

JORDANIAN PARLIAMENT BETWEEN REALITY AND EXPECTATIONS

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ABSTRACT

In Jordan, a member of the legislative authority (the Representatives) is considered a representative, deputy, and delegate of the entire people in achieving the public interest. As soon as a representative joins the House of Representatives, he relinquishes his capacity as a representative of his constituency, to become a representative of the interests of the entire nation. Accordingly, he is entrusted with achieving the public interest by performing the various legislative, oversight, and financial roles of the House of Representatives, under the provisions of the Constitution and the bylaw regulating the functioning of the National Assembly.

Considering the legislative, political, and financial role of a member of the House of Representatives, it is not permissible for him to adhere to regional considerations during his parliamentary exercise because this would disturb the concept of the public interest that may clash often with regional motives. Rather, he must be keen to perform his three legislative, oversight, and financial roles with complete impartiality and integrity, and to devote himself to performing these roles, which are among the most serious functions because it represents the gateway to progress, development, and the best way to achieving democracy in the Kingdom of Jordan.

Keywords: Parliament, Constitution, Rules of Procedure, Representative, Competencies.

INTRODUCTION

The responsibilities of parliaments, their powers, and their competencies vary according to the progress of political life in any country worldwide. The wider the scope of the Parliament's authority, the more advanced their people are because they are the actual source of authority and have the right to power, whether in terms of direct democratic practice as it was in its early days, or indirectly through delegation, which is granted to the representative by people through what is known as Representative Councils, Shura Councils, or Parliament. By reviewing the Jordanian constitution promulgated in 1952 and the constitutional amendments, we can realize that many powers were vested to a member of the Parliament to be exercised including legislative and control power.

The Problem of the Study

The Jordanian parliament was established over a hundred years since the establishment of the Jordanian state in 1921 and the election of the first legislative council in 1929, but unfortunately, after conducting an in-depth investigation am certain that few representatives have exercised their duties with competence and merit as stipulated in the provisions of the constitution and the bylaws of the Parliament and all other laws and legislations. While the role

of most of them was limited to being satisfied with some partial powers that do not exceed the electoral powers of the speaker of the House of Representatives and members of parliamentary blocs, and to participate in parliamentary consultations regarding the issue of voting on confidence, collectively without success in exercising the most important constitutional powers represented in the aspects of legislation and parliamentary oversight.

Objectives of the Study

The Provisions of the Jordanian constitution have limited the powers of the representative to include financial, electoral, political, and legislative specializations, which he exercises in his capacity as the representative of the Jordanian people.

Study Approach

The researcher has adopted the descriptive and analytical approach, to control the various concepts concerning the mechanism of the Jordanian parliament's exercise of the power entrusted to it under the constitution and the system, by relying on specialized scientific material and available websites.

Study Plan

The topic of the study was divided into two means chapters and a conclusion as follows: The first chapter: The composition of the House of Representatives. The second chapter: The competencies of the House of Representatives under the constitution and the system.

The Composition of the House of Representatives

The Jordan's Constitution of 1952 with its Amendments through 2011, Articles (62-96) defines the mechanism and method by which the House of Representatives is to be composed, and it defines the conditions that must be met by a member of the House of Representatives. Given that the legislative authority is one of the three powers mentioned in the current constitution in Chapter Three, specifically in Article 25 which states that *"the Legislative Power shall be vested in the Parliament and the King. The Parliament shall consist of the Senate and the House of Representatives."* Regarding the constitutional provisions relating to the legislative authority (The Parliament), they are all mentioned in Chapter Six of the Constitution, where the current and amended Jordanian constitution has singled out the sixth chapter of it for the legislative authority under the title The Legislative Power The Parliament (Al-Khatib, 2017; Kanaan, 2013). The constitutional texts of Articles 25 and 62 of the current constitution indicate that the legislative authority in the Jordanian constitutional system consists of the King, the Senate, and the House of Representatives. Discussing the composition of the House of Representatives requires examining the following issues: How the House of Representatives is composed and the conditions that must be met by a member of the House of Representatives.

The Composition of the House of Representative

The House of Representatives is a legislative body that represents the legislative authority in constitutional countries, as it is competent, according to the origin, with all legislative authority practices per the principle of separation of powers. In some countries, it is called the Parliament, the Legislative Council, the National Assembly, or the National General Conference. Parliament has three basic tasks: legislating and overseeing government actions and representing the people before the government. The House of Representatives is the Council that is elected by the people with all its members and represents all groups of the people, and its members are called the Representatives because they represent the people in the exercise of the affairs of governing. The people do not exercise governance by themselves but delegate others to practice them, unlike the direct government in which the people assume power by themselves (Kanaan, 2013).

The Jordanian constitutional legislator has adopted what the political and constitutional jurisprudence has settled on in its majority in terms of composing the People's Assembly utilizing election as it is the constitutional performance for selecting and electing members of the House of Representative. Article 67 of the current constitution stipulates that “ *The House of Representatives shall be composed of members elected by general, secret and direct election under an election law which shall ensure the following matters and principles: Secret ballot; The right of candidates to observe the electoral process; The punishment of those adversely influencing the voters' will; The integrity of the electoral process in all of its stages.*” Article (67) of the constitution stipulates that the House of Representatives consists of elected members, meaning that the election is the only means for composing the House of Representatives. In this regard, it is worth noting that the first paragraph of Article 67 was amended according to the amendment published in No. 5117 on 1/10/2011 and No. 5299 on 9/1/2014 (Al-Khatib, 2017). If the election is considered by some a legal authority that derives its strength from the electoral law, then, it is the constitution that essentially crystallizes the main characteristics of the election and the principles on which it is based (Metwally et al., 1980).

By examining the provisions of Article 67 of the Jordanian Constitution, it is clear that the characteristics of the electoral system in Jordan are based on the **universality of the election** and this description means that the constitutional system must adopt the principle of Universal suffrage. Universal suffrage does not mean giving all members of the people the right to vote, rather it means not adding new conditions and certain restrictions to the normal organizational requirements in the voter that change the principle of universal suffrage to restricted voting. Among these conditions and restrictions are the financial quorum requirement, the academic competency requirement, or the condition of belonging to a certain class of people as any of the mentioned conditions turns universal suffrage into restricted voting (Al-Tamawi, 1988). Universal suffrage is the supreme and clearest expression of popular sovereignty and public mood in a democratic society, and the actual embodiment of equality between citizens as defined in democratic constitutions and laws. It is not acceptable to talk about political legitimacy in the democratic system unless it comes from voting, whether direct or through delegation to representatives, and this is what is called in the democratic dictionary “*popular legitimacy*.”

From the foregoing, it is obvious that the generality of the election - the principle of universal suffrage - means that the legislator does not require any restrictions or requirements related to scientific or financial competence in the electorate and in the candidates that may make

the voting restricted. This issue has been avoided by the Constitution and Election Law No. (6). For the year 2016, which affirmed the principle of the universality of voting, and this principle does not undermine the legislator's stipulation of some general conditions that must be met by the voter and candidate, such as the condition of nationality, age, eligibility to enhance his ability to exercise his electoral right without fear or embarrassment from any party whatsoever. **Examples of directly elected councils include the European Parliament (since 1979) and the United States Senate (since 1917).**

Finally, the election is optional, as the Election Law No. (6) of 2016 made the exercise of the election an optional right, and accordingly, the electorate has the freedom to exercise the right to vote or not, so there is no punishment or penalty for those who fail to exercise this right as it is only a moral duty.

Article (67) of the constitution specifies that elections shall be general, secret, and direct election following the election law which shall ensure the following matters and principles: The right of candidates to observe the electoral process. The punishment of those adversely influencing the voters' will and the integrity of the electoral process in all stages (Al-Khatib, 2017). To ensure the achievement of these principles, on 1/10/2011 the Jordanian constitution approved the establishment of an independent commission that manages the parliamentary and municipal elections and any general elections per the provisions of the law, and the Council of Ministers may assign the independent commission to manage or supervise any other elections upon the request of the legally authorized body to conduct those elections. Thus, the current constitution approved the principle of composing the House of Representatives by means and method of general and direct election by the people and referred to the election law defining the detailed provisions related to the composition of the House of Representatives (Al-Debs, 2014).

Conditions to be Met by a Member of the House of Representatives

The House of Representatives is considered a vital part of the three components of the legislative authority because it is elected by citizens and expresses their general will, it also constitutes a popular assembly of the nation.

The House of Representatives exercises its oversight role over the Executive Authority's performance as per its constitutional mandate, the Prime Minister and the Ministers are politically responsible before it for the State's general policy. The House of Representative has the constitutional legitimacy to end the ministry legal and constitutional existence through the right to put forward confidence in the ministry in terms of granting it confidence and withholding it from it, it is necessary, therefore, for those who wish to nominate for membership in the House of Representatives to meet legal conditions and these conditions represent at the same time the conditions for membership in the House of Representatives, and these conditions must be met by a member of the House of Representatives throughout the term of the Constitutional House of Representatives, which is in normal conditions four calendar years (Al-Debs, 2014).

Based on the constitutional texts of the current Jordanian constitution, and according to the provisions of the first paragraph of Article 34 of the constitution. The King issues orders for the holding of elections to the House of Representatives. The Council of Ministers was responsible for determining the date of the election, which would be announced later by the Prime Minister and published in the Official Gazette. Whereas the nineteenth constitutional amendment to the Jordanian constitution and published in the Official Gazette on 1/10/2011

established the Independent Election Commission to administer parliamentary elections in all its stages, the Commission has become the authority to determine the election date and polling day after the king issued his royal will High conducting elections for the House of Representatives. This is specified in Article 67 paragraph 2. An independent commission shall be established by law to supervise the parliamentary electoral process and to administer it in all of its stages, and to - as well supervise any other elections decided by the Council of Ministers.

The electoral process means starting with interconnected procedures governed by multiple dates, including candidacy for membership in the Council of Representatives, these dates are specified by Article (14) of the Election Law for the Council of Representatives No. (6) of 2016, where nominating to the House of Representatives means taking the main step on the part of the candidate to later become a member of the House of Representatives if he wins in the elections.

Given the importance of the role of the candidate who will later become a representative, the legal systems have stipulated more stringent conditions than the conditions for the voter. These conditions are some of which are set by constitutions, which give them stability, and some of them are in charge of setting the ordinary laws, especially the election laws, which give them flexibility and the ability to change and amend, and this is what The Jordanian constitutional legislator adopted it, as it listed some conditions in the constitution and others in the election law for the House of Representatives (Al-Khatib, 2017). Regarding the conditions stipulated in the constitution, they are defined by Article (75), paragraph (1) as: No person shall be a member of the Senate and the House of Representatives:

1. Who is not a Jordanian.
2. Who holds the nationality of another state.
3. Who was adjudged bankrupt and has not been legally discharged.
4. Who was interdicted and the interdiction has not been removed.
5. Who was sentenced to imprisonment for a period exceeding one year for a non-political crime and has not been pardoned.
6. Who is insane or imbecile.
7. Who is of the relatives of the King in the degree of consanguinity to be prescribed by a special law.

Regarding the conditions for nomination for the House of Representative specified in the election law, they were defined by Article (10), and the major part of these conditions is a repetition of the conditions stipulated in the first paragraph of Article (75) of the current constitution, and thus the membership conditions can be considered, i.e. the conditions for candidacy for membership. The House of Representatives defined by the constitution and repeated by the election law is the basic conditions, while the additional conditions stipulated in the election law are the organizational conditions (Al-Debs, 2014).

The Competencies of the House of Representatives Through the Constitution and the System

Given the impossibility of implementing direct democratic rule at present, as states include many citizens, and its borders are located on a vast area of land, most of the ruling systems in the contemporary state have taken on a system of representative democracy, and one of its most important characteristics is the establishment of a representative body that includes

representatives elected by the people. This is because the goal of the representative system is to achieve the expression of the elected body of the will of the nation, which can only be achieved by the people electing the members of this body, which is usually called Parliament.

To grant the elected body the representative capacity, the element of the election alone is not sufficient, rather this body must exercise real power, otherwise, it is considered a mere consultative body that does not have real power to represent the will of the nation in matters of the rule. The aspects of the actual authority that must be exercised by the elected body are varied including the right to propose laws, to approve all laws, as it is impossible to issue any law without its approval because it holds the constitutional right to exercise the task of legislation in the country, and the elected body is established. It also sets legal rules for collecting taxes, fees, and revenues, determines the method of using those resources, and controls public expenditures, and this is its financial function. The elected body, on a third party, monitors the actions of the executive authority, which is not subject to judicial oversight, and this is its political function (Al-Adayleh, 2012). In the next section, we will discuss the parliament's three financial, political, and legislative functions.

Financial Function

This power is manifested in the financial and tax functions that the House of Representatives carries out. In the contemporary era, this power has taken the form of legislation and parliamentary oversight over every tax, every loan, and every concession. Historically, this jurisdiction appeared in England, because the people were keen not to pay a tax unless their representatives approved it.

Based on this modern principle, Article (111) of the constitution stipulated that it is not permissible to impose a tax, its events and levy it except by a law promulgated by Parliament and that its form only wears the form of a public tax, so that it includes all Jordanian regions without exception, and if the tax events are subject to the law, and therefore to Parliament, Amending or canceling them is also within his competence to execute the constitutional text.

The principle of the legality of the budget takes different forms in terms of the annual budget and its inclusion and voting on its items one by one, which makes voting on it cumbersome in many cases, as it is forbidden for the representative to increase the proposed funds to prevent them from tending to satisfy their constituents at the expense of the public treasury. However, after the completion of the budget, the council can decide in a way to propose laws to introduce new expenditures.

Political Functions

The significance of this power (which is the political oversight of the works of the executive authority) is evident through the oversight that the parliament exercises over the government's policy and all its actions, as in it lies the principle of popular sovereignty as it is the source of all powers, including the executive authority responsible for implementing the will of Parliament through laws and recommendations issued by it. The competence of the political council is evidenced by the various powers it performs, as it is the one who discusses the ministerial statement of the government, granting or withholding confidence from it, and the council is also the one that discusses the government in its general policy, whether it is

collectively or individually through a vote of confidence in one of the ministers or all of them, and when the council decides to vote of no confidence following Article 54 of the Constitution, this minister(s) must resign. The Jordanian constitution addressed all these constitutional issues in the provisions of Articles (53) and (54), as stipulated in the third paragraph of Article (53) that

“Every formed Council of Ministers shall place its ministerial statement to the House of Representatives within one month of the date of its formation if the House is in session and request the vote of confidence on that statement.”

And in Article (54) which stipulated that:

“The motion of no confidence in the Council of Ministers or one of the Ministers may be raised before the House of Representatives; If the House decides a vote of no confidence in the Council of Ministers by the absolute majority of the total number of its members, it should resign; If the decision of the vote of no confidence concerns one of the Ministers, he should resign his office.”

Parliamentary oversight can be established by using the right to query and answers, which is one of the most important political rights of the representative as he is free to raise queries to the government through the presidency of the House of Representative. and he also has the right to turn his query into an interrogation, then to vote no confidence against the Cabinet or the competent minister, in case he is not convinced of the minister's or prime minister's response.

Article (96) of the current constitution has discussed this method of oversight and vested the right of parliament members to address questions and interpellations to the Ministers concerning any of the public matters and referred the regulation of this right to the by-laws of the House of Representatives .

Article(118) of the by-laws of the House of Representatives for the year 2013 stipulated that a Member of Parliament has the right to inquire from the Prime Minister or ministers about a matter which he is not aware of in matters falling within his competence, to verify an incident which had reached his knowledge, or that he inquire about the government's intention in dealing with a matter. The interrogation in the by-laws of the Jordanian Parliament according to Article (126) is holding the ministers or one of them accountable for his conduct in a matter of public matters.

The investigation is an important oversight tool intended to learn about certain matters via forming ad hoc committees of Parliament members to collect the required information related to the subject under investigation which generally of a financial or political nature. Parliamentary norms have established that this investigation can deal with all cases of concern to the state of all kinds, which indicates the possibility of its implementation in all matters of governance and administration that pertain to the executive authority. The parliamentary investigation as an oversight method performed by the legislative authority on the actions of the executive authority has not been stipulated in the current constitution, rather, the parliamentary investigation derives its detailed provisions from the by-laws of the House of Representatives in per Article (55) thereof, as the House of Representatives may decide to conduct a parliamentary investigation into a complaint submitted to it, or a project to be submitted to discussion or in the course of a question or interrogation, and it may conduct the parliamentary investigation through a temporary parliament committee composed by the House of Representatives, and the House

defines its functions, tasks, and number of members. These powers are vested to the Parliamentary Investigation Committee, as the House of Representatives represents the people's sovereignty, and it dominates the entire state through the constitution and laws, and through the broad powers and the many powers, it enjoys in politics and oversight.

Legislative Function

The legislation is considered one of the main responsibilities of the National Assembly according to the Jordanian constitution, as the legislative authority is entrusted to the National Assembly (representatives and Senate) and the King. The constitution grants both the government and the House of Representatives the right to propose laws and present them to the National Assembly. If the Jordanian constitution limits the right to legislate to the government and the House of Representatives only then what is the mechanism followed to achieve this goal? It noteworthy that Article (91) of the Jordanian constitution and its amendments and Article (45) of the bylaws of the Senate for the year 2014 also gives the right to the Senate to legislate.

First: Draft Laws

The Jordanian legislator has restricted the right to draft laws to the government, so the draft law is approved in the Council of Ministers, and then it is referred to the Council of Representatives through the Prime Minister. As Article (91) of the current constitution stipulates that "The Prime Minister shall refer the draft of every law to the House of Representatives which shall have the right to accept, amend, or reject the draft; in all cases, the draft shall be referred to the Senate. No law may be promulgated unless passed by both Houses and ratified by the King." According to the text of this article, the executive authority can contribute to the legislative function with the right to present draft laws to the House of Representatives, as the executive authority is the one that submits proposals for laws and works in various legal mechanisms while the legislative authority approves, amend, or rejects those proposals (Al-Amawi, 2011). The by-laws of the House of Representatives established a procedural mechanism for how to refer laws to the House of Representatives. According to Article 69 of the system, the Prime Minister refers draft laws to the Speaker of Parliament, accompanied by the reasons for submitting them to the House.

Second: Proposing Laws (Bill)

The Jordanian legislator granted the representatives the right to initiate legislation to rectify the government's reluctance to draft specific legislation, by submitting proposals for laws directly to the Presidency of the House of Representatives. The representative, by virtue of his direct engagement with the segments of society, may be more sensitive to the problems and requirements of the people than the government whose members are often plunged into an administrative and political routine that keeps them away from the popular base. The representatives always seek to win elections therefore they give weight to citizens' needs, whether with the official departments or through fairness to a segment of them through a

legislative text that would restore some of its rights or remove the unfairness of a text approved in error or an ill-considered manner.

A representative exercises his right to initiate legislation based on the text of Article 95 of the current constitution, by proposing a law that he signs and submits directly to the Presidency of the House of Representatives. Ten or more of the House of Representatives may propose a law, and the Speaker of the House must refer the law proposal to the concerned committee or committees and depositing it with the government to place it in the form of a bill and present it to the council for perusal.

The bylaws of the House of Representatives returned what was stated in the constitution about proposing a law, as paragraph A of Article 70 of the system permitted ten or more members of the parliament to propose laws, and each proposal shall be accompanied by the obligatory reasons to be submitted to the concerned committee in the parliament to express an opinion. After hearing the opinion of the committee, accepting the proposal, he referred it to the government to place it in the form of a draft law and present it to the council in the same session or the next session. It is also not permissible, in harmony with the constitution, to re-submit any law proposal that the council has decided to reject in the same session. Undoubtedly, vesting the representatives the right to submit proposals for laws aimed to establish a kind of theoretical balance between the executive and legislative powers. and if the House of Representatives is one of the tools of legislation, then it remains governed by the parliamentary majority, which is often represented by the government and those who are loyal to it. For this reason, the draft laws and the various treaties remained ahead of the legislative proposals and enjoyed the privilege of approving all the legislative proposals still governed by the approval of the Government and its general policy, in particular the competent Minister.

RESULTS

1. Parliament is a primary pillar for an effective democratic system, as it is a guarantee that represents the will of the people in the legislative process through the elected representatives of the citizens.
2. Parliament encounters many dissenting votes, as more than half of the voters do not trust the ability of the newly elected Parliament to exercise its role in overseeing the government and issuing legislation, and this does not come as a surprise given the rate of participation in the 2020 parliamentary elections, which does not exceed 36%.
3. The Nineteenth Parliament takes on the responsibility of bridging the gap between this central institution and the citizens of Jordan because effective performance is seen as a tool that helps build confidence and enhances its impact.

CONCLUSION

The broad powers enjoyed by parliaments in parliamentary systems make any of these councils a symbol of popular sovereignty, stemming from the will of the majority in democratic societies. Historically, we have witnessed a retreat of dictatorial and autocratic regimes and proceeding to presidential constitutional systems, In this contemporary period we witness a retreat from the presidential systems and progression to the parliamentary systems, as they embody a true expression of the will of the people, their orientations, and their participation in power through the mandate they granted to their representatives. I conclude by saying that if the citizen today resorts to his conscience and reviews his electoral record, reclassifying the powers of the representative, especially in terms of legislation and oversight, then he will inevitably

grant his vote only to a few of the thirty-one representative from whom the parliamentary symposium is formed. By saying to a few mean no more than Ten, and we should choose properly.

RECOMMENDATIONS

1. Establishment of a legislative office (an effective legal support unit) within the Council whose task is to assist Members in the drafting of proposed legislation and its members shall be legal experts and specialists in the relevant fields.
2. Obliging the relevant committees to deal with the proposals for legislation submitted by the representatives within the time limits set by the Council's by-laws.
3. Adopting the principle of binding consultations with civil society institutions, experts, and parties concerned with the legislation envisaged for research, To lay down the rules of the partnership between the Council, civil society, and experts, the obligation here relates to the conduct of the consultations themselves and not necessarily to the commitment of the Council to the content and results of the consultations.
4. Adherence to the deadlines set by the Government for responding to parliamentary questions, as it has been noted that most of the questions and answers are on the Council's agenda for discussion.
5. Activate mechanisms for the follow-up of questions, memoranda, and petitions submitted by the representatives, and ensure their recording and documentation and follow-up of the contents of the general discussion sessions and recommendations to elevate the level of the supervisory role of the Council, enhance its prestige as an oversight authority and enhancing citizens' confidence in representative.

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