FORTH CHAPTER

QUESTIONS, INTERPELLATION AND MOTION OF CENSORSHIP

Parliamentary questions are the most popular means of control. Through them, information is requested from the government. Its harmlessness is apparent, because the veracity and timeliness of the responses are a factor that opens cooperative behavior between the organs of power. A well-articulated reply allows the government agent to influence the mood of his interlocutors and transcend public opinion. The content of the question also qualifies the questioner and reveals their general level of information and acuity. In other words, in congresses where there are question periods, there is a tendency to generate favorable environments for collaboration between the organs of power.

Interpellation is a form of controversy about a government decision. Based on the clarifications made by the ministers, a debate is opened from which the proposal for a motion of censure can be deduced. This figure resulted from the political responsibility of the ministers that characterized the French parliamentary system established by the Constitution of 1830 (article 12), but the Constitutions of the III and IV republics gave rise to numerous excesses that affected the stability of the governments of France, which is why in 1958 the Constitution outlawed interpellations, although the motion of censure persisted (article 50).

In various constitutional systems, the motion of censure has a double dimension: it can result in the disapproval of a minister or the entire cabinet. Furthermore, in parliamentary systems, censorship causes the fall of the government, while in presidential systems it may or may not involve the removal of censored ministers.

The motion of no confidence is the institution of parliamentary origin that has the greatest presence in Latin American presidential systems. Eleven constitutions[35] have adopted it, with the variants that will be exposed in this section. On the other hand, interpellation without the possibility of

[35] Argentina, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Panama, Paraguay, Peru, Uruguay and Venezuela.

censorship is found in four constitutions.[36] Until 2008, only in two other countries, Bolivia and Chile,[37] there were no forms of political responsibility that could be demanded of the cabinet. However, the Bolivian project for a new constitution, in the process of approval, also includes the issue. As for African, European, and Asian countries, the motion applies, for example, in Armenia, Angola, Georgia, Iran, Kazakhstan, Mozambique, Russia, Syria, Turkey, Turkmenistan, Ukraine and in almost all Francophone countries.

I. Argentina

> Article 101. The Chief of the Ministerial Cabinet must attend Congress at least once a month, alternately to each of its chambers, to report on the progress of the government, without prejudice to the provisions of Section 71. He may be questioned at the effects of the treatment of a motion of censure, by the vote of the absolute majority of the totality of the members of any of the chambers and be removed by the vote of the absolute majority of the members of each of the chambers.

The 1994 reform introduced the interpellation and the motion of censure as instruments of congressional control but surrounded them with such precautions that they have made them inapplicable. As noted in the text, only the chief of staff can be held accountable, not the other ministers. This is a very sensitive limitation. In addition, the interpellation is difficult due to the high number of legislators who must promote it: the absolute majority of the totality of the respective members of the chamber where it is presented; to pass censorship requires an analogous majority in both chambers. It is understandable to protect ministers, but not to the extreme of making an institution of control such as interpellation null and void. When reserva-

[36] Honduras, Mexico, Nicaragua and the Dominican Republic. In 2008, Presidents Daniel Ortega, from Nicaragua, and Leonel Fernández, from the Dominican Republic, announced the imminent reform of the respective constitutions. Judging by the contributions of the corresponding consultations, it is foreseeable that in both cases new forms of political responsibility of the cabinet and of parliamentary political control will develop. Edwin Castro, a university professor, and Nicaraguan political leader has proposed substantial changes whose adoption would imply a very deep process of parliamentarization of the presidential system. It includes the figure of the prime minister, as head of the government, the motion of no confidence and the parliamentary dissolution. *Cf.* Parlamentarización del sistema político nicaragüense, Managua (in press).

[37] In the case of the Chilean Constitution, article 52 refers to the political responsibility of ministers, although it does not specify the procedure to make it effective.

tions of this magnitude are adopted, the instruments are distorted because they only fulfill a declarative function.

II. Bolivia

When preparing this edition, in Bolivia the possibility of adopting a new constitution remained latent. The project was approved by the Constituent Assembly in November 2007, but a month later it was modified. On the president's recall referendum, held in August 2008, the Bolivian head of state and government announced that he would summon the citizens to express his opinion of him on the project. This document presents several vulnerable aspects: it was approved by an assembly dominated by the president's party; it admits successive presidential remission and maintains an extreme concentration of power. Regarding the subject of this study, it admits interpellation and censorship, in these terms:

> Article 159.
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> I. The powers of the Plurinational Legislative Assembly, in addition to those determined [n] by this Constitution and the law:
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> ...
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> 18. Interpellate, at the initiative of any assembly member, the ministers of State, individually or collectively, and agree to censure by two thirds of the members of the Assembly. The interpellation may be promoted by any of the chambers. Censorship will imply the removal of the minister or minister.

As can be seen, the wording of the text coincides with the improper technique of the Venezuelan and Ecuadorian Constitutions, which embrace an alleged gender language. As regards the structure of the precept, there is a carelessness like that of its wording. The original version, dated November, only foresaw the existence of a camera, however, the aforementioned precept referred to "any of the cameras". The project was reviewed in December 2007, and as a result of it, several precepts were modified, including 148, which went to 146 and adopted the bicameral system, so that next to the Chamber of Deputies there is another of departmental representatives. In this way, an attempt is made to attenuate the secessionist tendency posed by some departments. The Departmental Chamber would be made up of 36 members, and the Chamber of Deputies 121. Regardless of the problem that the different configuration of the forces in each of the chambers might generate, the fundamental question would consist in the application of a system very ambiguous. As can be seen, the censure corresponds to the As-

sembly, but both chambers have powers to promote the interpellation that can culminate in censorship. For it to be approved, two-thirds of the total members of the Assembly are needed, but the majority required for each chamber to carry out the censorship process before the full Assembly, nor the frequency of its possible interposition. With this institutional configuration, instead of a system of political responsibilities of the ministers before the representative body, the possibility of a permanent challenge is favored that can lead to a paralysis of the government, or a frontal confrontation between the government and the Congress.

III. Colombia

> Article 135.9. Propose a motion of censure with respect to the ministers for matters related to the functions of the position. The motion of censure, if applicable, must be proposed by at least one tenth of the members that make up the respective chamber. The vote will take place between the third and the tenth day following the end of the debate, in full Congress, with an audience of the respective ministers. Its approval will require an absolute majority of the members of each chamber. Once approved, the minister will be removed from his post. If it is rejected, another on the same matter may not be presented unless motivated by new facts (original text).

The original text of the 1991 Colombian Constitution introduced a reasonable mechanism due to its flexibility, which allows any of the ministers to be censured. The motion could be presented in each chamber by one-tenth of its total members and, according to the 1991 text, an absolute majority in both chambers was required to succeed. It is important that the right to a hearing is granted to ministers; however, to avoid that it is resolved in an untimely manner, or that the management of the ministry is paralyzed for an excessive time, it is established that it will not be possible to vote before three or after ten days counted from the date of the vote. closed the debate. This period allows to calm the spirits and opens a stage of reflection, while reducing the period of uncertainty as to the fate of the minister.

Even when the possibility of a new motion is conditioned to the emergence of facts other than those that motivated the previous motion, no temporary restrictions are adopted, so that, at least in theory, it is possible to present as many motions as there are facts. liable to be challenged, consider the legislators throughout each year. In this case, it is left to the discretion of legislators to assess the political costs for them to insist on the removal of a minister beyond what may be considered prudent by public opinion.

In 2007, the Constitution[38] was modified to extend the effects of censorship to all levels of government, including departmental and municipal. In addition, major changes were introduced in the national government. The reformed precept was in these terms:

> Article 135.9. To propose a motion of censure with respect to the ministers, superintendents and directors of administrative departments for matters related to the functions of the position, or for disregarding the requirements and subpoenas of the Congress of the Republic. The motion of censure, if applicable, must be proposed by at least one tenth of the members that make up the respective chamber. The vote will take place between the third and the tenth day following the end of the debate, with a public hearing of the respective official. Its approval will require the affirmative vote of half plus one of the members of the chamber that has proposed it. Once approved, the official will be separated from his position. If it is rejected, another on the same matter may not be presented unless motivated by new facts. The resignation of the official with respect to whom a motion of censure has been promoted does not prevent it from being approved in accordance with the provisions of this article. When one chamber pronounced on the motion of censure, his decision inhibits the other from making a pronouncement on it.

As can be seen, in addition to the ministers, the superintendents and directors of administrative departments were incorporated.[39] This tendency to provide for censorship for holders of administrative positions, which is also observed in other constitutional systems, is exclusive to presidential systems. Parliamentary systems only provide for censorship as an instrument of political responsibility, therefore applicable to ministers, not to those who carry out tasks of a strictly administrative nature. In Colombia the sense of censorship is distorted, because although the organs of political representation must have the means to assess the political performance of the government, it is exorbitant that they extend their powers of control to the management of strict administrative content. Administrative entities are subject to the political leadership of a ministry and to this extent political corrections should only be applicable to the head of the ministry.

The political responsibility of administrative bodies, which tends to generalize, lacks a theoretical foundation, and can lead to misunderstandings, because it diverts the attention that should fall on the ministries, encourages the multiplication of controllable entities, thereby reducing the ability of

[38] Legislative act number 1, of 2007; came into force on the 1st. January 2008.

[39] The superintendencies are auxiliary bodies of the president or the ministries, in the terms of the laws of their creation (article 150.7).

Congress to concentrate in a few ministries and hinders the possibilities of holding periodic control sessions in relation to the cabinet. In addition, it allows ministers to find a point of escape to avoid their responsibilities.

Another aspect of the Colombian reform that draws attention is that censorship is a power that each chamber exercises autonomously. This mechanism raises delicate problems, which can lead to a confrontation between the two houses of Congress. The Senate has 102 members, of which two are elected by indigenous communities, and the other 100 are elected by a single national constituency; instead, the representatives are elected in 32 departmental districts and the capital of the country. This results in the composition, in terms of political parties, presenting differences. While censorship can be initiated and adopted in any of the chambers separately, the system in force as of 2008 may generate unforeseen tensions between both branches of Congress.

IV. Costa Rica

> Article 121.24. Make interpellations to the government ministers, and also, by two thirds of the votes present, censure the same officials, when in the opinion of the Assembly they are guilty of unconstitutional or illegal acts, or of serious errors that have caused or may cause obvious damage to public interests.

In both cases, diplomatic matters in process or that refer to pending military operations are excepted.

In this case, no limits are established regarding the number of legislators who can present interpellations or a motion of censure. For the motion to be approved, a qualified vote of two thirds of the votes present is required, not of the total of the members of the Assembly. As for the causes that can generate a motion, there are two aspects: the violation of constitutional or legal norms, or the commission of errors that have a double characteristic: their seriousness and the affectation of public interests. In this case, it may be actual or potential damage. The exception is made for issues that may be considered national security. The text leaves open the opportunity for the subjective assessment of the facts that may be considered as an error that harms —or could do so— the public interest. The very notion of public interest is so broad that it also contributes to considerably extend the interpretive discretion of legislators.[40]

[40] This issue is examined in greater detail when analyzing the motion of censure in Panama.

V. Ecuador

> Article 133. The National Assembly may proceed to impeachment, at the request of at least a quarter of its members and for breach of the functions assigned to them by the Constitution and the law, of the President or President of the Republic, of the Vice President or Vice-President of the Republic, of the ministers or ministers of State, or of the highest representatives of the State Attorney General's Office, the General State Comptroller's Office, the State Attorney General's Office, the Ombudsman's Office, the General Public Defender's Office , of the superintendencies, and of the members of the National Electoral Council and of the members of the Contentious Electoral Tribunal and of the Council of the Judiciary and of the other authorities that the Constitution determines, during the exercise of their position and up to one year after finished.
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> To proceed with their censorship and dismissal, the favorable vote of the absolute majority of the members of the National Assembly will be required, with the exception of the members of the Electoral Function, in which case two-thirds will be required.
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> The censorship will produce the immediate dismissal of the servant or servant, except in the case of the ministers or ministers of State, whose permanence in office will be the responsibility of the president or the president of the Republic to decide.
>
> If indications of criminal responsibility are derived from the reasons for censorship, the matter will be brought to the attention of the competent judge.

In the Ecuadorian Constitution of 2008, as in the previous one, of 1998, two different institutions appear in the same text: political prosecution, related to the alleged commission of crimes by senior officials, including the president, and enforceable political responsibility through the motion of censure. This last case is regulated in the third and fourth paragraphs of the transcribed precept. Censorship is not a new figure in Ecuador, where it has existed since its 1906 Constitution (article 34), so this heterodox combination of elements is striking, which was not corrected in the most recent constitution. Ministers can be censored by the majority of the total members of Congress, but that decision has no binding effect and it is the president who decides whether he keeps the minister in his cabinet. Also, there is a contradiction, because the precept establishes that the ministers are only subject to the motion if they incur in violations of the constitutional or legal order, so it is not explainable that in such circumstances the president sustains them in their positions. It is noted that, due to technical oversight, the

legislator confused the figures of criminal and administrative responsibility with political responsibility.

According to the system adopted in 1906, preserved in 1945, the censored ministers ceased their functions and were disqualified from occupying another portfolio for the following two years (article 92, reproduced in article 77 of the 1945 Constitution). In this way, it was avoided what in other systems sometimes happens when censorship flourishes: that the official ceases in one ministry but immediately goes on to perform another. This also happens in parliamentary systems, where rotation of ministers is common.

The system introduced in 2008 reiterates the technical errors of the standard that preceded it and incurs others. In addition to the equivocal wording that results from including gender distinctions (and that does not prevent them from making mistakes such as referring to "the" members of Congress, instead of "the" members, or "the other officials", in instead of "the other civil servants and officials", which demonstrates the uselessness and practical impossibility of using such wording), several problems of legislative technique are identifiable. When prosecuting the President of the Republic, for failing to comply with the "functions assigned to him by law," it confers on violations of ordinary legislation the same effect as when those violations are of a constitutional nature. It is also striking that an absolute majority is required to prosecute the president, while a qualified majority of two-thirds of the members of the Assembly is necessary to censor the members of the electoral body. The political responsibility of ministers is reiterated in article 153, although in a very vague way.

The control system implemented by the 2008 Constitution is contradictory and may have negative effects on the relationship between the institutions. Article 131 regulates impeachment and 132 the removal of the president. In the first case, it indicates that it is possible to "censor" the president, without considering that this official holds a popularly elected position. On the other hand, the first two grounds for prosecuting and dismissing, in accordance with each of these precepts, are the same: "crimes against the security of the State" (articles 131.1 and 132.1), and "crimes of concussion, bribery, embezzlement and illicit enrichment" (articles 131.2 and 132.2). This problem exhibits haste or carelessness in the drafting of the precepts, especially since it is only possible to process the dismissal on a single occasion, and during the first three years of a legislative period, while the trial has no limitation as to the moment or to the number of times he can be promoted. This disfigurement of parliamentary controls is contrary to their meaning and to the real possibilities of being used in a responsible way.

The extreme of the ineffectiveness of parliamentary controls in the Ecuadorian system is presented in articles 132.4 and 150. According to the first precept, the Assembly can dismiss the president "due to a serious economic crisis and internal commotion", and according to the second the President can dissolve the Assembly "due to serious political crisis and internal commotion." In other words, the same causes that allow the Assembly to remove the president, empower the president to dissolve the body of representatives. Everything will depend on who acts first.

VI. El Salvador

> Article 131.34. Interpellate the Ministers or those in charge of the office and the presidents of autonomous official institutions.
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> Article 131.37. Recommend to the Presidency of the Republic the removal of the Ministers of State; or to the corresponding bodies, that of officials of autonomous official institutions, when it deems it appropriate, as a result of the investigation of their special commissions or of the interpellation, as the case may be. The resolution of the Assembly will be binding when it refers to the heads of public security or intelligence of the State because of serious violations of human rights.
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> Article 165. The Ministers or those in charge of the office and presidents of autonomous official institutions must attend the Legislative Assembly to answer the interpellations made to them.
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> Officials called for interpellation who without just cause refuse to attend, will be, for the same fact, deposed from their positions.

The supreme Salvadoran norm extends political responsibility to the heads of the autonomous constitutional bodies; in this way, all senior officials are subject to the political control of the Assembly. This is a seemingly healthy measure, but one that makes the mistake of attributing political responsibility to the heads of organizations that, at least in theory, should be in charge of technical functions (such as central banks, universities or electoral institutes) or that correspond to judgments of opinion (such as the offices in charge of the protection of human rights). By subjecting such officials to a motion of censure, political evaluation criteria are applied to the activities that were entrusted to autonomous bodies to remove them from political traffic. Censorship, as an instrument of control, is explained in the case of governments, but not in that of bodies of constitutional relevance unrelated to political decisions.

There is also a design error in giving more force to the interpellations than to the censorship itself. The official who does not appear, being required to attend an interpellation, is removed from his position, which does not happen when he is subject to censorship, because this only has the value of a recommendation. Only a couple of exceptions are made, in the case of security or intelligence officials who violate human rights, but the same criterion is not adopted in relation to heads of other areas of government who have also violated those rights. Another striking aspect is that the majority necessary for the censorship to be adopted is not determined, so the rule of general procedure applies: a simple majority of those present.

VII. Guatemala

Article 166. Interpellations to Ministers. The Ministers of State have the obligation to appear before Congress, to answer the interpellations that are formulated to them by one or more deputies. Those that refer to diplomatic affairs or pending military operations are excepted.

Basic questions must be communicated to the minister or ministers questioned, forty-eight hours in advance. Neither the full Congress, nor any authority, may limit the deputies to Congress the right to interpellate, qualify the questions or restrict them.

Any deputy may ask the additional questions that he deems pertinent related to the matter or matters that motivate the interpellation and from this may be derived the proposal of a vote of lack of confidence that must be requested by at least four deputies, and processed without delay, in the same session or in one of the two immediately following.

Article 167. Effects of the interpellation. When the interpellation of a Minister is raised, he may not be absent from the country, nor excuse himself from responding in any way.

If a vote of lack of confidence is cast in a minister, approved by no less than an absolute majority of the total number of deputies to Congress, the minister shall immediately submit his resignation. The President of the Republic may accept it, but if he considers in the Council of Ministers that the act or acts reprehensible to the minister are in accordance with national convenience and government policy, the respondent may appeal to Congress within eight days from of the date of the vote of lack of confidence. If he does not do so, he will be held separately from his position and unable to exercise the position of Minister of State for a period of not less than six months.

If the affected Minister has appealed to Congress, after hearing the explanations presented and discussing the matter and extending the interpellation,

> a vote will be taken on the ratification of the lack of confidence, the approval of which will require the affirmative vote of two thirds parts that make up the total number of deputies to Congress. If the vote of lack of confidence is ratified, the minister will be removed from office immediately.
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> In the same way, it will proceed when the vote of lack of confidence is cast against several ministers and the number cannot exceed four in each case.

The Guatemalan Constitution confers great power on the deputies, since any of them can present an interpellation, and to transform it into a motion of censure, the request of four deputies is sufficient. This mechanism has advantages in terms of the freedom of legislators, but it also produces a paradoxical effect, because it considerably reduces the political importance of the interpellation and the motion. While the challenging action can be carried out by a single person, or by a small nucleus in the case of the motion, the parties with the greatest political weight may be left out of the political action undertaken by some legislators. In addition, this ease conferred on legislators encourages attitudes of personal exhibitionism, which wear down the instrument of control. There is an incentive to question that goes beyond what is reasonable, if the minister remains rooted in the country. This measure, on the other hand, can be extended simultaneously to four members of the cabinet, which implies that the other ministers are protected against any interpellation or censorship until the issues in process have been resolved.

The Constitution also includes a kind of veto on the motion of censure because it allows the censured minister, with the support of the presidency and the Council of Ministers, to promote the reconsideration of his case before Congress. Only if this body ratifies the decision by two thirds of the total of its members, the censorship is binding. The text is baroque, because although it provides that censorship can be adopted by the absolute majority of the deputies, its effects are achieved until it is ratified by the aforementioned special majority. The minister is obliged to appeal, because if he does not do so, he will be separated from office and disqualified for six months; otherwise, even if the decision against him was ratified, he would be separated but the disqualification would not be applicable. Regarding the exceptions for the origin of the interpellation, two cases are foreseen: diplomatic affairs and pending military operations. Pending should be understood as those that are in progress, not those that are in preparation.

VIII. Haiti

> Article 129.2. All members of both chambers are recognized the right to question and question a member of the government or the government as a whole about acts of the administration.
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> Article 129.3. The interpellation must be promoted by five members of any of the chambers. The interpellation can lead to a vote of confidence or censure, adopted by the majority of the corresponding chamber.
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> Article 129.4. When there is a motion of no confidence related to the government program or a general policy statement of the government, the prime minister must present to the president of the Republic the resignation of the government.
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> Article 129.5. The president must accept the resignation and appoint a new prime minister, in accordance with the provisions of the Constitution.
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> Article 129.6. The legislative body cannot adopt more than one motion of no confidence per year on a matter related to the government program or a general policy statement of the government.

Articles 133 and 155 of the Constitution could give rise to some misunderstanding, because they establish that the Executive Power is exercised by the president, whom he identifies as the head of state, and by the government, headed by a prime minister. However, when referring to states of exception, in articles 105, 106, and the inability to exercise the Presidency, in 148, the reference to the president, as head of the Executive Power, is direct and clear. On the other hand, the president heads the Council of Ministers (articles 154 and 166). There is no doubt, therefore, that there is a presidential system in Haiti.

As was already clarified in the third chapter, regarding trust, the inclusion of this expression in article 129.3 only has a reiterative function of the power of the representatives in terms of censuring the ministers, and serves to underline the different effects of censorship: if it is directed at one or more members of the government, it affects them individually; On the other hand, if it is raised in relation to the government program or a general policy statement, it results in the removal of the entire cabinet, including the prime minister. As for the limitation imposed by article 129.6, it is applicable to government censorship, but not to that involving any of its members.

IX. Honduras

> Article 205.22. Interpellate the secretaries of State and other officials of the central government, decentralized organizations, state companies and any

other entity in which the State has an interest, on matters related to public administration.

Article 251. The National Congress may call the secretaries of State and they must answer the questions that are made to them on matters relating to public administration.

The Honduran Constitution contains an obligation for officials but does not foresee any sanction if it is not complied with. This norm did not appear in the original text of 1982, and with its inclusion nothing changed, except adding an attribution to Congress that becomes an instrument of control in a germinal state. At least the step has been taken of incorporating an institution that seemed incompatible with conventional presidential systems and that will facilitate, at some point, the development of true mechanisms of political control in Honduras.

X. Mexico

Article 69. At the opening of ordinary sessions of the first period of each year that Congress is in office, the President of the Republic will present a written report stating the general state of the country's public administration. At the opening of the extraordinary sessions of the Congress of the Union or of only one of its Chambers, the president of the Permanent Commission will inform about the motives or reasons that originated the call.

Each of the chambers will analyze the report and may request the President of the Republic to expand the information by means of a written question and summon the Secretaries of State, the Attorney General of the Republic and the directors of the parastatal entities, who will appear, and they will report under protest of telling the truth. The Law of Congress and its regulations shall regulate the exercise of this power.

Article 93. The secretaries of the office, after the period of ordinary sessions is open, will report to the State Congress that they keep their respective branches.

Any of the chambers may summon the secretaries of State, the attorney general of the Republic, the directors and administrators of the parastatal entities, as well as the heads of the autonomous bodies, to report under protest of telling the truth when it is discussed a law or study a business concerning their respective branches or activities or to respond to inquiries or questions.

> The chambers may request information or documentation from the heads of the agencies and entities of the federal government by means of a written question, which must be answered within a term not exceeding 15 calendar days from its receipt.
>
> The exercise of these powers will be carried out in accordance with the Law of Congress and its regulations.

The Mexican Constitution was amended in 2008, to include two modalities of parliamentary controls: the question and the interpellation. In both cases the versatility of these instruments is shown because the Mexican version contains innovative aspects.

Regarding the question, in addition to the usual forecast of being able to formulate it to the members of the presidential cabinet, it is provided that it can also be addressed to the President of the Republic. The uniqueness of this parliamentary question is that it can only be asked on the occasion of the report that the president must present each year. For the first time in the constitutional history of Mexico, the president is relieved of reading his report before Congress; At this point, the French constitutional design is followed, although a reform introduced to the French Constitution, almost simultaneous to the Mexican one, in turn reverses the constitutional tradition of that country and allows the president of France to appear each year before the parliament to report on the results of its management.

The novel modality developed in Mexico allows legislators to formulate questions in writing. Congress itself will set the quota of questions and, most importantly, the effects attributed to the answers. The constitutional text confers the right to ask the president to each of the chambers, not to its members in particular. This means that the proposals must be approved by the respective plenary sessions, reflecting a concern shared by the whole or at least by most of the representatives, and not by a legislator or by a party. In these terms, each question has considerable political force, because it reflects an institutional concern of each chamber.

The internal provisions of both chambers have also established that the respective plenary sessions will express their satisfaction or dissatisfaction with the presidential responses. The Constitution did not set any deadline for the president to answer, which opens the opportunity for the chambers to send him an excitatory response, which does not have the character of a sanction but of a public requirement.

As for the secretaries and other senior officials referred to in articles 69 and 93, the question system is twofold: in the terms of article 93, the question comes in writing, formulated, as in the case of the president, in terms

collectives by each of the chambers; But since the presence before the cameras of these same officials is also foreseen, it is implicit that in this case the questions and interpellations are verbal and reflect the concerns of the legislator or the party that formulates them.

Another relevant aspect is that, except for the president, the answers of the other officials are given under promise to tell the truth. Although there is no express provision for any type of motion to be derived from the interpellations, it is inferred if any alteration of the truth is incurred.

It will be the regulatory provisions and practice that will define the scope of the amended provisions that, unlike other constitutional amendments, have tended to be developed very carefully. On this occasion, the traditional casuistry of the technique of constitutional reform in Mexico was abandoned, leaving the experience to complement its objectives.

By pointing out that officials must speak truthfully, several hypotheses can be considered. For example, if a fact is referred to, but incompletely, it would be missing the principle of completeness of the truth and could incur an omission in violation of the constitutional obligation set forth in articles 69 and 93. Say a part of the truth, it can imply a relevant concealment. The truth must be complete, not partial; a partial truth can imply a total distortion.

The legal consequence of being untrue may not be the removal of the official, because it is not provided for in the norm, but this does not limit the power of each chamber to make the fact known to the President of the Republic and to the citizens, and in the event of the breach of a constitutional obligation by an official, he could even express an estrangement, leaving the president the decision to keep him or not in his position. Each president will assess the magnitude of the fault and will decide on the advantages or disadvantages of having collaborators who hide or distort the truth.

There is another aspect that only constitutional practice will elucidate. The wording of articles 69 and 93 oblige to tell the truth when officials render reports, but a restrictive interpretation of the last part of article 93 could lead to the understanding that the scope of this obligation does not apply when the involved public servants respond to questions or interpellations. Although the wording of the precept offers this possible reading, it would be highly controversial if the officials in question relied on a subterfuge that gave them the right to lie. In other words, if it were considered that the duty to pronounce truthfully was only applicable to the information, but not to the answers, the decision to deceive Congress would be admitted. It is evident that such a deviation cannot be admitted in a constitutional state.

XI. Nicaragua

> Article 151.
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> ...
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> The Ministers and Vice Ministers of State and the presidents or directors of autonomous or governmental entities, will provide the National Assembly with the information that is requested regarding the businesses of their respective branches, either in written or verbal form. They can also be questioned by resolution of the National Assembly.
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> The comment made to the text of the Honduran Constitution is applicable to the Nicaraguan case. The original 1987 text did not contain this last paragraph of Article 151 either. However, the Nicaraguan Constitution was added in 2005, in these terms:
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> Article 138.
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> ...
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> If the National Assembly considers the official unfit for the exercise of the position, with a qualified vote of sixty percent of the deputies, it will dismiss him, and will inform the President of the Republic so that within a period of three days he can make this decision effective.

It is a case of binding censorship; however, the resistance that emerged immediately led to the taking of the political agreement to subject its validity to "that a consensus be reached between the main political actors in the country: the two majority parliamentary groups and the government of the Republic". Later, the term was extended again and through Law 610, of 2007, it was determined that the precept would enter into force on January 20, 2008. Days before the term expired, the Supreme Court of Justice declared the postponement unconstitutional and decreed the immediate validity of the precept.[41]

XII. Panama

> Article 155.7. Giving votes of no confidence against the Ministers of State when they, in the opinion of the Legislative Assembly, are responsible for acts of attack or illegal, or for serious errors that have caused damage to the interests of the State. For the vote of no confidence to be enforceable, it is required that it be proposed in writing six days in advance of its debate, by no less than half of the legislators, and approved with the vote of two-thirds of the Assembly.

[41] *Cf.* Castro, Edwin, *op. cit.*, note 36.

Regarding the procedure to enforce ministerial responsibility, in Panama a period of reflection is set between the proposal and its discussion, with a double requirement regarding the vote: half of the total to support the proposal, and two-thirds for your approval. From the wording of the text, it follows that, in all cases in which it is decided to censor, the ministers will be removed. No limits are included as to the number of ministers that can be involved in a motion, nor as regards the successive occasions in which these motions are promoted.

The most important question appears in the first part of the precept, which admits a very broad interpretation and consequently favors the possibilities of control by the Assembly. Unlike Costa Rica, where the "public interest" is protected, in the case of Panama it refers to the "interests of the State". Both expressions can be convergent insofar as their content is subject to considerations that can vary. This flexibility poses risks, since the extension of the concept can also be oriented towards a more effective protection of public freedoms, rather than in the opposite direction. Under conditions of democratic normality, it is reasonable to use expressions capable of adapting to social evolution; but when there is the danger of involutive processes, undesirable effects can also be generated.

There are no established concepts that specify the meaning of expressions such as those contained in the Constitutions of Costa Rica and Panama. However, the jurisprudential and doctrinal criteria present certain guiding regularities. The Inter-American Court of Human Rights, for example, has accepted advisory opinions in which it is emphasized that the public, collective or general interest is an element of democratic constitutional states through which the essential rights of the people are protected, and their rights are promoted, as well as cultural and material development.[42] National doctrinal and jurisprudential sources, in turn, associate this concept with the recognition and protection of the rights of a community, as well as with actions to preserve and promote its well-being. The contrast is usually established between the public interest and the private interest, as the latter is individualized in physical or legal persons, while the former concerns social groups or the totality of the members of a state.

The determination of the public interest corresponds, in general, to the jurisdictional bodies, but there are cases, such as those mentioned here, in

[42] Opiniones consultivas OC-5/85 y OC-6/86, en García Ramírez, Sergio (coord.), *La jurisprudencia de la Corte Interamericana de Derechos Humanos*, México, UNAM, 2006, t. 1, pp. 917 and et esq., as well 941 and et esq.

which this power also falls on the bodies of political representation. It could be said that there is a difference between the concept considered in Costa Rica, which would be concerned with the interests of the population, and the one contemplated in Panama, which could refer only to those related to the apparatus of power. However, applying this restrictive interpretation would lead to the conclusion that the motion of censure would proceed when the ministers affected their own interests, which would be absurd. For the same reason, it is possible to affirm that in both cases the same range of interests is referred to, in this case of a collective nature.

When the discussion on the matter is deepened, it will be possible to identify other elements of reference, such as those that result from the even broader concept of public reason or common interest, to denote the relevance attributed to shared values, such as tolerance, impartiality in the functioning of the organs of power, and equity and justice in social relations.[43] In other words, there are social standards that must be respected by the holders of the organs of power, and their infringement it can give rise to the consequent responsibilities, demandable through the representatives of the company itself.

XIII. Paraguay

> Article 193. On the summons and the interpellation.
>
> Each chamber, by an absolute majority, may individually summon and interpellate the ministers and other high officials of the public administration, as well as the directors and administrators of the autonomous, autarkic and decentralized entities, those of entities that administer State funds and those of companies with majority state participation, when a Law is discussed or a matter concerning their respective activities is studied. Questions must be communicated to the aforementioned at least five days in advance. Except for just cause, it will be mandatory for those mentioned to attend the requirements, answer the questions and provide all the information that was requested.
>
> The law will determine the participation of the majority and the minority in the formulation of the questions.
>
> The President of the Republic, the Vice President, or the members of the Judiciary may not be summoned or questioned in jurisdictional matters.

[43] In this sense, see Rawls, John, *Teoría de la Justicia*, Mexico, Fondo de Cultura Económica, 1979, esp. pp. 245 et seq .; *Political liberalism*, New York: Columbia University Press, 1993, pp. 212 et seq., *And Justice as Fairness. A Restatement*, Cambridge, Harvard University Press, 2001, pp. 92 et seq.

> Article 194. On the vote of no confidence.
>
> If the aforementioned does not attend the respective chamber, or it considers his statements unsatisfactory, both chambers, by an absolute majority of two-thirds, may cast a vote of no confidence against him and recommend his removal from office to the President of the Republic or to the superior. hierarchical.
>
> If the motion of censure is not approved, another on the same subject will not be presented with respect to the same minister or official mentioned, in that period of sessions.

In a single precept, 193, the bases are set for summoning and questioning senior public officials. However, a confusion arises, because it would seem that all the officials whose appearance it is possible to require, can also be the object of an interpellation. Although in Colombia, El Salvador, Honduras, and Nicaragua the Constitutions provide for the interpellations of the heads of the autonomous entities, in Paraguay the impression is given that this power of the chambers extends to the directors of state-owned companies. It is possible that the confusion originates from not having distinguished between questions and interpellations. In colloquial language they may be synonymous, but in parliamentary terms the question corresponds to a request for information or clarification, while the interpellation is the questioning of a government decision, followed by a parliamentary debate. This is confirmed when the precept itself clarifies that the minority also has the right to ask questions.

The prohibition of questioning the president and vice-president that appears in the final paragraph of the precept, is unnecessary supposing that in the first paragraph reference is made to the people whom it is possible to summon, and in no case does it infer that they include the president and vice president, who are not considered senior administration officials. For the rest, in the context of the established system, the exception applicable to judicial officials is explained.

Censorship appears regulated by article 194 and, despite the high vote required for its approval (two-thirds of those present), nothing else has the effect of a recommendation to the president. At this point there is also a technical error, because all the officials mentioned in the preceding article are subject to censorship, although many of them do not depend on the president and others are not subject to a hierarchical subordination that allows the recommendation to be made effective. In this, as in other cases, censorship is only relevant for the effects of public opinion it generates.

XIV. Peru

Article 131. The attendance of the Council of Ministers, or of any of the ministers, is mandatory when Congress calls them to question them.

The interpellation is formulated in writing. It must be presented by no less than fifteen percent of the legal number of congressmen. For its admission, the vote of a third of the number of working representatives is required; voting takes place inevitably in the next session.

Congress designates the day and time for the ministers to answer the interpellation. This cannot be made or voted on before the third day of admission or after the tenth.

Article 132. Congress makes effective the political responsibility of the Council of Ministers, or of the ministers separately, by means of a vote of no confidence or the rejection of the question of confidence. The latter is only raised by ministerial initiative.

Every motion of censure against the Council of Ministers, or against any of the ministers, must be presented by no less than twenty-five percent of the legal number of congressmen. It is debated and voted between the fourth and the tenth calendar day after its presentation.

Its approval requires the vote of more than half the legal number of members of Congress.

The Council of Ministers, or the censured ministry, must resign. The President of the Republic accepts the resignation within the following seventy-two hours.

The disapproval of a ministerial initiative does not oblige the minister to resign, unless he has made a question of confidence in the approval.

Article 133. The president of the Council of Ministers may raise a question of trust before Congress on behalf of the Council. If trust is denied him, or if he is censured, or if he resigns or is removed by the President of the Republic, the total crisis of the cabinet occurs.

In this case, the interpellations are subject to a double procedure: the initiative may come from 15% of the total number of congressmen, but for it to be formulated to the Council of Ministers or to a particular minister, 33% of the legislators must agree. The corresponding debate takes place between the third and the tenth day of their admission. This means that although ministers attend Congress regularly, they only do so to answer questions, in the terms of article 129.

The motion of censure, which can also be individual or collective, must be presented by 25% of the members of Congress, and approved by more

than 50%. The discussion takes place between the fourth and tenth days of your presentation. In all cases, the ministers are removed.

Censorship in Peru has a long tradition; it is even the first presidential system to contemplate it. The Council of Ministers appeared in the Constitution of 1856, and in the regulatory legislation the possibility of questioning and censuring them was admitted. The successive constitutions of 1860, 1920 and 1933, consolidated the presence of that institution.[44] In the explanatory statement of the draft Constitution prepared by the Villarán Commission in 1931, it was stated that "the vote of no confidence is an added piece that does not it fits well into our presidential regime." However, they added paragraphs ahead, "we are not in the case of choosing what theoretically seems best." And then they alluded to the long history of censorship in Peru: "the congresses have already taken the right to censor ministers and it is difficult to imagine that they will abandon it".[45]

The first text that included an institution analogous to censorship was the Lifetime Constitution of 1826 issued by Simón Bolívar. Apart from his motives for political perpetuation and the conservative tone of the text, Bolívar made a constitutional design of unquestionable originality. It contemplated four powers: Electoral, Legislative, Executive and Judicial; the Legislative was made up of three assemblies, but none of them had superimposed powers with the others; It provided that the Vice President of the Republic, appointed by the President with the ratification of the Senate, would be the head of the cabinet at the same time (article 92), and it provided that the Senate could remove the Vice President and the Secretaries of State from their positions. (article 51). This Constitution was valid for seven weeks, but from several points it represents a reasonable institutional arrangement. The powers conferred on the vice president, for example, are explained insofar as Bolívar anticipated a prolonged absence from the country and therefore delegated the leadership of the secretaries of state to him.

[44] See García Belaunde, Domingo, "El presidencialismo atenuado y su funcionamiento (con referencia al sistema constitucional peruano)" paper presented at the International Seminar "Cómo hacer que funcione el sistema presidencial", IDEA-Institute of Legal Research of UNAM, Mexico, 6-8 February 2008. The author also considers that the parliamentarization of the Peruvian constitutional system began in 1856 and culminated with the Constitution of 1933.

[45] See Pareja and Paz-Soldán, José, *Las Constituciones del Perú*, Madrid, Editions of Hispanic Culture, 1954, p. 923.

XV. Dominican Republic

> Article 37.22. To interpellate the secretaries of State and the directors or administrators of autonomous State bodies, on matters within their competence, when so agreed by two-thirds of the members present of the chamber that requests it, at the request of one or several of its members.

Regarding the officials likely to be questioned, the comments made in the case of El Salvador are applicable, and for what it does to its effects, the comments about the Honduran Constitution are appropriate.

XVI. Uruguay

> Article 147. Any of the chambers may judge the management of the ministers of State, proposing that the General Assembly, in session of both chambers, declare that their acts of administration or government are censored. When motions are presented in this sense, the chamber in which they are formulated will be specially summoned, with a term not less than forty-eight hours, to decide on their course.
>
> If the motion is approved by a majority of those present, it will be reported to the General Assembly, which will be summoned within forty-eight hours.
>
> If in a first call of the General Assembly, not enough number meets to hold sessions, a second call will be made, and the General Assembly will be considered constituted with the number of legislators that attend.
>
> Article 148. Disapproval may be individual, plural or collective, and must be pronounced, in any case, by an absolute majority of votes of all members of the General Assembly, in a special and public session. However, the secret session may be chosen when circumstances so require.
>
> Individual disapproval shall be understood as that which affects a minister, by plural disapproval that which affects more than one minister, and by collective disapproval that which affects the majority of the Council of Ministers. The disapproval pronounced in accordance with the provisions of the preceding paragraphs, will determine the resignation of the minister, the ministers or the Council of Ministers, as the case may be.
>
> The President of the Republic may observe the vote of disapproval when it is pronounced by less than two-thirds of the total members of the body.
>
> In this case, the General Assembly will be summoned to a special session to be held within the following ten days. If in a first call the General Assembly does not gather the number of legislators necessary to meet, a second call will be made, not before twenty-four hours nor after seventy-two hours of the

first, and if it does not have a number, it will be considered revoked. the act of disapproval.

If the General Assembly maintains its vote for a number less than three-fifths of the total of its components, the President of the Republic, within the following forty-eight hours, may maintain by express decision, the minister, the ministers or the Council of ministers censored and dissolve the chambers.

In such case, he must call a new election of senators and representatives, which will be held on the eighth Sunday following the date of the aforementioned decision.

The maintenance of the censored minister, ministers or Council of Ministers, the dissolution of the chambers and the convocation of a new election, must be done simultaneously in the same decree.

In this case, the chambers will be suspended in their functions, but the statute and jurisdiction of the legislators will subsist.

The President of the Republic may not exercise that power during the last twelve months of his mandate. During the same term, the General Assembly may vote the disapproval with the effects of the third section of this article, when it is pronounced by two thirds or more of the total of its components.

In the case of non-collective disapproval, the President of the Republic may not exercise this power but only once during the term of his mandate.

From the moment the Executive Power does not comply with the decree calling the new elections, the chambers will meet again with full rights and will regain their constitutional powers as the legitimate power of the State and the Council of Ministers will fall.

If, ninety days after the election, the Electoral Court had not proclaimed the majority of the members of each of the chambers, the dissolved chambers will also regain their rights.

Once the majority of the members of each of the new chambers have been proclaimed by the Electoral Court, the General Assembly shall meet as a matter of law within the third day of the respective communication.

The new General Assembly will meet without prior convocation of the Executive Power and simultaneously the previous one will cease.

Within fifteen days of its constitution, the new General Assembly, by an absolute majority of the total of its components, will maintain or revoke the vote of disapproval. If it maintains it, the Council of Ministers will fall. The chambers elected extraordinarily will complete the term of normal duration of the unemployed.

The Uruguayan law regulates in great detail the question of confidence and the motion of censure. In this case, the veto power conferred on the president stands out, when censorship has been adopted by less than two-thirds of all legislators. To overcome the veto, that majority is required, and

if the corresponding session is not obtained or does not take place, it is considered that there has been a tacit revocation of the resolution adverse to the government. In addition to the existence of an irreducible discrepancy between the Assembly and the president, the latter has the power to dissolve the chambers for the voters to resolve the dispute. The mechanism of censorship in force in parliamentary systems is applied, in its entirety.

XVII. Venezuela

> Article 222. The National Assembly may exercise its control function through the following mechanisms: interpellations, investigations, questions, authorizations and parliamentary approvals provided for in this Constitution and in the law and any other mechanism established by law. and its Regulations. In exercise of parliamentary control, they may declare the political responsibility of public officials and public officials and request the Citizen Power to try the actions that may be necessary to make such responsibility effective.
>
> Article 240. The approval of a motion of censure to the Executive Vice President, by a vote of not less than two thirds of the members of the National Assembly, implies the removal of it. The removed official or removed official may not opt for the position of Executive Vice President, or Minister for the remainder of the presidential term. The removal of the executive vice president or executive vice president on three occasions within the same constitutional period, as a consequence of the approval of motions of no confidence, empowers the president or president of the Republic to dissolve the National Assembly. The dissolution decree entails the convocation of elections for a new legislature within sixty days following its dissolution. The Assembly may not be dissolved in the last year of its constitutional period.

Article 222 confuses political responsibility with criminal responsibility, and incurs in a violation of the principle of legal certainty, since it admits that the regulations of the laws adopt other instruments of political control and administrative and criminal responsibilities, in addition to those established in the Constitution. Everything indicates that it is a technical error, insofar as it exposes the high officials to the untimely action of the Assembly. For the rest, the way of exercising controls as delicate as interpellations and censorship, remains unregulated. This is striking in a text that presents very regulatory characteristics throughout its 350 articles. Only in relation to the vice president is it established that the motion of censure must be approved by a special majority.

The expansion of these institutions of parliamentary control includes an increasing number of constitutional systems. In addition to those that have been seen in Latin America, they have been incorporated in many other countries. Although a distinction must be made between questions, interpellations, and censorship, as noted at the beginning of this chapter, there is a frequent interrelation between the three institutions. There are cases in which only questions are admitted, and others where interpellations are also accepted, without censorship being reached. However, the three control modalities correspond to the same family, so I opted to examine them together. Thus, the combination of the three forms of control, with the multiple nuances that each one can acquire, allows building the balances that best suit the objectives of each constitutional system.

Let us now see what happens in other constitutional systems.

XVIII. Algeria

> Article 84. The government presents annually to the National People's Assembly a declaration of general policy.
>
> The general policy statement prompts a debate on the government's performance.
>
> That debate can lead to a resolution.
>
> The debate may also give rise to a motion of censure by the Assembly, in accordance with the provisions of articles 135, 136 and 137.
>
> ...
>
> Article 135. On the occasion of the debate on the declaration of general policy, the National People's Assembly may raise the question of governmental responsibility by voting on a motion of no confidence.

This motion must be presented by at least one seventh of the total number of deputies.

> Article 136. The motion of censure must be approved by the vote of two thirds of the total number of deputies.

The vote must take place three days after the motion of censure is presented.

> Article 137. Once the motion of censure is approved, the head of government will present the resignation of his government to the President of the Republic.

The Algerian constitutional system does not provide for questions or interpellations to ministers; neither can the censorship of the head of government, or a particular minister be promoted. The motion only proceeds on the occasion of the annual discussion of the general policy statement. In this way, the deputies are free to express their rejection of government political decisions within certain limits that allow safeguarding the stability of the government. In addition, according to the constitutional provision, the motion of censure can only be presented once each year.

XIX. Armenia

Article 55. The President of the Republic:

...

The President of the Republic will accept the resignation of the government on the day of the installation of the new National Assembly; when a new president takes office; as a result of a vote of no confidence; when approval for the government program is not obtained; when the prime minister resigns, or when the prime minister's office is vacant.

Article 80. The deputies have the right to formulate written and oral questions to the government, and the parliamentary fractions have the right to formulate interpellations. The prime minister and members of the government will attend to answer the questions of the deputies each week. The National Assembly will not adopt any resolution simultaneously with the questions posed by the deputies.

The interpellations will be presented in writing at least ten days before the debate. The procedure for interpellations, debate and adoption of a resolution will be established by the Regulations of the National Assembly.

Article 84.

The National Assembly can censure the government by the vote of the majority of the total number of deputies.

The motion of censure can be presented by the President of the Republic or by at least one third of the total number of deputies. During the validity of martial law or the state of emergency, no motion may be presented.

The motion of no confidence in the government must be voted no earlier than forty-eight and no later than seventy-two hours from its presentation.

Let's start with the questions and inquiries. The former corresponds to a right of the representatives, while the latter correspond to parliamentary groups. This distinction is relevant insofar as the interpellation represents,

in this case, a possible first step to raise the motion of censure. Furthermore, while the question may obey the specific area of work in which a deputy is involved, the interpellation assumes the position of a party, or at least the parliamentary fraction of the party, in the face of a political decision (or indecision) of the government. In this measure, just as the demand for information may come from a legislator with a special interest in a specific matter, the exercise of the right to question cannot be exclusive to a deputy, because it does not correspond to each person, individually, establish the political lines that must be supported or questioned within the Parliament.

The individual origin of the questions allows them to be formulated verbally or in writing, but the collective nature of the interpellations implies that they can only be posed in writing. As for these, for the same reason, the filing and relief procedure must obey more specific rules, to prevent it from becoming a trivial means that affects the responsible performance of the parties and the stability of the government. The questions, on the contrary, give meaning to the ordinary control sessions, which in the Armenian system entail the weekly attendance of the prime minister and the rest of the government.

The Armenian Constitution provides for the motion of censure with binding effect on the ministers and provides that the lack of support for the government program also implies the removal of the ministers. Article 55 does not specify that censorship can refer to a particular minister and, on the contrary, assumes that it will always be directed against the prime minister, thus involving all ministers in terms of its effects. This procedure makes the exercise of censorship somewhat difficult because it does not expose each of the ministers to evaluation and eventual disapproval by Parliament. As long as the deputies have to jointly assess the performance of the government, the ministers are more protected against possible personal harassment, and the prime minister himself can count on better forms of defense as long as there is at least one sector within the government. meaningful that it offers acceptable results for popular representatives.

The construction of this type of censorship, within a presidential parliamentary system, offers reasonable margins of stability for the cabinet. The same happens with the approval of the government program. It is probable that, as a whole. it does not have, in all cases, the full support of the majority; but to the extent that the component forces of that majority find that there are relevant elements with which they identify, they will be willing to lend their support, if, on the other hand, there are no aspects that give rise to insurmountable discrepancies. This modality allows building very broad

consensuses, capable of attracting the necessary number of voters in the assembly to provide the basis for the governance of the system.

The most striking aspect of the Armenian system is the possibility for the president to promote a vote of no confidence.

At this point it is an original institution, which means a kind of indirect responsibility of the government to the president. By forbidding the right to remove ministers, the Constitution opens the option of putting them in a position before the Assembly. It is not a satisfactory mechanism, because it fosters latent threats against the government in an agreement concluded between the president and the legislators, but it is the means by which the constitution wanted to strengthen the presidential figure and balance the powers of the ministry.

XX. Belarus

> Article 106.
>
> ...
>
> The government or any of its members may submit their resignation to the President if they consider that it is impossible for them to fulfill the functions entrusted to them. The government will present its resignation to the president if the House of Representatives passes a vote of no confidence.

The structure of the norm makes it possible to distinguish between the resignation of members of the government, which can be collective or individual, and censorship, which can only be directed at the government as a whole. The consequence of the censorship is binding on the government, which must submit its resignation, but the precept does not oblige the president to automatically accept it. It could be considered that the president can reject the resignation, but in such a circumstance the terms of governance would be fractured, since a contested government would lack the elements to promote proposals acceptable to Parliament. It must therefore be established that the margin that the Constitution offers the president consists of having the time necessary for the effects of the resignation to take place from the vote of confidence in the new government.

By allowing the president to keep the resigning government in office until he has the confidence to install the new ministers, reasonable pressure is put on Parliament to pass the new presidential proposal. The representatives face the dilemma of delaying the integration of the new government and keeping the censored in office or speeding up their departure while

also speeding up the process of trust for those who replace them. With this procedure, Parliament is obliged to make a moderate use of censorship, with the consequent certainty of institutional stability and balance in the relationship between the political organs of power. This is a variant, in a presidential system, of the constructive motion of no confidence.

XXI. Egypt

Article 124.

Every member of the People's Assembly has the right to direct the President of the Council of Ministers, or one of his alternates, questions on matters that refer to his powers.

The President of the Council of Ministers or his alternates, the ministers or their representatives, must answer the questions.

The member of the Assembly can withdraw the question from him at any time, but cannot transform it in the course of the same session into interpellations.

Article 126.

The ministers are responsible to the People's Assembly for the general policy of the State. Each minister is responsible for the affairs of his department.

It is the responsibility of the People's Assembly to withdraw the trust of one of the alternates of the President of the Council of Ministers or of the ministers or their alternates. The question of trust cannot be raised except after an interpellation and on a motion presented by the tenth of the members of the Assembly.

The Assembly cannot make a decision on the matter before three days from the date of its presentation.

The withdrawal of the trust must be voted by most of the members of the Assembly.

Article 127.

The People's Assembly may, at the request of one tenth of its members, challenge the responsibility of the President of the Council of Ministers. The decision in this regard must be taken by the majority of the members of the Assembly.

This decision cannot be taken unless there is an interpellation addressed to the government and at least three days from the presentation of the petition.

In the event that responsibility is established, the Assembly prepares a report that submits to the President of the Republic to whom it participates the elements of the matter and its reasons.

> The President of the Republic may return this report to the Assembly within ten days. If the Assembly adopts the report again, the President of the Republic may submit the conflict between the Assembly and the government to a referendum within thirty days from the date of the last vote of the Assembly. In this case, the Assembly sessions are suspended.
>
> If the result of the referendum is favorable to the government, the Assembly will be considered dissolved. Otherwise, the President of the Republic will accept the resignation of the government.
>
> Article 128.
>
> If the Assembly withdraws its confidence from a deputy prime minister, a minister or one of his alternates, he must leave his functions.
>
> The president of the Council of Ministers will present his resignation to the President of the Republic if his responsibility has been established by the People's Assembly.
>
> Article 129.
>
> At least twenty members of the People's Assembly are allowed to request the opening of a debate on a general question to obtain clarification on the ministry's policy.
>
> Article 130.
>
> It is up to the members of the People's Assembly to ask questions on general matters to the president of the Council of Ministers, a deputy prime minister or one of the ministers.

In Egypt the president is head of state (article 73). Similar to what happens in Syria, the People's Assembly decides on the presidential candidacy and submits it to a popular referendum (article 76), so there is a powerful incentive to exercise political dominance over that legislative body, which results crucial in the struggle for power. Added to this situation are the governmental power to authorize the integration of parties, and the arbitration position of the president, based on the constitutional power that allows him to "determine the limits between powers".

In this context of presidential hegemony, the Constitution seeks to compensate the Assembly by conferring on legislators a broad power to question and interpellate, and by facilitating the motion of no confidence that can be proposed by a tenth of the deputies and approved by the majority. Censorship has two aspects in terms of its addressees: it can be individual and has binding effects as long as the minister is separated from office, or it can be collective, since it involves the entire government. In the latter case, the president can comment on the motion, and the Assembly can ratify

its decision by an absolute majority of its members. The novelty of the Egyptian mechanism is that it gives rise to a double consultation with the citizens: the first, to decide whether the censorship is appropriate. If the citizen's decision coincides with the Assembly, the president must remove the government. But if that popular verdict is favorable to the ministry, the parliamentary dissolution and the calling of new elections take place. What is striking is that in this way the Constitution converts ministers into subjects of popular election. This erroneous design, which accentuates the plebiscitary nature of the system, can only be explained from the hegemonic control exercised by the presidents.

XXII. Russian Federation

> Article 117.
>
> 3. The State Duma can express a vote of no confidence in the government. The provision on distrust of the government is approved by a majority vote of the total number of deputies of the State Duma. After the State Duma expresses a vote of no confidence in the government, the President of the Russian Federation has the right to announce the resignation of the government or its disagreement with the decision of the State Duma. In the event that the Duma, within three months, again expresses distrust of the government, the President announces the resignation of the government or dissolves the State Duma.

The Russian Constitution does not regulate the procedures for the formulation and relief of the motion of censure, so these issues are subject to parliamentary provisions. The important thing is that no restrictions are adopted regarding the number of legislators who can present it. This is an aspect that cannot be addressed by other provisions because it would imply a limitation of the rights of parliamentarians. The censorship is not binding, except when it is repeated over the following three months. In such a case, the president has the option to accept it, or to dissolve the Duma. The solution is ingenious, because if the new censorship is adopted three months after the first, the president is not obliged to remove the ministry, but neither can he dissolve the Duma. Censorship would operate, in these circumstances, as an expression of disagreement, without jeopardizing the stability of the government or the continuity of the legislature. On the other hand, as can be seen, it is not foreseen that the censorship is preceded by an interpellation.

XXIII. Philippines

> Article VI
>
> Section 22. The heads of the departments, by their own initiative, with the consent of the President or at the request of any of the chambers, in accordance with the provisions of their own regulations, may appear before the chambers and be heard as referring to the department they head. Written questions will be presented to the Speaker of the Senate or Speaker of the House of Representatives at least three days prior to the scheduled appearance. The interpellations will not have to be presented in writing but will be related to the questions. When the security of the State or the public interest so requires and the President of the Republic so indicates in writing, the appearance will be held in secret session.

The Philippine is a constitution that continues to concentrate a significant amount of power in the president. The ministers lack initiative and only at the request of the chambers or with the presidential consent can they appear before Congress to answer questions. In this case the questions must be formulated in writing. The greatest advantage of this system is that it does not offer an excuse to ministers to avoid the answer by denying information because it is not in memory or is not on hand on the day of the presentation. But this mechanism is explained because the appearance of the ministers is random. When the presence is regular and systematic, it is not important that in a control session the minister does not have the data requested, since he is obliged to provide them the next time.

With regard to interpellations, in the Philippine system they have a connotation of reply to the response received. The Constitution specifies that they must be related to the questions, and for this reason they can be formulated verbally in the same session in which the answer to the question is offered. This type of interpellation, which at most can mean disagreement due to the inadequacy of the response, does not entail a questioning of government political decisions and does not correspond, for the same reason, to the traditional meaning of interpellations.

What does correspond to a correct forecast is that, when it refers to security issues, the appearances may be carried out in secret session. This has real advantages for the control system, because on many occasions the ministers are forced to use circumlocution or to spread veils over the truth, so as not to publicize decisions whose generalized knowledge can affect the result of actions related to internal security or outside the state. But while it is understandable that there are certain matters of knowledge reserved for

the highest levels of responsibility in government management, this should not be a pretext for not offering information to national representatives either. The answers offered in secret sessions cannot be elusive, and those who receive them are bound to the secrecy of the type of session in which the information was communicated to them. In this way, the confidentiality of the most sensitive information is safeguarded, without thereby excluding from its knowledge the members of Congress, or at least those who are members of the official committees.

XXIV. Georgia

> Article 81.
>
> 1. Parliament may approve a motion of no confidence in the government, by most of the total of its members. The motion of censure must be presented by at least one third of the total members of Parliament. Once the censorship of the government is approved, the president may remove or maintain the government. In the event that Parliament repeats its decision, not before 90 days or after 100, the president must remove the government or dissolve Parliament and call new elections. In the event that it is within the assumptions "a" and "b" of article 51.1, the censorship will be voted on again within 15 days from the moment these circumstances have ended.
>
> 2. Parliament can pass an unconditional motion of no confidence in the government. In the event that this decision is adopted by a majority of three-fifths of the total number of members of Parliament, the president must remove the government no earlier than 15 or after 20 days from the resolution. In the event that Parliament does not reach that majority, it will not be able to present a motion of censure within the following six months.
>
> 3. In the case of removal from the government in accordance with the previous section, the President of Georgia may not designate the same person as prime minister in the next composition of the government, nor propose him as his candidate for prime minister.

The Constitution of Georgia does not regulate the formulation of questions or interpellations but does deal with censorship in some detail. This precept distinguishes the effects of censorship based on the plurality of votes that sustain it. According to section 1, if the motion is adopted by a majority of the total votes, it is optional for the president to uphold or remove the cabinet of ministers, and only an analogous decision, taken between 90 and 100 days after the first vote is binding in nature. On the other hand, according to section 2, when the censorship is adopted by a qualified majority, it forces the president to remove the cabinet, in a period that is between 15

and 20 days from the decision. If Parliament chooses this method, but does not get the required votes, it is not possible to present another motion over the following six months. There is a reservation that refers to article 51. In accordance with this caveat, the motion does not proceed when: a) there is less than six months left for the holding of elections or for the end of the presidential term; b) there is a state of emergency, or c) an impeachment action against the president is in progress.

There is a provision, not always included in this type of regulation, that prohibits the president from nominating or appointing the person who has been censured as prime minister. By the nature of censorship, it seems natural that a censored prime minister should not be nominated to succeed himself. This reference in the Constitution of Georgia does not obey a coherent legislative technique, because when censorship is not binding, the permanence of the prime minister depends on the presidential decision, but when it is binding, it is obvious that if three-fifths of the congressmen voted against one person, he will not have the half that supports him to be reinstated in office. The only explanation is to suppose that a new composition of the cabinet would make it possible to obtain this plurality of votes.

Even so, these express limitations indicate that there is no clear idea of the political relevance of the motion of no confidence. Binding or not, censorship is a very sensitive instrument that makes it possible to assess the level of the relationship between Congress and the government, and the health of the institutions indicates that when a minister has been questioned, his inclusion in a new position may not contravene a norm, but it does pose a political challenge to the parliamentary body.

XXV. Iran

Article 88. [Questions to the government].

When at least a quarter of the total members of the Islamic Consultative Assembly pose a question to the president, or any member of the Assembly presents a question to a minister, related to matters within their competence, the president or minister shall appear before the Assembly to answer the question. This response should not take more than a month, in the case of the president, nor more than ten days in the case of a minister, except when there is an excuse considered reasonable by the Islamic Consultative Assembly.

Article 89. [Interpellation].

1. The members of the Islamic Consultative Assembly may interpellate the Council of Ministers or any of the ministers in the aspects they consider

necessary. Interpellations will be processed if they have the signature of at least ten members.

The Council of Ministers or the minister questioned shall appear before the Assembly within ten days after the approval of the interpellation, to respond and request a vote of confidence. If the Council of Ministers or the minister does not appear, the promoters of the interpellation will explain their reasons and the Assembly may carry out the vote on trust, if it considers it necessary.

If the Assembly does not grant the vote of confidence, the Council of Ministers or the minister subject to the interpellation will be resigned. In both cases, the ministers subject to the interpellation may not be members of the Council of Ministers that is formed below.

2. In the event that at least a third of the members of the Islamic Consultative Assembly challenge the president, in relation to his responsibilities in the performance of the Executive Power and the exercise of the country's government affairs, the president must compare - close before the Assembly within the month following the moment in which the interpellation has been approved for processing, to offer the required explanations. If, after the arguments for and against the members of the Assembly and the response of the president, two-thirds of the total members of the Assembly approve a motion of censure, it will be communicated to the leader for his information and to proceed in accordance with the provisions of article 110.

Article 110. [Duties and powers of the leader].

...

10. To dismiss the President of the Republic, in accordance with the interests of the country, after the Supreme Court declares him guilty of violating his obligations, or after the vote of the Islamic Consultative Assembly, in accordance with the provisions of Article 89 .

Article 137. [Responsibility].

Each minister is responsible for his performance to the president and to the Assembly, but in matters approved by the Council of Ministers, he will also be collectively responsible.

Iran is a sui generis system, because the president is a magistrate of the highest hierarchy; however, there is a supreme power, not elected by popular means, that occupies the leadership of the state,[46] and that according to article 110 can remove the president, "in accordance with the interests of

[46] The religious leader is appointed by a group of experts, elected in turn by the people in number and in accordance with the procedure that they themselves establish, starting from the first Council of Guardians established by the 1978 revolution. To elect the leader,

the country", after a declaration of the Supreme Court in the sense that the president breached his obligations, or after it is resolved by the Islamic Consultative Assembly (Parliament). In any case, the president, elected by popular vote for a period of four years (article 113), is the head of state and government, and may be assisted by vice-presidents, the first of whom assists him in conducting of the Council of Ministers (article 124.2). The president also represents Iran before the international community, and he is the one who signs the treaties and accredits and receives diplomatic agents. The figure of the leader, therefore, stands above the head of state and government, who otherwise has direct responsibilities before Parliament.

The Parliament or Islamic Consultative Assembly may address questions to the president and ministers, varying the time allotted to respond (one month to the president and ten days to the ministers), and the number of members required to formulate the decisions. questions (a quarter of the total to the president, and each one individually to the ministers).

The president, individual ministers and the Council of Ministers as a whole are also subject to interpellation and censorship. To question the president, a third of the total members of the Assembly are required, and two-thirds to censor him, subjecting his removal to the decision of the religious leader. As for the ministers and the Council, the interpellation can be raised by ten members of the Assembly and the censorship is approved by the majority of those present. Censored ministers cannot participate in the next cabinet.

Iranian constitutional provisions are the only ones that allow censorship of a head of state and government. In addition, in this system the dissolution of the Assembly is not foreseen, so that the presidential power is limited by the political representative body and by the religious leadership that is at the top of power. If it is considered that a part of the members of the Assembly correspond to the different religious confessions existing in the country, it may be concluded that the constitutional system is a combination of secular and religious institutions, with elements of presidentialism, parliamentarism and traditional power.

XXVI. Kazakhstan

Article 53. Parliament, in a joint session of its two chambers, shall:

...

they should value their wisdom, their feelings of piety and justice, their social acumen, prudence, personal courage, administrative skills, and leadership abilities (articles 107-109).

7) Express government censorship by a majority of two thirds of the total of the members of each chamber, at the initiative of not less than a fifth of the total of the legislators, in the cases established by this Constitution.

Article 57. Each chamber of Parliament, independently and without the participation of the other chamber, may:

...

6) Exercise the right to receive reports from the members of the government of the Republic on matters relating to their activities, at the initiative of no less than a third of the total members of each chamber, and adopt an exhortation, by a majority of two-thirds of the total members of the chambers, directed to the President of the Republic to remove a member of the government for not observing the laws of the Republic. If the President of the Republic rejects this exhortation, the deputies, by a majority not less than two-thirds of the members of each chamber, may request the president to remove the minister, within a period that ends six months after the first exhortation. In this case, the President of the Republic must remove the member of the government.

Article 64.

...

2. The government, in all its activities, is responsible to the President of the Republic and is subject to the control of the Parliament of the Republic, in the case provided for in paragraph 6 of article 53 of the Constitution.

Article 70.

...

5. The acceptance of the resignation will mean the conclusion of the exercise of powers of the government or its respective member. Acceptance of the resignation of the prime minister means the termination of the functions of the entire government.

6. In the event that the resignation of the government or its members is not accepted, the president may instruct the government or its members to continue in their positions. In the event that the resignation of the government is due to a motion of censure, and the president does not accept it, he may dissolve Parliament.

The constitutional structure denotes a considerable distance between the government and Parliament, as it does not foresee regular control sessions. On the contrary, to request governmental information, the request of a third part of the members of the chamber who wishes to exercise this power is necessary. This circumstance implies that the requested reports do

not correspond to the content of simple questions, but to the work of investigation commissions and even preparatory means for questioning. On the other hand, to promote a motion of censure it is required that the initiative come from, at least, 20% of the total of the members of both chambers.

This Constitution also confuses political responsibility with impeachment, as one of the causes for exhorting the president to remove a minister is that the official has incurred in violations of the law. The political aspects foreseen by the Constitution are analyzed in the chapter corresponding to the vote of confidence.

XXVII. Syria

> Article 72. [Censorship].
>
> Confidence will not be denied to the cabinet or a minister, if he is not questioned. The motion of censure must be made in accordance with a proposal made by at least one fifth of the members of the Assembly. Confidence in the cabinet or in a minister can be denied by the majority of the members of the Assembly. In the case of cabinet censorship, the prime minister must submit the resignation of the cabinet to the President of the Republic. The minister who has been censored must resign.
>
> Article 117. [Responsibility].
>
> The president of the Council of Ministers and the ministers are responsible to the President of the Republic.

As can be seen, this Constitution omits the possibility of regular control sessions. It is a paradox that it dispenses with a smooth control mechanism and adopts a severe instrument. This apparent contradiction is explained because the soft controls are easier to exercise and for the same reason frequent, while the more rigorous ones also become less used. By opting for this solution, constitutional systems give the impression of openness, when it is only a formal attitude with very little possibility of concretion. The democratizing appearance of parliamentary controls is confirmed in highly concentrated presidential systems that adopt institutions typical of advanced democracies but accommodate them in a context that makes them inconsequential or at least very difficult to exercise. The positivity of the norms of political control is one of the main problems of any system; this is seen in cases such as Kazakhstan and Syria, where institutional liberalization is used to legitimize presidential systems that maintain their hegemonic vocation.

On the other hand, the Syrian Constitution deals with the motion of censure with a great economy of words. The precept includes several hypotheses. In the first place, the minister has a kind of right to a hearing that obliges the members of the Assembly to ask questions that clarify their doubts or confirm their convictions. Secondly, the effect of removal is direct, and thirdly, the simple majority required is reasonable, because in general terms a well-balanced system can be governed by the majority criterion of an assembly.

Regarding the third aspect, it should be borne in mind that the protection clauses that are based on the requirement of qualified votes, confer a veto power to the minority, which in addition to being unrepresentative in a democratic system, generates distortions and even corrupt parliamentary practices. The minority with veto power is exposed to temptation or pressure, with negative consequences for the constitutional system resulting from both forms of extorting the will. Furthermore, when a government is left in a minority, or is placed in such a situation that its permanence depends on manipulating a small number of representatives, the governance conditions are very precarious, and the subsistence of the cabinet does not correspond to its possibilities for effective performance.

XXVIII. Pakistan

> Article 95. Vote of no confidence against the Prime Minister.
>
> 1. At the proposal of at least twenty percent of its members, the National Assembly may adopt a motion of censure against the Prime Minister.
>
> 2. The vote on censorship will take place after three days and before seven days from the proposal.
>
> 3. It will not proceed to promote a motion of censure during the processing of the annual budget.
>
> 4. If the motion is approved by most of the total members of the National Assembly, the Prime Minister will cease to hold office.

In Pakistan, the President is Head of State (article 41.1) and Chief Executive (article 90.1); he is elected by an electoral college, made up of the members of both houses of Parliament, and by the members of the provincial assemblies (article 41.1). The cabinet of ministers assists the president in the exercise of his functions (article 91.1). The president appoints the prime minister (article 91.2) and the other members of the cabinet (article 92.1) from among the members of Parliament. The prime minister must

also have parliamentary confidence (article 91.2A), and to remove him the president himself must request the ruling of the Assembly (article 91.5). The other ministers are appointed on the proposal of the prime minister (article 92.1).

As can be seen, even though he is both head of state and government, the president has the great restriction of only being able to integrate his cabinet with legislators, so when he sees the need to remove them, they return to occupy their parliamentary seats. There is the double problem of the limitation to select them and the opposition they make to him when he displaces them from the ministerial position. This construction of the parliamentary presidential system has had a very adverse consequence: presidential hegemony over Parliament. It is through the political dominance exercised by the president that he has been able to establish vertical discipline, to the detriment of democratic fluidity and the effectiveness of parliamentary controls.

The Pakistani example allows us to appreciate to what extent a presidential system whose parliamentarization goes beyond what is reasonable, produces an inverse effect on the objectives of the political responsibility of the government and the rational deconcentration of power. When in a presidential system the balance between the president and the Parliament is broken, there is a resurgence of the authoritarian exercise of power, either because an assembly solution or a personalist option is affected. It is not a dilemma that contributes to the consolidation of the constitutional state. This was demonstrated when the military coup that brought Pervez Musharraf to power took place in 1999. For a long time, the political dynamic prevailed over the constitutional requirement, so the supreme charter only had formal validity. Numerous factors (religious problems, border conflicts with India, serious international tensions caused by terrorism and the US military intervention in the area), added to the errors of the institutional design and had an undesirable result. The 2008 elections, held after the shock of Benazir Butho's assassination, forced the president to seek institutional remedies for the crisis; he had to compromise with the opposition and propose as prime minister a former rival, whom he had even kept in prison. The political effervescence did not cease until the president resigned, but at least violence was avoided and the process was conducted in accordance with constitutional provisions.

XXIX. Turkey

A. General.

Article 98. The Grand National Assembly of Turkey exercises its power of control through questions, parliamentary inquiries, general discussions and motions of no confidence.

The question is to request information from the prime minister or a minister, who must present it in writing or orally, on behalf of the Council of Ministers.

Parliamentary inquiry consists of an examination carried out for the purpose of obtaining information about a specific matter.

The general discussion has as its object a debate of the plenary session of the Grand National Assembly of Turkey on a particular matter that concerns the society or the activities of the State.

The form of presentation, the content and the purpose of the motions referring to questions, parliamentary inquiries and general discussions, as well as the response, discussion and investigation procedures, will be established by the internal regulations. of the Assembly.

B. Motion of censure.

Article 99. The motion of censure can be promoted on behalf of a party or with the signature of at least twenty deputies.

The motion of censure is published and distributed to the deputies within the three days following its presentation; its entry on the agenda is discussed within ten days after its distribution. After deliberation, only one of the authors of the proposal may speak, in addition to a deputy for each of the political party groups, and the prime minister or a minister on behalf of the Council of Ministers.

The date of deliberation of the motion of censure is set at the time of the resolution regarding its registration in the agenda; in any case, this debate will not take place before two or after seven days.

The motions of censure presented by the members or by the parliamentary groups, as well as the questions of confidence formulated by the Council of Ministers in the course of the deliberation of the motion of censure, will be put to the vote after allowing a day to pass.

The censorship of the Council of Ministers or of a minister requires an absolute majority of the total members of the Assembly; after the scrutiny, only votes in favor of censorship are counted.

The internal regulations establish the other provisions concerning motions of censure, in accordance with the principles set forth in this article, and to promote a balanced development of the Assembly's work.

In contrast to the Syrian Constitution, Turkey's has a higher level of detail. The relationship that these precepts make gives the impression of regulatory standards. The most significant thing, in any case, is that in addition to the minimum of 20 deputies who can promote a motion of censure, the parliamentary fractions are also entitled to present it. This is important, because it may very well happen that some of these fractions do not have 20 legislators, so that this provision is part of what is known as the rights of the opposition.

Regarding terminological aspects, the Constitution does not use the voice interpellation, but as an analogous institution it alludes to general discussions. What is relevant in this case is that constitutional norms can innovate the ways of designating and structuring their control mechanisms, without having to abide by established patterns.

XXX. Turkmenistan

> Article 64. Parliament can be dissolved early:
>
> By decision of a referendum.
>
> By resolution of the Parliament itself, by no less than two-thirds of the total votes.
>
> By the president, if Parliament does not integrate its governing bodies within a period of six months, or if in a period of eighteen months it adopts two motions of no confidence in the Cabinet of Ministers.
>
> Article 67. It corresponds to Parliament:
>
> ...
>
> 4) Approve the action plans of the Cabinet of Ministers and adopt censure motions for that Cabinet.
>
> Article 69. The deputies of Parliament have the right to formulate questions, verbally or in writing, addressed to the Cabinet of Ministers, ministers and heads of other government bodies.

In the corresponding chapter, matters related to the dissolution of Parliament are examined. As for the questions, it is noted that there are no restrictions on the matter of form, and that they can be presented individually by each deputy. In addition, the questions they ask, individually or collectively, may in turn be directed to the government, or to each of the ministers or to the heads of the various government agencies, even if they are not part of the cabinet.

The formulation of interpellations is not expressly foreseen, but these are inferred from the structure of the norm. What is significant is that, in the absence of special formalities, Parliament is assigned a very broad power of control. The restriction operates by way of dissolution, which can occur when in the 18-month period Parliament censors the government on two occasions. Even when the effects of the censorship are not specified, the provision of parliamentary dissolution indicates that the censorship is binding.

All the above would seem to indicate the existence of a highly parliamentary system. However, the structure of the constitutional system explains the great breadth with which the censorship figures, the possible interpellations, and questions, and even the approval of the government program were received. As will be seen later, in the chapter on dissolution, the Turkmen representative system is characterized by a very weak structure, which is not compensated for by the considerable amount of power assigned to it in matters of controls. Systemic restrictions make the real possibilities of exercising these controls very limited. What is relevant, in any case, is that there was no qualm about introducing these figures into a very harsh presidential system.

The possibility remains that, in a democratizing evolutionary process, future institutional arrangements allow current provisions to swing in the sense of reducing, in parallel, the powers of the President and Parliament, until a reasonable point of balance is found. If only those of the president were reduced, while preserving the powers of Parliament, it would affect an assembly system that seems unfeasible due to the enormous contrast that it would present with the current reality.

XXXI. Ukraine

> Article 85. The authority of the Verkhovna Rada [Assembly] of Ukraine includes:
>
> ...
>
> 13) Exercise control of the activity of the Cabinet of Ministers, in accordance with this Constitution;
>
> ...
>
> 15) Designate or elect for a position, remove from a position, grant consent for the appointment or removal of the positions, of the persons and in the cases indicated by this Constitution.

> Article 87. The Verkhovna Rada of Ukraine, on the proposal of at least one third of the total of its members, may raise the question of responsibility of the Cabinet of Ministers and adopt a motion of censure, by an absolute majority of the total number of members. members of the Verkhovna Rada.
>
> The question of responsibility of the Cabinet of Ministers of Ukraine may not be considered by the Verkhovna Rada more than once in the same session, nor within the first year after the program of activities of the Cabinet of Ministers has been approved.
>
> Article 113. The Cabinet of Ministers of Ukraine is the highest-ranking body in the Executive Branch.
>
> The Cabinet of Ministers is responsible to the President of Ukraine and is subject to the control of the Verkhovna Rada, in accordance with the terms of articles 85 and 87 of the Constitution.
>
> The Cabinet of Ministers guides its activity by the Constitution, the laws and the decisions of the President of Ukraine.
>
> Article 115.
>
> ...
>
> The adoption of a motion of no confidence in the Cabinet of Ministers by the Verkhovna Rada, has the consequence of removal from the Cabinet.
>
> ...
>
> The Prime Minister of Ukraine must submit to the President the resignation of the Cabinet of Ministers, by decision of the President himself or due to a motion of no confidence adopted by the Verkhovna Rada.

The Ukrainian Constitution provides for an unusual range of appointment and removal powers. Pursuant to article 85, it can directly appoint and remove a group of officials, but it can also authorize other officials to be appointed or removed. They are two different functions, indicating different degrees of control. In the case of the prime minister, or the president of the antitrust committee, the appointment corresponds to the president, with the authorization of Parliament (article 73-12); instead, it appoints and removes in its own right the officials who depend on the Parliament itself, such as the ombudsman or the members of the court of accounts, and others who are outside its structure, such as the directors of the central bank or the radio council and television, and electoral bodies. However, he appoints and removes the president of the central bank at the proposal of the president.

Except for the prime minister, Parliament does not intervene in the appointment of the other members of the cabinet, nor can it remove them individually. The motion of no confidence is only possible in relation to the entire cabinet, provided that the proposal is formulated by a third of the

legislators and approved by an absolute majority of the total members of Parliament. Furthermore, no more than one motion may be presented in a session, nor over the year in which a government program was approved.

The safeguards adopted in Ukraine are compatible with a presidential system, since they do not compromise the stability of the government, nor do they exempt ministers from responsibility. The temporary limitation that prevents motions during the first year of the approval of the government action program is intended to allow the cabinet to achieve tangible results, without being exposed to parliamentary political pressure; at the same time, it obliges the government to apply the greatest diligence to show progress in that period, so that it is protected against a possible parliamentary challenge.

Another aspect that favors government stability is that censorship, always binding, can only affect the set of ministers and not each one individually. This measure tends to reinforce collegiate functioning, while individual mistakes can translate into a collective decline. For the rest, although the effects are binding and the censored government must resign, the Constitution does not prevent some of the dismissed ministers from joining the new cabinet. In this way, the president and the prime minister will be able to assess who are the direct causes of the censorship to dispense with their participation in the new government cast.

The 1996 Ukrainian Constitution addresses the need to incorporate mechanisms of political responsibility, typical of a democratic system, and introduces them in a transitional cultural context. The authoritarian record left an imprint that had to be overcome with caution. Still, the tensions have been of great magnitude and have put the constitutional design to the test. Governance has not been in danger because of the possibilities of censuring the government, but because of the fragmentation of the vote that has made it difficult to have stable majorities to make the government program approved by Parliament itself viable. For this reason, the political representatives have not had arguments to hold the government responsible for not achieving the goals set forth in the adopted program. Governance problems, therefore, do not result from the system of political controls, but from the electoral system.

General Reflection on Questions, Interpellations, and Censorship

Since its introduction in the 18th century, in the English system, parliamentary questions have undergone an increasing expansion. Of all the monitoring instruments examined in this chapter, the questions represent

the most dynamic, flexible, and effective. Without putting governance at risk, they keep the ruler in constant communication with the body of political representation and, through him, with the citizenry. In this way, the political centrality of congresses is strengthened without affecting the stability of governments. In addition, the importance of the media is not affected, but congresses act as an important source of information.

However, contemporary constitutionalism goes beyond conventional controls. New normative expressions, such as the right to the truth and access to information, are strengthened by the inquisitive action of the organs of political representation. Although until now it is left to the political sensitivity of the parties and legislators to define which are the issues of interest to the citizens, it is foreseeable that a figure similar to the popular initiative to legislate will appear, which may take the form of the question citizen. I do not see any inconvenience, even without a constitutional provision on the matter, for citizens to propose possible questions to the holders of ministerial positions to the congressmen.

In a democratic society it is of the utmost importance that citizens are familiar with public affairs. Disinterest in politics creates shady areas that can be used by rulers to hide mistakes or, in an even more frequent hypothesis, go unnoticed. The passivity of the ministers is an expansive phenomenon, caused by the lack of demand for answers. Asking why a decision was made or why action is not taken to solve a specific problem is one of the most valuable functions of a body of political representation. Until now, no constitutional system has incorporated the possibility for citizens to suggest to their representatives the issues that they would be interested in seeing clarified by members of the government. The citizen question, as a suggestion or proposal addressed to political representatives so that, if it is considered appropriate, it is posed to the person in charge of a government area, it could be registered in the list of citizen participation figures that arouse so much interest in different constitutional systems.

An adequate regulation of the citizen question would encourage the formation of civic circles to discuss the country's problems. If, for example, it was required that in order to admit a possible question to the analysis process, it had to be suggested to Congress by a group of 500 or 1,000 citizens, for example, the organization and proliferation of informal deliberative nuclei would be stimulated, with the consequent strengthening of interest in public life.

Citizen withdrawal does not contribute to a quality democracy, but the best-known citizen participation institutions have produced very meager practical results. The difficulties in presenting popular initiatives or hold-

ing referendums, plebiscites, or actions to revoke the mandate, have had the consequence that these institutions have fallen into disrepute. They are usually invoked as a panacea by political leaders, when they only translate one more way of showing the common citizen how little he counts in the daily reality of the State.

On the other hand, the possibility of sending questions and the probability of seeing them answered, would encourage an effective and constructive participation, which could generate a growing movement for the involvement of citizens in public life. In a democratic constitutional system, this is a priority objective. This form of participation would help society realize that access to information and the right to the truth are part of its civic life, and that the representative system is receptive and functional.

While in general the institutions of direct participation tend to be exercised at the expense of the representative system, in the case of the *citizen question*, participation and representation would be enhanced, since the action of citizens would only have results to the extent that their representatives made it theirs. In this way, a new link between voters and the elected would emerge, and there would be a highly decentralized means of control over the government. Furthermore, far from being a problem for governance, it would help to make the population more sensitive to issues of public relevance, and this is a factor that facilitates governance.

Questions are a very functional control instrument in representative democracies, due to their low political cost and the important results it offers. The low cost is that it does not involve a confrontation between Congress and the government. On the contrary, a well-resolved question usually translates into recognition for the one who asks it and for the one who answers it. On the other hand, the question allows government authorities to warn with the greatest opportunity which are the sensitive points of society and in what aspects there is the possibility of a greater challenge.

In many cases, the question anticipates an affirmation, and it is preferable to answer it when it does not yet acquire the dimension of a vigorous demand. Government action is, to a large extent, the ability to anticipate reactions and demands, and to resolve them with the greatest possible opportunity, before they become demands whose satisfaction entails a cumulative difficulty.

The questions also make it possible to avoid the formation of commissions of inquiry, undoubtedly more onerous from a political perspective, because they facilitate obtaining enough information to clarify a dark issue, and because they give the government the opportunity to show a receptive and constructive mood.

Another positive effect of the questions is that they broaden the rights of the opposition, without this implying altering the balance in Congress. While small parliamentary fractions only have the possibility of making themselves felt when they add their votes to those of other formations, in terms of questions they can mean their acuity, ideological value, analytical capacity and political and even professional preparation.

The fixed periodicity of the control sessions, nurtured above all by the questioning stage, becomes a predictable and expected event, and concentrates the attention of the media and society on what happens in the congress platform. This circumstance allows the parties to offer an image of dynamism that reflects the constancy of their concerns and commitments. It is not, of course, a panacea that solves all the deficiencies of more or less vertical organizations, but it facilitates the identification of citizens with certain political currents. As long as, through the questions, the parties function as transmission pulleys that raise and lower the messages between the governed and the governors, they fulfill a function that keeps them in force as centers of interest for the citizen.

The parliamentary question requires skill on the part of the one who asks it and the one who answers it. Its objective is not to unleash an oratory tournament, but to contribute to the knowledge of the reasons of the government. In Mexico, for example, there is a bad experience with questions directed at cabinet members, the few times that it is possible to persuade them to appear before the plenary session or before the commissions of both chambers. Legislators often use Question Time to set their own positions and ask such a number of questions to the interlocutor, that they leave many easy ways out, because it is impossible to answer as many things as required from the rostrum. This precedent makes the question an unappreciated means of control in Mexico. In other systems, on the other hand, it is the most dynamic form of communication between the organs of power.

In the same way that the parliamentary question is not a substitute for debate, nor is it a mechanism to surprise and expose a minister. For this reason, in numerous constitutional norms it is foreseen that it must be transferred in advance to the government, so that there is no possibility of avoiding the answer, unless it is a reserved matter. Even when the Constitution does not regulate the procedure for formulating questions —and ideally, the supreme rule does not become a regulation— it is common for the internal provisions of congresses and parliaments to do so.

On some occasions, government technical assistants are allowed to intervene, which facilitates precision when the question demands it. This is understandable, moreover, if one considers that the positions in the cabinet

should have a political and not a technical nature. What is expected of a minister are the political and legal reasons of the government, not learned dissertations on matters of high scientific or technical specialty, which must be known and clarified by auxiliary officials, including those of the civil service. That is why parliamentary questions also produce, as a side effect, that the administrative bodies reach a high professional level.

The mere elucidation of the government's reasons tends to have favorable consequences to facilitate the cooperative behavior of political agents, among other reasons because it makes them co-participants in the decisions and because it clears the reservations that result from the distance between the organs of power. Regarding society, systematic dialogue between the members of these bodies inspires a certain assurance regarding the seriousness with which public affairs are addressed, and raises the hope that, in some cases, constructive attitudes will contribute to solving collective problems.

The regularity and frequency of the control sessions is one of the keys to the success of soft controls, such as questions. The positive effects to which I have referred are diluted if the time that elapses between one session and another is excessive, or if the time allocated and the way of using it become a mere protocol hint or a dense session and, therefore, inconsequential. On the contrary, a good design regarding the frequency and the exact duration of the control sessions can mean that the parliamentary questions attract the interest of the citizens, facilitate the dialogue between the political agents, and force the systematization of the relations between the organs. of power and give vitality to institutional life.

The setting where the question sessions take place is also relevant. Those that are aired in commissions have the advantage of technical punctuality, but the disadvantage of a secondary setting. The government, in general terms, must appear before the plenary session of the chambers. This is how control sessions are usually processed in all systems, reserving for the commissions the cases in which they appear for clarification on a proposal or an investigation.

The options between the question formulated on behalf of the parliamentary fraction and individually —not personally— by legislators, are usually compatible in many systems. Both forms of expression have their own advantages. In the case of the parties, they serve to reaffirm the leadership of those who lead the factions and make present the concerns and positions of each parliamentary group; they also help to consolidate the rights of the opposition. In the case of legislators, they serve to give representatives an opportunity to be identified by citizens and signify themselves to

their own colleagues. In general, the parliamentary machinery leaves little room for intervention for a good part of the legislators, who end up acting, according to the well-known British expression as backbenchers, due to the lack of responsibilities in the management of their group or of the congressional committees.

The questions are not intended to fill the knowledge gaps of legislators. A correct articulation of the questions makes it necessary to have a good list of party advisers. This is a task that members of the civil service of the chambers cannot carry out because the content and meaning of the questions are linked to the political position of those who present them. Hence, the parties must build a civil service of congressional support, which allows building a political memory of each parliamentary group and giving continuity to their points of view.

There are many possibilities of giving new scope to parliamentary questions. For example, among parliamentary practices, the one to formulate annual reports on the exercise of the right to ask, and the responses received, has not been adopted, to check the veracity of what is reported or what is announced by the ministers in the rostrum. The great debates have their own space in the collective memory, but soft controls require a systematized and cumulative recapitulation, so that the good or bad use that political representatives have done of this resource can be assessed in this way.