



RESEARCH ARTICLE

Section: Law; Legal Studies

Constitutional restrictions and guarantees governing the dissolution of the House of Representatives in the Jordanian constitutional system of 1952Moh'd Mofadi Faleh Al Maagbeh¹, Awad Rajab Allaymoon², Shadi Meeush D'yab Altarawneh³, Noor Alhendi⁴, Abdul-lah Mohammad Mofadi Al Maaqbeh⁵, Muhanned Farhan Mohammad Altaani⁶ & Mesh'al Daher Almadi⁶¹Faculty of Law, University of Amman, Jordan²Faculty of Law, University of Jordan³Department of Private Law, Faculty of Law, Al-ahliyya Amman University, Jordan⁴United Arab Emirates University, UAE⁵University of East Anglia⁶The University of Jordan*Correspondence: m.faleh@ju.edu.jo**ABSTRACT**

This study deals with the provisions of the previous and subsequent constitutional restrictions and guarantees governing the dissolution of the House of Representatives in accordance with the Jordanian constitution 1952. These restrictions and guarantees is a constitutional obligation and the competent authority shall comply with since these restrictions and guarantees consider as one of the tools of balance between the authorities of the state and its nonexistence may result in the absence of parliament as one the pillars of the Jordanian constitutional system of representatives.

The most important of these guarantees is the issuance and reasoning of the royal decree by the king. This study is also explained the subsequent restrictions results from dissolution of the House of Representatives such as: the necessity of holding and election for the House of Representative within four months from the date of dissolution. The constitutional amendment also requires that the government shall submit its resignation within one week from the date of dissolution. Furthermore, this study explained the consequences of the failure to comply with these restrictions and some of these consequences are explained by the legislator as a penalty the failure to comply with these guarantees and restrictions.

This study concluded with a number of particular results. The most important of which is the significance of the constitutional amendment of 2011 which provides that the government –in the tenure of which the House of Representatives is dissolved- shall resign and the failure of the competent authority of dissolution to comply with the reasoning of dissolution

KEYWORDS: parliamentary council, king powers, council dissolution

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Introduction

The parliamentary system is founded upon a fundamental principle, which is the presumed balance among the public authorities of the state, particularly between the legislative and executive branches. The basis of this balance lies in the effectiveness of the constitutional oversight mechanisms granted by the Constitution to each of these authorities, which vary in their influence and impact upon one another when either exceeds its constitutional boundaries. Perhaps the most serious of these oversight mechanisms in parliamentary constitutional systems is the executive authority's right to dissolve representative assemblies. This right, vested in the executive branch, constitutes one of the main pillars of the parliamentary system. It was originally established as a counterbalance to the parliament's power to withdraw confidence from the Council of Ministers, thereby achieving the principle of equilibrium between the two powers.

Accordingly, most comparative constitutions have surrounded this right with a number of restrictions and guarantees to prevent it from exceeding its constitutional limits and to ensure that the executive authority does not deviate from its constitutional philosophy, namely, to refer the matter to the electorate to judge the justifications for dissolution. This is to prevent it from becoming an instrument of domination and encroachment by the authority empowered to exercise it over the legislature, due to the significant consequences that may result from its use, such as the suspension of parliamentary life and the exercise of executive powers without any oversight, particularly where the constitutional controls and limitations governing its use are circumvented. Such abuse inevitably tilts the balance of power in favor of the executive authority over the legislative. Although the dissolution power was established to preserve the equilibrium of powers, it has, over time, come to serve additional purposes and motivations that go beyond this traditional objective.

A review of the constitutional provisions governing the dissolution of the House of Representatives in the Jordanian Constitution of 1952 reveals that the constitutional legislator has indeed adopted several guarantees, some preceding the dissolution procedure and others following it. Among the pre-dissolution guarantees is the requirement that a Royal Decree be issued in accordance with the constitutional conditions stipulated in Paragraph (1) of Article (40) of the Constitution. In addition, this decree must include a statement of reasons for the dissolution, as required by Article (74) of the Constitution, a requirement that has not been consistently observed by the authority empowered to dissolve successive Houses of Representatives. Among the post-dissolution guarantees are the obligation to hold new elections for a new House within four months from the date of dissolution, and the prohibition of dissolution during the period in which the vote of confidence in the Council of Ministers or any of its ministers is postponed, which may not exceed ten days. Furthermore, the 2011 constitutional amendments introduced a highly significant restriction, namely, that the Council of Ministers under which the House is dissolved must resign within one week from the date of dissolution.

On this basis, this research examines both the procedural restrictions preceding the exercise of dissolution and the guarantees following it, as well as their effects, whether compliance is achieved or not, and how this impacts the proper exercise of the power, potentially deviating from its intended purpose of maintaining balance between powers. This consideration constitutes the main motivation behind selecting the topic of this research, particularly since the House of Representatives has been dissolved several times, with the royal decrees (dissolution decisions) lacking any statement of reasons, thereby failing to restrain the exercise of this power. Moreover, ambiguity surrounds this restriction, given the absence of constitutional consequences for its violation, which has led to the classification of the dissolution decision as an act of sovereignty beyond the jurisdiction of the judiciary to review its legality.

Accordingly, the research problem is reflected in answering the following questions: What are the constitutional guarantees governing the right of dissolution in the 1952 Jordanian Constitution? How effective are these guarantees in limiting the misuse of this right contrary to its intended purpose? What are the consequences of non-compliance with such guarantees?

The study aims to examine the effectiveness of the restrictions imposed on the authority empowered to dissolve the House of Representatives, and to identify the constitutional consequences established by the constitutional legislator in cases of non-compliance with these restrictions. It also seeks to highlight the deficiencies affecting the regulation of the dissolution power in the Jordanian constitutional system and to propose appropriate solutions to ensure its optimal organization.

The research adopts a descriptive and analytical methodology, focusing on analyzing the constitutional

provisions relevant to the subject in order to achieve the study's objectives, while drawing upon constitutional jurisprudence and judicial decisions for support.

Accordingly, the research plan is structured as follows:

Preliminary Chapter: The constitutional organization of the authority competent to dissolve representative assemblies.

Section One: Forms of dissolution in parliamentary constitutional systems.

Section Two: The competent authority for dissolution under the 1952 Jordanian Constitution.

Chapter One:

Procedural constitutional restrictions preceding the dissolution of the House of Representatives.

Section One: Issuance of a Royal Decree.

Section Two: Prohibition of repeating dissolution for the same reason as the previous one.

Chapter Two: The restriction of non-repetition of dissolution for the same reason for which the previous house was dissolved

Section One: Obligation to conduct elections for a new House within four months. **Section Two:** Prohibition of dissolution during postponement of a vote of confidence in the Council of Ministers or ministers.

Section Three: Obligation of the government under which the dissolution occurs to resign Conclusion.

Preliminary Chapter

The Constitutional Organization of the Authority Competent to Dissolve Representative Assemblies

The current Jordanian Constitution of 1952 confers the right to dissolve the Parliament to the King as one of the discretionary powers prescribed for him, consistent with the parliamentary nature of this Constitution.¹ This is because dissolution constitutes a fundamental measure inherent to the parliamentary system and represents one of its fundamental pillars.² It also serves as a constitutional oversight mechanism granted to the executive authority, leading to the termination of the legislative term of the House before its constitutionally prescribed expiration,¹ in return for the parliament's corresponding right to hold the Council of Ministers accountable, which may result in its resignation.

Comparative constitutions have differed regarding the restrictions and guarantees regulating and limiting the exercise of the dissolution power so as not to contradict its constitutional philosophy. The Jordanian constitutional legislator has not deviated from the general practice found in these constitutions. Accordingly, this chapter addresses the types of dissolution and the authority competent to exercise it under the 1952 Jordanian constitutional system, in two sections as follows:

Section One

Forms of Dissolution in Parliamentary Constitutional Systems

Constitutional jurisprudence classifies the dissolution of representative assemblies into two types, depending on the authority initiating it. The first is called presidential dissolution, which, as the name suggests, is vested in the Head of State. The second is called ministerial dissolution, which is carried out by the competent authority upon a request from the Council of Ministers. These will be discussed in detail in the following subsections.

Subsection One Presidential Dissolution

As the term implies, this form of dissolution is exercised by the Head of State, who resorts to it in cases of significant political disagreement with the parliament over matters of major public policy. The Head of State

believes that the people support his position, and thus refers the matter to the electorate for judgment.²

⁽¹⁾ Article 1 of the Jordanian Constitution of 1952 stipulates that “the Hashemite Kingdom of Jordan is an independent sovereign Arab State. It is indivisible and no part of it may be ceded. The Jordanian people is a part of the Arab Nation, and its ruling regime is parliamentary with a hereditary monarchy.” Article 19 of the Jordanian Basic Law of 1928 stipulates that “the Emir is the one who issues orders to hold elections for the Legislative Council, convenes the council, opens it, adjourns it, dissolves it, and dissolves it in accordance with the provisions of the law.” Paragraph (c) of Article 26 of the Jordanian Constitution of 1946 also stipulates that “the Executive Power shall be vested in the King, who shall exercise his powers through his Ministers in accordance with the provisions of the present Constitution.”

⁽²⁾ Dr. Sabri, Al-Sayyid, *The Government of the Council of Ministers*, International Press, Cairo, 1955, p. 253

⁽¹⁾ A.FORSEY, *The royal power of dissolution of parliament in the British commonwealth*, London, 1943, p.15, etc.

⁽²⁾ Dr. Al-Affi, Mustafa Mahmoud, *Al-Wajeez in the Principles of Constitutional Law and Comparative Political Systems*, second edition, p. 338.

This form of dissolution serves to implement the Head of State’s personal policy and achieve objectives he believes enjoy public support, whereas the parliament does not. The people, through new elections, are called upon to arbitrate this political dispute.

However, presidential dissolution carries a potential risk. If the results of the elections align with the parliament’s position rather than the Head of State’s, it indicates a misjudgment on his part, thereby weakening his political influence and placing him at odds with public opinion, especially if the new parliament supports the previous one. In such cases, the Head of State may be compelled to resign. Constitutional scholars note, however, that such situations are rare and typically occur only in societies with strong public awareness that prioritizes national interest over personal or political considerations.³

An example of this form of dissolution appears in Article (12) of the French Constitution of 1958, which grants the President of the Republic the exclusive right of dissolution (*Droit de dissolution*), provided that he consults the Presidents of the National Assembly, the Senate, and the Council of Ministers. These consultations are advisory and not binding. In practice, it is rare for the President to issue a dissolution decree contrary to their opinions, especially that of the Senate, due to the potential negative political repercussions that could threaten his tenure.¹ Thus, the right of dissolution in this context falls within the personal prerogatives of the Head of State and is not subject to the ministerial countersignature requirement.

Subsection Two Ministerial Dissolution

This type of dissolution is initiated by the Council of Ministers, usually in the context of a dispute or conflict between it and the parliament, where such a conflict cannot be resolved. In this case, the matter is referred to the Head of State to decide on the appropriate course

⁽³⁾ Constitutional jurisprudence gives us an example of this, as happened in France in 1877 under the Constitution of the Third Republic, when President McMahon dismissed the ministry of Jules Simon, which had a majority in the French Chamber of Deputies, and appointed a minority ministry headed by Borgile Fourton in its place, and by means of this new ministry he resorted to dissolving the House of Representatives after obtaining the approval of the Senate in accordance with the provisions of the Constitution established in the Constitution of 1875. Elections resulted in the victory of the old majority, and in view of this result, the ministry of “Brugli” was forced to resign, and the majority took over the government headed by “Rochebouet”, and the government was reconstituted, but not from the parliamentary majority, but led by it, which led to the non-cooperation of the two houses with this government, which prompted McMahon to dismiss this ministry, and this led to the destabilization of the position of the President of the Republic, McMahon, and he ended up resigning shortly after that following the Republicans in 1879 obtaining a majority in the elections conducted in the Senate. - See in detail: - Dr. Nassef, Abdullah, *The Balance of Political Power and Responsibility in the Modern State*, Dar Al-Nahda Al-Arabiya, Cairo, 1981, pp. 108-110. - Dr. Abu Zeid, Mohamed Abdel Hamid,

The Balance of Powers and its Control, A Comparative Study, Dar Al-Nahda Al-Arabiya, 2003, pp. 208-210.

(1) Article (12) of Finnish constitution, 1958, "After consultation with the Prime Minister and the presidents of the two houses, the president of the Republic may declare the dissolution of the national assembly general elections shall take place not less than twenty and not more than forty days after dissolution" of action regarding the situation, whether by dissolving the Legislative Council to favor the Prime Minister's position and calling for new elections, or by dismissing the Prime Minister from office and appointing a new Council of Ministers that can cooperate with the existing council.²

Some constitutional scholars have argued that the Council of Ministers should not insist that the Head of State make a dissolution decision if requested to do so. Rather, full discretion and authority should be left to the Head of State to decide whether or not to dissolve the parliament. Otherwise, meaning in the case where the cabinet forces the dissolution upon the Head of State, especially if the Head of State is certain that the nation does not support the parliament in opposing the government's general policy, this would undoubtedly result in the parliament constantly yielding to the Council of Ministers' threats.¹

For this reason, the Head of State should retain full freedom to approve or reject the Council of Ministers' request to dissolve the parliament, thereby acting as an arbiter between the two powers and ensuring that dissolution remains a democratic guarantee used only when national consultation is necessary or when a dispute arises where the Council of Ministers is clearly in the right and the parliament no longer represents public opinion. Conversely, if the parliament reflects the will of the people, dissolving it would constitute an undemocratic act.

Comparative constitutional systems differ regarding who may request ministerial dissolution. Some require a Cabinet decision, while others grant the right exclusively to the Prime Minister. Examples of the former include the French Constitution of 1946, the Swedish Constitution of 1974, and the Spanish Constitution of 1978. Among the latter is the Irish Constitution.³

The right of dissolution has become, as a rule, a prerogative of the Council of Ministers in the parliamentary system, since the head of state reigns but does not rule, and therefore is not responsible for his actions and is unable to undertake any political act. Accordingly, granting the power of dissolution to a non-accountable head of state does not constitute a sufficient guarantee for democracy, and thus, some scholars have argued that this right may not be exercised except with the consent of a ministry that is responsible before Parliament.³ In France, under the Constitution of 1875, the right of dissolution was shared between the Head of State and the Council of Ministers. Under the Fourth Republic (1946), it became a governmental power, and under the current Constitution of 1958, it reverted to being a⁽²⁾ Dr. Abbas, Khaled, The Right to Dissolve in the Parliamentary Parliamentary System, A Comparative Study, Ph.D. Thesis, Faculty of Law, Ain Shams University, 1997, p. 138. - Dr. Afifi, Mustafa, Al-Wajeez in the Principles of Constitutional Law, Book One, Second Edition, p. 381.

(1) Dr. Rabat, Admon, The Mediator in General Constitutional Law, Part Two, Dar al-Ilm Li Millions, Beirut, 1971, p. 642.

(2) Dr. Al-Shaer, Ramzy, The General Theory of Constitutional Law, Third Edition, Dar Al-Nahda Al-Arabiya, Cairo, 1983, p. 233.

(3) Dr. Al-Tamawi, Suleiman, The Three Authorities in Contemporary Arab Constitutions and Islamic Political Thought, Dar al-Fikr al-Arabi, Cairo, 1996, p. 525. personal right of the President, albeit after non-binding consultations with the Prime Minister and the Presidents of both parliamentary chambers.⁴

In the United Kingdom, the cradle of parliamentary government, the right of dissolution was transferred from the monarch to the Council of Ministers beginning in 1707, when the Prime Minister would request the monarch to dissolve parliament. In practice, the monarch could not dissolve parliament unilaterally, as dissolution occurred only upon ministerial advice. Historical practice confirms that such dissolution was always conducted at the request of the entire Cabinet, not the Prime Minister alone, although today it has effectively become the Prime Minister's prerogative.² Nevertheless, the monarch may still propose dissolution, and if the government refuses such advice, it could result in the dismissal of the ministry.³

Section Two

The Authority Empowered to Dissolve the House of Representatives under the Jordanian Constitution of 1952
Paragraph (3) of Article (34) of the Constitution provides that "the King may dissolve the House of Representatives."

From the wording of this provision, it is evident that the right to dissolve the House of Representatives is absolute. When such a right is expressed in this unrestricted form, it may indicate that dissolution is, from a constitutional and theoretical standpoint, a royal prerogative, whether the decision originates solely from the King's will or is made upon the request of the Council of Ministers.⁴ This interpretation was affirmed by the Jordanian Supreme Court of Justice in one of its rulings, where it held that dissolution under the Jordanian constitutional framework can only be royal in nature. The Court stated in its judgment: "... this right of dissolution adopted by the Jordanian Constitution is a royal dissolution".⁵

Constitutional scholars who support the inclusion of the right of dissolution in constitutions argue that, given the position of the head of state within the parliamentary system as an arbiter among the branches of government,⁶ he is guaranteed from any misuse of this power, especially when the exercise of such power is bound by constitutional restrictions and conditions. This ensures that its occurrence is characterized by utmost precision and constitutional discipline, and that it is only resorted to in cases of severe conflict between the legislative and executive branches that necessitate it. Ultimately, ⁽⁴⁾ Dr. Essam Suleiman, *Constitutional Gaps in the Role and Powers of the President of the Lebanese Republic, A Comparative Study*, First Edition, Human Rights Publications, Sader, Beirut, 2012, p. 46.

⁽²⁾ Robinson, *The political Quarterly*, London, 1976, P. 277.

⁽³⁾ The Queen cannot now in practice dissolve parliament without or against the advice of here Ministers. the queen may take the initiative in proposing a dissolution, but if Ministers refuse to advice a dissolution, they could only be dismissed.-PHillips, OHood, JACKson, Paul, *Constitutional and Administrative law*, 5, edit, London, 1973, p. 152

⁽⁴⁾ Dr. Al-Tamawi, Suleiman, op. cit., p. 525

⁽⁵⁾ Decision of the Supreme Court of Justice, *Journal of the Jordanian Bar Association*, Thirteenth Issue, Forty-fifth Year, December, 1997, pp. 4575-4578.

⁽⁶⁾ Dr. Sabri, Al-Sayyid, op. cit., p. 298.

Regardless of the debates surrounding it, the right of dissolution represents a form of popular referendum, intended to establish a direct and continuous connection between the people and their representatives, thereby enabling the people to exercise governance.¹

In practice, however, dissolution may be royal or ministerial, since the discretion ultimately lies with the King, even if the Council of Ministers requests the dissolution. Thus, under the Jordanian constitutional system, the King's right of dissolution is among the discretionary powers vested in him, granting him full authority to decide whether or not to exercise it. An examination of the practical applications of parliamentary dissolution in Jordan shows that, in most cases, it has been exercised upon the request of the Council of Ministers, usually following disputes between the government and the House of Representatives and a breakdown of cooperation between the two branches. Constitutional precedents also indicate that the King has, at times, requested the government to proceed with dissolving the House of Representatives, and such a request has been explicitly stated in the Royal Decree assigning a Prime Minister to form a government tasked with carrying out the dissolution.²

A question naturally arises in this context: what is the extent of the King's authority when the Council of Ministers, represented by the Prime Minister, requests the dissolution of Parliament? This matter has been widely discussed in constitutional scholarship within the parliamentary system. Some scholars maintain that the head of state must comply with the request of the Council of Ministers, as the latter is presumed to be capable of managing state affairs and serving its interests, and the head of state has no discretion in this regard. Moreover, since the Council of Ministers bears political responsibility³ before the legislature, it should assume accountability for the dissolution. Conversely, another school of thought contends that the head of state should have discretionary authority concerning such a request, allowing him to reject it under certain circumstances.⁴ Within the Jordanian constitutional system, some researchers argue that, from a theoretical constitutional standpoint, the King ought to act in accordance with the opinion and advice of the Council of Ministers, since it shields him from responsibility before the House of Representatives. However, if the King holds a contrary view, the Council of Ministers must ultimately comply with his wishes; otherwise, he retains the power to dismiss it.⁵

Accordingly, it can be concluded that, although the right of dissolution is constitutionally vested in the King, whether exercised as a royal or ministerial act, it nonetheless requires harmony and concurrence between the King and the Council of Ministers regarding all ⁽¹⁾ Dr. Abbas, Khalid, op. cit., p. 128.

⁽²⁾ The letter of the Prime Minister's Royal Mandate states: "I ask you to form a transitional ministry to dissolve the parliament and hold elections for a new parliament within the constitutional period." Dr. Hamdan, Ibrahim, op. cit., p. 528.

⁽³⁾ Dr. Al-Ahwani, Anwar, Head of State in the Democratic System, Ph.D. Thesis, Faculty of Law, Cairo University, 1945, 169.

⁽⁴⁾ Jennings, Cabinet Government, 3rd edit, London, 1969, p. 491

⁽⁵⁾ Dr. al-Hiyari, Adel, op. cit., p. 620.

Aspects and surrounding circumstances of the decision to dissolve the House of Representatives.

Chapter Two

Formal Constitutional Restrictions Preceding the Dissolution of the House of Representatives

The act of dissolution is subject to several preliminary constitutional restrictions. The most important of these is the issuance of a Royal Decree in accordance with the constitutional requirements stipulated in Article (40) of the Constitution, which mandates that such decree must be signed by the Prime Minister and the competent minister. In the same context, the constitutional legislator also prohibited the dissolution of two consecutive Houses of Representatives for the same reason. Based on the foregoing, these restrictions shall be addressed in two sections as follows:

Section One

Issuance of a Royal Decree for Dissolution

Comparative constitutions differ on the decision to dissolve the implementation of the next ministerial signature rule or not, as some of them exempt the dissolution decision from the implementation of the adjoining ministerial signature rule, i.e., the dissolution decision is signed by the head of state alone without the ministry's participation in signing the dissolution decree. While the majority of the constitutions went to subject the decision to dissolve the parliament to the rule of adjoining ministerial signature. We will address the constitutional conditions that must be met in the decision to dissolve the House of Representatives, and the legal impact on the violation of these conditions in two sections as follows:

Subsection One: The Requirement of a Royal Decree for Dissolution

The Royal Decree, issued in the name of the King, is the legal instrument through which he exercises his constitutional powers. This decree must include the date of its issuance, as the decree of dissolution is not legally valid and produces no legal effect except from the date of its issuance. The date is of particular importance because of its implications for the rights and obligations of the members of the House of Representatives, such as their financial remunerations and parliamentary immunity.¹ It is also significant because it marks the beginning of the four-month period from the date of the issuance of the dissolution decision, during which general elections must be held, in accordance with Paragraph (2) of Article (68) of the Constitution..

Based on the above, the decision to dissolve the House of Representatives in the Jordanian constitutional system is subject to the rule of ministerial countersignature. This rule has its constitutional foundation in Paragraph (1) of Article (40) of the Constitution, which stipulates that notwithstanding what is stated in Paragraph (2), "the King shall exercise his powers by a Royal Decree, and the Royal Decree shall be signed by the Prime

⁽¹⁾ Dr. Hamdan, Ibrahim, The Head of State in the Democratic System, A Comparative Study with a Study of the Jordanian System, Ph.D. Thesis, Faculty of Law, Ain Shams University, 1981, p. 58. Minister and the Minister or Ministers concerned. The King shall express his concurrence by placing his signature above the said signatures." Accordingly, the first Paragraph of Article (40) of the Constitution requires that both the Prime Minister and the competent minister, namely the Minister of Interior, sign the decision to dissolve the House of Representatives. By implication, it is impermissible for the Prime Minister or the competent minister to delegate their signing authority to any other minister or to the secretaries-general of the relevant ministries. This rule is not

merely a procedural formality but rather an expression of a constitutional competence that entails ministerial responsibility for the exercise of constitutional powers. Both signatures constitute the legal foundation for the legitimacy of the dissolution decision.¹

This rule essentially defines the constitutional manner by which the King exercises his constitutional powers. It is a principle inherent in the parliamentary system and arises from the concept of distributing constitutional authority between the head of state and the ministry. The legal basis for this rule lies in the principle that the head of state is not personally accountable,² which necessitates transferring part of his powers to the Council of Ministers, allowing it to bear political responsibility in his stead. Consequently, the head of state may not exercise his powers in public affairs except with the participation of the Council of Ministers.³ Their exercise unilaterally is only an exception to the general principle.

The Royal Decree must also be issued personally by the King or by his deputy acting on his behalf, in accordance with Paragraph (i) of Article (28) of the Constitution.⁴ The constitutional position of the Deputy of the King allows him to act in the King's absence; thus, the Deputy may sign the decision in the King's absence, unless the royal decree appointing him explicitly excludes him from exercising this authority.

Section Two: The Legal Effect of Violating the Adjoining Ministerial Signature Rule in the Dissolution Decision

Since the constitutional legislator required that the Royal Decree issued by the King be signed by the King, the Prime Minister, and the Minister of Interior,⁵ any absence of one of ⁽¹⁾ Dr. Al-Tabatabai, Adel, The Adjoining Ministerial Signature Rule Signature in the Parliamentary System, Journal of Law, Year 9, No. 3, Kuwait University, Kuwait, 1985, p. 12.

⁽²⁾ Article 30 of the Jordanian Constitution of 1952 provides that “the King is the head of the State and is innocent from all liability and liability”.

⁽³⁾ Dr. Bassiouni, Abdel Ghani, The Power and Responsibility of the Head of State in the Parliamentary System, Ma'arif Foundation, Alexandria, 1991, p. 27.

⁽⁴⁾ Article 28, Paragraph (i) of the Constitution provides that “if the King intends to leave the country, he shall appoint, by royal will, a deputy or a prosecutor to exercise his powers during his absence, and the deputy or prosecutor shall take into account any conditions that may be included in that will...”.

⁽⁵⁾ The Constitution requires the signature of the Minister of the Interior, on the grounds that the Ministry of the Interior is responsible for the preparation and supervision of these three signatures renders the dissolution decision procedurally defective, and consequently, the decision of dissolution becomes null and void. This was confirmed by the High Council for the Interpretation of the Constitution in its Decision No. (1) of 1956. The decision stated:

“.....Based on the request of the Council of Ministers, the High Council convened to interpret Paragraph (3) of Article (34) of the Constitution and to clarify whether this Article permits the dissolution of the House of Representatives by a Royal Decree signed solely by the Prime Minister, or whether it must be signed by the King, the concerned minister or ministers, in addition to the signature of the Prime Minister. It also inquired whether the Royal Decree issued on December 19, 1955, dissolving the House of Representatives, which was signed only by the Prime Minister, fulfilled the constitutional requirements.”

After reviewing the aforementioned Council of Ministers' decision and examining the relevant constitutional provisions, we have determined the following:

1- Paragraph (3) of Article (34), which is the subject of interpretation, states that ‘the King may dissolve the House of Representatives.’ ⁽¹⁾ the elections from the beginning of the preparation of the electoral schedules until the announcement of the results. This situation preceded the amendment of the Constitution in 2011, on the basis of which the Independent Electoral Commission was established.

⁽¹⁾ – Article 40 of the Constitution stipulates that “the King shall exercise his powers by royal will, and the royal will shall be signed by the Prime Minister, the competent minister or ministers, and the King shall give his consent by affirming his signature on the aforementioned signatures.

4- Article (30) of the Constitution stipulates that “the King is the head of the State and is immune from

all liability and liability.

5- Article 51 of the Constitution stipulates that “the Prime Minister and the Ministers are jointly responsible to the House of Representatives for the general policy of the State, and each minister is responsible to the House of Representatives for the work of his ministry.”

Article 49 of the Constitution states that “the King’s verbal or written orders do not absolve ministers of their responsibility.”

It is clear from these texts that the third Paragraph of Article (34) which is required to be interpreted, although it has delegated the right of the House of Representatives to His Majesty the King, but Article (40) thereof outlines the manner in which His Majesty exercises this right or any of his other rights related to public affairs, stipulating that the King exercises his powers by a royal will signed by the Prime Minister and the competent minister or ministers.

This rule derives from the fundamental principle that the responsibility of the King is lifted from the King and limited to the Ministers, in accordance with the provisions of Articles 49, 30 and 51 listed above, since the Ministry in its exercise of the executive authority is responsible for public policy, it must participate in the signing of the will in which His Majesty the King exercises his powers in order to assume responsibility in accordance with the rules of ministerial responsibility stipulated in the Constitution.

Therefore, any Royal Decree through which His Majesty the King exercises one of his powers related to public affairs of the State is not constitutionally valid under Article (40) unless it is signed, along with the King, by:

- The Prime Minister.
- The minister or ministers concerned.

This is evident from the wording used by the drafter of the Constitution in Article (40), where the phrase ‘the minister or ministers concerned’ was conjoined to ‘the Prime Minister’ with the conjunction ‘and’, which indicates combination, not ‘or’, which indicates choice between two alternatives. From this, it follows that the Royal Decree dissolving the House of Representatives is not constitutionally valid unless it bears the signature of the concerned minister or ministers in addition to that of the Prime Minister. This is what we affirm in interpreting the Article in question. Issued on 4/1/1956.”¹

Based on the above, it can be concluded that the failure of the Royal Decree of dissolution to include the required signatures, pursuant to Paragraph (1) of Article (40) of the Constitution, renders the decision constitutionally unlawful, which necessitates its annulment for violating the Constitution.

Chapter Two

The Restriction of Non-Repetition of Dissolution for the Same Reason for Which the Previous House Was Dissolved

This restriction is among the most crucial limitations that must be met in the decision to dissolve the House of Representatives, as it clarifies the motives and reasons that led the competent authority to take such action. This reason should, as a general rule, be stated in the dissolution decision if the constitutional legislator so requires. However, it is not legally mandatory unless explicitly required by the Constitution. Nevertheless, even if the Constitution mandates stating the reason, it may still be violated by omitting it in the dissolution decision.² Accordingly, this section will clarify the concept of reasoning and its applications in certain constitutional systems.

¹ Decision of the High Council for the Interpretation of the Jordanian Constitution No. (1) of 1956, prepared by Muhammad Theeb al-Masri, Collection of Interpretative Decisions issued by the Special Bureau for the Interpretation of Laws and the High Council for the Interpretation of the Constitution, Part Two, issued by the Jordanian Bar Association, Amman, p. 995.

⁽²⁾ Dr. Farraj, Zain Badr, op. cit., p. 113.

Section One

The Concept of Non-Repetition of the Dissolution of Two Consecutive Houses for the Same Reason and Its Forms

Reasoning, in constitutional law, is subject to the general rules that govern it under administrative law. Since the Royal Decree issued by the King to dissolve the House of Representatives is considered an administrative decision,¹ reasoning is regarded as one of the essential elements of an administrative decision. It refers to the disclosure of the legal and factual grounds upon which the administrative decision is based, whether such disclosure is required by law, imposed by judicial authority, or provided voluntarily by the administration.¹

As a general rule, every administrative decision must be founded on a reason. However, the administration is not obliged to state the reason for its decision unless an explicit provision requires it, as it is presumed that every decision rests upon a lawful reason unless proven otherwise. Nevertheless, some constitutions explicitly or implicitly require that the decision of dissolution be reasoned.

The principle of non-repetition of dissolution for the same reason, as one of the guarantees regulating the dissolution of representative councils, means that once the House of Representatives has been dissolved for a particular reason, it may not be dissolved again for that same reason which had led to the dissolution of the previous House.

In line with this guarantee, the decision to dissolve the House of Representatives must be reasoned, that is, it should include the causes and motives that prompted its issuance. This is because, when the people express their opinion on the matter of dissolution through new elections following the dissolution, there would be no justification for dissolving the new House again and consulting the people on the same issue. Otherwise, this would constitute manipulation of the public will.²

The forms of reasoning concerning the dissolution of legislative councils in comparative constitutional systems are generally of two types: explicit reasoning and implicit reasoning.

First: Explicit Reasoning

Explicit reasoning means that the decision issued by the competent authority to dissolve the House must expressly include or state the reason or reasons that justify the dissolution, enabling public opinion to assess the constitutionality of the dissolution measure.³ These reasons may be predetermined by the constitution or may be left to the discretion of the competent authority.

Among the constitutions that have provided such a guarantee is the Kuwaiti Constitution of 1960, Article (107) of which stipulates: "The Amir may dissolve the National Assembly by a decree in which the reasons for dissolution shall be indicated. However, dissolution of the Assembly may not be repeated for the same reasons. In the event of dissolution, elections for the new Assembly shall be held within a period not exceeding two months from the date" ⁽²⁾ Dr. Al-Shatnawi, Ali, *The Jordanian Constitutional System*, Book Three, First Edition, Dar Wael for Publishing and Distribution, 2013, p. 381.

⁽¹⁾ Dr. Ibrahim, Gamal Othman, *The Mediator in Public Law, Administrative Justice, Principle of Legitimacy*, Council of State, Cancellation Lawsuit, 2001, p. 449.

⁽²⁾ Al-Wahidi, Fathy, *op. cit.*, p. 139.

⁽³⁾ Dr. Abdel Fattah Hassan, *Principles of the Constitutional Order in Kuwait*, Dar Al-Nahda Al-Arabi, Beirut, 1968, pp. 380-381. of dissolution. If the elections are not held within the said period the dissolved Assembly shall be restored to its full constitutional authority and shall meet immediately as if the dissolution had not taken place. The Assembly shall then continue functioning until the new Assembly is elected."

Within the context of explicit reasoning, some comparative constitutions have specified, exhaustively within their text, the reasons that may justify the dissolution by the competent authority. Consequently, the authority may not exercise this power unless one of the constitutionally defined reasons is present. This constitutional approach seeks to reconcile two notions: that dissolution constitutes an infringement upon the principle of the sovereignty of the nation, and that it remains legitimate when exercised within the discretionary power granted to the competent authority.⁴

Among such constitutions is the Lebanese Constitution of 1946, which, under Paragraph (14) of Article (65), provides: "It shall dissolve the Chamber of Deputies upon the request of the President of the Republic if the Chamber of Deputies, for no compelling reasons, fails to meet during one of its regular

sessions and fails to meet throughout two successive extraordinary sessions, each longer than one month, or if the Chamber returns the entire budget plan with the aim of paralyzing the Government. This right cannot be exercised a second time if it is for the same reasons which led to the dissolution of the Chamber the first time.” Regardless of the constitutional justifications for this approach, explicit reasoning of this nature has been criticized by some constitutional scholars on the grounds that it may lead to the dominance of the legislative branch over the executive authority, thereby disturbing the balance that should exist between the branches of government in a parliamentary system. Moreover, such limitation provides a form of protection for the legislative body itself.¹ Finally, some constitutions have disregarded the requirement of reasoning altogether, as did the Egyptian constitutional legislator in the 1971 Constitution, deliberately omitting such a guarantee, contrary to the earlier Constitutions of 1923 and 1956.² Article (88) of the 1923 Constitution stated: “If the House of Representatives is dissolved for a particular matter, the new House may not be dissolved for that same matter.”

Some Egyptian constitutional scholars justified this omission on the ground that the drafters of the 1971 Constitution surrounded the power of dissolution with the guarantee of a public referendum. Thus, they saw no need for the traditional provision prohibiting the⁽⁴⁾ There is a part of jurisprudence that considers the right to dissolve parliaments illegitimate because it represents an attack on the principle of the sovereignty of the nation. In the same vein, a part of jurisprudence believes that the dissolution is legitimate because it parallels the ministerial responsibility entrusted to the parliament to achieve a balance between the legislative and executive powers.

- See in detail: Dr. El-Sayed Sabri, *The Government of the Ministry*, The International Press, Cairo, 1955, p. 253. - Dr. Mustafa Abu Zeid, *The Egyptian Constitution and the Constitutional Control of Laws*, 1985, p. 485.

⁽¹⁾ Dr. Al-Tamawi, Suleiman, *op. cit.*, p. 557.

⁽²⁾ Article 111 of the Egyptian Constitution of 1956 is stipulated. “The President of the Republic has the right to dissolve the National Assembly. If the council is dissolved in a matter, the new council may not be dissolved for that matter.”

⁽³⁾ Dr. Al-Jamal, Yahya, *The Constitutional System in the Arab Republic of Egypt*, Dar Al-Nahda Al-Arabiya, Cairo, 1973, p. 236.

Dissolution of the new House for the same reason that led to the dissolution of the previous one.³ They also argued that this principle should be regarded as a constitutional norm implicitly applicable even without express mention, so long as no provision opposes it. In such a case, the complementary constitutional custom established under prior constitutions would mandate adherence to this rule.⁴ Accordingly, if the outcome of the public referendum, held after the President submits the issue of dissolving the People’s Assembly to the people, results in approval, this signifies a renewal of the people’s confidence in the President. Conversely, if the people reject it, this implies a withdrawal of confidence from the President.⁵

The current Egyptian Constitution of 2014 regulates the power to dissolve the House of Representatives and entrusts it to the President of the Republic under the provisions of Article () of the Constitution. This authority is not discretionary but is subject to several constraints and conditions. The Constitution provides that: “The President of the Republic may not dissolve the House of Representatives except in cases of necessity, by a reasoned decision, and after a public referendum. The House may not be dissolved for the same reason for which the previous House was dissolved....”

Second: Implicit Reasoning

Implicit reasoning is based on a constitutional provision that does not explicitly require the dissolution decision to be reasoned, yet such a requirement can be inferred implicitly by way of a *contrario* interpretation. This means that if the House of Representatives is dissolved for a specific reason, it may not be dissolved again for the same reason. Since this restriction prohibits the dissolution of two consecutive Houses for one and the same cause, it logically necessitates stating the initial reason for the first dissolution so that it may be determined whether the second dissolution is grounded on the same cause or on a different one. This can only be achieved if the reason for the first dissolution is known. This approach to reasoning was adopted by the Jordanian constitutional legislator in Paragraph (1) of Article (74) of the Constitution, which provides that: “If the House of Representatives is

dissolved for any reason, the new House may not be dissolved for the same reason.”

Section Two: The Legal Effect of Violating the Guarantee of Reasoning and the Extent to Which the Competent Authority Is Bound by It

Although the Jordanian constitutional legislator implicitly required that the decision of dissolution be reasoned, it did not specify the legal consequence of violating this guarantee, unlike certain other guarantees expressly regulated in the Constitution. Since this guarantee represents a fundamental constitutional guarantee embodying the principle of the sovereignty of the nation and the philosophy underlying dissolution as a means of consulting the people on the reasons for such action, it necessarily follows that the dissolution decision must be reasoned. A review of the practical applications of the dissolution of the Jordanian House of Representatives under the current 1952 Constitution shows that the Royal Decrees ordering dissolution have generally lacked any statement of reasons, with the sole exception of the⁽¹⁾ Dr. Abd al-Muta'al, Alaa, op. cit., p. 124.

⁽²⁾ Dr. Al-Sharqawi, Souad, Dr. Nassef, Abdullah, Constitutional Law and the Arab Political System, Dar Al-Nahda Al-Arabi, 1993, 1994, p. 634.

Dissolution of the First Legislative Council on 9 February 1931. In 1930, the government submitted a supplement to the state budget for the fiscal year 1930–1931, which included an allocation of 6,260 Palestinian pounds for the expenses of the Desert Force. These funds had already been spent in advance on the force formed that year by a British officer who had arrived from Iraq to put an end to tribal raids among the Bedouin tribes then in conflict, according to the declared purpose of the force.¹ The Council rejected approval of this supplement and refused the government's request to postpone discussion to the next session, as recorded in the seventh meeting of the extraordinary session of the First Legislative Council on 24/03/1930. The government refused to consider the budget supplement article by article; instead, it requested approval and a vote on it as an integrated law.

Faced with the obstinacy of the Legislative Council and its insistence on its position, which it expressed in the following statement: “Our Council insists on not accepting any amendments to the Budget Law nor postponing it to another time”² His Highness the Prince issued his decision to dissolve the Legislative Council.

Chapter Two

Post-Decision Guarantees for the Dissolution of the House of Representatives

The legislator did not limit the dissolution decision to some formal preconditions that must be followed before taking the action. Rather, some subsequent guarantees are required, which aim to prevent parliamentary absence so that the dissolution does not lead to the absence of the House of Representatives for a period longer than what its constitutional purpose allows. These guarantees will be addressed as follows:

Section One

The Obligation to Hold General Elections Following the Dissolution of the House of Representatives

The decision to dissolve the House of Representatives obliges the holding of general parliamentary elections in accordance with the constitutional distribution rules for exercising this authority. Article 34, first Paragraph, of the Constitution states that “the King issues orders for the holding of elections to the House of Representatives in accordance with the provisions of the law.” Following that, the Independent Election Commission selects the members of the new House to replace the dissolved House within the period set by the Constitution, which is four months. Article 73, first Paragraph, stipulates that: “If the House⁽¹⁾ It is worth mentioning in this regard that an agreement signed by Prime Minister Hassan Khalid Abu al-Huda and the British Authorized Officer granted the Iraqi Petroleum Company the extension of a pipeline to transport Iraqi petroleum on the eastern border of the Emirate to the port of Haifa. Through the areas of the northeastern Badia adjacent to the Iraqi border. - Al-Madi, Munib, Musa, Suleiman, op. cit., p. 336.

⁽²⁾ Jordanian Legislative Council Memoranda, No. 30/1931, Seventh Session of the First Legislative Council, p. 2. - It is worth noting that there was a budget deficit in Transjordan, which prompted the Prime Minister to request all state employees to economize on expenditures, a move that embarrassed the government before the Legislative Council. See: - Al-Hajjaj, Khalil, The Historical Development of Jordanian Legislative and Parliamentary Life 1920-1952, 1st ed., Arab Center for Student Services, Amman, 1994, p. 54.

is dissolved, a general election should be held so that the new House shall convene in a non-ordinary session not later than a maximum of four months after the date of dissolution. Such session shall be deemed as the ordinary session in accordance with the provisions of Article (78) of this Constitution and shall be subject to the conditions of prolongation and adjournment.”¹

The rationale behind requiring general elections within a maximum period of four months is to ensure parliamentary presence, which is one of the fundamental pillars of the Jordanian constitutional system. This is also affirmed by Article 1 of the Constitution, which stipulates: “The Hashemite Kingdom of Jordan is an independent sovereign Arab State. It is indivisible and no part of it may be ceded. The Jordanian people is a part of the Arab Nation, and its ruling regime is parliamentary with a hereditary monarchy.”

The Supreme Court of Justice confirmed this guarantee in its decision No. 19/75 of 1976, stating: “It is inferred from the provisions of Paragraphs one, two, and the added fourth Paragraph of Article 73 of the Constitution that if general elections are not held at the end of four months following the dissolution, the House immediately regains its constitutional powers as if the dissolution had not occurred. This does not mean that the Constitution considered the dissolved House to have been the sitting House during the period between dissolution and the return of the new House; it only means that the House immediately regains its constitutional powers upon reconvening.”²

The consequence established by the constitutional legislator in the event that general elections are not held within the four-month period specified by the Constitution is the automatic restoration of the dissolved House by law and by virtue of the Constitution. The Jordanian constitutional legislator emphasized that the dissolved House must resume all its various constitutional powers if the executive authority fails to call elections to form a new House. This is explicitly stated in the second Paragraph of Article 73: “If the election has not taken place by the end of the four months, the dissolved House shall restore its full constitutional power and convene immediately as if the dissolution had not taken place and shall remain in office until the new House is elected.”

Some constitutional scholars note that the attention of parliamentary constitutions to this guarantee, and the restoration of the dissolved House’s powers in case elections cannot be held, represents an effective guarantee against delaying the convening of the new House for any reason; it functions as a condition subsequent, and if this condition is not met, the dissolution decision is retroactively invalid.¹

Some scholars also argue that this measure is more of a political penalty on the government than a guarantee of parliamentary presence, as it effectively allows the absence of parliamentary oversight during the dissolution period, while other constitutional⁽¹⁾ Article 30 of the Basic Law of 1928 stipulates that “if the Legislative Council is dissolved, a general election shall be held and the new Legislative Council shall meet in an extraordinary session no later than four months after the date of dissolution.” Article 41 of the 1946 Constitution stipulates that “if the Chamber of Deputies is dissolved, a general election shall be held and the new Legislative Council shall meet in an extraordinary session no later than four months after the date of dissolution.”

⁽²⁾ This decision is mentioned in Khair, Hani, *Parliamentary Life in Jordan 1920-1993*, Publications of the Jordan History Committee, 1999, p. 190.

⁽¹⁾ Dr. al-Tamawi, Suleiman, *The Three Authorities*, op. cit., pp. 538-539. provisions require that government decisions during the dissolution be submitted to the parliament for review and opinion.²

It is also worth noting that the 2011 constitutional amendments strengthened the effectiveness of this guarantee, as it had previously lost some of its constitutional value and importance due to a provision allowing the King to postpone the holding of general elections. This provision was included in the Jordanian Constitution before the 2011 amendment in Paragraph four of Article 73, which states: “Notwithstanding the provisions of paragraphs (i) and (ii) of this Article, the King may postpone the holding of the general elections if a force majeure has occurred which the Council of Ministers considers as rendering the holding of elections impossible.” In application of this constitutional guarantee, general elections were held to select the members of the Ninth House of Representatives on 15/4/1967, that is, before the Israeli occupation of the West Bank. Its term ended on 18/4/1971, and due to the occupation of the West Bank, no parliamentary elections were held following this expiration, which necessitated extending the term of this House for two years, ending on 18/4/1973. Afterward, the National Advisory Council was formed. Then, a royal decree was issued restoring the dissolved Ninth

House on 9 January 1984, until its dissolution on 30 July 1988.³

Second Section

Prohibition of Exercising the Right of Dissolution During the Postponement of the Confidence Vote on the Cabinet or a Minister

While some constitutions prohibit the authority competent to dissolve the legislature from exercising this power before a specific period following the election, such as the Moroccan Constitution³ no such provision exists in the Jordanian Constitution. Accordingly, the competent authority may exercise the right of dissolution from the first session after the election. However, the constitutional legislator has prohibited the competent authority from exercising this right during the period in which the confidence vote on the Cabinet or on an individual minister is postponed. Referring to the provisions on ministerial responsibilityⁱⁿ the Jordanian Constitution,⁴ the House of Representatives may initiate ministerial accountability in two cases: either at the request of the Prime Minister or at the request of at least ten⁵ members of the House,⁶ the latter case, the government may request the House⁽²⁾ Dr. Al-Tabataba'i, Adel, Political Control of Government Activities during the Dissolution of Parliament, Journal of Law, Kuwait University, Fifteenth Year, Issues 2, 3, 4, 1991, p. 20.

⁽³⁾ Dr. Al-Attoum, Mustafa, The Jordanian Parliamentary System Without a Place of Publication, 1988, Amman, pp. 90-99.

⁽³⁾ Article 98 of the Moroccan Constitution of 2011 provides that “if one chamber is dissolved, the next chamber may not be dissolved until one year has elapsed since its election, except in the event that a government majority cannot be established within the new chamber of deputies.

⁽⁴⁾ Article 51 of the Constitution states: “The Prime Minister and the Ministers shall have joint responsibilities, and each Minister shall.”⁽³⁾ The first Paragraph of article 53 of the Jordanian Constitution stipulates that “a session of confidence in the Ministry or any minister thereof shall be held either at to postpone the confidence vote for a period not exceeding ten days. Accordingly, the second Paragraph of Article (54) of the Constitution provides: “A vote of no confidence in the Council of Ministers or in any individual Minister may be postponed only for one period, which shall not exceed ten days, either upon the request of the Minister concerned or of the Council of Ministers. The Chamber shall not be dissolved during this period.”

In our view, the legislator acted correctly in stipulating that the House of Representatives may not be dissolved during the postponement period of the confidence vote. Before the members of the House vote on the confidence in the Prime Minister or any minister, the Prime Minister or the minister has the right to request the postponement of that vote. If the executive authority were permitted to dissolve the House during this postponement period, it would nullify the constitutional right granted to the House of Representatives, which is parallel in effectiveness to the right of dissolution. This would disturb the balance between the executive and legislative authorities in the parliamentary system, favoring the executive branch over the legislature, and rendering the provisions on ministerial responsibility practically ineffective, reducing them to mere ink on paper, allowing the government to dissolve the House whenever it deems it may be held accountable through a confidence vote.

Third Section

Resignation of the Government During Whose Tenure the House of Representatives Is Dissolved

The second Paragraph of Article (74) of the Constitution provides that “the government - in the tenure of which the House of Representatives is dissolved - shall resign within a week from the date of dissolution; and its head may not be designated to form the government that follows.

The effect of this constitutional provision is that the entire government in office at the time of the dissolution, if it occurs before the end of the House's constitutional term by four months, must resign. This prevents governments from issuing a dissolution decision over minor constitutional disputes with the House of Representatives without bearing any consequences. Rather, it acts as a constraint on these governments, ensuring that they do not resort to dissolution except for fundamental reasons that make the continuation of cooperation between the authorities impossible, while they are simultaneously aware that their resignation will result from such dissolution.

It is worth noting that this guarantee represents one of the most effective guarantees in limiting the

executive authority's power to dissolve the House. The executive cannot take this action except for a substantial reason, which it must anticipate in advance, while knowing beforehand that it will be required to submit its resignation. This guarantee thus the request of the Prime Minister or upon a request signed by at least ten members of the House of Representatives”.

⁽⁶⁾ Dr. Al-Adaileh, Amin, op. cit., p. 122. reflects the principle of balance between the legislative and executive authorities, preventing the executive from overpowering the legislature.¹

One of the most important effects of this guarantee is that the constitutional legislator prohibits the Prime Minister from forming the new government following dissolution. This prohibition does not extend to the ministers, including the Minister of Interior who signs the royal decree. Additionally, the new government is not considered an interim government limited to conducting elections for the House of Representatives, which obliges it to resign after the elections are completed.

Conclusion

This study addressed the most important restrictions and guarantees related to the dissolution of the House of Representatives under the Jordanian Constitution of 1952. These provisions were primarily enacted to limit excessive or improper use of this authority by the competent authority, and violating them entails certain legal consequences and affects the legitimacy of the dissolution. The study reached a series of findings and recommendations, summarized as follows:

First: Findings

First: The right to dissolve the House of Representatives is one of the most critical means of controlling the legislative authority in a parliamentary system. It is an essential requirement to match, in effectiveness and impact, the right of the legislature to initiate ministerial responsibility, thereby achieving the intended balance between the executive and legislative authorities and preventing the dissolution from becoming a tool for executive domination over the legislature.

Second: The Jordanian constitutional legislator granted the King the right to dissolve the House of Representatives under the provisions of the third Paragraph of Article (34) of the Constitution, as an arbitrator among the authorities, within specific restrictions and guarantees to prevent abuse contrary to its constitutional framework. This ensures that dissolution does not become a means of dominance or control over the legislative authority. However, these guarantees do not achieve their constitutional purpose unless the competent executive authority respects the Constitution both in letter and spirit; otherwise, it can circumvent these guarantees by various means.

Third: The restrictions and guarantees provided in the core of the Jordanian Constitution did not prevent repeated use of the dissolution right until the constitutional amendments of 2011, which required the government in office at the time of dissolution to resign. This restriction is more effective than any other guarantee, as it protects the House of Representatives from being dissolved except in cases where it is necessary for the competent authority to act, thus reinforcing the balance between the two authorities.

Fourth: Successive Jordanian constitutions provided for the reasoning of dissolution. However, practical reality shows that the dissolution decision, the royal decree, was often not reasoned. In fact, practical applications of dissolving the House in the Jordanian constitutional system demonstrate that the royal decrees rarely included the reasons⁽¹⁾ Dr. Nasrawin, Laith, Studies Journal, University of Jordan, Sharia and Law Sciences, Volume 40, Issue 1, 2013, p. 228 of the issue. justifying dissolution, which undermined one of the fundamental guarantees of dissolution provided in Article (74) of the Constitution.

Fifth: The Constitution does not contain a provision preventing the dissolution of the House of Representatives until a certain period has passed since its election or under exceptional circumstances, such as the declaration of martial law or the Defense Law under Articles (124) and (125) of the Constitution.

Sixth: The constitutional legislator assigned constitutional effects in cases of violating the guarantees and restrictions provided in the Constitution. Among the most significant consequences for the government is the requirement to resign within one week from the date of dissolution. Some effects also fall on the dissolved House, requiring it to resume exercising its powers until the general elections for the new House are held.

Second: Recommendations

First: The constitutionally competent authority responsible for dissolving the House of Representatives should provide a reasoned justification for the dissolution and include it clearly in the royal decree. The purpose of this reasoning should be solely to achieve the fundamental objective of the dissolution, which is to consult the nation on the dispute between the House and the executive authority. Otherwise, it constitutes a violation of the constitutional provisions and an encroachment on the House of Representatives.

Second: The Jordanian judiciary should reconsider its approach of not classifying the dissolution of the House of Representatives as an act of sovereignty; otherwise, the guarantees and restrictions provided lose their significance from the outset, and the wisdom behind enacting them is undermined, reducing them to mere words on paper.

Third: The royal decree related to the dissolution of the House should include the signature of the Minister of Political and Parliamentary Affairs instead of the Minister of Interior, as the Minister of Interior no longer has a direct connection to the House of Representatives. This follows the constitutional legislator's assignment of supervision and oversight of the electoral process to the Independent Election Commission instead of the Ministry of Interior.

Fourth: Constitutional amendments should be made to certain guarantees, including:

- Reducing the maximum period within which general elections must be held from four months, as currently stipulated by the legislator, to two months, which we believe is sufficient time to conduct elections for the new House of Representatives.
- Explicitly prohibiting the dissolution of the House of Representatives within one year of its election, to give the House sufficient time to exercise its powers, assess public opinion regarding its performance, and allow it adequate time to deliberate in the event of a dispute with the executive authority before considering dissolution.
- Explicitly prohibiting the government from dissolving the House of Representatives during the enforcement of the Defense Law or the declaration of martial law under Articles (124) and (125) of the Constitution, given the constitutional legislator's exclusion of the House from any role in either declaring or ending such measures. This is necessary due to the serious consequences affecting public rights and freedoms, in line with comparative constitutions such as the French Constitution of 1958, the Egyptian Constitution of 2014, and the Kuwaiti Constitution of 1962.
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