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### **The Effects of the Resignation of The Prime Minister on the Public Authorities in the State Under the Constitution of Republic of Iraq for the Year 2005**

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#### **Abstract**

It is a constitutionally recognized fact that the Prime Minister has the right to submit his resignation whenever he finds himself unable to achieve his government program as a result of political, partisan or other pressures, this resignation must organize its procedures according to the constitution and the law, since the prime minister in parliamentary democratic systems is one of the important sovereign positions that have a significant impact on the reality of political and governmental work and may reach Its effect is to dissolve Parliament according to the nature of its mandate on the basis of its nomination by the most numerous parliamentary bloc, and since the resignation of the Prime Minister leads to the resignation of the government and its transformation into a caretaker government restricted to daily work that it performs, this restriction may negatively withdraw from disrupting the work of other authorities and according to the constitutional provisions of each country. In Iraq, whose constitution for the year 2005 stipulates that the system of government is republican, representative, parliamentary and democratic, which means that it has adopted the parliamentary system based on the flexible separation of powers, cooperation and balance between them. In turn, it leads to the resignation of the entire government, which means that the effects of the resignation have significant repercussions on the work of other authorities And the institutions of the constitutional state. Therefore, the research was interested in studying that effect and how the texts of the Iraqi constitution dealt with it, with comparison to the constitutions of countries that adopted the parliamentary democratic system, and whether those constitutional treatments were sufficient, or did the political reality leave negative effects on the work of other authorities.

#### **Keywords**

Not given

**JEL Classifications:** J11, F43

## **1. Introduction**

The parliamentary system is one of the political systems that depends in its nature on the position of the Prime Minister to the basic degree of running the country as he is the candidate of the parliamentary majority, so he has constitutional authority in contrast to the head of state, his role in it is limited to the honorific powers entrusted to him by the constitution. Therefore, we find that most studies and research have covered the political aspects of this position and everything related to his legal status and work. and whether the position is under the name of the Prime Minister, as is common, or the Prime Minister, as in Britain, or the Prime Minister, as in Iraq, or the Chancellor, as in Germany in all cases, he is the direct executive responsible for the general policy of the state, and this is what the Iraqi constitution for the year 2005 took. Therefore, his resignation can be considered one of the important matters that must be discussed and the extent to which other authorities are affected by this resignation. A caretaker government, and this practically happened in 2019, when the Prime Minister submitted his resignation, which is the first Since the formation of the Iraqi government according to the current constitution, and here a new political phase began in the Iraqi political system.

Indeed, the political forces began their consultations and discussions in order to choose a new prime minister, and that period lasted for more than six months, and the situation in Iraq was boiling politically, security and popularly, and that coincided with the end of the fiscal year, which led to the delay in approving the budget. For not being submitted by the government to Parliament, as well as other legislation important to the requirements of the stage also remained suspended due to the government's inability to prepare bills and send them to the legislative authority, since the government is concerned with submitting bills according to the Iraqi constitution and other matters that the constitution was silent about dealing with and the importance of the role of the Prime Minister in the management of the state, this topic was chosen to study and discuss the effects of his resignation on the public authorities in the state and according to the constitutional and legal texts that dealt with it in comparison with some constitutions , which was taken in the parliamentary democratic system and we will try to look in this study, which was divided into three sections, the first being devoted to examining the resignation of the Prime Minister through the definition

with the concept of resignation, its legal nature, and the party that has the right to accept it. The second topic was devoted to examining the impact of the prime minister's resignation on the work of an executive authority and government performance, and finally the third topic, the impact of the prime minister's resignation on the work of a legislative authority, and then ended with the conclusion that began with the findings. the study ended with recommendations that could be solutions to the problems raised by the research.

## 2. The Research's Methodology

Given the importance of the subject and in order to study it in a way that covers all its aspects, the researcher adopted the comparative analytical method by analyzing the texts of the Iraqi constitution for the year 2005 and comparing it with the texts of comparative constitutions with reference to the weaknesses and strengths in the constitutional texts to reach the results and recommendations at the end of the research.

## 3. The Research's Problem

The research discussed a very important problem that the Iraqi constitution did not address, which is the resignation of the Prime Minister and the implications of that resignation and the extent of its impact on the public authorities in the state. During the analysis of the problem, the researcher reached a set of conclusions and recommendations that may contribute to finding solutions to the problem.

**The first topic** / the concept of the resignation of the Prime Minister Resignation is a way to voluntarily end the job, and it begins with expressing the prime minister's desire to leave his political job at his own will or choice. The political atmosphere is no longer conducive to playing its role properly to the fullest extent, the resignation may sometimes be a veiled dismissal when the prime minister is forced to submit his resignation outside his will and left the government as a result of political or public pressures. We will learn more about the concept of resignation in this topic, which was divided into three demands. And the last topic will be to find out the competent authority to accept the resignation.

**The first requirement** / definition of resignation / Resignation means taking responsibility and moral commitment to the job position, and sometimes an implicit acknowledgment of the failure to manage tasks and follow-up (Al-Saghir, Hamed, his website 2012). The imposition of ministers on the Prime Minister without his desire to work with them may be a major reason for submitting the resignation, because he knows in advance that failure will be in front of the work of his ministry and sometimes the resignation to ward off a general loss. It may be an expression of dissatisfaction with the political situation. These concepts are in mature political systems and conscious civilized societies In our Arab societies, resignation is often empty of its content in bearing responsibility because we are facing a situation of dismissal or an escape from responsibility, and the concept of dismissal is still more established than the concept of resignation in the minds of Arab politicians because it leads to the loss of many personal gains achieved by the position and the importance of Resignation , we must review its definition, as we find that the Iraqi Civil Service Law regulates the resignation by stipulating that "the employee has the right to resign from his job." ..." (Iraqi Civil Service Law, Article 35) It did not address the definition of resignation in one way or another, as did the Egyptian legislator, where the procedures for resignation and acceptance by the administration are regulated "The worker may submit his resignation from

his job and the resignation shall be in writing and the worker's services are not terminated except by the decision issued to accept the resignation "(Egyptian Civil Workers Law No. 97), which means that the law implicitly recognizes that resignation is the right of the employee, minister, prime minister or deputy in parliament, as it is unreasonable to force him to work against his will. We find the basis for this right in the constitution, for example, the constitution of a republic Iraq for the year 2005 stipulated that "forced labor is forbidden..." (The Iraqi Constitution of 2005 AD 37/3) and the prohibition of forced labor means the permissibility of leaving or refraining from performing it. In the same direction, the Jordanian constitution went, as it stipulated that "compulsory employment is not imposed on anyone... (The Jordanian Constitution of 1952 AD 13) as well as the Egyptian Constitution of 2014 stipulates "No citizen may be obliged to work by force except by virtue of a law nor to perform a public service" (The Egyptian Constitution of 2014 AD 12). The Italian jurist Planet defined it as the employee leaving his job freely permanently, as it is a voluntary act on the part of the employee expressing his desire to leave the service permanently before he reaches the legal age set for leaving it (Abu Zaid, Abdul Hamid, Permanence of Public Utilities, 1998) The Arab jurisprudence defines resignation as the employee's desire to leave the service before reaching the legal age. Accepting the resignation would voluntarily break the bond of employment.

The request and the events of the legal effect of the resignation (Sheha, Abdel Aziz, the principles and provisions of the Lebanese administrative law, undated) and this definition is more detailed as it referred to the procedures for the employee's will to leave the job and the president's will to accept this resignation and the events of the legal effect, which means that it is a link Creating the legal effect of the president's acceptance of the resignation and expressing his will to do so, but what if the president did not accept that resignation in this aspect, the Iraqi administrative judiciary had a role in defining the functional resignation, as it defined it as the resignation at the request of the employee to express his will to leave the service and it begins with the submission of the request and ends with the issuance of The order to accept the resignation, and this can be explicitly or implicitly (Provision of the Iraqi Disciplinary Council No. 4 of 2005). Explicit acceptance is the express expression of the president to accept the resignation, but implicitly, it is with the president's silence, and the resignation is considered effective during a specific period specified by law (Iraqi Civil Service Law M/Second) in the case of Failure to respond to a request, which means that the employee continues his work until his request is decided.

### **The second requirement / the legal nature of the resignation**

The lack of constitutional provision for the resignation of the Prime Minister does not prejudice his right to resign, although this right needs a law regulating it. We may see many constitutions that did not explicitly stipulate the resignation of the Prime Minister and the procedures for resignation, including the Iraqi

constitution of 2005, but this right remains permissible for the Prime Minister and he can exercise it Whenever he wants, the conditions for resignation are fulfilled, and that resignation is for the public interest and not to disrupt the state. The internal system of the Council of Ministers has organized the procedures for resignation in Article (18 - first, and it stipulates that the president submits a request to be relieved of his position to the President of the Republic) and this means that the internal system An indication that the resignation is a voluntary act submitted by the prime minister to the competent authority to accept the resignation and permanently terminate the prime minister's job. The resignation is effective from the date of its acceptance. The resignation may be rejected by the competent authority, as happened with the rejection of the resignation of Lebanese Prime Minister Saad Hariri, which he submitted on October 29 2019 by the Presidency of the Republic, and this refusal made him return to the exercise of his duties as Prime Minister, because the President of the Republic has the competence to accept or reject, and from this it becomes clear that the legal nature of the resignation of the Prime Minister is a personal right regulated by law for the public interest. But if there are no constitutional and legal texts regulating it, it is possible Refer to the laws in force related to the administrative job and its provisions and analogy with it, and because this topic is one of the important topics that relate to the political and administrative matters of the state, so we find that the legislator is working on organizing the resignation of the Prime Minister and its procedures, whether it is in the law of the Council of Ministers through the internal system as in Iraq .

**The third requirement:** the competent authority to accept the resignation

The competent authority varies in accepting the resignation of the Prime Minister according to the nature of the political system if it is presidential, parliamentary, council or mixed. In every political system, there are mechanisms and procedures that can be followed when submitting the resignation of the Prime Minister to the competent authority. As we all know that jurisprudence, the judiciary and legal texts are settled on That the resignation would have no effect except by its acceptance by the constitutionally competent authority (Al-Taher, Zawaqri, Reasons for Isolating the Authority in Comparative Constitutional Law, 2013). To the Speaker of the House of Representatives and setting a time limit for its expiry, which is seven days (the Iraqi Constitution 2005 AD 75-first), while the position of the Prime Minister in the Iraqi parliamentary system is more dangerous and important than the position of the President of the Republic, and therefore there were several questions and a difference of opinion when Mr. Adel Abdul-Mahdi resigned in 2019 and the Cabinet's internal system No. 83 of 2019 was used to compensate for the shortfall in constitutional legislation, as Article 18 of it organized the resignation of the Prime Minister and stipulated that the Prime Minister submit Ministers may request the President of the Republic to be relieved of his position, and the internal system is satisfied with this, without specifying other procedures regulating the resignation and when the resignation will be effective and acceptable

. does the President of the Republic accept the resignation, or does that require submitting it to the Iraqi Parliament, since it is the body that gave confidence to the Prime Minister and what is the majority required to accept that resignation? When we look at some comparative constitutional texts, we find that there are several trends, and as we said earlier, that depends on the system. The political situation of each country, as the first direction goes to entrusting the task of approving the resignation of the head of state, as in the Jordanian constitution, which gave the power to appoint the prime minister to the king, i.e. he assigns him to form the government and he also has the right to accept the resignation of the prime minister (Jordanian constitution 1952 AD 35) and based on his personal desire or based on reasons that led to the impossibility of carrying out his duties in the best way, and often because of the tense relationship between the ministry and parliament, or the lack of harmony of the ministerial team itself, and the king has the right to accept the resignation or not (Al-Debs, Issam Ali, Political Systems, Book One, 2010). The Jordanian constitution specified the authority concerned with appointing and accepting the resignation or dismissal of the king in accordance with his constitutional powers, as did the French constitutional legislator in the 1958 constitution of France, Where it gave the President of the Republic the power to accept the resignation request of the Prime Minister if the National Assembly agreed to a motion blaming the government or if it did not agree with the government's program or a statement of general policy (French Constitution 1958 AD 50), meaning that the Constitution specified the President of the Republic as the party to which it was submitted. Resignation so that he can use his right (Sadiq, Hazem, the authority of the head of state between the parliamentary and presidential systems, 2013). The president may be the reason why the Prime Minister submits his resignation, as happened with Michel Debray in 1962 and Georges Pompidou in 1968 during the era of President Jacques Chirac (Radi Helen Riad, Master's Thesis, Problems of the Prime Minister's Resignation Under the Constitution of the Republic of Iraq for the year 2005, 2021) The Lebanese Constitution of 1926, as amended in 1990, did not differ in organizing the resignation of the Prime Minister. With him in signing it the head of the government and the minister or competent ministers, except for the decree naming the government and the decree accepting the government's resignation or considering it resigned." The head of state often asked the prime minister to submit the government's resignation and that the decree that Issued by the head of state approving the resignation of the government is the one who legally ends its existence (Shukr, Zuhair, mediator in Lebanese constitutional law m.2, 2006)

The President may accept or reject the resignation, as happened when Mr. Saad Hariri submitted his resignation to the Head of State on October 29, 2019 and went to the Presidential Palace to submit his resignation to President Michel Aoun as a result of the demonstrations that swept Lebanon. Ministers. The other direction is to grant the power to accept the resignation to Parliament after submitting it to the Head of State, as in the Egyptian Constitution of 2014 "The President of the

Republic may exempt the government from performing its work provided the approval of the majority of the members of the House of Representatives” (Egyptian Constitution 2014, AD 147). The resignation is effective after the vote on it and its acceptance by the Egyptian People’s Assembly, which is the body specified by the constitution to accept the resignation. As for the Tunisian constitution of 2014, it had a third direction, as Article 98 of it stipulated, “The resignation of the prime minister is considered the resignation of the entire government and the resignation is submitted to the President of the Republic, who knows By the Speaker of the House of Representatives of the people...” meaning that the constitutional body authorized to accept the resignation of the head of state and inform the parliament is a formal procedure unless the prime minister asks the parliament to vote on restoring confidence for the government to continue its work again. The constitutional legislator did not address it in the first place, and as was previously indicated, the prime minister in Iraq submits his resignation to the head of state according to the internal system of the Iraqi Council of Ministers without the president having the authority to accept the prime minister’s resignation. Rather, the matter requires submitting the resignation to Parliament and it is effective from the date of its approval by an absolute majority of the number of members of Parliament after achieving a quorum (Taleb, Mosaddeq Adel, the constitutional and legal regulation of the resignation of the Iraqi Prime Minister in the Constitution of the Republic of Iraq for the year 2005, 2020). The competent authority to accept it and its procedures explicitly is not subject to interpretation and interpretation.

***The second topic*** / raised the resignation of the Prime Minister on the executive authority

One of the constitutional principles and norms is that the resignation of the Prime Minister leads to the resignation of the entire government, and this last resignation results in some effects, including making the government a caretaker government only, and this may lead to early elections and the formation of a new government, and we will discuss those effects successively in this topic.

### **3.1 The first requirement is the resignation of the government**

The constitutional texts may differ according to the political system of each country about the procedures for the resignation of the government resulting from the resignation of the prime minister and who will occupy this position when vacancy or resignation, but it is established in democratic systems that governments are formed on the basis of the program they present and the promises made by the winning party to itself during elections Therefore, the resignation of the prime minister who sought to form his government and his selection of members compatible with him are able to implement his government program.

It will affect the entire government performance. Whatever the reasons for the resignation of the Prime Minister, it will lead to the resignation of the entire government, as is the case in the Iraqi constitution.



The current one has the withdrawal of confidence from the Prime Minister and his dismissal (Iraqi Constitution 2005, Article 61 / VIII/3). In the same direction, the current Kuwaiti constitution, which stipulates the resignation of the Prime Minister or his dismissal from his post, includes the resignation of all ministers or their dismissal from their positions (Kuwaiti Constitution 1962, AD 129) This is what happened in practice when the Emir of Kuwait accepted the resignation of Mr. Sweden's ministers resigned after failing to pass the budget bill, as her resignation led to the resignation of the entire government and justified the resignation that a coalition government should resign in the event that a party withdraws from it (website [www.frae24.com](http://www.frae24.com)).

### **3.2 The second requirement / caretaker government**

The caretaker government is defined as that government that transformed from a natural government with full powers to a government with limited powers, as it is the transitional period between the procedural executive rule and the limits of securing government work within its administrative limits due to the government's resignation or considering it as resigned when its conditions are met according to the constitutional and legal texts (Al-Shahimi, Mohieddin, The Concept of the Caretaker Government Comprehensive Study, 2017) As we saw in the previous demand that the resignation of the government is the result of the resignation of its head in most, if not all, constitutional texts in parliamentary systems, and this resignation leads to the inevitability of transforming the government into a caretaker government. It is a necessity for the continuity of the state, as the resigned ministry continues to carry out its normal work, and this is what the constitutional texts have taken into consideration (Lebanese Constitution: Article 64/2 The resigned government does not exercise its powers before gaining the confidence nor after its resignation or considering it resigned except in the narrow sense of the conduct of business).

And that the normal work carried out by the caretaker government in the work of the ministry is the administrative aspect of the government that does not involve commitment to a new policy (Saleh: Rafea Shubra and Mashari: Karim Lafta, procedures for determining the political responsibility of the ministry and its effects on the parliamentary system, a comparative study, 2015) That is, the responsibility of the ministry or one of its members does not present political results as long as this ministry has lost the confidence it enjoys on the part of the House of Representatives and is no longer able to take political decisions (Saifan, Ahmed, Political Systems and Constitutional Principles, 2008) and this is what the Iraqi constitutional legislator went to Also in dealing with the situation of the resigned government, as paragraph (61/eighth/d) stipulates that "in the event of a vote of confidence from the entire Council of Ministers, the Prime Minister and the ministers shall continue in their positions to conduct daily business for a period not exceeding 30 days until the formation of the Council of Ministers." The new in accordance with the provisions of Article 76 of this Constitution "that is, that the Prime Minister and



ministers continue in their positions to conduct daily business (Khaled, Hamid Hanoun: Principles of Constitutional Law and the Evolution of the Iraqi Political System, 2011). This text was adopted when presenting Mr. Adel Abdul-Mahdi resigned in 2019 because the constitution did not regulate the resignation of the Prime Minister as referred to in the first topic of this research, which means that the caretaker government is a restricted government to ensure the daily conduct of those ministries or entities not associated with a ministry for the permanence of life in the state and its non-stop (Manati, Ghassan Laibi, caretaker government, thesis Ph.D., 2010) and I think that the caretaker government should end according to the constitutional period and not extend that period under any pretext because this will lead to disruption of the political side of the government as well as other strategic decisions that some governments may deliberately evade from taking under the pretext of resignation because the political reality It appears to us that some governments carry out important tasks despite being a caretaker government under the influence of exceptional circumstances in the event of war, for example, or economic crises (the Ariot government in France asked Parliament to vote on a law to cleanse the financial situation of the state, and Parliament ratified several agreements held by the government. Same source: pg. 13)

### **3.3 The third requirement: holding early elections**

It is common knowledge in parliamentary democratic systems that the resignation of the government leads to the dissolution of Parliament and the call for early elections by the executive authority. That the constitution completely ignored early elections on this basis, except in its reference to the holding of elections when parliament is dissolved according to the mechanism specified by the Iraqi constitution (the Iraqi constitution for the year 2005: AD 64), provided that the President of the Republic, when dissolving the House of Representatives, calls for general elections in the country within a period of time. A maximum of 60 days from the date of the dissolution, and the Council of Ministers in this case is considered resigned and continues to manage daily affairs. The Iraqi constitutional legislator would have preferred to make the dissolution of Parliament linked to the resignation of the ministry as a kind of balance between the legislative and executive powers in accordance with the principles of the parliamentary system, but the practical reality that happened in 2019 When the government resigned, early elections were called, which took place on 10/10/2021, but this call was the result of popular and public pressure imposed on the alternative government that was formed after the resignation of the previous government, which called for early elections despite the absence of constitutional texts stipulating that That and this matter sparked a deep debate about the constitutionality of holding early elections in Iraq, as there is no clear constitutional text regulating this type of election, and if the constitutional legislator had neglected to organize the prime minister's resignation because apparently he did not expect it to happen one day. The resignation of an Iraqi prime minister due to the political consensus that occurs

when forming the government, but after what happened in 2019, the constitutional texts must be reviewed and included in the text on the resignation procedures. Iraq is based on the most numerous parliamentary bloc (the Iraqi constitution of 2005: AD 76), and therefore the government's failure to perform its duties and its resignation means the failure of the parliamentary bloc (the majority) to meet the aspirations of the people B and implementation of its political and governmental programmes. The United Kingdom of Britain in 2017 witnessed the holding of early elections at the request of Prime Minister Theresa May, and her request was approved by Parliament, the British House of Commons, with an almost unanimous vote, and this was shortly after the official start of the process of withdrawal from the union. The European (website: ar.m.Wikipedia.org) Thus, these early elections will be the third in four years. In the end, we can say that the work of the executive authority continues during the resignation of the prime minister, but with constitutionally restricted powers in line with the day-to-day affairs of the state.

**The third topic** / the effects of the resignation of the Prime Minister on the legislative authority

One of the main tasks of the legislative authority is legislation and oversight. This is one of the original tasks in international constitutions with democratic systems based on the principle of separation of powers. The nature of this separation is affected by the democratic system. Al-Dustourian, 1990) As for the parliamentary system, the separation of powers is flexible (Al-Debs, Essam, a previous source), so the effects of the resignation of the government are clear on Parliament in parliamentary democratic systems because of the relationship of cooperation and balance between the two authorities (Sheha, Abdel Aziz and Muhammad Refaat Abdel Al-Wahhab, Political Systems and Constitutional Law, 1998) and this can be seen through the effect of the resignation on the legislative work, as well as the approval of the budget in the event that the resignation took place on the constitutional dates for preparing the budget, in addition to its impact on the oversight function of Parliament. We will show that through this topic in three demands the first requirement: the effects of the prime minister's resignation on legislative work. The legislative function is the main function of Parliament, as it is the holder of the original jurisdiction and general jurisdiction in legislation, whether it is ordinary or financial legislation, as well as the ratification of treaties and agreements after their conclusion by the government to be in the form of a law, and it may come to the minds of many that the resignation of the Prime Minister will not affect The legislative competence of Parliament is in accordance with the principle of separation of powers, but in the practical application of the provisions of the Iraqi Constitution of 2005, we find that there is a significant impact on legislative work, as Article 60 stipulates: "First: Draft laws are submitted by the President of the Republic and the Council of Ministers, Second: Law proposals are presented by ten of the Members of the House of Representatives or one of the specialized committees" which means that bills are presented by the President of the Republic and the Council of Ministers, and when the Council of Ministers is

restricted in the conduct of daily business, it will be unable to submit bills to Parliament, and the House of Representatives is also unable to prepare bills and legislation According to the opinion of the Federal Court in its decisions (43-44)

On 12/7/2010 (In the text of the decision of the Iraqi Federal Court to cancel the Law of Disengagement of Municipalities and Public Works Departments No. 20 of 2010 for violating the provisions of Article 60 of the Constitution, the law was submitted as a proposal by Parliament and its draft was prepared in Parliament and voted on in While the submission of draft laws is exclusively through the President of the Republic and the Council of Ministers) thus, the constitutional legislator has distinguished between the proposed law and the draft law, and accordingly, the resignation of the Prime Minister and the transformation of the government into a caretaker government will have a significant impact on the legislative work, especially if the period of conducting business is prolonged, as happened with the government of Mr. Adel Abdul Mahdi, whose government continued to conduct business For more than six months, he resorted to voluntary absence from the Council of Ministers through his letter dated 2/3/2020 addressed to the President of the Republic and the Speaker of the House of Representatives. Absence of the Prime Minister As for Iraq, the Cabinet's Bylaw No. 2 of 2019 dealt with cases of absence of the Prime Minister and ministers in Article (/ IV) of it, as it specified the replacement of the minister in his absence in specific cases (1- Missions outside Iraq 2- Enjoying a regular vacation 3 - Enjoying sick leave 4- Any legitimate reason) In light of these four cases, the president assigns one of his deputies or ministers, in addition to his duties, to carry out the task of the absent minister. As for the alternative that replaces the prime minister in his absence, Article (3) deals with the system is that the meeting is held under the chairmanship of whoever he authorizes from his deputies or any of the ministers, and neither the law nor the bylaw provides for voluntary absence, which can be considered perjury because it leads to disruption of the work of ministries, especially a caretaker government.

**The second requirement:** the effects of the prime minister's resignation on approving the budget

The Article (62/first) of the Iraqi constitution for the year 2005 stipulates that the Council of Ministers shall submit the draft general budget law and the final account to the House of Representatives for approval. Chapters and sections of the general budget, as it is known that the budget is defined as a plan that includes an estimate of the state's expenditures and revenues during the coming period, often a year. The state's general budget is authorized by Parliament, if the budget does not acquire the status of legitimacy except after the approval of the legislative authorities on it, otherwise it will remain legal mere proposals and perceptions that cannot be implemented on the ground (Thneibat, Muhammad Jamal, the science of finance and financial legislation , 2003) .Through the foregoing, we find that the government is responsible for presenting the draft budget law, because it is the most knowledgeable and knowledgeable about the size of its revenues and what it needs to spend during the fiscal year. Parliament remains the competent authority

to authorize the disposal of public money and the implementation of the budget (Jeri, Muhammad Abd, the duties of a member of Parliament And his rights, a comparative study, 2014) and this means that the transformation of the government into a caretaker government will prevent its capabilities by submitting the draft budget law to Parliament and thus disrupt the parliament's role in the budget decision, especially if this coincides with the end of the fiscal year or the beginning of the new year, and the government may not be late in preparing The budget and send it to Parliament. Therefore, most constitutions specify the time period in which the draft general budget must be submitted by the government to Parliament, and it is usually two months before the beginning of the new year or at least one month before the start of the fiscal year, as determined by the constitution ( Article 124 of the amended Egyptian Constitution for the year 2014 specified the time period of ninety days before the start of the fiscal year, Article 109 of the Bahrain constitution specified the time period as two months before the beginning of the fiscal year) Failure to approve or delay the budget will negatively affect all aspects of the Iraqi state, and this is what actually happened in the budget of the year 20 20, which made the government work in the Financial Management Law No. 6 of 2019, which was amended in Law No. 4 of 20 20. This obstruction also applies to the failure to read Final Accounts by Parliament due to the lack of a budget.

The third requirement: the effects of the prime minister's resignation on the supervisory work

Oversight work means: Parliament's oversight of the executive authority in terms of its performance of the functions entrusted to it in accordance with the provisions of the Constitution (Abu Younes, Muhammad Bahi, Parliamentary oversight of government work in the Egyptian and Kuwaiti systems, 2002). Therefore, oversight work can be considered one of the basic and important functions of Parliament. It may be deeper than that because it is the cornerstone of democratic systems, and if it differs according to the nature of the political system, in the parliamentary system it differs from it in the presidential system and the mixed system. So that there is no control or tyranny of any authority over the other. The Iraqi constitution of 2005 stipulated a set of monitoring tools and means by which Parliament monitors the work of the government, and as it specified the consequences of using those tools, as follows: -

### **3.4 First - The parliamentary question**

A parliamentary question means directing questions to ministers to inquire about a matter that a member makes or with the intention of drawing the government's attention to a matter (Al-Tamawi, Suleiman and Othman, Khalil, Principles of Constitutional Law, a comparative study, 1956). It aims to draw the minister's attention to something in his ministry (Khaled, Hamid Hanoun: Political Systems, 2008). It is clear that the question consists of two parts, the first carries with it the question about information or data requested by the representative,

while the second part includes the supervisory meaning as the representative deliberately To draw the minister's attention to a specific issue or to avoid an error, and constitutions and internal regulations in parliaments have organized the questioning procedures (Article 61 / VII / A stipulates that the question is one of the control tools "A member of the House of Representatives may direct questions to the Prime Minister or the ministers in Any topic that falls within its competence and each of them has the answer to the members' questions and the questioner alone has the right to comment on the answer "as well as the text of the Kuwaiti constitution for the year 1960 in Article 99 of it) and through the nature of the parliamentary question, it is a very effective monitoring tool if it is used correctly and this kind of slavery Despite its importance, deputies rarely use it in their oversight work in Iraq (Jeri, Muhammad Abd, a previous source), so if the question is used very little in the normal situation, how will it be before a resigned caretaker government.

### **3.5 Secondly, the interrogation**

Interrogation is one of the important parliamentary oversight procedures over the work of the executive authority. It means the work that a member of Parliament officially assigns a minister to clarify the general policy of the government or clarify a specific point. It also means holding one of the ministers or the entire ministry accountable for certain behavior related to public issues. Interrogation may include cash. Because of the ministry's policy and denouncing it, which makes it more dangerous than the question (Nassar, Jaber Gad, Interrogation as a means of Parliament's oversight of the government's work in Egypt and Kuwait, 1999). The danger of interrogation here lies in the fact that it may include an insult to the government's policy. Therefore, most constitutions tend to surround it with more procedures. The question is complicated by the fact that it may end in the questioning of confidence in the interrogator and then withdrawing and dismissing him from his position or otherwise if Parliament is satisfied with the answer of the interrogator's defense (Al-Tamawi, Silman: Principles of Constitutional Law, previous source) and the interrogation is not limited to the matter between the representative and the interrogator only, but It may extend to discussions in which every deputy has the right to participate and continue to the end.

Representatives may resort to another type of censorship stipulated in Article (61/seventh/b) of the Iraqi constitution, which is a general topic for discussion. To clarify the policy and performance of the Council of Ministers or one of the ministries, it is submitted to the Speaker of the House of Representatives, and the Prime Minister or the ministers set a date to come before the House of Representatives to discuss it. Therefore, we find that most members of Parliament are reluctant to use interrogation, and the evidence is that the number of interrogations during one year is very few, and this means that members do not use Their right to interrogate (Shatnawi, Faisal, Parliamentary Oversight Means on

the Work of the Executive Authority in the Jordanian Constitutional System, 2001) In addition, the importance of interrogation is used in a way that does not achieve the desired results if it is used during the work of the caretaker government because the accusation here that raises Political responsibility and leads to the withdrawal of confidence from the minister who failed to defend himself during his interrogation is useless as he resigned and is awaiting the formation of a new government, but this may be taken into account in not seeking him again in a ministerial position due to his failure to perform constitutional duties. The Iraqi constitution has organized the interrogation procedures under Article (61). / Seventh / c) Its provisions are general, and in all cases, we see that the interrogation is inconsistent with adjusting the political situation of the caretaker government.

### **3.6 Third - Parliamentary Inquiry**

Parliamentary investigation is an important monitoring tool, and through it Parliament can monitor the work of the executive authority. Most constitutions are keen to stipulate this monitoring method, but that does not mean that the lack of provision for it in the constitution prevents Parliament from using this method of oversight (Laila, Muhammad Kamel, Political Systems: The State and the Government, 1967) and the Iraqi Constitution of 2005 did not provide for this oversight method, but the internal system of the House of Representatives has organized its procedures according to Article (32/second) thereof. By investigation, one deputy, as in the Kuwaiti and French political system, and the number may be more than that, as in Egypt, the number of members is not less than seven (the internal regulation of the Egyptian People's Assembly: Article 219).

(Article 32) of it regulates the parliamentary investigation procedures, and because the investigation procedures may take a long time, it is difficult to conduct a parliamentary investigation with the caretaker government, as well as being restricted to certain works away from the strategic decisions that were made. It may lead them to commit serious mistakes that require investigation, especially since the recommendations of the investigative committees are not binding on Parliament, but it remains the one who has the authority to decide the fate of the parliamentary investigation, whose punishment is political, either leading to the withdrawal of confidence from the minister who was questioned or the investigation to be terminated ( Nassef, Abdullah, The extent of the balance of political power with his modern international responsibility, 1981) and this opinion reinforces what was previously mentioned about the futility of conducting a parliamentary investigation with the ministers of the caretaker government.

### **3.7 Fourth, political responsibility**

It means the responsibility of the government, and it is one of the most important and most dangerous consequences that result from parliamentary oversight after the government commits mistakes and actions that harm the public

interest or violate the constitutional and legal rules. Constitutional law that it is the parliament's right to withdraw confidence from one of the ministers or from the entire government, which leads to the dismissal of the minister or the government as a result of withdrawing confidence from it (Khaled, Hamid Hanoun, Political Systems, a previous source), which means that responsibility may be raised individually towards one of the ministers or Solidarity is based on the solidarity of all ministers (Jeri, Muhammad Abd, a previous source).

The Iraqi constitution for the year 2005 took this kind of oversight in Article 61 eighth and arranged the procedures for withdrawing confidence from one of the ministers or the prime minister, which leads to the complete withdrawal of confidence from the ministry and this The procedure transforms the government into a caretaker government and thus disrupts the oversight role of Parliament before an article government that is restricted in conducting the usual daily business of the state, which means that the resignation or dismissal of the government The same constitutional effect is in disrupting the oversight role of Parliament, as it is not possible to raise the responsibility of a minister who is already resigned or an article due to a previous oversight procedure, but this does not absolve the government from responsibility for its actions that harm the public interest by raising its criminal responsibility before the competent courts Some to the administrative judiciary to challenge decisions of ministers that contradict the law or regulations and regulations that are not in accordance with the constitution.

#### **4. The Conclusion**

Through what was reviewed in the research, the researcher reached a set of conclusions and recommendations, which are:

##### **4.1 First, the conclusions**

- 1- The resignation of the Prime Minister is one of the cases that lead the Prime Minister to leave the position of his own free will, and this will lead to the resignation of the entire government and its transformation into a caretaker government.
- 2- The Prime Minister's resignation is not regulated in the Iraqi constitution, and the Cabinet's Bylaw No. 2 of 2019 only referred to the right to submit his resignation without stipulating the implications of this resignation.
- 3- There are effects that the resignation of the Prime Minister has on government and legislative work that the Iraqi constitution did not address and the text on it neglected.
- 4- Article 18 of the Council of Ministers' internal system referred to submitting the prime minister's resignation to the President of the Republic, and here it must be noted that the President of the Republic does not have the authority to accept the resignation except after the approval of the House of Representatives.



#### **4.2 Second / recommendations**

- 1- Amending the Iraqi constitution for the year 2005 in line with the political reality and its inclusion in the text of the resignation of the Prime Minister and that this resignation is submitted to Parliament and is accepted from the date of approval by a vote on it. When his resignation is rejected.
- 2- Parliament votes on the resignation within fifteen days from the date of its receipt, and a succession to be effective after the passage of the above-mentioned period, and the prime minister is considered to have resigned from his position.
- 3- That the resignation of the Prime Minister entails the resignation of the entire government and turns into a caretaker government from the date of accepting the resignation by voting on it.
- 4- Calling for early elections to be held within 60 days from the date of accepting the resignation, because the government granted confidence by the parliamentary majority and its work faltered and its failure to achieve its goals means that Parliament also failed to choose it and support the government, so there will be a guarantee for the government by Parliament for fear of a solution One of the pillars of the parliamentary system is the balance between the two powers.
- 5- Constitutionally stipulating that the public authorities in Iraq will not be affected by the resignation of the government, including granting Parliament the powers to legislate the necessary laws that are urgently needed during the government's work to conduct its business and within the limits required for legislation, since Parliament has the original competence to do so.

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