
Government Accountability in Iraq: Parliamentary Investigation in the Iraqi Council of Representatives

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ABSTRACT: A *parliamentary investigation* defines a legal process initiated against the prime minister, ministers, and government officials to ensure the transparency and integrity of government and all its associated bodies. The *lack of effectiveness* of investigation and oversight function of the Iraqi Council of Representatives in *government accountability* was one of the main reasons for investigation failure to many government scandals and corruption in the government. The aim of this study is to identify the requirements for providing a legal power to the Council of Representatives in order to investigate and oversight the government and achieve government accountability, and to determine current obstacles those *hinder the work of investigation and oversight committees* as well as the causes of inability of Iraqi legislators in improving the constitution and empowering the assigned committees for government accountability. The main problem that will be discussed in this study is the *inability of the council of representatives of Iraq* to secure government accountability through investigation and oversight missions. The result is that the internal process is completely ineffective for government accountability, additionally the current assigned committees are unable to practice their rights and oversight the government officials and Prime Minister, ministers, and government officials. The *contribution* of this study is through the reinforcement of the role and responsibilities of the Iraqi Representatives in the Council for the benefit and interest of the Iraqi people by protecting the national economy from corruption and wasting national wealth.

KEYWORDS: *Accountability, Parliamentary, corruption*

Introduction

"All power tends to corrupt; absolute power corrupts absolutely."

Lord Acton (British Historian)

A *parliamentary investigation* defines a legal process initiated against the prime minister, ministers, and government officials to ensure the transparency and integrity of government and all its associated bodies. The *lack of effectiveness* of investigation and oversight function of the Iraqi Council of Representatives in *government accountability* was one of the main reasons for investigation failure to many government scandals and corruption in the government.

1. The Purpose of the Study

The aim of this study is to identify the requirements for providing a legal power to the Council of Representatives in order to investigate and oversight the government and achieve government accountability, and to determine current obstacles those hinder the work of investigation and oversight committees as well as the causes of inability of Iraqi legislators in

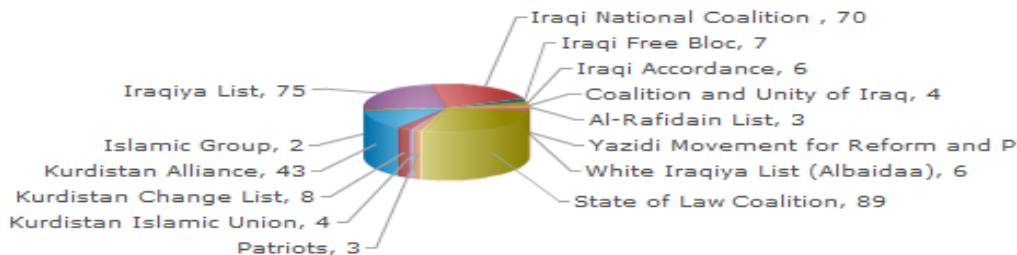
improving the constitution and empowering the assigned committees for government accountability.

Key Terms

The Iraqi Council of Representatives

The Council of Representatives of Iraq is the Bicameral legislature. It is currently composed of (325) seats and meets in Baghdad inside the International Zone (Green Zone). Under the permanent constitution approved on October 15, 2005,¹ legislative authority is vested in two bodies, the Council of Representatives and the Council of Union.²

The Council of Representatives consists of (325) members elected for four years, with two sessions in each annual term. The Council passes federal laws, oversees the executive, ratifies treaties, and approves nominations of specified officials. It elects the president of the republic, who selects a prime minister from the majority coalition in the Council (During an initial period, and only the for the first terms, a three-member Presidential Council elected by the Council of Representatives, and after that they elect one person will carry out the duties of the president of the republic).³



Source: Iraqi Parliamentary Monitor ⁽⁴⁾

Figure 1: Distribution of the House of Iraqi Representatives by Political Entities

Government accountability

The parliament investigation is connected with government accountability (Phil, 2013)⁵. The work of investigation committee in the parliament is directly associated with government accountability, which is concerns the securing and maintenance of integrity in government, as part of what is now called "good governance", a term that is used to carry accountability and other measures across both the public and private sectors. For the specific purposes of this study,

¹) The Iraq constitution(2005) has been published at the Iraq Gazette, number(4012) December 28,2005. http://www.iraqnationality.gov.iq/attach/iraqi_constitution.pdf.

² The Federation Council is the second legislative branch in Iraqi parliament in Article (48) of the Iraq constitution(2005), and the Iraqi legislature was keen on indicating a general rule related to its formation.

As explained in Article (65/1) of the Iraq constitution(2005) the mechanism of formation of the Federation Council stipulates that "to establish a legislative council called (the Federation Council) to be part of the federal legislative branch as well as the Council of Representatives, comprised of representatives of the regions and governorates that are not organized in a region, and organizes its configuration, and the terms of its membership, and its terms of reference, and related activities by the law enacted by a majority of two-thirds of the members of the Council of Representatives".

However, that the Council of Federation did not be established until now. In addition to that there is no intention by the political parties, which is represented in the Council Representatives to establish it in the near future. It is worth to mention here that the constitutional text requesting the issuance of the law of Federation Council after the first terms of elections, we are now at the third terms and so far has not been issuing it.

³ Article (138) from Iraq constitution(2005).

⁴ The official website of Iraqi Parliament Monitor, Available on:

<http://miqpm.com/English/index.php?CH=1>

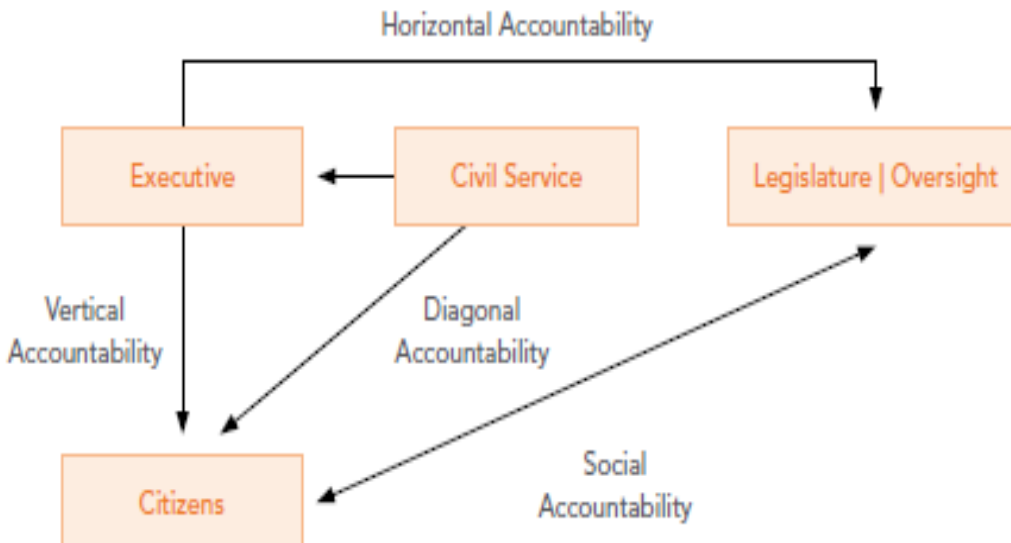
⁵ Phil Larkin (2013), Ministerial Accountability to Parliament Phil Larkin, Ministerial Careers and Accountability in the Australian Commonwealth Government, pp29-32.

parliamentary accountability addresses the concern that governments and their agencies should fulfill their responsibilities and, where problems occur or complaints arise, there should be mechanisms available to hold them to account for their actions or omissions (Gareth, 2005).⁶

In governance, accountability has expanded beyond the basic definition of "being called to account for one's actions" (Sinclair, 1995)⁷; Mulgan, (2000)⁸. Accountability cannot exist without proper accounting practices; in other words, an absence of accounting means an absence of accountability. Accountability comprises of four components (Government accountability and legislative oversight (2013))⁹

1. Horizontal accountability: Abuses by public agencies and branches of government are checked by State institutions, such as the legislature and anti-corruption agencies.
2. Vertical accountability: The mean through which officials are enforced to perform effectively by citizens, mass media, and civil society.
3. Diagonal accountability: Citizens are directly engaged in horizontal accountability institutions. Limited effectiveness of civil society's watch dog function is augmented by breaking state's monopoly on responsibility for official executive oversight.
4. Social accountability: Accountability is ensured by civic engagement.

Regardless of the form of government or accountability, the legislature plays a crucial role in promoting government accountability.



Source: Government accountability and legislative oversight: Improving Democratic accountability globally (2013).¹⁰

Figure 2: Concepts of Accountability

⁶) Gareth Griffith (2005), Parliament and Accountability: Parliament and Accountability: The Role of Parliamentary Oversight Committees, Nsw Parliamentary Library Research Service, Australia, pp.9-12

⁷) Sinclair, Amanda (1995). "The Chameleon of Accountability: Forms and Discourses". Accounting, Organizations and Society 20 (2/3): 219-237. doi:10.1016/0361-3682(93)E0003-Y, pp.22.

⁸) Mulgan, Richard (2000). "Accountability: An Ever-Expanding Concept?". Public Administration 78 (3): 555-573. doi:10.1111/1467-9299.00218, pp 33-34.

⁹) Government accountability and legislative oversight: Improving Democratic accountability globally (2013), a handbook for legislators on congressional oversight in presidential systems, pp,66, Available at: http://works.bepress.com/riccardo_pelizzo/50

¹⁰) Government accountability and legislative oversight: Improving Democratic accountability globally (2013), a handbook for legislators on congressional oversight in presidential systems, pp,4, Available at: http://works.bepress.com/riccardo_pelizzo/50

2. Investigative Parliamentary Committees

Investigative Parliamentary Committees are usually ad-hoc¹¹parliamentary committees or commissions formed to carry out in-depth investigations on specific issues of public importance. These commissions usually benefit from a greater degree of access to information than normal committees.¹²

Their powers may include summoning witnesses to provide testimony under oath, confronting one witness with another, requesting or seizing documents, ordering searches, and organizing field visits. In some countries, they may possess the same powers as a magistrate making a judicial investigation. Committees of investigation are commonly used oversight instrument in parliaments around the world and may be used to investigate important cases of corruption or abuse of power.

AGORA¹³, The Portal for Parliamentary Development (AGORA) elaborates on numerous oversight tools. Among these many tools, parliamentary committees as they are deemed "*the most systematic method for oversight of the executive*" by the Inter-Parliamentary Union (IPU) Guide on Parliament and Democracy given that they track the work of individual government departments and ministries, and conduct specific investigations into particularly salient aspects of their policy and administration.

According to the Iraqi constitution (2005) has not referred to the parliament oversight and government accountability in particular, as one of the ways to accountability of the Iraqi government in Article (61).

The Iraqi constitution also does not indicate explicitly the rights for assigning investigation committee to accountability the officials in the government, and does not allow more power to MPs., to enable them for practice their rights, while the rule of procedure of Iraqi Council issued in (2007)¹⁴ has referred to the right of parliament to assign oversight committees in articles (82,83,84,85), whereas in article (82) rule of procedure of Iraqi Council indicates that "the council shall assign Sub-committees, temporary committees, and oversight committees according to the requirements of work and subjects for discussions"

3. The objectives of Investigative Parliamentary Committees

According to the Portal for Parliamentary Development¹⁵, the major objectives of parliamentary investigation t are as follows:

1. To ensure transparency and openness of executive activities. Parliaments shed light on the operations of government by providing a public arena in which the policies and actions of government are debated, scrutinized, and subjected to public opinion.
2. To hold the executive branch accountable. Parliamentary oversight scrutinizes whether the government's policies have been implemented and whether they are having the desired impact.
3. Provide financial accountability. Parliaments approve and scrutinize government spending by highlighting waste within publicly-funded services. Their aim is to improve the economy, efficiency and effectiveness of government expenditure.

¹¹) ad-hoc committees that are set up to address a specific question on a time -limited basis. Hironori Yamamoto (2007), Tools for parliamentary oversight: A comparative study of 88 national parliaments, Published by Inter-Parliamentary Union, Switzerland, pp.15.

¹²) Other types of committee such as a permanent committee, party committee, or government committee are not discussed in this study.

¹³) <http://www.agora-parl.org/node/1053>

¹⁴) Rule of procedure of Iraqi Council has been published at the Iraq Gazette, number(4032) February 5,2007.

¹⁵) <http://www.agora-parl.org/node/1053>

4. Uphold the rule of law. Parliament should protect the rights of citizens by monitoring policies and examining potential abuses of power, arbitrary behavior, and illegal or unconstitutional conduct by government.

4. Importance of Investigative Parliamentary Committees

Investigative Parliamentary Committees perform two major functions: allowing for debate and inquiry and scrutiny into the issues discussed in Parliament in greater depth that would be possible in Parliament itself, and in giving and getting information, to and from the general public¹⁶.

Reduced corruption leads to enhanced economic development and increased living standards. According to Transparency International Organization, Iraq has took high rank(171) among (177) countries, in corruption level in 2013 statistics¹⁷. With regard to phenomenon control, and spread of the corruption in all the world, and particular in the developing countries that have unstable political system like Iraq, also can be noted the spread of political, financial and administrative corruption is all aspects of the state, and the council was not able to account the violators of Iraqi law, which lead Iraq to get that rank.

One of the most importance functions of parliamentary investigation in the Iraqi Representatives Council is to fight corruption, and investigating government scandal. On the other hand, the lack of effectiveness of oversight of the Iraqi Council of Representatives in government accountability was one of the main reasons for investigation failure in many government scandals and corruption in the Iraq government.

5. Features of Iraqi Investigative Parliamentary Committees

According to method and purpose of work and form of investigative parliamentary committees which had been listed in articles (82, 83, 84, and 85) of the rule of procedure of Iraqi Council, we can highlight some of their features

1. They use ways and tools of investigation without judicial supervision. And they do not have special powers of the criminal investigation.
2. They must establish and completion their mission during the course of the legislation term (there is no set up time).
3. The formation of the committees must be approved by the majority of the parliaments member

6. Formation of Iraqi Investigative Parliamentary Committees

The rule of procedure of Iraqi council of representatives is referring to the procedure of formatting these committees.¹⁸The Presidential Body (president and two deputies) ¹⁹or fifty members²⁰ shall be suggested formatting a committee for investigation in any matters. This

¹⁶ Marie tan kiak li (2011), a Comparative study of cabinet structures and parliamentary oversight across, Australia, India, the UK ,and Malaysia. pp20, Available on the <http://www.refsg.org/others/a-comparative-study-of-cabinet-structures-and-parliamentary-oversight-across-australia-india-the-uk-and-malaysia/> (last visit at 9/8/2014)

¹⁷ The 2013 Corruption Perceptions Index measures the perceived levels of public sector corruption in 177 countries/territories around the world. To see the full results go to: www.transparency.org/cpi.

¹⁸ Article (83) rule of procedure of Iraqi Council.

¹⁹ The minutes of the meeting of the Iraqi Council of Representatives (8) on Tuesday 26/1/2013,the second legislative year, the third legislative term.

Reading a report on Iraqi airline company, and making a security procedure for national security

²⁰ The minutes of the meeting of the Iraqi Council of Representatives (46) on Wednesday 25/2/2009,the third legislative year, the second legislative term.

Forming a investigative parliamentary committees to investigate with a commission of accountability and justice(extraction Bath party).

suggests must be gotten approval of majority of representatives in the council, However, this condition is bringing a lot of problems. As for the presidency body, and of the fifty members, it is difficult to reach an agreement among its officials, because the distribution of positions of the presidency body are based on a partisan and sectarian standard; and the fifty members are big number to reach it agreement, therefore, the request to investigate proposal of a government will often lead to a reservation and sensitivity expressed by presidency body members or the PMs. whom belong to the same partisan/ sectarian category; consequently, the proposal of a request for an investigation will be rejected.

Rule of procedure have not shown the cases where the request for a parliamentary investigation shall be dropped. It is worthier for the legislator to clarify these cases, especially since the parliamentary investigation in Iraq has always been generated by legislative texts.

Rule of procedure have not required any nominal or substantive restrictions or conditions for the request of conducting a parliamentary investigation-except that the request be submitted by fifty members of the Council.

7. Committee Membership of Iraqi Investigative Parliamentary Committees

Even though our rule of procedure have indicated the right of the Iraq council of representatives to form investigative parliamentary committees, the Rule have not stipulated the members number of these committees, nor have they stipulated how the committees members would be chosen, that question had been always asked and still without any answer As for how to choose the members of the investigation committee, we find the method exercised by the presidential body⁽²¹⁾, the Presidency chooses the Committee members, and then presents the names of the members to the council for voting.

8. Powers of Iraqi Investigative Parliamentary Committees

Although the rule of procedure have granted the investigation committee the powers of Investigating to get fact, "Fact-Finding" under Article (84) rule of procedures, which stipulate the right of the investigation committee to summon any person for hearing in accordance with the proper rule to gather information, and to obtain certain information associated with the case under investigation, without intrusion in any cases had already under jurisdiction, and they can ask experts opinion if they need that. But this Article has not clarified, what is meaning by "proper rule ". Add to that, it should have a power to interrogate employees and government officials in any government institutions immediately without waiting approval of the ministry. At the same time, this does not mean that the investigation committee has a direct authority over the employees and government officials, while in many cases the committee informs the minister, to inform all employees working within his/her authority to answer the questions issued by parliamentary investigation committee.

It is true that Article (84) has granted powers and authorities to the investigation committee, but it has not stipulated the legal penalty in case of violation committed by those who are summoned by the Committee for a hearing. Such violation may take the form of refusal to come to the committee, refusal of taking the oath, provide correct information, or refuse to provide documents and papers related to the case in investigation. This has made provisions of the powers of the committee of investigation a useless thing for lack of a legal requirement for government agencies to respond to these powers.

²¹⁾ The minutes of the meeting of the Iraqi Council of Representatives (21) on Monday 15/6/2009, the forth legislative year, the first legislative term.

The minutes of the meeting of the Iraqi Council of Representatives (46) on Wednesday 26/1/2013, the third legislative year, the second legislative term.

9. Committee Agendas of Iraqi Investigative Parliamentary Committees

Investigative parliamentary committees, generally, in many countries, are temporary committees, creating for spicily purpose, and there are different agendas for it. In most cases, set up to these committees, were lived that to the leading circumstances, news headlines such as the investigation committee of Biscuits was expired supplier to the Iraqi Ministry's of Education within the school nutrition project²², usually drive the agendas of select committees, although current topics discussed in the legislature can also do so.

These committees take the people opinion and feeling to the Parliament, as a kind of communication channel, and allow direct contact between members of the public and MPs. Public input is also equally important. Through its committees Parliament can get better information of community problems and attitudes. Committees provide a public forum for the presentation of the various views of individual citizens and interest groups.²³

10. How Iraqi Investigative Parliamentary Committees do their work?

Rule of procedure have indicated the right of the Iraq council of representatives to form investigative parliamentary committees. Nevertheless rule have not stipulated the mechanism or producers of committee's work.

Investigative parliamentary committees in Iraq council of representatives perform a combination of the following tasks: Issuing parliamentary order to specify numbers, president and members names, propose, and sometimes the deadline to the committee work, set up time for meeting by the president, meeting to draw the mainline and sets the agenda of the committee, meetings and Investigation sessions are held, call witness and gathering information is made written replies are accumulated, fact-finding, digesting, scrutiny, reporting, reports submitted, and making recommendations to Iraqi parliament council.

11. Committee reports of Iraqi Investigative Parliamentary Committees

When a committee has finished its mission on the issues that have been referred to it, or which it has chosen to consider, it produces a report summarizing what had been done from them (procedures and activates investigation has carried out) and provide recommendations and expressing its conclusions.²⁴

The typical committee report contents, for example but not limited the list of following:

1. Terms of reference.
2. Summary of the committee's conclusions.
3. Discussion of the reasons underpinning those conclusions.
4. Conclusions and recommendation.
5. Summary record of proceedings.
6. Evidence taken and submissions.

The Presidency Body in Iraqi Council of Representatives have an absolute power in setting a date to discuss the report, in most cases, this authority made many dispute between the

²² The minutes of the meeting of the Iraqi Council of Representatives (6) on Saturday 11/1/2014, the fourth legislative year, the second legislative term.

²³ Marie tan kiak li (2011), a Comparative study of cabinet structures and parliamentary oversight across, Australia, India, the UK ,and Malaysia. pp20, Available on the <http://www.refsa.org/others/a-comparative-study-of-cabinet-structures-and-parliamentary-oversight-across-australia-india-the-uk-and-malaysia/> (last visit at 9/8/2014)

²⁴ Article (85) rule of procedure of Iraqi Council.

Presidency Body and the Investigation committees members, on the mandatory to view there report or what a suitable time to view it to the council²⁵.

Generally, a simple majority of members is required to approve a committee report²⁶, However, the Iraqi rule of procedure have not stipulate specific rule to deals with investigation reports, so there is only one way for that to consider it as a regular matter, on the other hand, there are no adherence rule to publish it.

12. Impact and Power of Iraqi Investigative Parliamentary Committees

The impact of the report of the investigative parliamentary committees can be recognized in different ways, one of these ways are depending on the result of the parliament decision, that means if the committee ending their investigation without finding any mastic or error in the government work, there will be no government accountability, as opposed to that if the investigation committee point out any wrong in government work, the government accountability is going to hold by the parliament. And may be ending, in the bad scenario, overthrow the Government. While committees do not have enforcement powers over government, they still have great effect. Furthermore, by making information available to public, the government is held accountable by the public, however, they are also held to account only as much as the public wishes to exercise their rights to hold Government accountable.

The Iraqi rule of procedure have not stipulated of the impact or the power of the report of the investigative parliamentary committees. However, the decision that is going to take by the Iraqi parliament council will show how the government must respond to it.²⁷

Field work is showing three different categories, the first category, investigative parliamentary committees have not reach to result and committees are liquefy by the time, such as the committee of investigation of Status of Iraqi detainees women in Iraqi prisons.²⁸The second category, investigative parliamentary committees have reach to good result, but the big political parties have obstruct report approval by the MPs.²⁹, the third category investigative parliamentary committees have reach to good result and report approval, accompany with Parliament's decision, in that case, government action can be classified in three categories also, the government has no respond³⁰, the most cases the government has announcement respond without intention to do anything⁽³¹⁾, or the government is doing what the report stipulate.³²

13. Conclusion

²⁵ The minutes of the meeting of the Iraqi Council of Representatives (23) on Thursday 25/6/2009, the fourth legislative year, the first legislative term.

²⁶ Article (59/2) Iraq constitution(2005)

²⁷ Article (85) rule of procedure of Iraqi Council.

²⁸ The minutes of the meeting of the Iraqi Council of Representatives (33) on Thursday 20/11/2012 ,the third legislative year,-the first legislative term-

²⁹ The minutes of the meeting of the Iraqi Council of Representatives (23) on Thursday 25/6/2009, the fourth legislative year, the first legislative term.

³⁰ The minutes of the meeting of the Iraqi Council of Representatives (deliberation) on 28/4/2013, the third legislative year, the second legislative term.

Reading a report on killing (Alhouga) Demonstrators

The minutes of the meeting of the Iraqi Council of Representatives (20) on Thursday 11/6/2009, the fourth legislative year, the first legislative term.

Reading a report on detainees death and offensive in Almoqtadea district jail.

³¹ The minutes of the meeting of the Iraqi Council of Representatives (6) on Saturday 11/1/2014, the fourth legislative year, the second legislative term.

³² The minutes of the meeting of the Iraqi Council of Representatives (4) on Saturday 19/1/2013, the third legislative year, the second legislative term.

Reading investigation report of the Russian weapon contracts corruption

Through this study, we found the imbalance in the work of the Iraqi parliament is not limited to the provisions of the constitution and the rule of procedure only. The practical reality of the field work for the council in the exercise of its right of parliamentary investigation, which we closely identify through the minutes of meetings of the council of representatives (which are published, as written articles as well as videos, on the Council's website) has revealed the deficiencies afflicting the Council's work in this area.

We find the council unable to monitor the actions of the government and its agencies to the extent that the executive branch, not only became dominant over the various aspects of life, whether economic or political, but also has the power over the fate of the country.

We focus on the failure reasons; one of these reasons is the way and procedure to select the members of the committees, and the formation of these committees which depends on the approval of big political party representatives in the council and according to the suggestion of the presidency body. However, these big political parties had been already forming the government.

The Iraqi constitution and the rule of procedure of Council of Representatives are not referring to the procedure and mechanism to activate the work and mission of the investigation committees and oversight on the government in order to achieve government accountability successfully.

The results showed that most of assigned committees to for investigation missions failed to achieve the main goals which have been assigned for. Therefore, the council of representatives of Iraq becomes unable to achieve government accountability because of the defect in the Iraqi constitution, and the rule of procedure of the council that had been give a weak authority and a weak activate of the council to the work of investigation committees for the purpose of government accountability and oversight.

The result is that the rule of procedure is completely ineffective for government accountability, additionally the current assigned committees are unable to practice their rights and oversight the government officials and Prime Minister, ministers, and government officials because there is no explicit legislation regulate the work of these committees and give them the legal framework to apply constitutional law for investigating the performance of the government and its associated bodies and employees.

14. Recommendations

We suggest that must make a constitutional amendment to stipulate, at the heart of the constitution, that moving the political responsibility of the government, is considered to be a direct consequence of parliamentary investigation, and this is because Iraqi constitutional has not allowed to make any modification of the political responsibility unless as a result of interrogation (Article 61 of the Constitution).

This is what is being practiced by countries of deep-rooted parliamentary experience. This is because the political responsibility of the government before the parliament is the most dangerous weapon owned by the parliament to face the executive branch. Therefore, most of the constitutions and the rule of procedure of the parliaments all over the world have made it a direct consequence of the investigation.

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The web site

10. The official website of Iraqi Parliament Monitor, Available on:
11. <http://miqpm.com/English/index.php?CH=1>
12. <http://www.agora-parl.org/node/1053>
13. <http://www.agora-parl.org/node/1053>
14. The 2013 Corruption Perceptions Index measures the perceived levels of public sector corruption in 177 countries/territories around the world. To see the full results go to:
www.transparency.org/cpi.

The minutes of the meeting of the Iraqi Council of Representatives

1. The minutes of the meeting of the Iraqi Council of Representatives (8) on Tuesday 26/1/2013,the second legislative year, the third legislative term.
Reading a report on Iraqi airline company, and making a security procedure for national security
2. The minutes of the meeting of the Iraqi Council of Representatives (46) on Wednesday 25/2/2009,the third legislative year, the second legislative term.
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4. The minutes of the meeting of the Iraqi Council of Representatives (46) on Wednesday 26/1/2013,the third legislative year, the second legislative term.
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6. The minutes of the meeting of the Iraqi Council of Representatives (23) on Thursday 25/6/2009,the fourth legislative year, the first legislative term.
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Reading investigation report of the Russian weapon contracts corruption