 of 2012.
- Federal Board of Supreme Audit Law No. 31 of 2011, as amended.
- Federal Commission of Integrity and Illicit Gain Law No. 30 of 2011, as amended.
- Federal Public Service Council Law No. 4 of 2009.
- Federal Supreme Court Law No. 30 of 2005, as amended.
- General Commission for Guaranteeing the Rights of Regions and Governorates Not Organized in a Region Law No. 26 of 2016.
- General Commission for Monitoring the Allocation of Federal Revenues Law No. 55 of 2017.
- High Commission for Human Rights Law No. 53 of 2008.
- Independent High Electoral Commission Law No. 31 of 2019.
- Iraqi Council of Representatives and Its Formations Law No. 13 of 2018, as amended.
- Iraqi Media Network Law No. 26 of 2015.
- Law No. 21 of 2008 on Governorates Not Incorporated into a Region, as amended.
- Martyrs Foundation Law No. 2 of 2016, as amended.
- Shiite Endowment Office Law No. 57 of 2012.
- Sunni Endowment Office Law No. 56 of 2012.

Judicial Decisions and Opinions: Iraq

- Federal Supreme Court of Iraq. Advisory Opinion No. 228/T/2006, 9 October 2006.
- Federal Supreme Court of Iraq. Decision No. 101/Federal/2017, 7 November 2017.
- Federal Supreme Court of Iraq. Decision No. 121/Federal/2017, 5 November 2017.
- Federal Supreme Court of Iraq. Decision No. 122/Federal/2022, 29 May 2022.
- Federal Supreme Court of Iraq. Decision No. 14/Federal/Media/2018.
- Federal Supreme Court of Iraq. Decision No. 141/Federal/Cassation/2012, 2 October 2012.
- Federal Supreme Court of Iraq. Decision No. 17/Federal/2022, 13 February 2022.
- Federal Supreme Court of Iraq. Decision No. 25/Federal/Media/2016, 5 April 2016.
- Federal Supreme Court of Iraq. Decision No. 33/Federal/2017, 8 May 2017.
- Federal Supreme Court of Iraq. Decision No. 35/Federal/2012, 2 May 2012.
- Federal Supreme Court of Iraq. Decision No. 37/Federal/2017, 18 April 2017.
- Federal Supreme Court of Iraq. Decision No. 38/Federal/2009, 20 July 2009.
- Federal Supreme Court of Iraq. Decision No. 39/Federal/Media/2015, 22 June 2015.
- Federal Supreme Court of Iraq. Decision No. 41/Federal/2017, 13 June 2017.
- Federal Supreme Court of Iraq. Decision No. 42/Federal/2019, 6 May 2019.
- Federal Supreme Court of Iraq. Decision No. 51/Federal/Media/2017, 27 July 2017.
- Federal Supreme Court of Iraq. Decision No. 68/Federal/Media/2016, 10 October 2016.
- Federal Supreme Court of Iraq. Decision No. 78/Federal/2013, 12 November 2013.
- Federal Supreme Court of Iraq. Decision No. 80/Federal/2017, 15 August 2017.
- Federal Supreme Court of Iraq. Decision No. 88/Federal/2010, 18 November 2010.
- Federal Supreme Court of Iraq. Decision No. 89/Federal/2016, 8 November 2016.

Federal Supreme Court of Iraq. Decision No. 90/Federal/2013, 6 November 2013.

Federal Supreme Court of Iraq. Decision No. 97/Federal/2022, 15 May 2022.

Federal Supreme Court of Iraq. Joined Decisions Nos. 74 and 75/Federal/2016, 20 December 2016.

Judicial Decisions: Egypt

Supreme Constitutional Court of Egypt. Judgment No. 10 of 1994.

Supreme Constitutional Court of Egypt. Judgment No. 31 of 1987.

Supreme Constitutional Court of Egypt. Judgment No. 40 of 1996.

Supreme Constitutional Court of Egypt. Judgment No. 59 of 1994.

Supreme Constitutional Court of Egypt. Judgment No. 8 of 1981.