

The principle of separation of powers, the cornerstone of any democratic system,  
This principle has helped the emergence of many of the trends and principles  
Democracy, which aims to ensure the basic human freedoms and resistance  
Injustice and tyranny, not the principle of separation of powers known in the  
The old legislation as the power was really the governor personally gather in his hand  
Fimars all of its terms of reference and accounts for all of the privileges that were not  
. (There is judicial authority independent of other authorities (1))

In the sixteenth and seventeenth centuries emerged from attempts to reduce  
Absolute power and the distribution of authorities to operate multiple bodies  
Jointly, since the concentration of power in the hands of the ruling was a result  
Serious threats to long-on individual freedoms and paid for the tyranny of the ruling  
. (and tyranny (2))

The principle of separation of powers principles important concern in the  
Philosophical thought in terms of humanitarian associated with this principle on behalf of  
the French philosopher

Famous Montescu Although the English philosopher John Locke had  
Already pointed out in his book (the civilian government), has emerged as a Montescu  
This principle in his book (the Spirit of the Laws), after that the Department of State  
functions to

Legislative, executive and judicial opinion should be separated and distributed to  
independent bodies

Because the assembled lead to tyranny, and was Montescu believed that each person  
Has the power to use it offends indulges in so finds it stopped

When alone, and reach out to non-abuse of power must be based system

That power stop power, principle of separation of powers leave its significance

To the real distribution of power between the bodies, including the separation of organic  
makes it

Independent so as to prevent the tyranny of one or the other - Chapter - "Do not stop  
To just the distribution of power but also to regulate the relationship between (1)

Although

All the criticisms addressed to this principle, but it spread and prevailed in many  
countries

Became one of the fundamental principles underlying the system of government.

We would like in this presentation to review the issue of separation of powers and  
independence

Constitutional courts and similar bodies in several axes are the following:

1. The principle of separation of powers in the constitutional system in the Republic  
Yemen.
2. The principle of independence of the judiciary in the Yemeni legislation in force.
3. The draft constitutional amendments in 2008.
4. Yemen's judicial system.
5. Constitutional Court of Yemen.

First: the principle of separation of powers in the constitutional system in the Republic of  
Yemen.

A. The principle of separation of powers in the Constitution of the transitional phase of  
the State unit.

On 27 September / 1410, 22 / April / 1990 an agreement was signed  
Proclamation of the Republic of Yemen and the organization of the transitional period,  
which stated the following:  
Yemeni homeland and live stage setting for the full re-building and unity  
And the establishment of the State unit, including the Yemeni arena of activities pursued  
by the m  
All levels of leadership and government and regulatory bodies, popular and  
Trade unions and public to implement the historic agreement in Aden thirty  
Of November 1989 and continue for the sincere and serious consultations that occur  
between  
The leaderships of the country in order to enhance one will work in Liqya de-unitary,  
And demonstrate responsibility and duty of all leaders at all levels, and  
For the safety of the steps and actions of unity in the transitional phase, and the  
establishment of State unit, in recognition of the leadership for all the presents at the  
national level  
Debates and national dialogues aimed at the whole issue of domestic e and unity of the  
homeland  
In general.  
In line with that seen in the process of unity of a democratic atmosphere and in  
furtherance of this  
Climate, which reflects the most important goals and benefits of national revolutions in  
September  
And October Alkhald pivot upon the basis of the dialogues citizens  
Yemen in order to restore their unity, and in order to T. Fair and full powers  
Constitutional Unit of the State upon its establishment and the absence of a constitutional  
vacuum in which,  
To achieve the full legitimacy of popular participation and democracy in  
Governance.  
Given the need to be a transitional period after the establishment of the Republic  
Yemen are limited enough to understand the process of Aliaada d for the future of the  
State  
Yemen and the conduct of elections for the House of Representatives, and in order to  
prevail on the work  
Constitution of the State of unity and constitutional legitimacy and not to resort to  
override the Constitution  
Or modified by any party is entitled to the right of amendment.  
And an emphasis on the purity of unitary construction which is based on a national basis  
Based on the objectives of the September and October Revolutions Al.d, and a platform  
of allegiance  
National, Islamic and humanitarian, has witnessed the first meeting of Sana'a for the  
entire leadership of  
- 27) Ramadan 1410 AH corresponding to 19 - Yemeni homeland, during the period of  
(24  
22 / April 1990 where it was agreed on the following:  
Article (1) On the twenty-second of May 1990, corresponding to  
27 / October / 1410 between the states of the Yemen Arab Republic and the Republic of

Yemen

People's Democratic Republic (the two parts of Yemen) and complete fusion unit where the melt

International personality of each person in an international one is called (the Republic Yemen) and the Republic of Yemen authorities of legislative, executive and judicial One.

Article (2) after the entry into force of this Agreement like □ and N of the Presidency of the Republic

Yemen for the transitional period is composed of five persons elected from Them in their first meeting as Chairman of the Council presidency and the vice president for Council.

The Council's presidential election by members of a joint meeting

Of the Presidium of Supreme People's Assembly and the Advisory Board, The Board of Presidential oath of office before a joint meeting before his duties

The Presidency Council shall exercise immediately after his election all the powers vested in the Council

Presidency in the Constitution.

Article (3) The transitional period for two years and six months from the date of Into force of this Agreement, and consists of the House of Representatives during this period of full membership

Shura Council and the Supreme People's Assembly in addition to a number (31) Member of the issue

Their decision of the Presidency Council, the Council of Representatives shall exercise all the powers

Stipulated in the Constitution except the election of the Presidency Council, amend the constitution.

In the case of vacant seat of any of the members of the House of Representatives for any reason it is

Filled by appointment by the Presidency Council.

Article (4) The Council Presidency in the first meeting of his decision to form Advisory board composed of (45) members, and determine the Council's functions in the same resolution.

Article (5) The Council Presidency Government of the Republic of Yemen, which Assume all the powers vested in the Government under the Constitution.

Article (6) assigns the Council Presidency in the first meeting, a technical team to provide

Perception about the review of the administrative division of the Republic of Yemen in order to ensure

Promote unity of Yemen, and remove the effects of split into two halves.

Article (7) authorizes the issuance of the Presidential Council resolutions have the force of law on the theme

Republic, flag and national anthem at the first meeting of the Board,

The Presidency Council shall at its first meeting to take a decision to invite the Board of House of Representatives to convene in order to determine the following:

A. Ratification of the decisions issued by the laws of the Presidency.

B. The government grants the Council's confidence in light of the statement to be submitted.  
C. Mandate of the Presidential Council lowered the constitution to a popular referendum by  
Before the 30 of November, 1990.  
D. Basic bills to be submitted by the Presidency Council.  
Article (8) of this Agreement will be effective once approved and  
Draft Constitution of the Republic of Yemen by both the Shura Council and the people.

Article (9) This agreement is structured for the entire transition period is  
Provisions of the Constitution of the Republic of Yemen window during the transition  
phase as soon as  
To ratify it, and as referred to in the preceding article, consistent with  
Provisions of this Agreement.

Article (10) is the ratification of this Agreement and the Constitution of the Republic  
Yemen by the Consultative Council and the people of obsolete constitutional two-state  
Previous two years.

This has been the signing of this agreement in the city of Sana'a.

The re-unification of Yemen and the proclamation of the Republic of Yemen

The start of a new era of democracy depends on political pluralism and freedom of  
Expression that has become one of the most prominent features of the Covenant  
Democratic Unionist

New, have begun the practical steps for the exercise of democracy represented by the  
Download the Constitution of the Republic of Yemen to the people for a referendum was  
held on

1991 implementation of the Declaration of the Republic of Yemen has been certified / 5 /  
16-15

The constitution and approval by the people in each administrative unit and  
constituencies,

Where the Voice of the People (Yes) of the Constitution to become the Constitution so a  
social contract

Expressing the will of the Yemeni people and organizations to build a state of law and  
order, and considered

Referendum on a real test in the lives of the Yemeni people and exercise for life

. (Democracy, which opens for the first time in modern history (1

Was organized by the Constitution of the Republic of Yemen Ye provisions for the  
transitional period

For the organization of state power - legislative, executive and judicial -

125 based on the principle of separation of powers between the three - in articles 40

Specific terms of reference of all the power of these authorities to avoid overlap and  
duplication

The House of Representatives is the legislative body of the State, who Decides laws

The policy of the state, the general plan of economic and social development

The general budget and final account, and exercises direction and control

. (The work of the executive body in the manner prescribed in the Constitution (Article

40

The Presidency of the Republic of Yemen is exercised by the Presidency of the component of

Five members elected by the House of Representatives, and Article (102) of the Constitution itself

That the Council of Ministers is the Government of the Republic of Yemen, the body Executive and senior management of the state, followed - without exception - all departments

And executive bodies and institutions affiliated to the state constitution provisions and systems

125) judiciary - and in accordance with - for the judiciary and public prosecution in the articles (120

With the provisions of the Constitution, an independent authority in the performance of his duties, judges are independent and not

Authority over them in their rulings except the law, nor shall any party in any way Intervene in court cases or in matters of justice, and such interference

A crime punishable by law is not waived the case where the statute of limitations.

B. The principle of separation of powers in the Constitution of the Republic of Yemen in force:

Requires a linguistic definition of constitutional law refer to the origin of the word (Constitution) and the first thing to note in this connection that this word is not Arabic origin

But of Persian origin and means the foundation or the parent may be used in the sense . (Permission or license (1

Corresponding to the word constitution is intended by the Constitution the word French . (Base or foundation or organization or the configuration (2

The Constitution contains a set of rules and regulations of the issues

Constitutional nature and that is all the system of governance in the State,

Form of the state, the basic general principles relating to the powers - legislative,

And the executive - in terms of defining their terms of reference and how to exercise their activities and

. (Connecting the two relations of (3

This is the Constitution of the extensive and Hiroshima Yemeni basic reference in

Determine the state's system of governance and to identify the public authorities and the rights of

And duties of individuals, and other other aspects of state building

Economically, culturally and socially, came the first chapter of Part I of the Constitution Organizer of the foundations of the political state of Yemen.

Where Article (1) provides that the Republic of Yemen Arab country

Islamic sovereign and independent, which is an indivisible unit may not waive any

Part thereof, and the people of Yemen are part of the Arab and Islamic nation, as affirmed

Constitution that the people is the owner and source of power exercised by Bach and all directly

Through a referendum and general elections, as practiced by indirectly

Through the legislative, executive and judicial councils and through

Local elected (Article [4] of the Constitution).

The Constitution also confirmed the approach as a basis for peaceful democratic system Governance, stipulating Article (5) of the following:

The political system of the Republic of Yemen on political pluralism

And party with the aim of peaceful transfer of power and the law shall regulate the provisions

And procedures for the formation of political organizations and parties and the exercise of

Political activity may not be to harness public office or public money for the benefit of A private party or a particular political organization.

As the State Charter of the United Action The UN and the Universal Declaration For Human Rights and the Charter of the League of Arab States and the rules of international law

Generally recognized (article [6] of the Constitution).

This is regulated by the Constitution of the Republic of Yemen to the rules in force a special

The organization of the state authorities - legislative, executive and judicial - and so on As follows:

Defined in article (62) of the Constitution in force the House of Representatives as follows:

House of Representatives is the legislative authority of the State to decide which laws And approve the general policy of the state and the general plan for economic development

And social and public budget and final account, and exercises control over

The work of the executive body in the manner prescribed in the Constitution.

Article (63) of the Constitution itself by stipulating the following:

House of Representatives consists of three hundred members and one member elected by Secret ballot free direct equal, and the Republic is divided into districts

Election equal in number of population with overtaking on the proportion (5%) increase Or a decrease, and shall be elected from each constituency of one member.

As for how to conduct the parliamentary elections has taken the principle of Aleghano n Secret ballot, as stated in Article (55) of Law No. (13) for the year 2001

On the general election as follows:

((The election is by secret ballot free direct And equal)).

And the decision of the election law out public consistent with the view of the Constitution

Yemeni report began to the right of citizens to contribute to the political life

And economic, social and cultural rights, but what is required in the voter has

Specified in Article (64) of the Constitution which states as follows:

1. The voter conditions come:

A. To be a Yemeni.

B. Not under the age of eighteen years.

The conditions of the candidate for membership of the House of Representatives has

identified under paragraph (2)

The above-mentioned article of the Constitution, namely:

A. To be a Yemeni.

B. Not under the age of twenty-five years.

C. Be glorious to read and write.

D. Be of good character and Luke Wallis of the leading religious obligations, and not  
Have been convicted by a final court.

The law permits each voter to stand in the constituency in which the  
Electoral domicile.

It is clear from this that the aim of introducing the principle of secret ballot

Direct is to expand the grassroots when electing members of the House of

Representatives, where

Exercise the right of election the overwhelming majority of citizens, which passage  
through the process of

Elections more democratic, because the essence of democracy requires the participation  
of

Citizens, without restricting this right, because the people is the only sovereign in

Democratic system, and because the direct ballot system, which means that the

. (In which voters elect their deputies in the Parliament directly without intermediary (1

Have been included Article (60) of the Code of the general elections and the referendum  
requirement

New terms provided for each employee as a candidate for membership of the

Deputies turned the exercise of his general history of the opening of the nomination and  
return

That it did not win the election and pay him all his dues, the FFA continued g

Dues from his work during his term of office of the Council, and shall have the following

Termination of the right to return to work parallel to his previous work at least.

As a member of the local council candidate for the House of Representatives shall be  
deemed to have resigned from

Membership of the local council is not due to only a new election.

It also decided to paragraph (c) of Article (59) of the Act Incompatibility

Between the membership of the House of Representatives and the exercise of public  
office or membership of the councils

Local, except that paragraph (d) of the same article allowed to combine membership of  
the Board

House of Representatives and the membership of the Council of Ministers only.

Came the provisions of paragraphs (e, f) of article X-mentioned uncertain affinity

The legislator was keen on the independence of the legislative authority and protection  
from any influence

The prime minister and his deputies, ministers and their deputies, deputy ministers, heads  
of departments

And public institutions are not allowed to nominate themselves for membership of the  
House of Representatives, unless

Went on leave to work for three months at least four of the date of opening the door

Filtration, this statutory provision also applies to conservatives and their agents

Judges and district managers and directors of offices of Ministers and the provinces and

interests

And institutions and security managers and military leaders and executives  
Local councils or any public officer in the N strand administrative unit, it is not permissible

For all these people to nominate themselves for membership of the House of Representatives in the constituencies

They work, but if he went on leave Uncle's in the scope of the constituency

Period of at least three months from the date of opening of the nomination.

The terms of reference of the House of Representatives - legislative authority - the Constitution select it

Yemeni force as follows:

1. Legislative competence.

2. Regulatory jurisdiction on the work of the Executive Authority as set out In the Constitution.

3. Financial competence.

This is the legislative competence of the main terms of reference of the House of Representatives,

As a legislative body, in accordance with the provisions of the Constitution, has identified pain birth (85) of

The Constitution the way the right to propose laws, modify, and those authorized to do so  
The Constitution has decided to a member of the House of Representatives and the government the right to propose laws and to propose

Adjusted, that the financial laws that aim to increase or cancel the tax financial

List or reduction or exemption from some or designed to allocate part of the

State funds for a project, but may not be proposed by the government or twenty

Per cent (20%) of the House of Representatives at least, all proposals for laws submitted

Of one or more members of the House of Representatives is not referred to a commission

Council, only after the examination before a special committee to make Waller may be considered in any

By the Council, if the Council decided to consider any of them shall be referred to the relevant committee

For examination and report, any bill introduced in non-government

And rejected by the Council may not be presented again in the same session.

This proves - beyond a reasonable doubt - that the constitutional order in

Republic of Yemen, a flexible system in line with the developments of modern life, it is Cope with life and provides for appropriate adjustments from time to time, including

Lead to advancing the development of the modern state of Yemen.

Those who study the course of constitutional matters P j Yemen finds that the legislature

Yemen has made some constitutional amendments to some articles of the Constitution

1994 concerning the organization of public authorities and that the constitutional amendment

For the 2001 Article (61) of Title III of the Constitution of 1994 for the regulation of

State authorities - Chapter I - the legislature - the House of Representatives - as the

Being read as follows:

House of Representatives is the legislative authority of the State to decide which laws

And decides the general policy of the state and the general plan for economic



development

And social and public budget and final account, as practiced guidance

And control the work of the executive body; because guidance mean the dominance of power

Legislative acts of the executive body in the manner prescribed in this Constitution.

(And after the constitutional amendment was in 2001 the text of the article (62

We note that the legislature dropped the constitutional validity of the House of

Representatives in the exercise of

Guidance to the executive and only the text of the report of the House of Representatives

Slahi e

In monitoring the work of the executive branch, in this departure from the principle of

separation between

Authorities, which took its legislator of the Republic of Yemen.

As a result of this constitutional amendment to Article (62) delete the words

(As practiced House guidance on the work of the executive body) of

The operative part of Article (92) of the Constitution before the amendment replaced the

words as you read

As follows:

Of the Council of Representatives has the right to make recommendations to the

Government in matters of public or

In anything related to its functions or performance of any of its members and the

government

Implementation, if not possible by the implementation showed that of the Council.

This principle is based on the rule of non-disruption of the balance of powers between the

Legislative and executive branches.

Article (125) of the Constitution of the Republic of Yemen in 1994 on the following:

Arises from the decision of the President of the Republic of the advisory board with

expertise

And specialized skills to expand the base of participation in and benefiting from the

National expertise and qualifications are available in different regions of Yemen, and

shows

Law provisions relating to the Council.

In 2001 was an amendment to the text of Article (125) of the Constitution

As follows:

Established by the head of the Shura Council of shoes Mhorip with expertise

And competencies and social figures to expand the base of participation in opinion

And utilization of national expertise and qualifications in order to carry out its functions

exercised

Constitutional powers of the Shura Council of the following:

A. Make studies and proposals that help the state to draw

Strategy development and contribute to the mobilization of grass-roots efforts to

Mak □ □

Consolidation of the democratic approach, the proposal s that help

Reactivating the institutions of the state and contribute to solving social problems and

deepen

National unity.

B. Opinion and advice in core subjects which the President finds Republic presented to the Council.

C. Providing opinion and advice as to contribute in the formulation of national strategy National and state in the political, economic and social And military and security to achieve its objectives at the national And national security.

D. Opinion and advice in the policy, plans and programs on e Administrative reform and modernization of the State organs and improve performance.

E. Participate with the Chamber of Deputies recommend candidates for the post of President of the Republic and the approval of the plans of economic and social development , Treaties and conventions relating to the defense and alliance, reconciliation and peace And borders and to consult with the President finds shoes Mhorip display issues on the Joint Meeting.

And. The auspices of the press and civil society organizations and study their conditions and proposing Develop and improve its performance.

G. Care experience of local authority and the study and evaluation of its proposal and Develop and strengthen its role.

H. Assess the economic and financial policies, monetary and evaluate the implementation of programs Annual investment.

I. Review the reports of device control and accounting and to report thereon to the President of the Republic.

Article (126) she stated how the Advisory Council by stipulating the following:  
 Shura Council is composed of one hundred and eleven members appointed by the President Republic of the non-members of the House of Representatives or the local councils, determines Conditions to be provided by law for a member of the Shura Council must be at least age For forty years, defines the privileges and rights enjoyed by members of the Board Shura and perform the constitutional oath before the President of the Republic, and places the m sat Shura internal regulations governing its proceedings and the manner of its meetings and how Its decisions are issued by law.

And authorized the Article (127) of the Constitution, the Council of Representatives and the Shura j expired Joint meetings at the invitation of President of the Republic to discuss the tasks Their common set forth in the Constitution, to be voted upon Majority of the members present, the Speaker shall preside at meetings Common.

Governed by Chapter II of Part III of the Constitution of the Republic of Yemen For 1994 the special provisions stipulating the executive power of Article (104) of the This Constitution provides as follows:



The president is the head of state and is elected in accordance with the Constitution of, and be Vice President of the Republic is appointed by the President and apply the provisions on MP 128) of the Constitution. , 118, 117, the material (107

The Constitution defines the conditions to be provided by the candidate for prime Republic, namely:

- A. Not under the age of forty years.
- B. Be a Yemeni and religion.
- C. Be in possession of political rights and civil rights.
- D. To be a straight conservative morality and behavior on the rites Islamic, and it has not been sentenced to spend it is in the case j Involving moral turpitude or dishonesty unless he has been rehabilitated.
- E. Not be married to a foreigner, and not to marry during his term of office Foreign.

The Constitution defines the President of the Republic for seven calendar years starting from History of swearing, and no person may take over as President More than twice the duration of each session only seven years, and the President is elected Republic of the people in competitive elections with free and direct, and the process begins For election to the new President of the Republic of ninety days before the end of the term of the President Republic.

The Law on General Elections and Referendum (13) for the year 2001 selected And orderly procedures for the election of the President of the Republic and in articles (63 84), according to the provisions of the law declares the Presidency of the Council of Representatives to open the door - Nomination for president before ninety days from the end of the period The president's constitutional, and has the right to receive requests for a nomination for the office of the President Republic, the nominations are screened to make sure of the applicability of the constitutional conditions Candidates in a joint meeting of the presidency of the House of Representatives bodies and the Shura Council. Bodies that are supplemented by the Council of Representatives and the Shura j examination of applications - Applications - and decide within three days following the end of the period Receiving the nomination, and you announce the names of candidates who accepted the requests Nominated on the day following the expiration of the period of examination requests, has passed a law Each voter has the right to object to the bodies of the presidency of the House of Representatives and the Shura

Any person who has nominated himself in violation of the provisions contained in the Article (107) of the Constitution, the law also gave each person to apply  
Nominate himself did not accept the demand of the right to appeal before the bodies of the presidency of the j  
House of Representatives and the Shura Council, and brought about during the triangular days following the announcement of the names  
Candidates, and the law requires bodies j Presidency of the Council of Representatives and the Shura Council to take action on

Mak □ □

Grievance resolutions and the Declaration on the objections or complaints submitted to it in

The day following the expiration of the offer.

The Act called for each nomination right of appeal to the Constitutional Chamber e  
Supreme Court decisions in the bodies of the presidency of the House of Representatives and the Shura Council on

Objections and appeals referred to in the preceding paragraph and chapter during the Five days following the announcement of the decisions of bodies of the presidency.

The constitution of the Council of Ministers, in his capacity as executive and administrative body

Top of the state, many of the tasks it is responsible for implementation of public policy for the State of

In the political, economic, social, cultural and defense

Accordance with the laws and resolutions, as practiced in particular the following functions:

A. Participate with the President in the preparation of the outline of the policy

External and internal.

B. Preparation of a draft economic plan for the state and the annual budget and planning  
Implementation and prepare the final account of the state.

C. Preparation of draft laws, resolutions and submitted to the Council of Representatives or the President

Republic according to the jurisdiction of each.

D. Take the necessary measures to maintain the internal state security

And external protection of the rights of citizens.

E. Guide and coordinate and review the work of ministries and administrative bodies  
And institutions, public bodies and public and mixed in accordance with the law.

And. Appointment and dismissal of staff leaders according to the law and the formulation and implementation of the policy

Aimed at developing the technical cadres in the organs of the State and the rehabilitation of power

Human, according to the needs of the country under the economic plan.

G. Follow up the implementation of laws and the preservation of state funds.

H. Oversee the organization and management of the monetary, credit and insurance.

I. Contracting and granting loans within the general policy of the state and within Provisions of the Constitution.

The relationship between the legislative and executive

The system of government in the Republic of Yemen on the principle of separation of the floppy

Between the authorities and the cooperation and mutual oversight between the two branches - the legislative

And the executive - and is reflected in the constitutional rules the following:

1. Permissible to combine membership of Parliament - House of Representatives - and the Council of Ministers.

2. Aspects of cooperation between the two branches - the legislative and executive -

Their participation in the legislative function the Yemeni Constitution gives

Government the right to propose laws and propose amendments, and financial laws

Which aims to increase or cancel the tax list or exemption or reduction of

Some of them, or that aim to allocate a portion N m of state funds for a project

It is not permissible to suggest, but by the government.

3. The Constitution prohibits a member of the House of Representatives to intervene in the work

Be the prerogative powers - executive and judicial -

4. Parliament's right to direct recommendations to the Government in matters

Assembly.

Article (96) of the Constitution the right of every member of the:

House of Representatives to bring the question or questions to any minister or to the Prime Minister

With a view to clarifying the position of the ministry in any subject within the jurisdiction of the

His ministry, and committed the Constitution directs him to answer the question.

Of the most important means of control that helps to balance:

Between the legislative and the executive the right of every member of the

House of Representatives may direct an interpellation to the Prime Minister or his deputies or

Ministers to be held accountable for the affairs under their specialty, to be

Debate is taking place in the interrogation after seven days at least

Submission, except in urgent cases, which sees the Council and the consent of

Government, may end up questioning to a vote of confidence - confidence -

From the government.

Parliament passed the Constitution of the right to form special committees or to designate a committee of ...

Of its fact-finding in the theme of the topics that are inconsistent with

The public interest or activity check one of the ministries and bodies and institutions

Public or public sector units or mixed or local councils.

Of the most important characteristics of the system of constitutional responsibility of the Yemeni Council of Ministers to the House of Representatives, and this responsibility may take two forms:

- Collective responsibility, the responsibility of individual ministers because of a fatal error

Committed during his leadership of the ministry, which lies within the competence or

Collective responsibility or solidarity when the ministry - the Council of Ministers - As a whole has committed a mistake or failed in the Open Qiq its program, which Which won the confidence of the House of Representatives.

The right of the President of the Republic to dissolve the House of Representatives, where necessary, and after a referendum

People, provided that the resolution includes the solution on the grounds that it is based □ And to invite the voters to elect a new Council of Representatives within sixty days from the

Date of its dissolution.

The president's right to call for early parliamentary elections without the need for a referendum.

According to the cases provided for in terms of paragraph (b) of Article (101) of the Constitution.

President's right to request reconsideration of a bill passed by the House of Representatives,

He must then return it to the House of Representatives during the thirtieth day of Date of its submission to a reasoned decision, if not return it to the Council during this Duration, or response to, and approved by the Council again considered by a majority of its members

Law and the President of the Republic issued within two weeks, if not issued by He issued a strong constitution without the need to issue and publish in the Gazette work immediately after its two weeks from the date of publication.

The judiciary is the body that specializes in conflict resolution under the provisions of Law, whether such disputes and reality between individuals or between them and Government and give the rights to their owners, and the judiciary in the language means governance

And the separation and cutting, and in the conventional definition is the separation of discounts

. (And disputes (1))

And go to law scholars that the judiciary is an act issued by the judge is

. (Solving disputes, and parts of disputes, in particular (2

According to Ibn Khaldun: The judiciary is the separation between people in discounts Decisive for the collapse and to prevent the conflict of law provisions received from the book

. (And the year (3))

Has focused on the four schools of Islamic law the definition of justice, Frvath Tap That (separate pieces of disputes and rivalries), while the Maaliki They knew the judiciary

That (the news about the ruling as a matter of legal obligation).

Who compiled the definitions and to eliminate them: (that show the ruling on the incident

. (From Obeyed), a (rule among the people) (4

This was organized by the Constitution of the Republic of Yemen provisions of the Authority

154) stipulating Article (149) of the following: - the judiciary and in articles (149

The judiciary is independent legally, financially and administratively, the Public

Prosecution Authority of

Bodies, and by the courts to adjudicate in all disputes and crimes, and judges Independent, with no authority over them except that of the law, is not permissible for any party

And in any way interfere in matters or in matters of justice, and is such

This intervention is a crime punishable by law is not waived the case where the statute of limitations.

It is the context of this constitutional provision is clear that the Yemeni legislator has Select the concept of independence of the judiciary in the two main pillars:

1. Independence of the judiciary and as a power.
2. Independence of judges.

The legislature on the constitutional text on this principle at the heart of

The Constitution gives him prestige and esteem, as well as the theory of separation of Authorities if it is not aimed at establishing a definitive breaks between the three functions

Of the state, but the establishment of cooperation and participation in the different jurisdiction of the Constitution to

Another, but it is recognized in all democratic constitutions give independence

For the full authority of the judiciary and ensure the maintenance of this independence to the

Executive and legislative branches (1), The Constitution in the Yemeni

Article (149) that the judiciary is independent of other authorities in the State

A mandate and not just a job not a judge to extend the mandate of the mandate-holder General - Caliph or the President - because the nature of judicial work at

Separated in Disputes between individuals to apply the law requires not only practiced

Independent authority for all authorities in the country, characterized by the formation of a special

And the application of certain procedures is not shared in any authority or on the other hand,

To ensure the establishment of the rule of law in society and give them a positive role in maintaining

. (The society's values and ideals High Commissioner (2

This reflection is the text of Article (149) of the Yemeni Constitution, we find that the Constitution

Has given the concept of the principles of independence of the judiciary were not known in the constitutions

Some Arab countries have provided some Arab constitutions that judges

Independent, with no authority over them except that of the law or the judiciary

Independent, judges are independent and not subject to any authority except that of the law which

Means that Arab constitutions do not know, only one type of the independence of the Authority

Judiciary, judicial independence is, where it was decided not these constitutions Sultan

Judges in their rulings except the law, the Constitution of the Republic of Yemen has taken

The broad sense of the independence of the judiciary, this is the Authority in accordance



with the provisions of  
Constitution financially and administratively independent, and that is our judicial  
independence of the judiciary is grate

Three:

1. Financial independence.
2. Administrative independence.
3. Judicial independence.

Came the rest of the articles of the Constitution of Yemen confirmed and strengthened  
the principle of independence

Financial and administrative management, according to Article (152) of the Constitution  
by the Council of the Yemeni

The Supreme Judicial considered and approved the draft budget of the judiciary as a  
prelude to inclusion number

And one in the general budget of the state, and this reflects in a clear and obvious

The concept of financial independence of the judiciary in Yemen.

The administrative autonomy is the reserve the other for financial independence, the text  
Yemen's constitution provides that the Council spend a higher regulated by law and  
shows

Terms of reference and method of nomination and appointment of its members and works  
on the application of safeguards

Granted to judges in terms of recruitment, promotion, dismissal and removal in  
accordance with the law,

The material was identified (106) of the Judicial Authority Law No. (1) 1991

The powers of the Supreme Judicial Council as follows:

- A. Policy development for the development of the judiciary.
- B. Consideration of all the topics to be presented to the Council regarding the  
The appointment of judges and the promotion and dismissal of charges, discipline and  
retirement and transfer

And resignations in the light of the provisions set forth in this law.

C. Discipline of judges.

D. Study draft laws on the judiciary.

E. Consider the results of the inspection role j to the work of the heads of courts and  
judges

Appeal and courts of first instance to assess the degree of efficiency and achieve

Complaints made against them and to consider the requests made of them

And dispose of in accordance with the provisions of the Judicial Inspection Regulations.

And. To express opinion on the draft budget of the judiciary.

Paragraph (b) of Article (3) of Law No. (19) for the year 1991 on

Civil Service came Nasp the following:

Do not apply the provisions of this law:

1. Military personnel in the armed forces and internal security personnel, except  
The terms of the civil service.
2. Holders and holders of judicial functions and functions of the diplomatic corps  
And consular officers.

As provided for in Article (7) paragraph (2) of Law No. (43) for the year 2005  
concerning the

System jobs and wages and salaries as follows:

For purposes of this law established and functional units operate in accordance with the frameworks and models

And instructions issued by the Ministry as follows:

2. Functional unit independent of the judiciary following the Supreme Judicial Council  
To exercise the functions of law enforcement personnel on the devices of the judiciary,  
The decision of the Supreme Judicial Council.

The legislation came the civil service - public law - in force in

Yemen, Republic of identical provisions of Article (149) of the Constitution on  
Independence of the judiciary financially and administratively.

He took the constitutional order Yemeni principle of separation of powers, including  
Confirmed the independence of the judicial branches - the legislative

And the executive - so committed to each authority to carry out the tasks entrusted to it  
constitutionally,

And not interfere with any authority in the affairs of the judiciary, because that m □  
offense in accordance with the provisions of

Constitution and the law, that principle is not permissible for anyone to interfere in any  
way in

Issues or matters of justice and such interference is a crime punishable

The law suit is not waived by the statute of limitations.

One of the most important elements of impartiality and independence of the judiciary  
law-abiding Vhyad

Elimination of the most important elements of independence, neutrality and distance  
away from the elimination of bias in favor of team

Discount or without the other and away from the affiliations and political leanings,  
Vanhayaz Elimination

Lose its independence (1), and the most important foundations of the non-neutrality air g  
Affiliation judges to political parties.

The prohibition of the law of political parties and organizations and its executive

Some of the groups belong to any political party or organization or activity

Partisan, and among these groups members of the judiciary, and this confirms the  
neutrality of

Yemen's judiciary, because pushing the judiciary in political activity incompatible with  
what should

Be the elimination of this single.

The second part of the principle of independence of the judiciary is the special judges  
themselves, and

The most important guarantees of judicial independence as stipulated in Article (151) of  
the Constitution which

Being read as follows:

Judges and prosecutors can not be dismissed, except in cases

And under the conditions specified by law, may not be transferred from the judiciary to  
any

And non-judicial functions, only with their consent and the consent of the appropriate  
Board for their affairs,

Unless as a matter of discipline and law shall regulate the disciplinary trial.  
The Constitution Yemeni fundamentalist rules and provisions for the amendment  
Constitution and general terms and in Article (158) of the Yemeni Constitution did not  
Deprived or amend any provision of the principles contained therein, but allowed  
amendment of all  
Texts at any time, but the constitutional amendment is subject to a number of conditions  
And special procedures are more complicated than the Process used to modify the  
Ordinary laws, has passed the Constitution to the President of the Republic and the  
Council  
Deputies request the amendment of one or more articles of the Constitution, must be j □  
stated in the request  
Amendment articles to be amended and the reasons and justification for this amendment,  
If the request was issued by the Council of Representatives shall be signed by a third  
Its members, but if it is required to modify any of the articles in parts I and II of  
, 116, 112, 111, 110, 108, 105, 101, 98, 92.83, 81, 63, Constitution and articles (62  
159) of the Constitution that is displayed on, 158, 146, 129, 128, 121, 119  
People to a referendum, if approved by an absolute majority on the amendment of a  
number of  
Voted in the referendum was considered the amendment shall take effect from the date of  
declaration  
As a result of the referendum and otherwise modify the rest of the articles of the  
Constitution with the consent of three  
Quarters of the House of Representatives and the amendment shall be deemed effective  
from the date of approval.  
This is based on the constitutional powers provided by the operative  
Article (158) of the Constitution, the face of His Excellency / Ali Abdullah Saleh,  
President of  
Republic - may God protect him - Note to the brother / Chairman and members of the  
Shura Council came  
The following:  
Brothers / chairman and members of the Shura Council Distinguished  
Based on the provisions of the Constitution and because of its constitutional amendments  
To be made of great importance in the development of the institutional structure and  
constitutional  
To the legislative authority in our country through the conversion of the Shura Council to  
become a room  
Again in the legislature and the transition to a bicameral system in force in the  
  
Democratic countries, the adoption of a system of local governance and broad powers  
and  
This requires of some constitutional amendments, Ltd., which serve  
In its entirety in the box the necessary constitutional reforms aimed at strengthening the  
And enrich the democratic experience.  
And ensure that we widen the circle of consultation and participation in opinion about  
this  
Important and vital issue to take advantage of the views and observations of experienced

And specialized competencies in this regard and are available in your esteemed Council,  
Transmit the preliminary draft of the constitutional amendments required for  
And study and opinion.

The Foundation has the revolution of the press, printing and publishing print project  
Amendments in the book include a His Excellency President / Ali Abdullah Saleh  
With a statement of the reasons and goals of these adjustments - the reasons for this  
Amendments - in which he said the following:

That the principle the amendments contained in this project and the objectives sought by  
To achieve them are the reasons and justifications the following:

1. Make an important development for the institutional building of the constitutional  
legislative authority

By going to the application of the legislative branch, consisting of

Two houses - the House of Representatives and the Shura Council - through

The development of the Shura Council to be a second chamber of Parliament.

2. Expand the circle of participation in decision-making process and the development of  
legislation

And achieve greater stability of legislation and make it more realistic through the

Make room for more to take advantage of experienced and qualified

National as well as the experiences and competencies members of Parliament and is a m

Proved its validity in many countries and became a dominant feature of

The majority of democratic countries.

3. If the transition to the application of the bicameral Parliament would

Development of legislation, this move does not detract from the status and functions of  
the

And the powers of the House of Representatives, which remains alone shall exercise  
control p Li

Government performance and accountability in accordance with the Constitution and the  
indictment and referral

The trial of officials from the executive branch.

4. That this amendment includes a new political reform reinforces the process of building

Modern state and provides a mechanism contributing to the new democratic horizon

New to the popular participation in the making of the decision, through

The election of the majority of the members of the Shura Council, an equal number in  
each province.

The objectives of the constitutional amendments are the following:

1. Expansion of democracy as an actor in the life of the community.

2. Empowerment of local government councils of the administration and management of  
local affairs

Itself.

3. Accelerate the pace of local development in urban and rural areas in order to achieve  
justice

Comprehensive development.

4. Recruitment and resource development at the local level in various fields

Development.

5. Raise the efficiency of the operation and maintenance of the facilities concerned with  
serving the citizen and the implementation of the

Local government policy.

6. Find foundations and effective mechanisms for poverty alleviation and reduction of bureaucracy

Imbalances and the administrative and public funds to maintain and develop in

. (The national interest (1

The study of these constitutional amendments show that the constitutional legislator (Yemeni decided the introduction of bilateral legislative power, according to the article (62

Of the draft amendments to the National Assembly is the legislative authority of the State of

It consists of two chambers:

1. House of Representatives.
2. The Shura Council.

So by the Council of Nation as well as any other duties prescribed by

Adoption of the Constitution, the laws of the state and the state budget and final account

It shall exercise all of the House of Representatives and the Shura Council with its mandate and in accordance with

To the Constitution, as approved Article (85) of the same modifications to a member of the House of Representatives,

And a member of the Shura Council and the government the right to propose laws and propose amendments,

That the financial laws that aim to increase or cancel the tax list or

Reduction or exemption from some or purported to belong Is part of the funds

State of the project shall not be proposed, but by the government or twenty

Percent (20%) of the members of the House of Representatives at least, and all proposed laws

Provided by one or more of the members of either House is not referred to a

Committees of either House, but after examination before a special committee of the Council on

To express an opinion on this may be considered by the Council, if the Council decided to consider any of them

Referred to the relevant committee for examination and report, and any bill

Previously rejected for any of the chambers may not be presented again in the same session

Any of the chambers.

The draft amendments also introduced a new rule governing the approval process

Law is finalized by the Council of Nation stipulating this article

Follows:

Shall be the adoption of law in the finalization of the National Assembly in accordance with what is to come

A. Undertake a study of all honorable p or a bill in both chambers alternately View to agreeing on a consolidated text.

B. The bills being discussed in the Council, which provides the first

On the basis of the text submitted to it starting, and then on the amendments Proposed it.

If approved by one chamber in a bill sent to the other

Topics of discussion in this Council on the text of the other one who was approved by the Council first.

C. If there is a difference in the findings of each of the Council House of Representatives and the Shura Council held a joint committee of members of both Houses Equally to propose a text for provisions which had been disputed.

May be that the text is displayed, which ended with the Joint Commission on Houses, if the Joint Committee did not reach agreement on a unified text Submit the matter to the Council of the Nation (Joint Meeting of the Boards) To resolve this difference.

D. In any case, do not submit to the President of the Republic of any bill Version, but the note signed by the Presidents of the Houses together.

126) of these, the method of stipulating the formation of chambers in articles (63 Amendments, in accordance with Article (63) proposed House of Representatives consists of

Three hundred member and member, elected by secret ballot free direct Equal, and the Republic is divided into electoral constituencies equal in number Population with the waiver percentage established by law to increase or decrease, Shall be elected from each constituency of one member.

The Consultative Council consists of a number of members elected and appointed Representing the provinces equally so is the election of five members from each Province by an electoral college consisting of the President and Council Memberlist E The governorate's local presidents and members of local councils in the districts of Maintain, the law establishes procedures for the nomination and election.

The President of the Republic set percentage (25%) twenty five percent The number of elected Council members.

And select the section III of the draft constitutional amendments, the general provisions The Joint Boards are as follows:

1. The headquarters of each of the House of Representatives and the Shura Council of the capital Sanaa, and determine

Council Rules of Procedure for each situations and conditions that may be of any of the Councils hold meetings outside the capital.

2. Puts all of the House of Representatives and the Shura Council of the Internal Rules Including the functioning of each Board, its committees and the assets of the exercise of all

His constitutional powers to not include any of the lists texts

Contrary to the provisions of the Constitution or modified them, and should be issued for each list

And modify the law.

3. Respect to each of the House of Representatives and the Shura Council decide on the validity

Office of its members, and must refer the appeal to the Supreme Court during the Fifteen days from the date of delivery of any of the House and as a result of exposure Investigation of the opinion reached by the Court to the Council on

To determine the validity of the appeal within sixty days from the date of receipt of the

result

Investigation of the court, are not considered organic b Atalp, but a decision Of the Council for two-thirds majority of its members and must complete the investigation

Within ninety days from the date of transfer to the Tribunal.

4. Hold a House of Representatives and the Shura Council's first meeting of each during the

Two weeks at most of the election results were announced at the invitation President of the Republic, did not let the Council met on his own morning The next day these two weeks.

5. Each elected from the House of Representatives and the Shura Council at the first meeting of any

Them from among the members of each council president and three vice-presidents, Are all of the Presidency of the Council on, each headed by Council

During the election of the president and the oldest member assisted by the youngest member

We are not, and regulations shall determine the procedures for the election of each Council body

The presidency and the duration and other jurisdictions, and each m sat Secretariat Generally headed by the Secretary-General, and determine the rules of procedure for each Council

Provisions relating to its formation and other provisions relating thereto.

6. For the validity of the meetings of the House of Representatives and the Shura Council Attended by more than half of the members, excluding members who have announced Vacant seats, and make decisions by an absolute majority of the members of the Present, except in cases that require a special majority, and when Equality of votes is the subject of the debate have been rejected in the same session, Be a priority offer to the Council on the situation presented in Session of the other.

7. Meetings of both Houses of Parliament and Shura Council of the public may be either In private meetings at the request of the President or the President or Government or twenty of its members at least.

8. Both the House of Representatives and the Shura Council holds two regular sessions in

Year, may also be invited to the sessions of the extraordinary.

9. If the seat of a member of the House of Representatives and the Shura Council before the end of the

Council, including at least a year are filled his seat within sixty days from Date of announcement of the decision of the Council was free place, and ending with the end of the period of membership Council.

10. Is not permissible to combine membership of the House of Representatives and the Shura Council or membership of any

Them and the membership of the local council or any public office, and may combine Member of Parliament and the Council of Ministers ... etc..

It is the context of the rules and provisions of the above it is clear that the draft

Constitutional amendments require the transition to bilateral legislative authority  
Known in some contemporary constitutional regimes, note that the forms of bilateral  
Legislatures vary based methods for the selection of its members.

The method of selecting members of legislative assemblies there is no problem  
For the choice of the House of Representatives because its members are elected by  
universal suffrage

Direct, but for the second Council Ther It's OK because the complex composition  
Achieved in several ways, the Council may be the second genetically such as the House  
of Lords

In Britain, or its members shall be selected by the governing authority or  
Elected by the citizens, or by a representative of the economic forces j  
And social, who are in turn elected by these forces or were recruited from  
. (By the government (1

Has been the subject of bilateral legislative power is still controversial and even  
Today between supporters of the Council or one double, and is considered Supporters  
Council that it is not a single point in a second chamber if elected  
Its members are the same conditions and procedures which shall be elected by members  
of the Council

House of Representatives, so it becomes a copy of it, and this Panel finds that bilateral  
dangerous because

The second will be a factor that would paralyze the legislative work to delay the issuance  
of

Laws or even canceled, so Vighi government action.

If we consider - as supporters say the first opinion - that the election of the Council  
The second being the methods and procedures differ from those of the first Council His  
election

Would be democratic and for reasons of contrast made in the  
Representation for each of the chambers.

Supporters of the bilateral parliamentary referring to those that the presence of different  
Council

From the first installed on the one hand and methods of election to the questions posed by  
the lack of democracy

And ineffective, its presence does not lead to paralysis in the legislative system, because  
The second chamber increases the durability of democracy and contribute to the  
achievement of separation

Authorities to be better, as it reduces the severity of the confrontation between the  
government

And House of Representatives, and the second chamber provides the continuity of the  
legislative authority

. (And protects democracy, because it allows the establishment of balance and  
cooperation between the authorities (1

Having taken the constitutional amendments to the principle of bilateral legislative  
authority

Hamid, a trend that reflects the essence of a conciliator and the democratic process of the  
system

Existing political order in the Republic of Yemen.



A. The ordinary courts.

B. Constitutional Court.

Article (7) of the Judicial Authority Law No. (1) 1991

Yemeni courts that consist of:

1. The Supreme Court.

2. Courts of Appeal.

3. Courts of First Instance.

In accordance with the provisions of Articles (e 153) of the Constitution of the Republic of Yemen is considered

Supreme Court the highest judicial authority is exercised in particular in the field of Elimination of the following:

A. Chapter in the prosecution and defenses relating to the constitutionality of laws And regulations and decisions.

B. Chapter in the conflict of jurisdiction between the judicial authorities.

C. Investigation and express an opinion on the health of the appeals referred to it by the Board of

MPs on the health of the membership of any of its members.

D. The disposition of appeals of final judgments in civil cases

And commercial, criminal and personal status and administrative disputes

And disciplinary actions in accordance with the law.

E. E trial Republican President and Vice-President and Prime Minister and his deputies Ministers and their deputies in accordance with the law.

Article (12) of the Judicial Authority Law himself has been reported competence Supreme Court as follows: The Supreme Court exercises the following tasks:

1. Oversight of the constitutionality of laws and regulations and decisions.

2. Chapter in the conflict of jurisdiction between the judicial authorities.

3. Chapter electoral appeals.

4. The disposition of appeals and the final provisions of the acquired degree

Deterministic, in civil, commercial and criminal cases

Personal and administrative disputes and disciplinary actions.

5. Judicial control over all courts in the Republic.

6. Any other duties under the law.

7. Chapter path of the cassation appeal of final judgments in the crimes Military.

8. Trial of the occupants of the functions of the higher authorities.

It consists of the Supreme Court in accordance with the provisions of the law of the following services:

1. Constitutional Chamber.

2. Civil Division.

3. Chamber of Commerce.

4. Department of Personal Status.

5. Administrative Service.

6. Military district.

7. Department of examination appeals.

The circuit is formed in the Supreme Court decision issued by the Council

The Supreme Judicial after consultation with the Minister of Justice and the President of

the Supreme Court, consisting

Governing body in each Chamber of the Supreme Court of the five BC Dhap  
Vtwlv except the Constitutional Chamber of seven judges, judgments and decisions  
An absolute majority as stipulated in Articles (10) and (11) of the same power law  
Judiciary to be the headquarters of the Supreme Court of the capital Sanaa, and make up  
Supreme Court of the Chairman and Vice or more and a sufficient number of judges  
issued

When you select the number and configuration, if necessary by the Minister of Justice in  
consultation

With the President after the approval of the Supreme Judicial Council.

The law of each jurisdiction qualitatively Chamber of the Supreme Court

And as indicated below:

A. Oversight of the constitutionality of laws and regulations and decisions, and that

The path of the disposition of appeals filed to the unconstitutionality of laws

Mak

And regulations and decisions, whether by suit or Alambtdop

Payment.

B. Chapter electoral appeals.

C. Trial of the occupants of the functions of the higher authorities.

A. Cassation appeal provisions in the final and gained the degree

Deterministic and decisions issued in civil cases and other issues

Criminal and non-commercial, personal status and management.

B. Conflict of jurisdiction between the judicial authorities was positively or negatively.

C. Transfer of proceedings in civil cases, according to the law of the proceedings.

D. Other applications within their competence and in accordance with the law.

A. Cassation appeal against judgments and decisions issued in cases

Criminal.

B. Transfer of proceedings in criminal cases.

C. Other applications within their competence and in accordance with the law.

4. Chamber of Commerce, financial and decide on:

A. Cassation appeal against judgments and decisions issued in cases

Business and Finance.

B. Transfer of proceedings in the trade and financial issues.

C. Other applications within their competence and in accordance with the law.

A. Cassation appeal against judgments and decisions issued in cases of

Personal status.

B. Transfer of proceedings in matters of personal status.

C. Other applications within their competence and in accordance with the law.

A. Cassation appeal against judgments and decisions issued in a Alqzai

Management.

- B. Transfer of proceedings in administrative cases.
- C. Other applications within their competence and in accordance with the law.

A. Cassation appeal provisions in the final and gained the degree Deterministic and decisions issued in military issues.

B. Transfer of proceedings in the military crimes.

C. Other applications within their competence and in accordance with the law.

Appeals in terms of shape and meet the conditions required by law.

The Supreme Court expanded judicial body called the Assembly

General and consists of the President and the Vice-e and superior court judges, O Workers.

And specializes in the General Assembly of the Supreme Court as follows:

A. Consideration of the cases forwarded by a Chamber of the Court if it considers this Circle reverse jurisprudence of the Supreme Court.

B. Consideration of the cases forwarded by a Chamber of the Supreme Court if it considers

This department had already issued various provisions thereon.

This formation of the Supreme Court and its departments and bodies, what are the Conditions under which the appeal in cassation before?

Cassation appeal is the way of an extraordinary appeal in the provisions may not be Resorted to, but to challenge the judgments of the courts of appeals and

The lower courts that are not subject to appeal and appeal in the case

The following:

1. If the contested provision was based on a violation of Sharia law or

Error in the application or interpretation of any of them or did not indicate the basis on which □ was built.

2. If a nullification of the sentence or invalidity in the proceedings or the impact of governance

The verdict was contrary to each other.

3. If the rule did not ask, liabilities or more than they had asked.

Mak □

4. If the conflict in judgments Nhaiian Daoyen united the two adversaries

Subject, and the reason (Article [292] of the Code of Civil Procedures

No. [40] for the year 2002) has identified h provisions of this article may be

Appeal the revocation, and from here may not be invoked any reason to challenge

Is indicated by this article on the limited, but if the appeal

Relates to public order, according to the defenses set forth in terms of

Article (186) of the Code itself, it may stick to the appellant

In any stage of the stages of the litigation, even before the

The Supreme Court and the Court that required by even its own

And by virtue of a separate chapter on the subject.

The most important reasons for the appeal in cassation error in the application of Sharia law or

Or nullity or invalidity in the boldest Ouat impact on governance, and the error in the Law that is wrong with governance and lead to a veto.

Cassation appeal in criminal matters: is governed by Chapter III of the Act

No. (13) of 1994 on Criminal Procedure Yemeni special provisions

Cases of cassation appeal and causes of legal rule and procedures that may

Cassation appeal provisions in the trend of hostility and issued by the courts

The resumption of the provinces, and the provisions of the chapter before the topic is not

May be challenged, but with appeal the ruling of the dispute is forbidden unless the consequent

Prevent the course of the case, and have the cassation appeal of the prosecutor

And the accused, the Prosecutor of personal and civil rights attorney and responsible.

But if the government issued the death penalty or punishment or up to a consequent

Go self or a member of the body must be to the Public Prosecution - if it does not appeal against any

Of liabilities - that was the case to the Supreme Court accompanied by a note e

Opinion, the court may in this case exposure to the merits of the case

(Article [434] criminal proceedings) may not appeal from the pain □ invited Rights

Civil and responsible for them not only with regard to E. their rights only to civil, have been identified

Article (435) criminal proceedings for judicial review following reasons:

Not subject to appeal for judicial review except for the following reasons:

1. If the contested provision was based on a violation of law or error in the Application.

2. If there is contraindicated in the impact of actions in office.

3. If there is contraindicated in governance.

The basic principle is that actions have been taken into account during consideration of the case and if the person concerned

Did not mention the actions in the minutes of the meeting and in the government to prove all

Methods of proof that they have been neglected.

If one is not mentioned in the proof may not followed, but the path

Appeal fraud.

Notably, from the context of the text of Article (435) criminal proceedings that the legislature may

Development of a presumption in criminal matters to the effect that the procedures in these matters may

Taken into account, and decided to respect his right to prove the contrary, if the reported

Actions in the minutes of the meeting or in the government may not prove that followed,

However, the path of the appeal of fraud.

The bill authorizes the Attorney General to ask the Supreme Court in any

Time, it was too timely to challenge the repeal or amendment of any rule, order or

Judicial decision in the interest of law if it involves ruling or the decision to violate the

Of law or error in its application.

Article (457) of the Code of Criminal Procedure provisions organized a

Special to seek reconsideration and stated the following:

May request reconsideration of final judgments of conviction in

The following circumstances:

1. If one person was sentenced in the murder and later evidence

Sufficient evidence that pain □ called killing is still alive.

2. If a person sentenced for a crime and then sentenced to Another person for the same crime and was two provisions can not be reconciled Between them, so a patent row finds them.

3. If the person was sentenced to and after sentencing on the perjury spent One Position at Wad or experts who had Chdo of it, or if the rule Mak □

Forging a paper presented during the proceedings and had a certificate or report of the Expert

Paper or influence in government.

4. If the verdict was based on the rule issued in another proceeding and lifted the Governance.

5. If signed or emerged after the verdict and the facts or evidence were not unknown at the time

Trial, and that would prove the innocence of the convict.

6. The request for the petition for review of the Attorney General on its own, or At the request of the following officers:

A. The convicted person or his legal representative.

B. Husband sentenced him and his relatives and his successors and recommended if Dead.

The impact of the Act in respect of the principle of independence of the judiciary are not subject grievances

For his men to eliminate the normal and assigned to the Supreme Court of the Republic Yemen stipulating Article (101) of the Code Authority Alqdha daughter to force that Competent administrative department of the Supreme Court without the determination of other applications

Like any of their affairs, when transport and scars when demand was focused on Defect in form or violation of the laws and regulations or an error in the application or misuse

The use of power, as those concerned with other department without the determination of claims

Compensation for those decisions and the adjudication of disputes over salaries

, Pensions and bonuses owed to the judiciary or to their heirs, may not be

Sitting in the determination of these issues was a member of the Supreme Judicial Council

If he has participated in the decision because of higher demand.

If the wisdom of the text and attached to a clear guarantee from the guarantees

The independence of the judiciary and the distance from the problems of his men to be, however, is by

Their court top, the view that the Court of Cassation has become in its consideration of this

. (Things the subject of a court rule on these requests to spend an objective (1)

Article (37) of the Judicial Authority Law as follows:

(Established in each province of the Court of Appeal) The Court is composed of

President and Vice or more, and heads of the people and appellate judges, determines the resolution

The Minister of Justice in consultation with the President of the Supreme Court, and the approval of the Judicial Council

Top number of appellate courts and the people, the governing body in each

Division of the Court of Appeal consists of three judges, and select the law

The jurisdiction of the Court of Appeal jurisdiction to decide the following:

1. Issues that appeal permitted by law for appeal.
2. Other issues that are under the jurisdiction of any other law.

(Under article (284) of the Code of Civil Procedures (40

For the year 2002 to the litigants to appeal against the provisions of the Courts of First Instance

Courts of Appeal, except what is exempted by law or other legal text,

However, the sentences may be appealed in any urgent materials were

The court that issued it.

The rule is that the Court of Appeal is the court where the subject poses

Appeals ruled in the case before the Court of Appeals for the adjudication of

New on the facts and the law, taking into account the following provisions:

A. Court of Appeal did not consider only what will be relieved of appeal only.

B. Court of Appeal should not be considered only in cases in which the faces and

Raised by the appeal only to the extent the Court dismissed the class

The first of those faces and situations.

C. Should the Court of Appeal to consider the case resumed on the basis of

What offers her defenses and new evidence and had been submitted before a

Court of First Instance.

D. May not apply to the litigants to appeal and the new control

Court on its own non-acceptance.

E. Control of the Court of Appeal with respect to the request the inclusion of governance

Accelerated implementation or rejection urgently without waiting for the chapter in

Subject.

And. Wallace, the court upheld a ruling Tinavip either the appellant or

Repeal or modify it, or the case remanded to the Court of First Instance of the season

The chapter is not in it.

Jurisdiction of the courts of appeal in criminal matters: the rule that all

Rule or decision that would be subject to appeal unless the law provides for the

inadmissibility of the

The fact that the Wii appeal to challenge the judgments and decisions issued in the materials

Through the Criminal Appeals and by the veto and the petition for review

And approved the Code of Criminal Procedure of the Attorney General to challenge the sentence or

Resolution in favor of or against the accused when found positive, in accordance with the law (Article 413 proceedings

Penalty) if the appeal ruling in favor of the convicted person may not be considered when Appeal tightening measure of criminal accountability, which was decided in the contested provision

When, as the civil plaintiff is entitled to appeal the ruling or resolution on the right

Civil, and on behalf of the public that if the lawsuit was filed on behalf of the Civil

Injured, and in all cases determined by law the right of each of the public prosecutor  
And the accused, the Prosecutor of personal and civil rights attorney and responsible for  
them is that

Resume sentences for crimes from the courts of first instance.

The resumption of pain □ invited civil rights and responsible for them not be put  
Court of Alasti Nave, but a civil action (section 417 of the Code of  
Criminal Procedure), and the resumption of the Public Prosecutor presents a criminal  
case

The entire appeals court to maintain and it supports the provision, cancel or  
Modify either against the defendant or for the benefit may not be severe punishment  
Adjudged not to cancel the verdict of acquittal, but the unanimous opinion of the judges  
unless

Was no difference of opinion about the legal question.

If the appeal is brought by non-public prosecution, the court  
Upheld or modified for the benefit of Uploader appeal.

Article (44) of the Judicial Authority Law to force (consisting  
Governing body in the Court of First Instance of a single judge, and may in the case of  
provide a sufficient number of judges that composed of three judges), while the number  
of courts

Primary and centers, and the scope of its competence shall be determined from the  
Judicial Council

Top on the proposal of the Minister of Justice and the President of the Supreme Court.  
Headed by the lower court judge is facilitated and management

And supervision of the regularity of the work, if the President of the Court is unable to  
practice

His duties for any reason, Knapp practiced with him in another judge be assigned  
President of the Court

(Appeal, have been identified Article (27) of the decision of the Minister of Justice No.  
(195

For the year 2009 on the Regulation for the appellate courts and the courts

Primary Functions of the President Court of First Instance the following:

The President of the Court of tasks and the following functions:

Overseeing the management of the Court and the functioning of work and carry out its  
functions

According to the law of the judiciary and civil service law and its executive

And the laws, regulations and other decisions, the window, and in particular shall

President of the Court of administrative tasks and functions the following:

1. Supervision of the judges of the Court - in the case of multiple judges - in order to  
achieve

Discipline and commitment to career official hours, the judges were Ken

Carry out their judicial duties entrusted to them and within the limits of laws

And regulations and orders in force.

2. Direct supervision of the pens and the units that make up the

Court and to all staff to ensure discipline career

And a commitment to the official attendance and organization of work within the Court  
has the right to

Issuing guidance for the rationalization and organization of work and improve performance

And increase its level, in accordance with law, regulations and decisions of the window.

3. Submission of proposals that aim to develop and improve work performance

Judicial Court as well as with regard to the basic requirements

Of the Court, as well as the proposals relating to the affairs of their workers, and raise

Those proposals to the President of the Court of Appeal to take what he sees them

To notify the ministry in them.

4. Raise the periodic reports and statistics to the Court of Appeal on the functions

And the activity of the Court and the obstacles or difficulties encountered and proposals

Related.

5. Perform any functions or other tasks to support T □ under these rules,

And the Judicial Authority Law and the laws, regulations and decisions of the window.

6. The provisions of law and judicial power window specific to the jurisdiction of

Court of First Instance, according to the law, have a general mandate

To consider all issues, and Article (89) of the Code

And implementation of Civil Code No. (40) for the year 2002 to the jurisdiction of the courts

Primary Governing appealable in all cases brought before it any

The value or type and its provisions are subject to appeal, unless

The text of the law to the contrary have been identified Article (86) of the Act

And implementation of civil proceedings the same provisions of the Court of First

Instance is

Subject to appeal, are as follows:

1. If a convicted person which does not exceed one hundred thousand riyals in the issues Civil.

2. If a convicted person which does not exceed three hundred thousand riyals in the issues Business.

3. If convicted the expense of the wife not to exceed five thousand riyals.

4. If convicted the expense of small does not exceed three thousand riyals

Unless the dispute over alimony because of maturity may relate to

Appeal of it.

This has allowed the Supreme Judicial Council on the proposal from the Minister

Of Justice to establish courts specialized judicial primary in the provinces when called

Required in accordance with applicable laws.

Based on this text and the exercise of his lawful authority has issued

Supreme Judicial Council a number of resolutions on the establishment of courts of first instance

The quality of specialized public funds, the commercial justice, criminal courts

Specialized courts for taxes, juvenile courts and the courts to the press, and this

Specialized courts operate in accordance with the laws in force in the Republic

And is working to apply an essential part of Yemen's judicial system configurations

Common.

One of the most important characteristics of the Yemeni judicial organization that does not permit the establishment of

(Exceptional courts and that the text of the Constitution and the law, the Constitution in



Article (150

Provides that the judiciary and the integrated unit and arranges law judicial authorities  
And degrees, and the law defines the terms of reference, as determined by the conditions  
to be provided

Who shall Alqdhha They construct and the conditions and procedures for the appointment  
of judges and transfer and promotion

And other guarantees of their own courts may not be exceptional in any way

Circumstances.

It also banned paragraph (b) of Article (8) of the Judicial Authority Law

The establishment of exceptional courts.

It is the context of the text of Article (150) of the Constitution and paragraph (b) of

Article (8)

Judicial Authority Law is clear that the judicial system places a number of Yemeni

Constitutional guarantees of fair trial, it is most important of these safeguards that

The person on trial before his natural judge, the judge is a natural judge

Competent in this time of the criminal trial for his crime or the time of lifting

. (The case against him or any other judge belongs to the same judicial system (1

This review of the laws of some Arab countries to notice the existence of courts

Permanent state security have always been a recipe and continue in this state are two

types of

State Security Courts.

A. Emergency State Security Courts, according to the Emergency Law.

B. Permanent state security courts.

And state security courts, known in some Arab countries, two types of

Exceptional courts and not spend a natural with the existence of differences between

these two

Types of state security courts, both in terms of competence or in terms of

Portability provisions issued to the challenge, it can not be challenged in any way

Faces in the provisions of the Emergency State Security Courts, while may be

Application for judicial review and reconsideration and appeal in the provisions of the

State Security Courts

. (Standing (2

Despite the existence of these differences between the two types of courts

State security and they are all variants are not eliminate a natural, no courts

Normal but special courts, and involves an inherent prejudice to the right of decision

Particularly the natural rights of man, a right to resort to the courts

. (And not to be tried only in front of him (1

Have turned some Arab countries to the abolition of special courts

Kingdom of Bahrain, where the abolition of the State Security Court, which established  
the conditions

Homeland Security, under Decree No. (4) for the year 2001 issued on

18 / February 2001 where it was under this decree to return the jurisdiction

. (The regular criminal courts to judge any natural (2

(As of 26 September / 1416, 15 / February 1996 Law No. (7

(Of 1996 on Criminal Procedure, which included the military (9

Doors, door came the second systematic review of the concept of military justice,

judiciary

Military, according to this law consists of:

- A. Military courts.
- B. Military Public Prosecutor.

The degrees of both hinted at how the military and how to create and composition of the Stipulated in Article (44) of the same law as follows:

- A. The Military Supreme Court.
- B. Military Court of Appeal.
- C. Military Court of First Instance.

According to article (45) of the same law that a circuit Military Supreme Court in accordance with the Judicial Authority Law, which is derived Court of Appeal, the military and will be based in the capital, Sana'a  
Composed of a Chairman and membership of the military judges, the courts  
Primary military arise in military areas or anywhere else  
Necessary establishment and form of each court of a single judge of the judges  
Military, and may in the case of a sufficient number of military judges □ that  
Composed of three judges.

The law defines the jurisdiction of military courts, the Court  
Military appellate jurisdiction to adjudicate in all the sentences in  
Crimes of the military courts of first instance except those which may not be  
Appeal for appeal in accordance with the Code of Criminal Procedure-General, and  
specialized

Military courts of first instance to adjudicate in all the crimes set  
By the law of crimes and military sanctions, which lies in a circle  
The local jurisdiction.

96) provisions for the appeal - have been identified in the articles of the law (76  
In provisions, the provisions of the Courts of First Instance to challenge the military  
Military Court of Appeal, if the Court of First Instance ruled  
Military in the subject and the Court of Appeal that there is a void in  
Proceedings or in the government corrects the null and control in the case or  
Return the case to the Court of First Instance ruling on the merits again  
And subject to the provisions of military courts to military control circuit  
The Supreme Court in the application of the laws of these courts does not extend to the  
control

The fact that the facts satisfied Bthbutea court ruling or exporter to  
The value of the evidence relied upon in evidence, except in cases provided for by  
Law (Article 84 military criminal proceedings), the law establishes the right to  
Cassation appeal for each of the military prosecution and the accused and the Attorney  
Profile

Civil rights and responsible.

If the award is rendered or the execution of punishment or up to a consequent  
Go self or a member of the body must be on the prosecution of the military public, even  
if not

Appeal against any of the litigants to present the case to the Military  
Supreme Court opinion with a note to notify the Attorney General with a copy of  
This note may be of military service in this case exposure to the subject of

The case, as may the litigants to challenge in front of the Military Supreme Court judgments and decisions issued by the Court of Appeal The military courts of first instance which is not subject to appeal, appeal And be challenged for the following reasons:

- A. If the contested provision was based on a violation of law or error In its application or interpretation, or did not indicate the legal basis  was built.
- B. If there is contraindicated in the impact of actions in office.
- C. Lack of jurisdiction of the military court in the conduct of the trial.
- D. The participation of one of the court to rule with the occurrence of a callback request e The fact that a legally acceptable request, the law requires that the appellant filed Court of Military Appeals, or in the Military

Supreme Court note the reasons  it is built to challenge the Governance during the forty days from the date of sentencing, and provided Article (6) of the Code of Criminal Procedure of military force that The Director of the Department of Military Justice to exercise the functions and duties of the prosecution

Military and judicial follow the Attorney General of the Republic, followed by military The Minister.

And select the terms of reference for the prosecution of military law in the following cases:

Proceed with the military prosecutor to investigate the following crimes reported immediately to:

- A. Military offenses set forth in the Penal Code Military.
- B. Common law crimes within the jurisdiction of military courts.
- C. Military crimes related to crimes of common law.
- D. Military crimes referred to it by the competent authorities according to law, And the prosecution of the military public notice of the military and security And the Attorney General of the Republic's decision to act in the investigation. The military prosecutor and the trigger for military crimes Regardless of the existence of a complaint or allegation by the victim or his The investigative procedures and the results of secrets and must Members of the military prosecutor and members of the military and judicial assistants Experts and others who call or attending the investigation because of their job or Non-disclosure of their mission, and only signed under penalty of sanctions prescribed by law.

Was mandated by law on behalf of the military task of overseeing the prisons Military and military places of detention to take the competent authorities What seemed to her remarks in this regard.

Prosecutors in Yemeni legislation is part of the judicial authority in accordance with With the provisions of the Constitution and the law, a body of judicial bodies of the Authority

(Article [150] of the Constitution) and defined by Article (1) of the Law on the Establishment and organization of the prosecution

No. (39) of 1977, including the following:

Established a judicial body called the Public Prosecutor to direct the terms of reference

Conferred upon it by law and follow the Attorney-General (Higher Judicial Council)  
Ketbaip

Justice, and follow the Attorney General, financially and administratively under the supervision of the Minister of Justice as

Defined in Article (50) of the Judicial Authority Law in force as a judicial body

Exercise the powers vested in it by law, which is conducting the investigation and referral Crimes in accordance with the procedures specified in the Code of Criminal Procedure, prosecutors

Assembly is the mandate-holder to move the criminal case and lifting and functioning Before the courts do not raise the other, except in the circumstances set forth in the law,

As they may not stop the criminal case or leave it or disable the functioning or

Waived or the sentence or a moratorium, except in cases

Set forth in the law.

Has identified the Judiciary Law in force terms of reference of the Public Prosecution Stipulating Article (53) of the following:

The public prosecutor brought in when the functions of the powers assigned to them According to the law, and in particular:

A. Taking into account the application of the law.

B. File a criminal lawsuit and practice procedures.

C. Follow up the implementation of judgments and decisions in criminal matters.

D. The investigation of crimes and collect evidence.

E. Express an opinion on the appeals of criminal judgments and decisions, and others.

And. Jawazi mandatory intervention and in the cases provided for in s Law Criminal Procedure or in any other law.

G. Supervision and inspection of detention centers, prisons and institutions

Reform of the events, to make sure of the legality of detention and arrest.

And the Attorney General is responsible for the case in public - public - in his capacity as Vice

From the community will do it himself or by assistants shared by members of the n Prosecution, unless explicitly stipulated, is considered the members of the public prosecutor

Agents of the Attorney General, and follow the order of their superiors, their jobs, then the Attorney General,

Then Minister of Justice.

According to the law that prosecutors perform their function in the courts

By the Attorney General or the Attorney General or the first public defense attorneys or heads of

Prosecutors or agents, except to the Supreme Court, as mandated by law, this

Task Procuratorate shall carry out an independent public function the prosecutor's office Supreme Court called (on behalf of the veto) According to the provisions of Procedure Code

Criminal must book department of the Supreme Court of Criminal Appeals is

Submitted to the Supreme Court and appeals that are sent after the completion of chargeable to

On behalf of Cassation of the Supreme Court together with all the case papers to the extent that

Records of the prosecution and appeals must be written memorandum of opinion in each appeal

In terms of the form, subject, and deposited the case file before consideration by

Supreme Court - Criminal Division competent - and re-prosecution after appeal

The filing of its circle of writers to the President of the Supreme Court, which indicates

So in the log file is then lifted to the President of the Court who shall transmit

Appeal to the competent department for consideration, and Article (1) of the Ministerial Decree

(1) for the year 1979 on the Rules of Procedure of the Office of the Attorney General and Prosecutions

Committee to the following:

Consists of the Office of the Attorney General as follows:

1. Office of the Attorney General first.
2. Technical Office.
3. Director of the Office of the Attorney General.
4. Judicial Inspection Department.
5. Prosecutions departments.

This has been settled jurisprudence that the Arab public prosecutor characterized the properties are:

1. Gradual subordination.
2. Non-retail.
3. Public prosecutor's independence.
4. Inadmissibility of the response of prosecutors (1

Yemen was one of the first Arab countries which adopted the principle of control

Constitutionality of laws, it ensures the permanent War of the cupola in the city of Sana'a (1970 on the provisions on the establishment of a Constitutional Court stipulating Article (155

From the following:

Established a High Constitutional Court shall consist of a number of scientists Acharai n And highly qualified elected by the Shura Council, and nominated by the President of the Council

Republican, will be final in the following matters:

- A. Constitutionality of any constitutional amendment.
- B. Constitutionality of laws and decrees having the force of law.
- C. Trial of the President and members of the Republican Council and the Prime Minister and ministers.
- D. The investigation of appeals election of members of the Shura Council.

And Article (158) of the Constitution itself that the law defines a recipe

Constitutional procedures for the formation of the Supreme Constitutional Court rules Organization and procedures to be followed before.

This was the first attempt because the Constitution contains a provision decide the principle of

Judicial control over the constitutionality of laws and decisions.

After the unity of the blessed and the adoption of the Constitution of the Republic of Yemen to the stage

Decides to establish the transitional Supreme Court of the Republic of Yemen, where

identified

Article (124) than on the terms of reference of this court by stipulating the following:  
Established Supreme Court of the Republic and how the law defines the composition  
Shows the terms of reference and procedures to be followed before it is exercised in  
particular

As follows:

1. Oversight of the constitutionality of laws and regulations and decisions.
2. Chapter in the conflict of jurisdiction between the judicial authorities.
3. Chapter electoral appeals.
4. The disposition of appeals of final judgments gained class  
Cogens in civil, criminal and personal status.

5. The disposition of appeals of final judgments gained class  
Deterministic in administrative disputes and disciplinary actions.

All constitutions have included provisions on the control of Yemen on  
Constitutionality of laws stipulating Article (151) of the Constitution of 1994 provides as  
follows:

Supreme Court of the Republic is the highest judicial body and determines the law  
Shows how the composition and terms of reference and procedures to be followed before,  
and exercise

Particularly in the elimination of the following:

- A. Chapter in the prosecution and defenses relating to the constitutionality of laws  
And regulations and decisions.
- B. Chapter in the conflict of jurisdiction between the judicial authorities.
- C. Investigation and express an opinion on the health of the appeals referred to it by the  
Board of  
MPs on the health of the membership of any of its members.
- D. The disposition of appeals of final judgments in civil cases  
And commercial, criminal and personal status disputes and administrative,  
And disciplinary actions in accordance with the law.
- E. Trial of the President and Vice-President and Prime Minister and his deputies  
Ministers and their deputies in accordance with the law.

Also included the Constitution of the Republic of Yemen in 2001 the same provision  
On the control of the constitutionality of laws through the chapter in the proceedings  
And arguments concerning the unconstitutionality of laws and regulations and decisions  
(Paragraph [a] of Article (153) of the Constitution in force for the year [2001 AD]).  
According to the provisions of the Yemeni Constitution in force which states that the  
elimination of

Integrated unit and arranges the judicial authorities and law degrees and sets  
Terms of reference (Article [150] of the Constitution) has entrusted the task of control  
law

(Constitutional law constitutional department of the Supreme Court stipulating Article  
(19

Of the Judicial Authority Law No. (1) for 1991 as follows:

Separated by the Constitutional Chamber are as follows:

- A. Oversight of the constitutionality of laws and regulations and cinnamon Arat and that  
The path of the disposition of appeals filed to the unconstitutionality of laws

And regulations, regulations and decisions, whether by suit or Alambtdop  
Payment.

B. Chapter electoral appeals.

C. Trial of the occupants of the functions of the higher authorities.

The Constitutional Chamber of the Supreme Court in El Jem Hurreh Yemen is

The only legal entity entrusted with the oversight of the constitutionality of laws

And regulations.

We have many forms of control over the constitutionality of laws in some countries

Arab established a Constitutional Court responsible for constitutional control, such as

Arab Republic of Egypt and the State of Kuwait and other Arab countries have this

Important constitutional councils such as the Constitutional Council of Algeria, Tunisia,

And Morocco, and in some countries the task of overseeing the constitutionality of laws

Third party legal under the Supreme Court - the Court of Cassation and the recognition -

such as

What is the case in the Republic of Yemen.

The basis for the emergence of thinking to find a constitutional means in any country

Issues of judicial control over the constitutionality of laws but rather serve as a basis to

address

Three things, first is the fear of conflict in the courts concerning the constitutionality of a  
law

So that it is likely that the constitutional court and unconstitutional to

Another court, and is a constitutional claim and unconstitutional in another lawsuit

Before the same court, the second failure control of the ordinary courts as they do not do

More than rejected the application of the law is constitutional but it remains the law

effects

And effectiveness is in the scope of the lawsuit, said the elimination of his speech, and

the third

The need to resort to a constitutional court as to say a critical word in

. (Abolition of specific legislation or to leave it (1

The principle of judicial control over the constitutionality of laws and regulations

Means that in case of conflict between an ordinary law or statute with the Constitution,

due to

Court to rule on this conflict to appropriate the assets of this function

Judiciary and in its borders have drawn no doubt that it must at this

Conflict that poses the ordinary law and neglects the Constitution and beat him because

The supreme law better be followed, in which it does not infringe on the power

Legislative, as long as the Court does not place the T itself legally, in order to stop the

Implementation, and so is that it differentiates between the two laws may conflict in this

Vtvsal

. (And difficult to decide which is the first application (1

If the common law has neglected the fact that this is due to rule

Constitution supreme over other laws that sovereignty that should be all Iltzmha

The judge and the street on both the judiciary and thus laid the principle of control

Jurisdiction over the constitutionality of laws on the basis of consideration to the

Constitution as

Occupies the top hierarchy of legal norms in the statement of law, Valmushara

. (When enacted legislation should be legislation that is contrary to the Constitution (2)  
And judicial control over the constitutionality of laws is a guarantee of guarantees  
The principle of the rule of law and the need to take place all the guarantees of the rule of law

. (So issued in accordance with the Law (3)

The method of moving control of the constitutionality of laws and decisions before the Supreme Court of the Republic - the Constitutional Chamber - are two ways:

A. Alambtdop constitutional motion.

B. Payment of unconstitutionality.

Case is the constitutional nature of contingent claims in kind

Interview contested legislative texts by the provisions of the Constitution there can

And match them to uphold the law constitutional, and then these texts are the same

Constitutional issue in the proceeding or, rather, place, and waste as much as

Thtterha with the provisions of the Constitution which is the end Tptgeha this rivalry, and spend

Constitutional Court - Constitutional Chamber - would in possession of those authentic

Launched its impact in the face of the state over the regulations and the multiplicity of aspects

Activity, and then not only the impact of its provisions who is party to the litigation

Constitutional, both as a genuine opponent Mnd or what, but the effect on

. (Other members of the obligation assumed in their right under the Constitution (1

As the Yemeni constitutional legislation does not regulate the merits

Constitutional and method of lifting and the dates and conditions and the core data that must be

Be included and procedures for its consideration, the law applicable

On the constitutional motion, in all these cases, is the law of pleadings

And implementation of Civil Code No. (40), 2002 - Public Law - According to the provisions of

Part One of the first book of the Code for the same spillover

Before the courts - proceedings and conditions of acceptance - we find that Article (70) of this

Law defined the case as a legitimate means and each of a legal claim or

Defending bump up to the judge for decision in accordance with the rules and legal legitimacy, as

One of the most important conditions for the case in Yemeni law interest, in accordance text

Article (75) does not accept pleadings to take any action or claim or defense is not the owner

In the interest of the list established by law, shall be sufficient potential interest,

If the purpose of the reserve demand to pay or imminent damage to document a right Might disappear when the evidence for the conflict.

That the most important conditions are necessary to contact the court proceedings,

In general and the constitutional case in particular, the availability of interest-based Established by law a direct personal interest is not enough

To achieve the legislative text to be challenged as unconstitutional, but

Requires that the text has been attached to direct damage to the plaintiff shall be



sufficient

Potential interest if the purpose of the reserve demand to pay the damage or  
Ascertained that the right might disappear when the evidence for the conflict.  
This ends the mandate of the Court Bisd R. governance and delivered, Vbesdor  
Ruling, the court exhausted its original mandate, which related to requests  
Original raised by the case, as well as requests made by the crossbar

. (Bmnaptha (2

If it is agreed that the verdict of the court out of conflict

From its original mandate and subordination, it remains for the trial court

The mandate of the complementary and verify whether this state has an interest in the  
interpretation of

Sentence or corrected, or omitted if the trial court Chapter

. (In the request before it was the objective (1

And provisions for the interpretation of the sentence or corrected, or omission in the  
chapter

Substantive applications had been received in the Code of Civil Procedures in force

As a general law, Article (253) to take proceedings provides that: (The

Court is correct in its ruling from the mistakes of purely material written or

Calculation made by a decision of its own motion or at the request of a litigant is not

Case, being clerk of the court for this correction to the image of governance

The original sign is the Chair).

This text is governed by deterministic interpretation of the provisions that afflict the  
operative part

Vagueness or ambiguity or doubt in the interpretation, in this case can a discount

To request the trial court an explanation for this ambiguity or thumb

Request made to it in accordance with the usual procedures for filing the lawsuit.

May not take this request to modify the way jurisdiction of the Court, and only

It is not acceptable, and is considered an integral interpretation of the provision of all the  
faces

. (To judge which is explained by (2

That, although it was appropriate that the foregoing is subject to government  
interpretation of the challenge

Immediately after its release A. No, that can not be realized before the Constitutional  
Court in connection with

Determining applications for the interpretation of its provisions, because of court rulings  
and decisions of the Constitutional

Final and not subject to appeal to any party, and winning the provisions of this  
authoritative

Absolutely should not be limited impact on the litigants in constitutional Da' Ui

They were made, but leave this to the impact omnes, and abide by all the authorities

State whether those provisions had ended the unconstitutionality of the text

Legislative contested, or unconstitutional and to dismiss the case on this

. (Base (1

Article (186), paragraph (7) of the Code of Civil Procedures on

Follows:

The defenses of the General Regulations the following:

7) Challenges to the constitutionality of the law in this case, if the court)

That the payment is based on the suspended consideration of the litigation and filed papers relating to the

Payment to the Constitutional Chamber of the Supreme Court within thirty days from the date of

Its decision to suspend consideration of the dispute, and the Constitutional Chamber of the chapter during the period of

Maximum seventieth days starting from the date of arrival of the papers to the Supreme Court.

It is the context of the text of paragraph (7) of Article (186) it is clear that non-payment Constitutionality of a law or regulation is the way the second method of judicial control over

Constitutionality of laws and regulations and decisions.

We had previously dealt with the way I to the judicial control

In the case of direct Alambtdop provided by the applicant before the

Supreme Court - Constitutional Chamber - and here we take the second route - Payment Unconstitutionality.

The Challenges to the constitutionality of laws and regulations is the most religiously methods

In the Arab countries to move the case to the constitutional methods

Other Valvgah Egyptian-Arab view that expansion of the scope of judicial control

The constitutionality of laws and regulations, the text of the law on three ways to achieve this

First Goal: Elimination of a recourse on their own to the Constitutional Court

High season in the constitutional text of the chapter is required in a case pending before this

The confirmation of the commitment of judicial rules of constitutional right,

And the second payment from a litigant before a judicial bodies not to constitutional text

In law or regulation and then the court defer consideration of the case and determine those who aroused

Payment term to suit this, the third way: to authorize the Court

Supreme Constitutional to spend on its own unconstitutional provision in the law or

. (The list displays them on the occasion of the exercise of all its terms of reference (1

In the Yemeni legislation Valdf unconstitutional law or the text of the statute do not

Only be a litigant before a judicial bodies, and here is not to be answered

The principle of payment to pay automatically, but law requires the court to look first in the

Seriousness of payment, and if they see that the payment is based on the consideration of litigation suspended

And raised the papers relating to the payment to the Constitutional Chamber of the Supreme Court.

And the meaning of the seriousness of payment to be impugned law or regulation in

Dsturithma Post subject of the dispute that can be applied to any one of them

The case in any of the faces, and that they doubt the constitutionality of the AK

Law or regulation challenged in Dsturithma is no doubt in part

. (Constitutional (2

The law put a limit to the lifting of securities to pay non-attachment to pain  
Constitutional law or the text of the statute and considered the submissions on the public  
order

Which may be formulated in any stage of the litigation, even before the court  
High, and then it may be seemed that payment for the first time before the Court of  
Veto - Supreme Court of the Republic of Yemen - and in accordance with the provisions  
of the  
186) of the Code of Civil Procedures in force. , Articles (185)