

Guarantees and Restrictions for Dissolution of Parliament in the Jordanian Constitution of 1952, as Amended

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Abstract

Balance between the executive and legislative powers is one of the most significant foundations in the parliamentary systems. This balance requires that either power is granted the right determine the fate of the other power. Since the legislative power may issue a decision of no confidence in the government, the executive power therefore has the right to dissolve the parliament in order to maintain balance between the two powers and to prevent encroaching of either of them on the other. Dissolution of parliament is one of the most serious tools that may be used by the executive power against the parliament, where such power can dissolve the legislative council prior to end of its term provided under the constitution. Thus, there should be guarantees and restrictions to ensure that the executive power does not arbitrarily exercise such right. This is the focus of this study, where the study aims to show the guarantees contained in the Jordanian constitution as to the authority to dissolution of parliament given to the executive power, especially after the constitutional reform amendment of 2011. These reforms cover the guarantees of the right to dissolution of parliament, where further guarantees are included in Article (74). It is recognized that the right to dissolution is not an absolute right that might be exercised by the executive power at its own discretion without justifications. Rather, there should be justifications and reasons for use of such right as well as guarantees and restrictions reducing such use. Most constitutions adopting the parliamentary system provide for the right to dissolution. However, these constitutions vary in forms of such dissolution like the presidential, ministerial, popular or automatic dissolution, or a combination of any of these.

1. Introduction

Balanced relationship between the executive power and legislative power is one of the most significant foundations in the parliamentary system. This balance has been established when the elements of the parliamentary system have become complete and matured, where such balance has become a dispensable part of the parliamentary system.

The parliamentary system is based on the flexible separation of and cooperation and balance between the executive and legislative powers, where authorities between them are distributed in an accurate and balanced manner and neither of them encroaches on the other.

Either power is granted constitutional authorities under which it determines fate of the other power. While the legislative power may exercise the right to ministerial accountability and issue a decision of no confidence in the government, the government has the right to dissolve the parliament.

The right to dissolution of parliament is one of the pillars of balance between the executive and legislative powers in the parliamentary system. If this right is absent, the executive power will be fully controlled by the legislative power.

This right is the most important tool given to the executive power against the parliament, where the right to dissolution is the effective tool in the parliamentary system that is based on balance between the legislative and executive powers.¹

Since this right is noticeably serious due to its power to temporarily suspend the parliamentary life, and temporarily transfer the right to legislation to the executive power, it must contain many guarantees and restrictions to ensure compliance with the constitutional limits and that the executive power does not encroach on the legislative power nor it misuses the power, so that the parliament- representative of the people- does not become a political game controlled by absurd whims shaped by false democratic covers.

The successive Jordanian constitutions have provided for the right to dissolution of parliament. Provisions of such constitutions contain some guarantees and registrations for this dissolution, but they are not sufficient to reduce use of such right.

The constitutional amendments of 2011 add an important guarantee, namely the government under which the parliament is dissolved should resign, and the prime minister of such government may not be entrusted to form the next government.

1.1 Problem of the Study

The parliamentary system is based on the flexible balance between the legislative and executive powers. All

¹ Baz, Bashir Ali Mohammad (2004), *The Right to Dissolution of Parliament in the Modern Constitutions*, Dar Jama Jadida for Publication, Egypt, p.57.

constitutions have sought to establish this balance by giving each power the authorities that prevent encroaching either of them on the other. When the constitution grants the executive power to issue a decision of no confidence in the government, it grants the government the authority to dissolve the parliament as a tool to ensure balance.

Upon the foregoing, the problem of the study can be drafted by asking the following questions:

1. What are the guarantees and restrictions contained in the constitution to ensure that the legislative power does not misuse the right to dissolution?
2. What are the further amendments contained in the constitutional amendments of 2011?
3. To what extent are these guarantees and restrictions for dissolution of parliament effective in reducing misuse of such authority, given seriousness of such dissolution and the consequent legislative vacuum?

1.2 Significance of the Study

Studying subject of dissolution of parliament is significant due to the seriousness of the tool the executive power has against the legislative power which results in the early termination of the lifespan of the parliament prior to the date provided under the constitution- 4 calendar years. Accordingly, the executive power performs the legislative task in absence of the legislative power by issuing interim laws in accordance with Article (94) of the Jordanian Constitution.

Thus, this subject is very important to explain and identify concept and nature of the dissolution, the guarantees and restrictions for the right to dissolution of parliament contained in the constitution as well as sufficiency and efficiency of such guarantees and restrictions in reducing use of such right but in the required cases.

Further, this study is significant since it reviews the new guarantee contained in the constitutional amendments of 2011, and identifies effect and efficiency of such new guarantee in reducing dissolution of parliament which is elected by people.

1.3 Objectives of the Study

This study aims to achieve the following objectives:

1. Identify concept and nature of dissolution of parliament.
2. Identify controls and restrictions contained in the Jordanian constitution for the right to dissolution granted to the executive power against the legislative power, and to what extent these controls are sufficient and efficient in reducing use of the right to dissolution.
3. Identify the constitutional amendments added to Article (74) of the Jordanian Constitution of 1952, which provide for new restrictions that were not present before the constitutional amendments of 2011, and efficiency of such amendments.

1.4 Hypotheses of the Study

Upon the above objectives of the study, many questions arise, including:

1. What are the concept and nature of dissolution of parliament?
2. To what extent is giving the right to dissolution of parliament to the executive power important in realizing balance between the legislative and executive powers?
3. What are the restrictions and guarantees contained in the constitution for the right to dissolution of parliament?
4. To what extent are such guarantees sufficient in preventing the executive power from encroaching on the legislative power?
5. To what extent is the constitutional amendment of 2011 to Article (74), dissolution of parliament, efficient in reducing misuse of the right to dissolution by the executive power?

1.5 Methodology of the Study

To achieve the desired results, nature of this study requires use of both the descriptive approach to identify the concepts contained in this study, and the analytical approach to analyze and interpret the constitutional provisions on dissolution of parliament, and discuss the juristic opinions given by the constitutional jurists on these provisions and the relevant amendments.

1.6 Plan of the Study

To explain nature of the dissolution and answer questions of this study, this study is divided into three topics and a conclusion as follows:

- nature of dissolution of parliament
- controls and restrictions contained in the Jordanian constitution for the right to dissolution of parliament.
- Efficiency of constitutional guarantees and restrictions for the right to dissolution.

- Conclusion, results and recommendations.

2. Nature of Dissolution of Parliament

Parliamentary system is based on the close cooperation between the executive and legislative powers, with flexible independence between these two powers. The right to dissolution is the powerful tool used by the executive power against the legislative power, while the latter has the right to arise the ministerial responsibility, vote no confidence in the government and force such government to resign.

In absence of the dissolution tool, the government is powerless against the parliament which can end its existence whenever it wishes.¹

It is established in the constitutional jurisprudence that dissolution of parliament is one of the tools of balance between the two powers, yet concept and meaning of dissolution is still controversial.

According to a justice opinion², dissolution is "to terminate term of the parliament before the legal period established for its service, i.e. before the end of the legislative term".

Another juristic opinion³ says that "dissolution is to terminate term of parliament before the expiration of its constitutional term of office, i.e. before the end of the legislative term of the parliament".

Further, other jurists⁴ argue that "dissolution means that the executive power terminates term of the parliament before the natural expiration of the legislative term".

Having reviewed the definitions above, it is noticed that dissolution of the parliament means early termination of the parliament life before the date established under the constitution and before the end of the legislative term.

This contradicts the principle of election of a parliament for four calendar years in accordance with Article (68) of the applicable Jordanian constitution. This period varies from a country to another as provided for in their constitutions.

However, use of the right to dissolution is required for many reasons. For a dispute between it and the parliament, for example, the government may dissolve the parliament, and appeal to the will of people by calling for electors to determine the dispute between the government and the parliament⁵. The right to dissolution is a tool to make people say their word in the dispute between the government and the parliament; where people decide which party to choose.

Dissolution might be for urgency, failure of the parliament to fulfill the people's needs to be popular dissolution, or proximate end of term of the parliament.⁶

Necessity of providing for the right to dissolution in constitutions is a disputed issue in the constitutional jurisprudence. The first opinion denies the right to dissolution of parliament, since such dissolution contradicts the key pillars on which the parliamentary system is based. The second opinion supports the right to dissolution and considers such right as one of the key pillars of the parliamentary system. The third opinion confines the right to dissolution to certain limited cases.

Dissolution of parliament has various forms depending on the body performing such dissolution. The presidential dissolution is performed by the president of the state on behalf of the executive power. The ministerial dissolution is carried out by the Council of Ministers. If the parliament is dissolved upon the direct will of people, then it is called popular dissolution. Dissolution might be carried out under the law if certain cases in the law are realized, where it is called automatic dissolution. Despite of the causes beyond the right to dissolution, there should be restrictions and guarantees to ensure that such right is not misused by the executive power. This will be detailed in No.3.

3. Controls and Restrictions over the Right to Dissolution of Parliament

Constitutions of parliamentary states have not left the right to dissolution of the parliament by the executive power without guarantees and controls. Rather, all of them, including the Jordanian constitutions, have sought to develop a set of guarantees and restrictions for the right to dissolution that reduce arbitrariness of the executive power when using such right. These guarantees serve as an obstacle that prevents the executive power from manipulating the life of the parliament elected by the people.

However, these constitutions do not agree on a same set of restrictions and guarantees, rather each constitutional system has its own controls and restrictions that may agree or disagree with the other constitutions.

¹ Zawahreh, Saleh Khalaf Udeh (1993) Principle of Separation of Powers between Theory and Application, a comparative study, unpublished master thesis, the University of Jordan, Amman, Jordan, p.132.

² Khalil, Muhsen (1996), Constitutional Law and Egyptian Constitutions, Dar Jama Jadida, Cairo, p.433.

³ Sheha, Ibrahim Abd Al-Aziz, (2006), Status of the Executive Power in the Modern Political Systems, Munshat Maaref, Egypt, p.75.

⁴ Shaer, Ramzi, (1983), General Theory of the Constitutional Law, Dar Nahda Arabia, Cairo, edition3, p.524.

⁵ Nasrawin, Laith, (2013), Effect of the Constitutional Amendments of 2011 on the Public Authority in Jordan, Journal of Studies, Sharia and Law Science, Jordan, the University of Jordan, volume 40, part 1, p.227.

⁶ Shatnawi, Faisal, (2005), the Right to Dissolution of Parliament and its Applications in the Jordanian Constructional System, Manara Journal, volume 11, issue 4, p.14.

The Jordanian constitution provides for a set of restrictions over the right to dissolution to reduce misuse of such right by the executive power. However, it is noticed that most of the parliaments were dissolved. This means that these guarantees and restrictions are insufficient to reduce use the authority of dissolution, which required to add additional guarantees and restrictions.

Therefore, the Jordanian legislator in the constitutional amendments of 2011 provides for a set of guarantees and restrictions for the right to dissolution of the parliament, which might have a significant effect on extending life of parliament until the end of its legislative term established under the constitution.

Having reviewed the constitutional provisions on the right to dissolution, the Jordanian constitution provides for a set of guarantees that restrict the executive power in use of such right, namely:

1. Issuance of a royal decree.
2. Causation of the dissolution decision.
3. Resignation of the Prime Ministry under its term of office the parliament is dissolved.
4. Conducting general elections after dissolution of the parliament.
5. Impermissibility of use of the right to dissolution when the ministerial responsibility is negotiated.
6. Resignation of the minister who wants to run for the general parliamentary elections.

3.1 issuance of a royal decree

Article (34/3) of the Constitution provides that”

The King may dissolve the Chamber of Deputies”, and Article (40) provides that”

The King shall exercise the powers vested in him by Royal Decree. Every such Decree shall be countersigned by the Prime Minister and the Minister or Ministers concerned. The King expresses his concurrence by placing his signature above the said signatures”.

Article (34/3) might suggest that the king has an absolute discretionary power to dissolve the parliament, and that dissolution of parliament may not be effective but under a royal decree. This opinion is mentioned in a decision of the High Court of Justice “dissolution of parliament under the Jordan constitutional system may not be effective but under a royal decree”.¹

However, we do not agree with this decision, and we think that the said provision does not prevent that the dissolution decision is ministerial. In practice, dissolution of the parliament upon request of the Council of Ministers has occurred many times. An Arab jurist argues² that when the provision is produced in this wording, this means that dissolution may be either upon a royal decree or theoretically upon a ministerial decision.

It is noticed that Article (40) of the Jordan Constitution defines the way through which the king exercise the right to dissolution, where it provides that “The King shall exercise the powers vested in him by Royal Decree. Every such Decree shall be countersigned by the Prime Minister and the Minister or Ministers concerned”. This rule agrees with Article (30) of the Jordan Constitution which immunizes the King from liability³. Date of issuance of the royal decree is required to be included therein, where mentioning the date is important since such decree is not effective but from the date on which it is issued.

Dissolution of parliament decision is considered an act of sovereignty that is not under control of the administrative courts in accordance with Article (9/c) of the repealed High Court of Justice Law No. 12 of 1992, and Article (9/d) of the Administrative Court Law No. 27 of 2014.

Acts of sovereignty mean “a set of the executive power's acts that are not under control of the court, so they are not subject to cancellation, replacement or legitimacy examination”⁴.

We consider it would be better that the dissolution of the parliament decision shall be subject to the control of the administrative court and deemed as not constituting one of the sovereignty acts, given that such decision is just merely an administrative one. Accordingly, it shall be subject to the administrative control.

3.2 Causation of the dissolution of the parliament decision

Guarantee on causation of the dissolution of the parliament decision is an important and logical guarantee aiming at preventing the executive authority from misuse the right to dissolution. Causation of the dissolution decision means to show the reasons beyond dissolution of the parliament by the executive power.

However, when the Jordan Constitution is reviewed, it is discovered that it explicitly provides for causation of the dissolution decision, where Article (74) thereof provides that “If the Chamber of Deputies is dissolved for any reason, the new Chamber shall not be dissolved for the same reason”. Having reviewed this Article, it is found that the Jordan Constitution implicitly provides for causation of the dissolution decision, where this can be

¹ High Court of Justice decision no. (1997/345), Jordan Bar Association Journal, issue 13, year 45, December 1997, pp.4575-4578.

² Tammawi, Sulaiman, (1996), the Three Powers in the Modern Arab Constitutions and the Islamic Political Thought, edition 6, Dar Fekr Arabi, Cairo, 1996, p.525.

³ Article 30 of the Jordan Constitution provides that “The King is the Head of the State and is immune from any liability and responsibility”.

⁴ Hakim, Said Abd Al-Munem (1976), Control over the Management Business in the Islamic Law and Modern Systems, PhD dissertation, edition 1, Dar Fekr Arabi, Cairo, p.51.

noticed in the paragraph "the new Chamber shall not be dissolved for the same reason". If it is required that the parliament may not be dissolved twice for the same reason, then the government is constitutionally required to show the first reason of dissolution¹, so that the people know if the second reason of dissolution is similar to the first one, and the dissolution is void accordingly.

The wisdom beyond this reasonable and natural guarantee is that if the prior parliament has been dissolved and the people are consulted and express their opinion on such solution through the general election of a new parliament, then there is no sense in dissolving the parliament for the same reason and re-consulting the people².

It could be said that causation of the dissolution decision might be ambiguous and that it is difficult to know the real reason beyond dissolution, where the executive power may show some of such reasons and conceal the other. Hence, this guarantee is not measurable since it is not mentioned in the dissolution decision, and it is therefore difficult to control. This makes this guarantee meaningless and useless.

If we examine the several frequent dissolution decisions made under the successive Jordan constitutions, it will be noticed that all of them neglect mentioning reasons of dissolution, except dissolution of the parliament took place in 1931. Thus, such dissolution decisions are contrary to the provisions of the constitution that implicitly require causation of the dissolution decision.

3.3 Resignation of the Prime Ministry under its term of office the parliament is dissolved

This guarantee was newly added in the constitutional amendments of 2011. It was added to Para 3 of Article 74 which provides that "The government, during whose term the Chamber of Deputies is dissolved, shall resign within one week of the dissolution date. The head of such government may not be assigned to form the next government".

The constitutional legislator did well by adding this important guarantee to the right to dissolution, since it has a significant and effective role in urging the government to linger and deliberate before giving reasons for dissolution of the parliament, unless there are serious and real reasons requiring such dissolution, where the government in whose term the parliament is dissolved must resign within a week of the dissolution date, as set out in the Article above.

This guarantee is important since it prevents the executive power from using this right arbitrarily. Obviously, this guarantee is the most effective one to achieve this. However, though this constitutional amendment has a significant role in realizing balance between the legislative and executive powers, it would have been better if the constitutional legislator has required formation of transitional government supervising the new elections that would definitely be conducted under the constitution. Such transitional government would only conduct the elections and then resign.

We would have wished that this constitutional amendment has restituted Article (74/2) that had been added to the constitution on 17.04.1954, which provides that "The government, during whose term the Chamber of Deputies is dissolved, shall resign within one week of the dissolution date, provided that the parliamentary elections shall be conducted by a transitional government". This Article was repealed on 04.05.1958, i.e. this Article lasted for only four years and 17 days³.

Additionally, the revised Article (74/2) under amendments of 2011 provides that "The head of such government may not be assigned to form the next government". Hence, the King's absolute right in assigning the prime minister is restricted, so the prime minister under whose term of office the parliament is dissolved cannot be assigned again in this position.

In this context, the question is: does this restriction, not reassigning the prime minister under whose term of office the parliament is dissolved, extend to all ministers? Or is it confined only to the prime minister?

It seems that the provision is explicit and clear and does not need an interpretative judgment; the prohibition relates to the prime minister and does not extend to the remaining minister. Hence, these ministers may participate in the new government.

Though justice and logic require extension of the prohibition to include all ministers who have recommended that the parliament is dissolved, since the recommendation for dissolution is made upon approval of not only the prime minister, but the whole Council of Ministers. Thus, the constitutional legislator is kindly required to amend this text so that the restriction includes not only the prime ministers but all ministers.

3.4 Conducting general elections after dissolution of the parliament.

Article (73/1) of the Jordan Constitution contains another guarantee for dissolution of the parliament, where it

¹ Laymon, Award Rajab, (2014), the Right to Dissolution of the Parliament in the Jordanian Constitutional System, a comparative study, Dar Wael for Publication and Distribution, Amman, Jordan, p.213.

² Hayari, Adel (1972), Constitutional Law and the Jordanian Constitutional System, a comparative study, Ghanem Abdo Press, Amman, p.758.

³ Hamouri, Mohammad, (2011), Constitutional Reforms in Jordan, a paper published in the Jordanian Bar Association Journal, 2011, 7th, 8th and 9th issue, p.60.

provides that”

" If the Chamber of Deputies is dissolved, a general election shall be held, and the new Chamber shall convene in an extraordinary session not later than four months from the date of dissolution. Such session shall be deemed to be an ordinary session in accordance with the provisions of Article 78 of the present Constitution and shall be subject to the conditions prescribed therein in respect of prolongation or adjournment". Otherwise, the dissolved parliament will resume its constitutional powers, as provided in Para 2 of Article 73.

The wisdom beyond requiring conducting the general election within no more than four months lies in a number of matters, including: the purpose beyond dissolution of parliament is to make people serve as an arbitrator over the dispute between the executive and legislative powers, so such arbitration must be held as soon as possible, not disrupting the parliamentary life for a long time, and not allowing the government to act freely without control for a long time.

Upon the above text, a general election must be held within no more than four months, and the new parliament must convene within no more than four months after dissolution.

The constitutional legislator gained mastery by requiring a specific period for conducting the general election and convention of the new parliament, though we would have wished that the period is less than four months.

In order for the text above to be effective, the constitutional legislator requires matters in case of failure to conduct the general election, namely the dissolved parliament remains in office under the constitution, assembles forthwith as if its dissolution had not taken place and exercises all its constitutional powers, so that there is no legislative vacuum and the parliament continues its control over the government's acts.

Return of the dissolved parliament is considered a punishment on the executive power which has failed to conduct the general election, where it will be obliged to deal with again with such dissolved parliament².

The parliament continues exercising its activities until the new parliament is elected, where it is a temporary return until the new parliament is elected. Hence, in accordance with the above texts, the parliament must not be ineffective for more than four months.

3.5 Impermissibility of use of the right to dissolution when the ministerial responsibility is negotiated.

The Jordan constitution prevents the executive power from dissolving the parliament when the ministerial responsibility is negotiated before the parliament, whether a collective responsibility of the council of ministers or an individual responsibility of a single minister³.

Article 53/2 of the Jordan Constitution provides that”

“A vote of no confidence can be delayed only once for a period no longer than ten days should the competent minister or the council of Ministers make such a request, in which period the Chamber shall not be dissolved”.

The wisdom of this text is to prevent dissolution of the parliament while the representatives exercise one of the most important constitutional rights, namely vote of confidence in the government, so that they perform their control tasks efficiently and impartially, and they are in a healthy environment that enables them to exercise their control powers to get even with the government for its acts, mistakes and failures.

If the executive power is permitted to exercise its right to dissolution of the parliament when confidence is voted on, then vote of confidence will lose its substance and content, the parliament will not be able to perform its control functions and the imbalance between the two powers exists in the parliamentary system by favoring the executive power. Hence, if the government thinks that it will not gain the parliament's confidence, then it will dissolve such parliament.

Thus, this is the most powerful guarantee since it establishes balance between powers, and enables the parliament to properly perform its control functions without being threatened of dissolution by the government whenever it decides to hold the government answerable.

However, the Jordanian legislator is kindly requested to extend the period in which dissolution of parliament is permissible to become from the beginning of the government formation until it is granted the confidence. This is because the present wording of the text does not prevent the government from dissolving the parliament before the confidence session. This has happened in reality where the executive power dissolved the parliament twice upon knowledge of the prime minister before the confidence session that the parliament would vote on no confidence⁴.

¹ Shatnawi, Faisal, Ibid, p.33.

² Tabtaai, Adel, Political Control over the Government's Acts while the Parliament is Dissolved, Faculty of Law, the University of Kuwait, unpublished research, p.20.

³ Laymon, Awad, Ibid, p.218.

⁴ The 3rd Parliament was dissolved in 1954, and the 7th Parliament was dissolved in 1963, since the Prime Minister knew that his government would not have the parliament's confidence.

3.6 Resignation of the minister who wants to run for the general parliamentary elections.

Article 74/3 of the Jordanian constitution provides that " A minister wishing to run for the elections must resign at least sixty days before the election date".

It is obvious that this text seeks to divest ministers of their functional capacity, so that all candidates are even in terms of the legal status, and they are prevented from use of their ministerial positions and influence to serve their electoral propaganda.

This guarantee is therefore significant and effective in promoting election's transparency, integrity and fairness.

4. Efficiency of constitutional guarantees and restrictions for the right to dissolution of parliament

Having completed explanation of the constitutional restrictions and guarantees for dissolution of parliament as provided under the constitution to reduce arbitral use of the right to dissolution by the executive power, a question arises: to what extent are these guarantees effective in reducing dissolution of parliament? Have such restrictions played a real and effective role in reducing dissolution?

By reference to the practical applications of the right to dissolution in the Jordanian constitutional system, it is noticed that these guarantees are insufficient to prevent the executive power from exercising the right to dissolution for simple problems with the legislative power that could have been resolved without resorting to dissolution.

There should be more effective and efficient guarantees and restrictions to ensure that the authority is not misused by the competent body, since the Jordanian administrative court has refused to have control over the dissolution of parliament decision, where such court believes that such dissolution falls under the acts of sovereignty that are not within the scope of its powers. This is mentioned in a decision of the High Court of Justice, as referred to above.

These restrictions and guarantees are obviously insufficient to reduce the dissolution decisions, since most of parliaments were dissolved previously, except a few.

We hope that the constitutional amendment to Article 74/4 in 2011, which obliges the government, under whose term of office the parliament is dissolved, to resign within one week of the date of dissolution, and that the head of such government should not be assigned to form the next government, has an effective effect so that the parliament continues performing its activities until the end of its term established under the constitution.

5. Conclusion

The Jordanian parliament is based on the flexible separation of the executive and legislative powers, and balance between these two powers is one of the most important principles of the parliamentary systems. This balance exists by giving the legislative power the right to vote to ministerial responsibility and granting the executive power the right to dissolve the parliament, where the parliament is dissolved before the end of the legislative term set out under the constitution.

Since dissolution leads to temporary suspension of the parliamentary life, constitutions have provided for several guarantees and restrictions to ensure that the executive power does not arbitrarily exercise such right and that it does not violate the objective and purpose for which the right to dissolution is granted.

This Study concludes a set of results and recommendations as follows:

5.1 Results:

- 1- Dissolution of parliament was firstly executed in Britain, which is considered the traditional model of the parliamentary system.
- 2- Most constitutions worldwide, which adopt the parliamentary system, have adopted the right to dissolution of parliament and included such right in their constitutional texts.
- 3- The right to dissolution of parliament is considered one of the balance pillars between the executive and legislative powers, where absence of such right ends up with absolute domination of the legislative power over the executive power.
- 4- Dissolution of parliament has several forms including presidential, ministerial, popular and automatic dissolution.
- 5- The Jordanian legislator adopts royal dissolution of parliament in accordance with Article 34 of the Constitution which provides that "the King may dissolve the Chamber of Deputies". However, from practical and applied perspective, the parliament has been dissolved several times at request of the government.
- 6- Given seriousness of right to dissolution and the consequential temporary suspension of the parliament life as well as the prejudice to people's will, the constitutions have provided for many guarantees and restrictions to ensure that the executive power does not misuse such right, since this is an extraordinary action performed by the executive power only in extraordinary

- circumstances under which dissolution is required.
- 7- The guarantees and restrictions provided under the Jordanian constitution are insufficient, where such guarantees and restrictions have not prevented the executive power from dissolving the parliament for any reasons it deems appropriate.
 - 8- The Jordanian constitution does not expressly provide for causation of the decision on dissolution of parliament. However, it implicitly indicates to causation as provided under 74/1 of the Constitution.
 - 9- The constitutional amendments of 2011 have had an effective role in reducing dissolution of parliaments. Article 74/2 of the constitution was amended where it obligates the government under its term of office the parliament is dissolved to resign within a week of the dissolution date. This makes the executive power to think thoroughly before issuance of decision of dissolution.
 - 10- The Jordanian administrative jurisdiction considers that the decision on dissolution of parliament is an act of sovereignty that is not under its control. Hence, compliance of the executive power, when issuing decision of dissolution, with the restrictions provided under the Jordan constitution is not controlled.

5.2 Recommendations

- 1- We hope that the constitutional legislator will require that the explanatory statements of the dissolution of parliament decision must be explicitly, not implicitly, explained.
- 2- The parliament dissolution decision should be subject to control of the administrative jurisdiction and not to be considered an act of sovereignty. In principle, the dissolution decision is an administrative decision, so it should be controlled by the jurisdiction.
- 3- Article 74/2 of the present constitution should be amended by restituting previous text of Article 774/2 incorporated into the Jordanian constitution on 17.04.1954, which obligates the government under its term of office the parliament is dissolved to resign within a week of the dissolution date, provided that parliamentary election is carried out by a transitional government.
- 4- We hope that the constitutional legislator will amend Article 74/2 so that a restriction on prohibition of reassignment to form the government that comes after dissolution includes the prime minister and the ministers under their term of office the parliament is dissolved, and that such restriction is not confined only to the Prime Minister, since the recommendation on dissolution is provided under approval of the whole Council of Ministers, not the Prime Minister only.
- 5- Article 34/3 of the constitution should be amended by adding the following paragraph "and the dissolved parliament shall continue performing its activities until the new parliament holds a meeting".
- 6- Article 73/1 of the constitution should be amended so that the general election is conducted within no more than two months of the dissolution date.
- 7- Article 53/3 of the constitution should be amended by extending the period in which dissolution of parliament is prohibited. Such period should start from the moment in which the government is formed until such government attains confidence, in order to ensure that no dissolution is conducted before the confidence session.

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- 3- The Jordanian Constitution of 1952, as amended.
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- 2- Adala for Judicial Decisions in Jordan.
- 3- Qestas for Judicial Decisions in Jordan.