

RESEARCH ARTICLE

**THE POWER OF THE HEAD OF STATE TO SUSPEND
THE CONSTITUTION**

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Published at 01/07/2021

Accepted at 07/06/2021

Abstract

It is known that the practical value of the constitution depends on the behavior of the public authorities in the state, which are in charge of implementing its texts, as they have the duty to apply the constitutional texts in a sound application, when they exercise their powers to do so in the manner set out in the constitution, and it may happen during the application and enforcement of constitutional provisions that impose In practice, the lack of validity of some constitutional texts for implementation due to many considerations that led to other than the circumstances in which the text was written, which requires the amendment of such texts that have become easy to apply, and constitutions usually draw the method for amending them, and in the period from the date of entry into force of the constitution until its abolition and the development of a new constitution certain circumstances may arise that require suspending or suspending either some constitutional texts for a certain period in which the country is exposed to dangers threatening its entity, or the constitution is completely suspended or suspended while the constitution is in effect, and this exceptional circumstance that calls for suspension may lead to the undermining of the constitutional system itself.

Key Words: Constitution law, Sound application, Constitutional system

1. Introduction

The political system decided by the Constitution included, in addition to the organization of power, an organization of freedom, through which the set of general rights and freedoms of individuals were determined, representing the minimum recognized of them, in democratic systems. In fact, the Constitution, and that it included an organization of the issues of power and freedom, 'but its practical value It depends on the behavior of the public authorities in the state, which implement its provisions. It has the duty to properly implement the constitutional texts, when it performs its functions, that this be done in the manner. The constitutional legislator confirms the principle of the supremacy of the constitution, and entrusts the head of state with the function of ensuring the application of constitutional rules. The application of some texts contained in the constitutional document, in order to confront an extraordinary circumstance that threatens both the public and private interests, and leads to the undermining of the constitutional system itself. The constitutional legislator may include the text of the constitution that authorizes the head of state - explicitly or implicitly - to suspend some other constitutional texts. The fact that the head of state has the power to suspend may not find support in the provisions of the constitution, but in the other.

1.2. Research problem

The problem of suspending the constitution by the head of state is one of the common features of a number of constitutional systems that have worked to strengthen the position of the head of state vis-à-vis other public authorities, thus affecting the supposed balance between powers.

The reality of constitutional systems indicates that the provisions of the constitution are subject to the suspension of its provisions, in two cases: the first; find its support in the constitutional regulation itself, and the second; It finds its support in the political reality represented in the non-application of the provisions of the Constitution, or their application in a way different from their content.

2. The concept of suspending the constitution and its justifications

Where the authority, for one reason or another, resorted to issuing a decision to suspend the constitution, in whole or in part, then the situation is this in front of the suspension of the constitution, and those who hold power may not issue any decision to suspend wholly or partly the provisions of the constitution nor do they implement some provisions for a period that may be longer or shorter in this case

2.1. The concept of suspending the constitution

The opinions of the jurists agree that the concept of suspending the constitution is defined in: "Stopping the work of some constitutional texts for a temporary period."

Some believe that suspending the constitution means "the authority of the head of state to suspend the work of some articles of the constitution in order to confront the emergency crisis" [1].

Some have also argued that suspending the constitution means: "The possibility of the president of the state interfering in the constitutional field during the application of the

articles regulating the state of necessity, which allow him to suspend some provisions of the constitution during the period of crisis facing the state.”

However, there is a jurisprudential trend that took another direction in defining the concept of the idea of suspending the constitution, as it was limited to clarifying the forms and scope of obstruction, without defining the concept of obstruction directly.

Accordingly, part of the jurisprudence sees that obstruction is achieved in all cases where the constitution is a legal and political obstacle to achieving the purposes intended by the rulers. If this suspension is (officially), then there is a (realistic) obstruction, that is, a suspension that is not based on the constitution itself, but rather on the will of those responsible for implementing it [2].

The same meaning confirms another aspect of jurisprudence, as they see that suspending the constitution, in whole or in part, is based on a decision issued by the authority, for one reason or another, and in this case, we are facing an official suspension of the constitution. Those who hold power may not issue any decision to suspend all or some of the provisions of the constitution, but they do not implement its provisions, for a period that may be long or short. In this case, we are facing an actual suspension of the provisions of the constitution [3].

It is clear from the foregoing that the forms of obstruction of the constitution are represented in official obstruction, and informal obstruction (actual obstruction). The official obstruction of the constitution is achieved when the holders of power announce the suspension of the provisions of the constitution, in whole or in part, to address a political, social or economic crisis. or in the event of war or armed insurrection, or the existence of a threat to the independence of the state and the integrity of its territories and constitutional institutions [4]

As for the unofficial suspension (actual suspension), it is noticeable that the holders of power do not officially announce the suspension of the provisions of the Constitution, but rather their will is directed towards neglecting the implementation of the provisions of the Constitution in part or in whole, or the application of the provisions of the Constitution in a way that contradicts its content.

The informal disruption can be observed, by studying the constitutional reality of the state and comparing it with the political reality. If it turns out that there is a distinction or difference between the content of the constitutional texts and the reality of exercising power in a specific field, then the actual suspension of the constitution will be achieved [5]

In light of the foregoing, we see the necessity of reconsidering what was proposed of these definitions, and trying to develop an accurate scientific and methodological definition that clarifies the meaning of disrupting the constitution. in whole or in part, and for a certain period of time, regardless of the circumstances the country is experiencing, normal or unusual.

3. Justifications for suspending the constitution

The authority of the head of state to suspend the provisions of the constitutional rules is based on many justifications, which can be divided into two categories: political and practical reasons.

3.1. Political Rationale

Although the conditions surrounding those who hold power in society are always different, this difference does not mean that it is impossible to identify general aspects of the exercise of power. Constitutional rules express the will and interests of those who hold power, and define the political, economic and social trends in which they believe. These constitutional rules represent a form of discrimination between rulers and the ruled, and therefore, they are devoted to a form of seizing power [6]

However, we must note that the factors that explain to us the rulers' resort to suspending the constitutional rules can be deduced from the fact: that rulers are those who exercise authority according to the rules of their position (which are the written constitutional rules), or rules resulting from the way they exercise authority (which is represented in In customary constitutional rules, that is, the exercise of power by rulers is determined by written or customary constitutional rules

Accordingly, the first basis, in the continuity of the application of constitutional rules, is the embodiment of these rules for the interests of the holders of power, and their expression of their dominance over the constitution of power, but in any case, if the constitutional rules do not express the special interests represented by those in power, the Their will will be directed towards stopping the implementation of the constitution's rules and disrupting them, and establishing a political reality that guarantees the protection of these interests. Thus, arresting the authority while it is in a state of focus reflects its broad lines in the nature of interests that the political reality dominates over the constitutional reality [7]. In light of the foregoing, the justification for disrupting Constitutional rules and the suspension of enforcement of its provisions, finds its support in the special situations of those who hold power, and their desire to concentrate power in their hands, in order to achieve the interests and purposes they wish to reach, and block the way for the constitutional institutions representing the people, to achieve the people's desires, aspirations and hopes through the constitution and democratic means It contains, where the holders of power work to take a decision to suspend the provisions of the constitution in whole or in part, based on political reasons and justifications [8].

This form of obstruction does not find a basis for it in the constitutional document that justifies its legitimacy, but rather finds its support and basis in the strength on which it depends on the one hand, and the possibility of the continuation of the power-holders who took it on the other hand. And to sum up, the basis on which this obstruction is based is of a purely political nature, as there is no constitutional text that allows it, regulates it and finds its legitimacy in it.

3.2. Practical Rationale

The necessity and inevitability of the continuity of the state and its integrity and the protection of its territory and people is the justification for suspending the constitution and stopping its implementation for a period determined by the necessity itself, as the life of the state does not proceed on a single pace, but is interspersed from time to time with different forms of exceptional circumstances that seriously threaten its existence and existence

Where unusual circumstances occur in the life of the state of various forms from different sources, the cause of these circumstances may be international conditions, such as the occurrence of a global or local war, and the cause of those exceptional circumstances may be internal conditions, such as the occurrence of an economic crisis or the spread of an epidemic or temptation [9]

These exceptional circumstances are not the usual situation in the life of the state, and they do not have the character of permanent, but rather they are likely to occur, temporary survival. However, no matter how different these circumstances are in terms of their source or form, they are united in effect and result, as they represent a threat to the entity and survival of the state [10, 11].

These exceptional circumstances call us to stand before two considerations

The first consideration: The occurrence of exceptional circumstances entails the availability of a state of necessity, which allows the head of state to take the exceptional measures and measures necessary to confront those circumstances.

The second consideration: the adoption of constitutional documents for the necessary guarantees for the protection of human rights, becomes useless if the head of state is authorized to resort to exceptional measures that would lead to the suspension of work and the disruption of some constitutional provisions. Hence, it was necessary to strike a balance between the two previous considerations, as follows:

- a) It is not permissible to suspend the work of the constitutional texts relating to rights and freedoms, except within the necessary limits that allow state institutions to confront the dangers that actually exist, i.e. the disruption of the constitution should be to the extent necessary to face those circumstances. In other words, to achieve proportionality between the procedure for suspending the constitution, with the nature of the exceptional circumstance [13].
- b) The exercise by the head of state of his exceptional power to suspend the provisions of the constitution must be subject to the oversight of the legislative and judicial authorities, provided that this oversight ensures its effectiveness and continuity [14].

4. Limitations of the Head of State's Power to Suspend the Constitution

The logic of the abstract legal study requires that we clarify the limits of the authority of the head of state in the field of suspending the constitutional texts. In this regard, constitutions have adopted two approaches, the first being direct restriction, and the second being indirect restriction.

4.1. A direct restriction of the authority of the head of state to suspend the constitution

The constitutional legislator explicitly defines the limits of the head of state's authority to suspend the provisions of the constitution, through the constitutional rules it sets that determine the content of these restrictions.

In this case, the texts of the constitution are the direct source that generates restrictions that limit the power of obstruction.

And we will present the constitutional rules that mentioned direct restrictions on the

power of suspension, in two independent demands: in the first, we define the principles that govern restricting the power of suspending the constitution, and in the other we define the position of some Arab constitutions on the principles restricting the power of suspending the constitution.

4.1.1. Principles Governing Restriction of the Power of Suspending the Constitution

Some constitutions included provisions specifying the authority of the head of state to suspend the provisions of the constitution, based on the (licensing system) instead of the (prevention or investigation system). Its effect is the prohibition or prohibition of suspending other texts. If it is permissible for the constitution to provide for provisions that may be suspended in extraordinary circumstances, these provisions must be specified by a provision in the constitution. The constitution must also provide for provisions that may not be suspended in any way. This trend was established in the German constitution issued in 1919, where Article (48/paragraph 2) granted the head of state the right to concentrate all powers in the event of a threat against security or public order, as I decided that: "in this case, the president, on a temporary basis, may suspend the basic rights specified in Articles 114-115-118-123-153, in whole or in part, and the constitutional legislator in Turkey has taken the same approach. The Turkish constitution issued in 1982 indicated The amendment in 2002, in Article (15) thereof, provides for the power to suspend the exercise of fundamental rights and freedoms, partially or completely, in the extraordinary circumstances of war, martial law, or a state of emergency. It is noted that the constitutional legislators had the main and important role in Highlight the principles and controls that govern the authority of the head of state to suspend the implementation of constitutional texts related to the rights of individuals. Their way to this was their attempt to establish a kind of harmonization and balance between the requirements of preserving the common good, and the necessities of protecting rights and ensuring their exercise [14].

It is worth mentioning in this regard that the principles mentioned by the aforementioned constitutions can be considered general principles required by the problem of the conflict between power and freedom, because of the logic they contain and the observance of rights and freedoms through the common good [15].

The principles that govern the authority of the head of state to suspend the constitution can be summarized as follows:

The first principle: Prohibition of suspending any provision of the political constitution and the social constitution in the normal circumstances experienced by the state

The second principle: the permissibility of temporarily suspending the application of some provisions of the social constitution (ie the texts related to rights and freedoms) in the unusual circumstances that occur in the life of the state.

The third principle: the proportionality between the requirements of the public good and the requirements of the private good

Whereas, the public interest may require curtailing the framework in which individuals move to exercise their rights and achieve their own interests, by setting some limits on

them or even stopping work on them.

This does not preclude the achievement of a proportionality between the two matters, because in the end the public order and the public good yield benefit and benefit to everyone and individuals, that is, to the whole and the part, and in this way proportionality is achieved [16].

4.1.1.1. The position of Arab constitutions on the principles restricting the power to suspend the constitution

Some Arab constitutions have adopted an approach that establishes special provisions and principles that specify objective restrictions on the authority of the head of state to stop the application of constitutional texts.

This was represented in some constitutional documents, most notably: the draft constitution of the Republic of Iraq for the year 1990, as well as the Sudanese constitution for the year 1998 - the draft constitution for Iraq for the year 1990. [17].

Article (99/2) granted the President of the Republic, in a state of emergency, the power to suspend work - temporarily - according to the provisions of some articles, which include dealing with rights and freedoms (41) [18].

It is noted that the draft constitution included the following:

1. Allowed the suspension of some constitutional provisions in extraordinary circumstances, which restricted to a state of emergency.
2. Specify the constitutional provisions that may be suspended [19].
3. The one who looks at the articles that the constitutional legislator allowed to be suspended will find them related to human rights, and they include personal rights, intellectual rights and social rights, as follows:
 - a) Rights and freedoms related to the human personality(42), embodied in: the right to individual security, the right to the inviolability of the home, the right to confidentiality of correspondence, and the right to travel and return
 - b) Rights and freedoms related to human thought (43) and embodied in: the right to freedom of thought, opinion and expression, the right to freedom of the press, printing and publishing, the right to freedom of assembly and demonstration, the right to freedom to establish and join political parties, and the right to establish and join associations.

The Sudanese Constitution of 1998 The Sudanese constitution established a modern constitutional trend, delineating the limits of the head of state's authority to suspend the provisions of the constitution. In Article 132, the constitutional legislator moved towards recognizing that the head of state has the power to suspend all or some of the constitutional rules regulating rights and freedoms, and at the same time prohibited the suspension of some constitutional rules related to the following issues [20].

Freedom and the right to life, freedom and the right to equality, freedom of belief and worship, the right to litigation, the right to be presumed innocent, and the right to defend [21]

We can highlight the principles or (controls) whose features and limits of application are drawn up by the Sudanese Constitution, as follows [22]:

The first principle: The authority of the head of state to suspend the constitution does not lead to an absolute suspension of constitutional provisions related to rights and freedoms.

The second principle: the inverse proportionality between the authority of the head of state to suspend the provisions of the constitution, and the value of the right or freedom.

The third principle: the commitment of the head of state not to enter into the constitutional field of basic rights and freedoms, which the original constituent authority has prohibited from affecting and suspending its provisions.

It is taken in this direction, that defining the articles that may be suspended is a matter under consideration. This is because there is a close connection and interdependence between all the texts contained in the constitution document. Hence, the disruption of a certain constitutional text, which the constitutional legislator has permitted to suspend, has its effect on other constitutional texts, which are not allowed to be suspended. On other texts of the Constitution.

4.1.2. Indirect restriction of the power of the head of state to suspend the constitution

It is difficult to research whether there are restrictions on the authority of the head of state to suspend the constitution, without expressly stated in the constitutional document. However, there are doctrinal trends that have tried to extract these restrictions indirectly from the constitutional texts that dealt with human rights and exceptional powers, and in In this case, the constitutional principles are the source for this definition drawn from the folds of the constitution rules [20]

However, jurisprudence has initially tended to rely on the will of the constitutional legislator, in determining the restrictions that limit the authority of the head of state, through the rules it sets in the form of the constitutional text. In this vein, the Swiss Constitution of 1874, as well as the Swiss Constitution of 1999 in Article 185 thereof, stipulate that: “The Federal Council may, based on this article, issue orders and take decisions to confront disturbances that occurred or occur that threaten public order or internal security. or external, and these orders have a specific time validity.

It is noted that the Swiss constitution has granted the Federal Executive Council, which is chaired by the head of the federal state, an exceptional power to take decisions that may lead to suspending the provisions of the constitution. But what is the extent of the suspension power according to the Swiss constitution?

The constitution did not contain a direct definition of the scope of exceptional powers. Therefore, a part of Swiss jurisprudence has tended to limit the authority of the head of state to obstruct the provisions of the constitution, by distinguishing between two types of constitutional texts in terms of their objective value (i.e. their content and content), as they are classified into:

Substantive and basic constitutional texts: These are the texts that clarify the basic principles in establishing the political system. Therefore, they have a political and philosophical meaning and content, and violating them requires a complete and comprehensive change [23].

The proponents of this trend consider the prohibition of disrupting the essential and fundamental constitutional texts

Non-essential (i.e. secondary) constitutional texts: These are texts whose role is to put the essential texts into practice, by establishing the bodies and clarifying the rules of their work. The issue of changing and violating them constitutes a simple reform, if circumstances reveal the preference of that reform for the purpose of implementing the basic principles. In light of this, the proponents of this trend see the permissibility of suspending secondary constitutional texts [22].

It is taken on this trend, that he did not set a disciplined criterion for distinguishing between constitutional texts, just as establishing a hierarchy between the constitutional texts in the constitution itself, may open the way for disagreement, which may lead to the bypassing of authority.

Also, a part of French jurisprudence tried to determine the authority of the head of state to suspend the constitution, by referring to general principles in the theory of necessity. In application of this, we find that the French jurist (BURDEAU) considers that the mere recourse to Article (16) of the French Constitution of 1958 and its application is a temporary suspension of the constitutional texts [24].

However, others in the French jurisprudence have criticized this trend, which considers the application of Article (16) tantamount to obstructing other constitutional texts. Supporters of this view point out that there are constitutional provisions that are outside the scope of obstruction, in order to ensure that the guarantees of implementing Article (16) do not stop, such as the meeting of Parliament by the force of law, or the possibility of accusing the president of high treason under Article (68) of the French Constitution.

Egyptian jurisprudence views differed regarding the limits of the head of state's authority to suspend the provisions of the constitution in implementation of Article (74) of the 1971 Egyptian constitution.

(Dr. Taima Al-Jarf) acknowledged that the President of the Republic has absolute discretion in determining the danger and the type of measures he takes, which may reach the extent of authorizing him to suspend the work of some or all provisions of the Constitution [20].

As for (Dr. Muhammad Kamel Laila), he believes that the work and application of Article (74) would disrupt some of the other provisions of the Constitution for its own sake, as the measures taken under it are contrary to Article (44) of the Constitution, which establishes the inviolability of homes and the impermissibility of entering them. Or search them except by a reasoned judicial order, and contrary to Article (48) of the Constitution regarding the prohibition of censorship of newspapers, warning them, disrupting them, or canceling them through the administrative way.

As for (Dr. Yahya Al-Jamal), he believes that the exceptional legal system established by these texts, implies that it is a disruption of other constitutional texts. But that release is bound by a restriction established by Islamic jurisprudence. It is the restriction learned from the rule (the proportionality between what is required by necessity of deviating from the provisions of the constitution, and the extent that is

sufficient to face the crisis) as well as from the rule (necessity is estimated by its extent) [25].

5. Disrupting the constitution is distinguished from other suspicious regimes

Suspending the constitution is in common with some constitutional systems similar to it, where suspending the constitution shares with the amendment in some matters and differs from it in other respects, and suspending is similar to canceling in other places, so a comparison must be made between suspension and amendment on the one hand, and between suspension and cancellation of the constitution on the other hand. This is what we will address in the following claims

5.1. The distinction between amending the constitution and suspending the constitution:

Disrupting the constitution is stopping the work of some constitutional texts in the event of unusual circumstances that the state is going through, and the possibility of the head of state interfering in the constitutional field during the application of the articles regulating the state of necessity, which would allow if the work of some provisions of the constitution was suspended during the period of crisis facing the state. Those who hold power for stopping the implementation of the provisions of the constitution as a whole or in part to deal with a political, social or economic crisis or in a state of war or a threat to the independence of the state and the integrity of its lands and constitutional institutions [26]

. As for amending the constitution, the constitutional rules are in fact a reflection of the economic, social and political conditions that affect and are affected by them, and since these conditions are constantly evolving and changing, it has become imperative for the constitutional rules to keep pace with the various developments that accompany the political community, and amending the constitution is of two types. It is in the heart of the constitution and related to amending the provisions of the constitution, the amendment is official, but if the amendment is not made according to the rules of the constitution, the same amendment is customary [27]. The constitution, where there are no restrictions and authority competent to amend, whether an original institutional authority or a facility that disrupts the constitution, but those who hold power are those who disrupt the constitution in the event of facing a political or legal obstacle or other matters, unlike the amendment where the original authority draws up a constitution for a new country or establishes a constitution New to a country instead of its old constitution [28].

It is this authority that sets the rules by which the work of the established authorities, such as the legislative, executive and judicial authority, is established and established. Several and these are the proposal, preparation, voting and others, unlike obstruction, it takes place without going through these stages [2].

5.2. Distinguish between suspending the constitution and abolition

The abolition of the constitution is the complete and total termination of all provisions of the constitution, without stopping to amend them in part. The provisions of the constitution are terminated according to official procedures by the competent authority, and through the rules and procedures stipulated by the constitution to renew it or put an

end to its existence. The techniques of the constitution itself and in its texts specify ways to cancel according to illegal methods when this cancellation is not done according to legal methods and this is like popular revolutions and coups, and that cancellation puts an end to a previous political system, and this is what distinguishes abolition from suspending the constitution, the suspension may be completely or partially [29].

Either abolition is comprehensive to end the work of the constitution, and in spite of that, but we find that suspension meets with the amendment in some situations, which is that the normal abolition of the constitution and legal suspension come together at the same time, which is that the first requires the presence of a body determined by the constitution, and legal suspension also requires the existence of the authority or authority of a certain body Accordingly, it has the right to suspend the constitution and within the limits of the constitutional text that organizes it. They meet in illegality as well, because they happen outside the scope of the existing constitutional legitimacy, so the rulers try to delegate this legitimacy or deviate from it through illegal obstruction or dropping it and replacing it with another legitimacy adopted by those in charge of the revolutionary movement and the actual obstruction is the result of Due to the difficulty of the amendment or the lack of it. Either canceling the constitution in a revolutionary way may occur as a result of bypassing the constitutional texts and circumventing them as a result of this bypassing or circumventing, so the revolutionary cancellation is linked to the actual amendment, the connection of the cause with the result, or the connection of the cause with the cause, so their common basis is the separation of the constitutional reality and its failure to absorb and pursue the political reality. In the third world countries, there are often many military coups, and every coup is close It does not cancel or disrupt the existing constitution, and the military coup is also a reason sometimes for the abolition of constitutions by the revolutionary way, and at other times the military coup may be a reason to suspend the constitution politically, of course if those in charge of it issued a decision to suspend the constitution [30].

6. Results and Conclusion

The most prominent results we have obtained can be summarized as follows

1. Discussing the concept of disrupting the constitution has made it clear to us that the meaning of obstruction should not be limited to the narrow meaning of obstruction, which is the official suspension of the constitution. But to disrupt the concept of realistic. Therefore, legal thought tends to expand the meaning of obstruction to include the actual obstruction of the provisions of the Constitution.
2. Disruption or suspension of the provisions of the constitution emerged, as a realistic case, affecting the sovereignty and supremacy of the constitution. It is a stage, earlier than the stage of constitutional organization.
3. The constitutional legislator's keenness to legalize and regulate the phenomenon of disrupting constitutional provisions in the event of exceptional circumstances.
4. The authorization of the constitutional legislator with the power to suspend the head of state refers to the legal idea that was embraced by the drafter of the constitution, as the head of state's enjoyment of this power represents one of the

applications of the phenomenon of strengthening the position of the head of state and tipping his hand over other public authorities.

5. The resort to suspending the constitution, may lead to the establishment of a kind of (dictatorship) under the guise of constitutional texts. And this is a danger to the democratic system itself.
6. The constitutional regulation of obstruction may create an appropriate political atmosphere to strengthen the idea of personal authority, because the head of state is the body that specializes in the power of obstruction.

7. Recommendations

At the end of our discussion, we conclude with some recommendations, which we would like to gain the attention of the legislator in Iraq, when amending the constitution questioned in 2005, with the aim of achieving and affirming the principle of the supremacy of the constitution, and ensuring the application of the principles contained in the constitution document. This can be summarized by adding a text to the Constitution document that establishes the following principles:

1. Prohibition of partial or complete suspension of the provisions of the Constitution under normal circumstances
2. Making the procedures required by the state of martial law, including the procedure for suspending some provisions of the constitution, within the competence of the President of the Republic after official consultation with the Prime Minister, the Speaker of the House of Representatives, and the President of the Federal Supreme Court.
3. Prohibition of disrupting the constitutional provisions relating to basic human rights, in any way.
4. The House of Representatives, by a two-thirds majority of its members, may question the President of the Republic in the event of suspending all or part of the Constitution without following the rules and procedures specified by the Constitution.

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