

ACTIVATING THE MECHANISM FOR PARLIAMENTARY INTERROGATION IN ALGERIA UNDER OF THE ORGANIC LAW 23/06



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Abstract: Parliamentary interrogation is considered an exclusive constitutional right of members of the legislative authority, alongside many other parliamentary oversight mechanisms. This oversight mechanism is one of the most powerful tools for monitoring the actions of the executive authority. It is used by the parliament to confront the government, and it may lead to the withdrawal of confidence from a ministry or force it to resign.

Algeria's constitutions have established the mechanism of parliamentary interrogation by granting the people's representatives oversight authority over the executive branch. In this regard, the 2020 Algerian constitutional amendment enshrined this right in Article 160, which allows the parliament to monitor the work of the government.

key words: Parliament, parliamentary Interrogation, People's National Assembly, Council of the Nation.

ملخص:

يعتبر الاستجواب البرلماني حق دستوري خالص لأعضاء السلطة التشريعية إلى جانب عديد وسائل الرقابة البرلمانية الأخرى، وتعد آلية الرقابة هذه من أخطر وسائل الرقابة البرلمانية على أعمال السلطة التنفيذية، حيث يستخدمه العضو البرلماني في مواجهة الحكومة أو أحد أعضائها أثناء توليها الشؤون العامة، وقد يؤول الاستجواب إلى سحب الثقة من الوزارة أو إجبارها على الاستقالة. لقد أقرت دساتير الجزائر منذ الاستقلال آلية الاستجواب من خلال منح ممثلي الشعب سلطة رقابة على السلطة التنفيذية و في هذا الإطار كرس التعديل الدستوري الجزائري لعام 2020 في مادته 160 هذا الحق الذي يمارسه البرلمان بغرفتيه على عمل الحكومة.

الكلمات المفتاحية: البرلمان ، الاستجواب البرلماني ، المجلس الشعبي الوطني ، مجلس الأمة .

Introduction:

The constitutions of democratic countries explicitly recognize that parliamentary interrogation is considered one of the most important tools of parliamentary oversight over the actions of the government, as this oversight method involves accusing the entire government or one of its members and criticizing its policies. Parliamentary questioning emerged at the beginning of the French Revolution in 1791, disappeared after that in the Constitution of the Year III with the revolution, and returned again in May 1831. In 1848, members of the French National Assembly used parliamentary interrogation extensively. Although France was the birthplace of parliamentary interrogation, the current French Constitution of 1958 marks the end of the role of interrogation. On the other hand, in the English system, there are no legal provisions referring to parliamentary questioning. Instead, there is a similar system known as the "motion for postponement," which involves asking a question followed by a discussion.

Anyone studying the responsibility of the executive body or authority before parliament will undoubtedly notice the developments it went through, from the individual criminal responsibility of the king before the British House of Commons to the collective political responsibility of the ministry, both the prime minister and the ministers. This shift resulted in the king's exemption from oversight responsibilities, and as a result, the responsibility of the government, as the actual body exercising executive power, is now directly before the representatives of the people, who hold the right to monitor its actions during the performance of its duties. One of the key mechanisms for this oversight is parliamentary interrogation, which the Algerian constitutional founder has highlighted as crucial since the Algerian Constitution of 1963 until the constitutional amendment of 2020.

Due to the nature and specificity of the topic, we have relied on several methods, foremost among them the descriptive method to define the legal concept of parliamentary interrogation and its historical development, in addition to the analytical method to examine a number of constitutional and legal texts and specialized works to understand the objectives of parliamentary interrogation and the procedures to be followed in such forms of oversight.

To clarify how this parliamentary right is exercised in Algeria, this study will aim to address the Organic Law No. 23/06, which regulates the oversight procedures designed to protect the rights and freedoms of individuals in the face of executive authority's excesses.

In light of what has been mentioned, the central issue addressed in this topic is essentially the following question:

-What is the concept of parliamentary interrogation, and what procedures are followed to achieve its oversight objectives according to the various texts established by the Algerian constitutional founder and legislator?

In order to answer this central question, the topic has been divided as follows:

01: The Concept of Parliamentary Interrogation and Its Objectives

As an introduction, the first attempts to activate the mechanism of ministerial responsibility through parliamentary interrogation date back to 1791, immediately following the French Revolution. However, this initiative was soon dismissed in 1831. Despite this, it was resorted to intermittently in France from 1849 until the abolition of this oversight procedure by the French Constitution in 1958 (Kherbashi, 2003, p. 298).

Understanding the mechanism of parliamentary questioning inevitably leads us to define its linguistic meaning in the most accurate sense, as well as its legal terminology, to distinguish it from other similar terms. It also requires highlighting the objectives sought through the exercise of this oversight right by the representatives of the people.

1- Definition of Parliamentary Interrogation:

Parliamentary questioning carries linguistic connotations that differ from its legal definition, and there is also a variation in the interpretations of these meanings. To clarify this, we will attempt to address it through the following two sections:

A- Linguistic Definition of Interrogation:

The term "interrogation" in the English language has its linguistic source in the verb "interrogate" which means to question somebody closely or aggressively for a long time (Oxford Advanced Learner's Dictionary, 1995, p. 625).

The word "interrogation" in Arabic, it is equivalent to the word (Istijwab) linguistically encompasses several meanings. Interrogation is the source of the verb "Istijwaba," which refers to extracting the truth or information through questioning and investigation (Al-Maany Dictionary , 2025).

The root of "Istijwab" is the verb "Jawaba," which refers to the act of reviewing or revisiting speech. Additionally, one of the names of Allah is " Al-Mujeeb" meaning "the one who responds to the supplicant's prayer ".

In the "Al-Qamus Al-Muhit" by Al-Fayruzabadi, it is stated that "Istijwaba" means to respond or to answer, and "Istigaba Lahou" means to converse or to discuss with someone. The modern Arabic dictionary defines "Istijwab" as a verb on the pattern "Istafala," meaning to question or interrogate, implying to ask and receive a response. Thus, it refers to asking in a manner where the answer is provided, such as in the context of a judge questioning a defendant (Al-Jar, 1987, p. 155).

B-The Definition of Interrogation in Terms of Legal Terminology:

Parliamentary interrogation is defined as a constitutional means through which members of parliament can request clarifications on current issues (Boualchir, 2013, p. 172). Some view interrogation as a procedural measure for obtaining information and monitoring the government. It provides an opportunity for public discussion within the parliament regarding government policies in various aspects or as a whole (Al-Tamawi, 1960, p. 167).

This definition is almost in agreement with the various definitions provided by Arab constitutional law scholars, who define it as: "Holding the government or one of its ministers accountable for their actions in public affairs" (Vedel, 1979, p. 456). In another context, parliamentary interrogation is considered to be: A procedure for investigating certain facts related to specific situations in one of the executive branches, where questions are exchanged between the one initiating the interrogation or some members of parliament, and the

response comes from a minister or the head of government. It aims to activate political accountability towards the government (Salam, 1983, p. 87) .

Based on these previous definitions, interrogation is seen as a monitoring tool for government actions that opens the door for objective discussions among parliament members. It is not merely a relationship between two parties like other forms of oversight but extends to broad discussions in the parliament, which may lead to serious consequences, such as a vote of no confidence in the government or one of its members. Alternatively, it could also confirm the government's trust and strengthen its position (Nassar, 1999, p. 15).

2: Objectives of Parliamentary Interrogation:

While a parliamentary question represents a right for a member of parliament to confront the government with the aim of seeking clarification on a specific issue, and the questioner generally has the right to provide one follow-up, parliamentary interrogation is broader and more comprehensive than a question. It often includes an accusation of negligence, failure, or a violation of a rule. Therefore, the discussion that follows the interrogation allows members of parliament to participate (Al-Kadhimi & Ali Ghaleb , 1991, p. 91).

In light of the importance of this oversight mechanism, the objectives that can be achieved through parliamentary interrogation can be summarized as follows:

-As previously mentioned, interrogation goes beyond a parliamentary question in that it is not limited to clarifying a fact or situation raised by the question. Rather, it involves holding the responsible party accountable for their actions, especially when those actions lead to negative outcomes that affect the performance of the executive branch. Parliamentary interrogation often addresses more than traditional topics such as health, education, culture, or economics. It highlights issues such as government waste, mismanagement of public funds, or failures in addressing budget deficits over multiple years. These cases are of a serious nature and can lead to a real crisis between the parliament and the government, potentially resulting in the

dismissal of the government or the dissolution of parliament (Al-Azmi, 2020, p. 187).

-Parliamentary interrogation is a legal guarantee provided by constitutions to governments in the face of parliamentary oversight. It ensures and provides transparent procedural mechanisms and a reasonable time frame for the executive branch to defend its program with relevant documents and official evidence, which can strengthen its position in the political arena and clarify its public policy to the public.

-Parliamentary interrogation is one of the key guarantees for protecting individuals' rights and public freedoms against the arbitrary actions of the executive branch. Through this, true representation of the people is achieved (Atiya, *Interrogation as a Means of Judicial Oversight in Egypt*, 1996, p. 37), allowing the elected representative to fulfill the duties entrusted to them. In light of the objectives of parliamentary interrogation, the parliamentary body is empowered to uncover the truth regarding the government's management or that of a specific ministry, thus informing the public to serve the common good or, later, taking appropriate action, including pushing for the resignation of a minister or the prime minister (Mubarak, 2015, p. 113).

-In addition to the above, parliamentary interrogation achieves several other objectives. Parliamentary practices have shown that simply threatening accountability is often an effective way to prevent errors before they occur, prevent their escalation, or stop them from being persisted upon. Historically, political accountability has been generated through the threat of invoking criminal responsibility for ministers (Baghela, 2004, p. 49).

02: Conditions and Procedures of Parliamentary Interrogation

By reviewing the constitutions of the Algerian state and the laws related to the oversight of the government by the parliament, and the powers of each authority, it is clear that Algerian constitutions have consistently included interrogation in their texts since the 1963

Constitution, without significant changes in the procedures (Belgloul, 2021, p. 10).

In light of what has been established by the constitutional founder and the organic law related to this mechanism, these conditions can be categorized into essential substantive conditions and formal conditions. In accordance with strict legal procedures that regulate the work of this oversight power of the parliament.

1- Substantive Conditions:

The Algerian constitutional amendment of 2020, specifically Article 160, in addition to provisions from the Organic Law No. 16-12, amended and supplemented by Organic Law 23/06, which defines the organization and functioning of the National People's Assembly and the Council of the Nation, as well as the functional relations between them and the government, established substantive conditions for the exercise of the parliamentary interrogation right. These conditions are outlined as follows:

A-The Interrogation Must Relate to a Nationally Significant Issue:

Article 66, first paragraph, of the aforementioned organic law states: "Members of parliament may interrogate the government on matters of national importance and the implementation of laws." The same text excludes issues related to national defense and state secrets in foreign relations, according to the provisions of Article 160 of the constitution.

This condition was previously mentioned in Organic Law 99/02, specifically in Article 65 and Article 133 of the 1996 Algerian Constitution, and it was primarily related to urgent issues, which can only be national issues and no others.

The condition outlined in the previous constitution implies that the interrogation must focus on current issues, making it impossible for the interrogation to address past issues. This places the interrogation in a context different from ordinary interrogations, which may address a wide range of issues (Bousalem, 2007). However, the constitutional founder, by including current issues, allows the interrogation to extend to past events that are linked to the present.

B- The Parliamentary Interrogation Must Concern Government Actions:

This implies that it is prohibited for the interrogation to concern authorities other than those entrusted to the government, as defined by the articles in the constitution. Therefore, the interrogation, or as some have referred to it, the political issue, does not concern the officials of the ministry, regardless of their rank. According to the principles of parliamentary interrogation, it is directed at the minister, even if internal administrative accountability measures are taken against certain officials within the ministry. This does not prevent members of parliament from holding them accountable (Maqateh, 2002, p. 74).

C: The Parliamentary Interrogation Must Comply with Constitutional and Legal Provisions

All powers within the state, including the legislative and executive branches, exercise their powers in accordance with the constitutional provisions and nothing else (Onisi & Sharad, 2016, p. 210). Therefore, adherence to the constitution, as the fundamental law, is required. Failure to comply with this condition and respect it could lead to the rejection of the interrogation by the parliament. For example, the Egyptian People's Assembly rejected an interrogation on February 16, 1981, due to a legal violation. The proposed interrogation was directed at the Minister of Justice regarding a proposed amendment to the Penal Code to increase penalties for those involved in the abduction of girls and highway robbery. The rejection was based on the argument that there was no basis for an interrogation when the minister had presented a proposal that had been approved by the assembly (Tchebhat, 2014, p. 44).

2 - Formal Conditions:

The parliamentary interrogation mechanism is constrained by several formal conditions for its activation by the legislative authority in order to exercise this right. These conditions can be outlined as follows:

A- Quorum for accepting parliamentary interrogation:

Article 66, Paragraph 2, of Organic Law 23/06 requires a specific quorum, which cannot be less than thirty (30) deputies in the National People's Assembly or thirty (30) deputies in the Council of the Nation to sign the interrogation text.

It is clear from the previous text that the Algerian legislator considers parliamentary interrogation as a collective right, unlike some foreign legislations that limit it to an individual or a few individuals. For instance, the Egyptian Constitution of 2014 allows any member of the Parliament to direct an interrogation to the Prime Minister or any of the ministers or their deputies, holding them accountable for matters within their jurisdiction (Egyptian Constitution , 2014).

The Kuwaiti constitutional founder followed the same direction, allowing any member of the National Assembly to have the right to initiate an interrogation (the Kuwaiti Constitution, 1962)

Moreover, Article 134 of the Internal Regulations of the Kuwaiti National Assembly grants this right, provided that the number of members requesting the interrogation does not exceed three members. As for France, parliamentary interrogation can be exercised as a right by at least one deputy (French National Assembly Rules.).

Through these comparisons with some comparative laws concerning the required quorum for initiating the interrogation mechanism, it becomes evident that the requirement of thirty (30) signatures, as stipulated by Article 66, Paragraph 2, of Organic Law 23/06, complicates the activation of the interrogation in the National People's Assembly. This is especially challenging if the opposition, represented by some of its members, seeks to activate it, as reaching the quorum is nearly impossible. This is evidenced by the fact that few instances of interrogation occurred, mostly initiated by the parties of the presidential alliance, particularly during the period between 1997 and 2002 when seven interrogations were presented (Mubarak, 2015, p. 115).

The same difficulty in gathering thirty (30) signatures arises in the Council of the Nation, given its composition. Two-thirds of its members are elected through municipal and provincial people's council members via indirect, secret, general voting, while one-third is appointed by the President of the Republic by decree.

B-Parliamentary inquiry deposit method:

According to Article 69, Paragraph 02 of the Organic Law No: 16-12 (Organic Law No: 16-12 , Article 69 Paragraph 02, 2016) , The Interrogation Must Be Submitted in Writing to the Office of the Speaker of the National People's Assembly or the Office of the Council of the Nation.

The rationale behind the requirement for the interrogation to be in writing is that it serves as a means of accusation and a tool for accountability, containing facts and data related to violations that can only be highlighted with written evidence.

The written form also allows the government party to prepare its defense and responses. Moreover, it enables the parliament to fully understand the subject of the interrogation and its objectives, facilitating its oversight role and participation in the discussion (Younis, 2002, p. 47).

3- Procedures Followed in Parliamentary Interrogation:

Based on the provisions of Organic Law 23/06, the procedures related to parliamentary interrogation can be identified in two main stages:

A- The Submission Stage:

During this stage, the text of the interrogation is submitted to the office of the National People's Assembly or the Council of the Nation, in accordance with the requirements for presenting the interrogation. This is done by thirty (30) deputies from the National People's Assembly or thirty (30) deputies from the Council of the Nation. The text is then distributed to the relevant party. The Speaker of the National People's Assembly or the Speaker of the Council of the Nation must inform the Prime Minister or the head of government within a maximum period of 48 hours from the official submission of the interrogation this is in accordance with article 66 paragraph 2 of the organic Law No 16-12.

From what has been mentioned, it is clear that the submission of the interrogation is only valid if it is submitted to the Speaker of one of the two chambers in their offices, which means that it is prohibited to

submit the interrogation during the sessions of the National People's Assembly or the Council of the Nation.

After completing the previous stage, the government is notified of the interrogation, and it is placed on the agenda for discussion to hold the government or one of its members accountable, allowing members to express their observations and objections.

By examining the activities of the Algerian Parliament, both chambers, during the legislative periods from 1997 to 2022, it becomes evident that there has been a very limited use of this mechanism, with only seven interrogations presented by the National People's Assembly. The same observation applies to subsequent periods. As for the Council of the Nation, its members have not used the interrogation tool at all since the start of their mandate up to the eighth legislative period, from 2017 to 2021 (Ben Arabiya, 2022, p. 108).

B- The Discussion Stage of the Interrogation:

The legislator has set deadlines for the discussion of the interrogation, which should not exceed 30 days from the date the interrogation is notified. This is in contrast to what was stated in Article 66, Paragraph 2 of the Organic Law 99/02, dated March 8, 1994, which set the discussion session to occur within 15 days at most after the submission of the interrogation.

The extension of the time period to thirty days, and considering the date of notification of the interrogation as the starting point for the discussion deadline, may lead to the loss of certain rights and prevent the discussion from starting at an appropriate time. This contributes to the inability to address the misconduct or issue raised by the group of deputies who initiated the interrogation within the timely period.

It is also worth noting the absence of reference in the successive Algerian constitutional texts, organic laws, and even in the parliamentary internal regulations regarding the time allocated for the initiator of the interrogation to present it. As a result, some legal scholars argue that the parliament has the authority to discuss the interrogation in one or more sessions, depending on its nature (Daaim, 2017, p. 214).

Furthermore, the previously mentioned organic law allows the members who initiated the interrogation to withdraw it before it is presented in the discussion session, provided that the Speaker of the relevant chamber is notified (Organic Law No:23-06 Article 67, Paragraph 3, 2023). Such a right to withdraw the interrogation could provoke controversy and dissatisfaction among the public, as the interrogation itself represents an accusation against the government or one of its members, and it is only exercised by the thirty members of either chamber if sufficient evidence and indications are available. Therefore, withdrawing the interrogation is seen as a retreat from addressing the misconduct of the executive body. If this happens, it is considered a clear reversal of true representation, especially before the people's representatives.

Conclusion:

By examining parliamentary interrogation in light of the provisions in Organic Law 23/06, it becomes clear that this mechanism is one of the most important tools for monitoring government actions, due to its nature based on accusations and accountability, resulting in several conclusions which can be summarized as follows:

- Parliamentary interrogation leads to either a vote of no confidence in the government or one of its members, or it may strengthen its position. However, in Algeria, this mechanism has certain characteristics distinct from other systems, as the accusation is more of an inquiry rather than a formal accusation, given that the executive power is largely represented by the parliamentary majority.

- Parliamentary interrogation in Algeria does not lead to the dismissal of the government, but is limited to forming an investigation committee on the matter. The parliamentary majority, as an ally of the executive branch, makes it nearly impossible to withdraw confidence from the government or any of its members.

- A drawback of the questioning mechanism in Algeria is that it does not grant the right of reply or further discussion after the government responds, allowing the government to avoid additional accusations or clarify further issues.

-It is also criticized that the mechanism, according to Organic Law 23/06, is restricted by the requirement to gather the signatures of thirty (30) members to initiate the procedure in either house of parliament. In addition to the time factor, which has been extended to a full month from the date of notification, this inevitably leads to delays and prolonged activation of the parliamentary monitoring mechanism, where time plays a crucial role in achieving its goals.

-It is noted that the required quorum for submitting a written question in the Council of the Nation is excessive, as the number of MPs required to use this procedure represents 40% of the total number of members, which amounts to 144 members. This has led to the Council not using parliamentary interrogation at all. Therefore, it is necessary to reduce the number of signatures, as it does not align with the efficient activation of this monitoring tool, especially since it is a condition placed on equal terms with the National People's Assembly, which has 407 members.

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