



PARLIAMENTARY INTERROGATION IN LIGHT OF THE ALGERIAN CONSTITUTIONAL AMENDMENT OF 2020- A COMPARATIVE STUDY-

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Abstract:

Interpellation is considered a constitutional right prescribed for a member of parliament, which is used in confronting the government, as it is one of the most important oversight mechanisms exercised by parliament, considering that it accuses the government or one of its members, as well as holding it accountable and accusing it of one of the actions entrusted to it, and this right has included the constitutions of several countries, including Algeria under the Algerian constitutional amendment of 2020, thus setting certain controls that should be respected when using it, and enables deputies of the People’s National Assembly to raise the political responsibility of the government by moving Censorship petitioner.

Keywords: *parliamentary questioning - political responsibility - accusation - petition for oversight - People’s National Assembly.*

Introduction :

One of the basic principles of the parliamentary system is that it is based on the parliament’s control of government work, to ensure that governments remain committed to implementing their programs, considering that the legislative authority is directly elected by the people, so it realizes that what brought it to the dome of parliament is the strong public opinion that expects its deputies to do the work seriously and bear the secretariat, which leads to the rationalization of parliamentary performance, which is hoped to be available, whether for parliament or for the government, so that society gains a strong parliament and government that takes over Carry out their work in accordance with a legislative framework. Parliament must have sufficient information to enable it to take appropriate decisions and discuss issues emanating from public opinion, and this will only be possible if the legislative authority possesses data, information and... This enables it to read “argument for argument and proof for proof”.

Interpellation is considered one of the parliament’s oversight means on government work, a right that has extended to many constitutions of countries around the world, and was adopted by the Algerian constitutional amendment of 2020, which was addressed in this



study, comparing some of its applications in some constitutions of countries around the world.

The aim of the study is reflected in the use of this mechanism and the effects it produces, as it is one of the most dangerous means of parliamentary oversight of the work of the government because it concerns holding the government or any member of it accountable for the conduct of the executive branch related to public affairs.

the petition for oversight is a procedure resulting from the questioning of the Government, which is used by the People's National Assembly to raise the Government's responsibility and push it to resign, and the Prime Minister or the Head of Government submits the resignation of his Government to the President of the Republic.

The issue of the right to be questioned raises an important problem:

To what extent does parliament have the power to question the government and control its work in order to raise its responsibility in the Algerian constitutional system?

In order to answer this problem, it adopted the analytical method, analyzing the texts of the law related to the subject of the study, and adopted the comparative approach by comparing the treatment of the subject in Algerian legislation with its treatment in some other legislation.

In order to answer this problem and with familiarity with the subject of the study, the concept of interrogation was identified by addressing its definition, origin and conditions, and the interrogation procedures and its effects were also identified as it follows certain procedures that result in effects that may reach the government's resignation and the resulting effects, especially since the government's interrogation has become one of the topics approved by many constitutional systems, including the Algerian constitutional system, where this study was divided into two parts:

The first is devoted to the concept of interrogation.

The second is devoted to interrogation procedures and its effects.

The first topic: the concept of interrogation

Algerian constitutions included the right to interpellation except for the 1963 constitution, as it was included in the 1976 constitution, the 1989 constitution and subsequent constitutional amendments, as stipulated in the constitutional amendment of 2020 in articles 160 and 161, and it is recognized that the right to interpellation is one of the most important weapons possessed by the legislative authority to monitor government work by interrogating a specific minister or ministry to reach clarification on a matter of public affairs, and in order to address the concept of interpellation, its definition (first requirement) and its emergence (second requirement) are addressed, and also Conditions (third requirement).

The first requirement: what is meant by interrogation

The interpellation procedure is a weapon in the hands of Parliament in the face of the government in defense of the government's use of its authority, which is a mechanism of political responsibility for the ministry, and constitutional jurisprudence agrees that interpellation is an effective mechanism in the parliamentary system based on the balance



between the legislative and executive powers, but there is a difference about its definition, there are those who defined it as “holding ministers or one of the ministers accountable for acting in a matter of public affairs.”, and it may be intended as “a means of parliamentary investigation directed to the government through opponents of its policy,

An inquiry involving an accusation submitted by the deputy to the Prime Minister, one of his deputies, ministers or their deputies with the intention of holding him accountable and criticizing him.”

Interpellation is therefore an effective oversight tool possessed by parliament whereby it can question the government on matters of national importance, may also revolve around the application of the law, and has an accusatory nature.

Whenever there is a failure on the part of the government to not carry out its executive duties through what is required by law and its applications, the parliament would submit to it an interpellation and not a question, considering that the government’s failure to do so allows parliament to interrogate the government and may also open the way to raise the political responsibility of the government, and on the other hand, the government also has several means that can be used in confronting parliament, perhaps the most important of which is the dissolution of parliament.

The Algerian Constitution does not contain the definition of interpellation, but only stipulates who undertakes it and the mechanisms for its implementation to leave room for constitutional law scholars, whose definitions have unanimously agreed that interpellation is one of the most severe means of parliamentary control over government work, because it accuses and criticizes the government or any of its members also for its act, and therefore it is not considered a mere request for clarification on a particular issue, but rather a question that carries with it blame and accusation.

Second Requirement: Origin of Interrogation

Parliament has an effective tool that it can use in confronting the government, which is interpellation, and to reach its nature, we must address its origins in France and then in Algeria as follows:

Section I: Parliamentary questioning in the French political system

The emergence of parliamentary interpellation dates back to the beginning of the French Revolution in 1791, and because ministers were not allowed to enter the legislative councils, interpellation disappeared in the constitution of the third year of the revolution, so it was not possible to question or interrogate them, to return again in May 1831, and to witness an expansion in its use in 1848 from members of the National Assembly, and this right was regulated by members of legislative assemblies even if it was included in the 1952 constitution, and it is worth noting that the legislation issued in 1875 did not include anything. The right to interpellation, however, has become a customary rule of parliamentary rights under which the political responsibility of the ministry is motivated.

Section II: Parliamentary Questioning in the Algerian Sisi Regime

The parliamentary system is based on basic principles to achieve a balance between the legislative authority and the executive authority, and one of those principles is the principle



of interpellating the government, and with reference to the Algerian constitutional experience, the interpellation was absent in the 1963 constitution, and therefore the National Assembly could not do it, to be the beginning of its introduction under the 1976 constitution in Article 161, which allowed the parliament to interrogate the government in one of the current issues, to continue to be adopted in the subsequent constitution and subsequent constitutional amendments, as it was included in Article 164 of the 1989 Constitution, which Article 161 of the 1976 Constitution corresponds to Article 151 of the 1996 constitutional amendment in addition to what was stipulated in Article 161 of the 1976 Constitution, provided that the answer is within a maximum period of 30 days.

The Algerian constitutional amendment of 2020 expanded this so that interpellation is no longer limited to topical issues when it allows two areas for interrogation, the first of which is in matters of national importance and the second in the case of the implementation of laws, which is clear from the text of Article 162.

Second Requirement: Conditions of Interrogation

The conditions of interrogation are formal and substantive, which can be highlighted as follows:

Subchapter I: Formal Conditions

The formal conditions for the interrogation are written, quorum, directing and notifying the interrogation, which will be detailed as follows:

First item: Writing

There is no explicit provision that requires writing in the interpellation, but it is understood from the legislation regulating it that requires writing, and that its content must be written, so that neither a deputy nor a member of parliament can interrogate the government orally, which is included in Article 66 of Organic Law 16-12 “... The text of the interrogation he signs... “, and also the text of Article 92 of the Rules of Procedure of the National Assembly: ... The text of the interpellation shall be deposited with the Office of the National Assembly... It is distributed to the members... “, the signature and text contained in this article indicate the requirement of writing in the interrogation.


Article 217 of the bylaws of the Egyptian People’s Assembly stipulates that a request for interpellation shall be addressed in writing to the Speaker of the Assembly.

Article Two: Quorum

The interpellation must be signed by at least thirty (30) deputies, or thirty (30) members of the National Assembly, as the case may be, given that the Algerian legal system considers interpellation a collective right and not an individual right, as is the case in Egyptian legislation.

What should be noted is that this condition is difficult to achieve realistically, especially at the level of the National Assembly (164), which constitutes half of the members of the People’s National Assembly (407), and may also turn the difference in composition to reach the required quorum at the level of the National Assembly.

Considering that responsibility in Algeria is considered joint and not individual, this result is supported by Article 161 of the 2020 constitutional amendment, which linked the



interpellation to the censorship petition that focuses on the responsibility of the government, which leads to the submission of the government's resignation to the President of the Republic.

This may be inappropriate given that the failure of a particular minister to implement government programs leads to the resignation of ministers.

Article Three: Directing and Communicating the Interpellation

The interpellation shall be submitted to the Speaker of the two Houses of Parliament, as the case may be, to be served by the Speaker of the respective Chamber or the Speaker of the National Assembly within 48 hours following its acceptance.

It is clear from Article 160 of the current Algerian Constitution that interpellation is directed at the government and its members (ministers), and therefore interpellations cannot be directed by deputies to each other, to one of the presidents of the two houses or to a state employee.

Subchapter I: Substantive Conditions

The objective conditions are that the interpellation does not contain anything contrary to the Constitution or the law, that the interpellation falls within the competence of the government, and that the interpellation does not harm the public interest, which will be detailed as follows:

The first item: The interrogation should not include anything that violates the constitution or the law

Article 160 of the 2020 constitutional amendment specified the subject of interpellation in two areas, namely the issue of national importance and also the state of application of laws, so interpellation shall not be subject to violation of that, and any interpellation that includes deviation from those areas must be rejected, except for those related to national defense and state secrets in foreign relations.

The second item: The interrogation falls within the jurisdiction of the government

The constitution included that the issue of applying laws and regulations falls within the competence of the government, which makes interpellation subject to these competencies, and accordingly it is not possible to interrogate a current government about the actions of a previous government, nor can a minister appointed to retain his ministerial position be questioned about actions attributed to him in a previous ministry, because the existing government, even if it included some members of the previous government, but each government remains its program, and the previous government cannot be subjected to parliamentary questioning for its actions after its dismissal. Or her resignation.

Third item: The interrogation shall not harm the public interest

It is worth noting that there is no constitutional or legal provision that explicitly stipulates the mandatory of this condition, but it is assumed that the interrogation does not harm the public interest, which allows the Council to exclude interpellation that harms the public interest during its discussion on the one hand, and on the other hand, it can resort to

interpellation more than once whenever necessary circumstances as a weapon in the hands of both Houses of Parliament.

The second topic: interrogation procedures and its effects

The interrogation is considered a middle stage between the stage of gathering information and the recall procedure, as it is based on holding a minister or ministry accountable in its entirety due to a wrong policy or due to a failed project of importance and danger, but it requires certain procedures and has effects, which will be detailed below:

First Requirement: Interrogation Procedures

Subchapter I: Submission Procedures (Signing the interpellation request and including it in the agenda to determine the discussion session)

With reference to the text of Article 66 of Organic Law 16-12, the request for interpellation must be signed by thirty (30) deputies or thirty (30) members of the National Assembly, and then deposited with the office of the Assembly, which has the power to decide on it.

- The Council may reject the request, provided that the rejection decision is justified and communicated to the representative of the interpellators, and upon acceptance of the request, the Speaker of the Council sends the text of the interpellation within forty-eight (48) hours following its acceptance to the Prime Minister or the Head of Government, and it is distributed to the members of Parliament, and then it is hung at the headquarters of the Council.

- The meeting of the interpellation discussion shall be determined by the Bureau of the Council concerned, in consultation with the Government, which shall take place within thirty (30) days following the notification of the interpellation.

It is clear that the constitutions have surrounded this medium with legal guarantees to protect the Government from arbitrariness in discussing the interpellation by granting it a certain period of time, so that it has sufficient time to study the subject of the interrogation and prepare a statement about it on the one hand, and on the other hand, so as not to be surprised to enable it to defend itself with the official documents and grounds it possesses in order to strengthen its defence.

- The interpellation may be withdrawn by the representative of the interpellators before it is presented at the interpellation session, and the president of the chamber concerned informs the government accordingly.

In Egyptian legislation, interpellation is given precedence over all other articles on the agenda, provided that the Council discusses it after at least seven (07) days from the date of its submission, and may reach a maximum of sixty (60) days in cases of urgency and after the approval of the government.

Subchapter II: Discussion of Interpellation in the Discussion Session

- The delegate of the interpellators shall make a presentation containing the content of the interpellation and the explanations it requires, during the session designated for this purpose at the level of the National People's Assembly or the National Assembly.



Experience has shown that the minister whose interpellation relates to the affairs of his ministry may respond to the subject of the interpellation, or the Prime Minister may respond to it in the event that the interpellation is directed to his Government.

As for the person to whom the interrogation is directed, it is specified in the constitutions of the Prime Minister, the Prime Minister, one of his deputies, ministers or one of their deputies to hold them accountable in any of the matters within their competence, which is what Egyptian legislation has adopted.

It is noticeable that this procedure does not limit discussions between the the interrogator and the minister, but rather provokes a general discussion for all members of the parliament, which may end with a vote of confidence in the entire ministry.

Second Requirement: Effect of Interrogation

With reference to Article 161, the People's National Assembly, when discussing the government's general policy statement or following an interpellation, may vote on a petition for censorship that is the responsibility of the government, provided that it is signed by at least seven (1/7) deputies, which indicates that the government can be overthrown by a parliament that can also be dissolved by the President of the Republic.

It should be noted that the interpellation in Algerian legislation has the status of accusation, as deputies of the People's National Assembly can vote on the petition for censorship to raise the responsibility of the government, a procedure under which the head of government or the prime minister is obliged to submit the government's resignation to the President of the Republic, provided that it is voted on after (03) days from the date of its filing, a period under which the government can influence the deputies and convince them not to attend, and the French constitutional founder took 48 hours, which It is difficult for the government to influence MPs and paralyze the regulation.

On the basis of the above, the interrogation can conclude with three things:

First: Ensuring that the government has done its duty and thus deserves thanks instead of accusation, and the Council congratulates it for that, which confirms that the ministry has implemented the desired goals, which deserves renewed confidence in it and thanks for what it is doing.

Second: Ensure that the government did not make a mistake or that its mistake was simple does not rise to the point of withdrawing confidence from it, and usually here the Council decides to move on to the agenda.

Third: The issuance of a decision to withdraw confidence from the government, and this is achieved in the event that the People's National Assembly achieves a quorum, to submit its resignation and is accepted by the President of the Republic, which highlights the role of the People's National Assembly as a real supervisory authority over government work.

It is clear that the relevant legislative texts that require the Prime Minister or the Head of Government to submit his resignation to the President of the Republic do not necessarily oblige the President of the Republic to accept the resignation, he is free to accept or reject, and in the event of its rejection, he can resort to dissolving the People's National Assembly, especially when the parliamentary elections result in a presidential majority, so the Prime



Minister's program is the program of the President of the Republic, so he cannot resort to overthrowing his government, but chooses another solution, which is Dissolution of the People's National Assembly.

As for the majority required to approve the decision to withdraw confidence, some constitutions have taken the quorum of the absolute majority of the members of the Council, which constitutes more than half of the members of the Council, and other constitutions have tightened in that, such as the Yemeni constitution by requiring a two-thirds majority, while the Constitution of Bahrain took to withdraw confidence from a single minister, requiring a two-thirds majority, so he is considered isolated from the date of the decision of no confidence and submits his resignation immediately, and France was taken by the majority of the members of the Council, and so far one French government has fallen, which is the government of Pompidou. In 1962, after the adoption of the regulation of the petition for censorship, and the French President issued a decree dissolving the National Assembly, and it has not happened in Algeria that the petition for censorship has been filed so far, nor in Egypt since the Constitution of 1923, and for the quorum required in the vote in Algeria, the petition is not approved unless it is voted by a majority of at least two-thirds (2/3) of the deputies, and this quorum is difficult to achieve.

Based on the above, the required quorum is difficult to obtain, especially for opposition deputies, to replace the responsibility of the government, especially when there is a parliamentary majority loyal to the president, which strengthens the dominance of the executive authority over other authorities.

Experience has shown that successive interrogations in Algeria have never led to the resignation of a particular government, as MPs acknowledged the matter and the government did not provide convincing justifications.

CONCLUSION:

This study highlighted an important means of parliamentary control over the work of the government, exercised by Parliament on the government represented by its president, prime minister or member of the government, which is interpellation, which is the right or element of the basic elements established in the parliamentary system in exchange for the political responsibility of the ministry, and the purpose of interrogation is to hold the ministry accountable for actions within one of its ministries, and may relate to the work of this ministry as a whole.

From the findings, we can suggest the following:

1. We propose that the response time to parliamentary interpellation be reduced as it concerns matters of national importance and the status of application of laws.
2. Identify matters of national importance and if justifiable laws are applied, resort to interrogation.
3. Amend Article 161 to conform to Article 160 so that both houses of parliament can vote on the censorship petition.

REFERENCES:**I- Constitutions and Laws:**

- 1- Algerian Constitution referendumd on November 28, 1996, Official Gazette of the Republic of Algeria No. 76, dated November 8, 1996, amended by Law No. 16-01 of March 06, 2016, Official Gazette of the Republic of Algeria No. 14, issued on March 07, 2016, and Law of December 30, 2020, Official Gazette, No. 82, issued on December 30, 2020.
- 2- Constitution of the Kingdom of Bahrain, Official Gazette (Special Issue) 2517, dated February 14, 2002, as amended by the amendments issued: - In the Supplement to the Official Gazette, No. 3050, issued on May 03, 2012, - In the Supplement to the Official Gazette, No. 3307, issued on March 30, 2017, - In the Official Gazette, No. 3390, issued on October 25, 2018.
- 3- The Egyptian Constitution issued on January 18, 2014, Official Gazette, No. 3 bis A, for the year 2014, as amended by:
- 4- Decision of the National Elections Authority No. 38 of 2019, issued in the Official Gazette, No. 16, bis (f), issued on April 23, 2019, regarding the announcement of the result of the referendum, on amending some articles of the Constitution.

II- Laws:

- 1- Organic Law 16-12 of August 25, 2016, Official Gazette of the Algerian Republic, No. 50, dated August 28, 2016, defining the organization and functioning of the People's National Assembly and the National Assembly, as well as the functional relations between them and the Government, amended and supplemented by Law 23-06 of May 18, 2023, Official Journal of the Republic of Algeria, No. 35, of May 21, 2023.

III- Internal Regulations:

- 1- Internal Regulations of the House of Representatives, Official Gazette No. 14 bis, (B), 13 April 2016.
- 2- Rules of Procedure of the National Assembly 2017, Official Gazette, No. 17, dated August 22, 2017.

IV- Books:

- 1- Galal Bandari, Activating the Role of Parliament and its Need for Houses of Expertise, Without Publishing House, Cairo, 2003.
- 2- Suleiman Al-Tamawi, Principles of Constitutional Law, A Comparative Study, First Edition, Dar Al-Fikr Al-Arabi, Egypt 1960.
- 3- Mohamed Ali Swailem, "Institutional Legislative Reform" and "Legislative Regulations", "A Comparative Study of Islamic Political Legislation", Egyptian Publishing and Distribution, Egypt, 2015.
- 4- Salah El-Din Fawzy, Parliament (A Comparative and Analytical Study of World Parliaments), Dar Al-Nahda Arabic, Cairo, 1994 edition.

V- Scientific Articles:

1. Mohamed Mohamed Abdo Imam, The oversight function of parliament and its role in protecting the higher interests of the state, Journal of the Faculty of Islamic and Arabic Studies for Girls in Damanhour, Volume V, Issue 12, 2020.



2. Latrash Ismail, The government's parliamentary interrogation on the status of the application of laws in light of the Algerian constitutional amendment of 2020, *Academic Journal of Legal and Political Research*, Volume VII, Issue Two, 2020.
3. Roqaya Ben Arabiya, Parliamentary Interpellation in Light of the Constitutional Amendment of 2020, *Journal of Knowledge Issues*, Volume Two, Issue Four, December 2022.
4. Ben Sihamou Mohamed Mehdi Ben Moulay Mubarak, Parliamentary Interpellation as a Parliamentary Oversight Mechanism in the Algerian Constitutional System, *Al-Haqiqa Magazine*, No. 32, March 2015.
5. Roqiaia Ben Arabiya, Parliamentary Interpellation in Light of the Constitutional Amendment of 2020, *Journal of Knowledge Issues*, Volume Two, Issue IV, December 2022.
6. Ahmed bin Zayan, The interrogation mechanism in light of the constitutional amendment of 2020, *Journal of Law and Development*, Volume 3, Issue Two, December 2021.
7. Roqiaia Ben Arabiya, Parliamentary Interpellation in Light of the Constitutional Amendment of 2020, *Journal of Knowledge Issues*, Volume Two, Issue Four, December 2022.
8. Donia Bousalem, The Evolution of Parliamentary Questioning in the Algerian Experience: Between Stability and Change, *Journal of Law and Human Sciences*, Vol. 16, No. 3, 2023.
9. Lazhar Khashaimia, Parliamentary Interpellation as a Tool for Parliamentary Oversight of Government Work - An Analytical Study -, *Annals of the University of Guelma for Humanities and Social Sciences*, Issue 22, December 2017.
10. Asma Boukhenouf, Petition for Oversight as a Mechanism for Parliamentary Oversight of Government Work in Light of the 2020 Constitutional Amendment, *Journal of Jurisprudence*, Volume 15, Issue One, March 2023.