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The Legal Nature of the Constitution in Light of Modern Changes

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Abstract : The constitution is the basic law of the state. It is one of the most important achievements of humanity in this field. In its inception, the constitutions were unwritten, but rather a customary constitution. Then a written document was resorted to. It includes all constitutional rules that regulate power and affirm freedoms and rights. The constitutional document usually consists of an introduction, content and conclusion. The jurisprudence differed on all these parts in terms of their nature. Constitutions are also affected by developments in the field of issues that they regulate, which requires constitutional amendment whenever circumstances necessitate making it not keep pace with developments in society.

The constitution includes social rules, as it is located where the political society is, and it develops according to its development. It is inevitable to say that the constitution should keep pace with the recent development in the field of technology, especially with regard to the topics it regulates. Especially since recent development has affected many of these issues and the internationalization of many specializations that were previously considered part of the internal affairs of states.

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الدستور وطبيعته القانونية في ظل المتغيرات الحديثة

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الكلمات المفتاحية :
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الخلاصـــة: يُعَدُّ الدستور القانون الأساسي للدولة، وهو من اهم ما توصلت اليه البشرية في هذا المجال، وقد كانت الدساتير في بدايتها غير مكتوبة وانما عبارة عن دستور عرفي، بعدها تم اللجوء الى وثيقة مكتوبة، تتضمن جميع القواعد الدستورية التي تنظم السلطة وتُقِر الحريات والحقوق، وتتكون الوثيقة الدستورية عادة من مقدمة ومضمون وخاتمة، وقد اختلف الفقه حول جميع هذه الأجزاء من حيث طبيعتها، كما ان الدساتير تتأثر بما يستجد في مجال الموضوعات التي ينظمها الامر الذي يتطلب تعديلا دستوريا كلما استدعت ظروف جعلته لا يواكب التطورات التي تحدث في المجتمع, ولما كان الدستور يتضمن قواعد اجتماعية فهو يوجد حيث يوجد المجتمع السياسي، ويتطور بتطوره، ولا مناص من القول بان الدستور ينبغي ان يواكب التطور الحديث في مجال التكنلوجيا خاصة فيما يتعلق بالموضوعات التي ينظمها، لاسيما ان التطور الحديث أثر على الكثير من هذه الموضوعات وعلى تدويل الكثير من الاختصاصات التي كانت فيما سبق تُعَد من الشأن الداخلي للدول.

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1. Introduction:

Humanity has always suffered from the problems of power and its circulation. Therefore, it was agreed to create a document in which the basic rules regulating power, its exercise and its transfer are included. Provided that this document maintains a high position in the legal structure of the state. This document is called "the constitution. The constitution is considered the basic law of the state. It is one of the most important findings of humanity in this field. The constitutions were in their infancy unwritten, but rather a customary constitution. After that, a written document was resorted to. It includes all the constitutional rules that regulate power it acknowledges freedoms and rights. A constitutional document usually consists of an introduction, content, and conclusion. Jurisprudence differed in all these parts in terms of their nature. It

relied on many criteria in the nature of these rules and the types of constitutions. The style, type, and wording of the constitution depend on the nature and circumstances of each country. It finds some countries adopt the written constitution and others adopt the unwritten constitution, and you may find another country that adopts the written and unwritten constitution at the same time.

There is no doubt that as long as the constitution includes social rules, it is located where the political society is, and it develops with its development. It should keep pace with the recent development in the field of technology, especially with regard to issues regulated by the Constitution. Recent development has influenced many of these issues and led to the internationalization of many specializations that were previously considered part of the internal affairs of states.

1.1. Significance of this Study:

The study includes the provisions of the constitution that constitute the rules related to the establishment of the authorities and how they exercise their jurisdiction. It determines the rights and freedoms of citizens. It regulates the relations of authorities to each other and their relationship to individuals. Constitutions are characterized by stagnation, which requires amendment procedures different from those used in amending ordinary laws. Constitutions, as the basic law of the state, are affected by developments in the field of issues that they regulate, which requires constitutional amendment whenever circumstances necessitate making it not keep pace with developments in society. Hence the importance of research in determining the nature of its rules and the legal value of its parts and the extent to which they are affected by the circumstances that occur in society.

1.2. Research Problem:

The research problem lies in several aspects that can be summarized in a set of questions:

a. How can one distinguish between a constitutional rule and an unconstitutional rule? What is the effect of considering the rule constitutional or not?
b. What is the nature of the rules of the constitution?

c. What is the legal value of the introductions to constitutions? And did jurisprudence agree on one word regarding it, or did it differ.
d. What is the impact of modern technology on the constitution and its nature?

1.3. Hypothesis

The research hypothesis stems from a basic equation that the constitution is closely linked to the political community that approved it. Consequently, it will be affected by the circumstances and conditions that occur in this society, especially after the massive and rapid development that took place in the field of technology. This led to the disappearance of physical borders between the countries of the world, which touches the issues that the constitutional law is concerned with regulating. Thus, it will have positive and negative effects on these subjects.

1.4. Research Methodology:

In our research, we will rely on several approaches, which are analytical, deductive, inductive, and historical, by referring to the texts of constitutions and the experiences of countries in this regard, and the opinions of legal scholars in this regard to reach the desired results of our research.

1.5. Research Structure:

We will divide our research into two requirements as follows:

i. The legal nature of constitutional rules.
ii. The legal nature of the preamble to the constitution and the impact of technology on it.

2. The legal nature of constitutional rules

Opinions differed in determining the nature of constitutional rules. Some jurisprudence counted them as legal rules, while another team denied it. As for the third party, it goes to consider the constitutional rules of a political nature. Therefore, in order to find out about each opinion of the foregoing, we decided to divide this demand into three branches. In the first section, we will discuss constitutional rules, legal rules. As for the second section, we will devote it to

the opinion that considers it to be illegal rules. In the third section, we will discuss the political nature of the constitutional rules, as follows:

2.1. Constitution rules as legal rules

Proponents of this view hold that constitutional rules are of a legal nature. What is meant here by the legal character of the rules of constitutional law is that the constitutional rules have all the characteristics of the legal rule, which are represented in three elements (to be a rule of conduct as well as an abstract general rule and to be associated with a penalty imposed on those who violate its provisions). The question that arises here is: Are these elements available in constitutional rule? In order to answer this question, we say that jurisprudence agrees with the availability of most of these elements and disagreed about the presence of the element of compulsion in the constitutional rule. On the one hand, it is a social rule of behaviour, as it regulates the relationship of the individual with the state, as well as with other individuals. The constitutional rule is designed to deal with unspecified cases in society, thus establishing its general and abstract qualities because it is not directed to a specific person or persons themselves.

As for the idea of compulsion, the supporters of this view believe that the idea of compulsion represented by the penalty imposed by the public authority is available in the constitutional rules and that the constitutional law is a law in the full sense. All that matters is that the penalty resulting from violating the constitutional rule differs from the physical penalty known in other branches of law. This difference is due to the nature of the constitutional rules, as the latter establish multiple authorities, and one of them may violate the constitutional rule. Therefore, there is mutual control between them to ensure respect for these rules. And with the existence of popular oversight that has peaceful and revolutionary means to ensure respect for the rules of the constitution. The penalty is found in the constitutional rules, according to their opinion, even if it differs in its form from the penalty resulting from violating the other rules of law. Accordingly, the constitutional rules are considered legal rules.[1] We agree with this view, as the constitutional rules are legal rules because they include all elements of the legal rule in terms of generality, abstraction, and punishment.

[1] Dr. Hassan Kaira: Introduction to Law, Part 1, Manshaat al-Maarif, Alexandria, without a year of publication, p. 39& Dr. Mustafa Kamel: An Explanation of Iraqi Constitutional Law and Basic Law, 5th edition, Al-Salam Press, 1948, pp. 10-11.

The difference in penalty is due to the nature of the constitutional rule. Also, material punishment is not the only form of punishment.

2.2. Constitution rules as illegal rules

A group of jurisprudence went to deny the legal status of the constitutional rules. They reached their opinion after comparing the elements of the constitutional rule with the elements of the legal rule. They argue that any rule, in order to be described as a legal rule, must have two elements. The first is that this rule be issued by an obedient authority capable of imposing its will on everyone, with its power of compulsion and coercion when refraining from applying it. That is, to issue these rules from the holders of power. Because these rules are the rulers' means of exercising the power they hold. The second element is that the rule includes an order to do something or to abstain from it. This order is directed from the rulers to the ruled. Supporters of this view acknowledged the availability of the first element in the constitutional rule, which is its issuance by an authority capable of imposing its will represented by those who hold power and it is their means to exercise it. However, the matter is different with regard to the second element of the legal rule, as supporters of the formalism believe that this element is not available because the constitutional rule because the authority that established it cannot direct an order to itself, because the constitutional rule, even if it includes an order, there is no separation between the one who gave the order and those addressed by it. It was not issued by an authority outside the will of the addressees with its rulings[1].

It follows from the foregoing that the constitutional rules as long as they cannot be implemented by compulsion because they were issued by the rulers, including an order to them. They will remain penalty-free rules. Because the state has the power of coercion to make those addressed by the provisions of the law implement the legal rule. As long as the constitutional rules establish and organize the authorities. The violation of this rule will occur from these authorities and it is unreasonable to use the authority against itself in this case.[2]

Some jurists go to build on this opinion and consider the constitutional law a defective law due to the lack of material punishment in its rules. This is because they consider coercion and coercion as one of the essential characteristics of the

[1] Dr. Munther Al-Shawi: Constitutional Law (Theory of Constitution), Legal Research Center, Baghdad, 1981, pp. 116-117.

[2] Dr. Hamid Hanoun Khaled: Constitutional Law and the Development of the Political System in Iraq, Dar Al-Sanhouri, Beirut, 2015, pp. 134-135.

legal rule, which acquires the legal rule with its full legal character. The lack of this feature will have an impact on detracting from the legal nature of this rule.[1] We do not support this view because the constitutional rules are legal rules in the full sense of having all the elements of the legal rule in them, and to say that the order or the abstention requires the separation of the authority issuing the order from the will of those addressed by it, we can respond to it by saying that the constitutional rules give each authority the means to influence the other authority to prevent each other from deviating from the provisions of these rules. This means that this opinion may be correct in the case of concentration of power, but with the multiplicity of powers, the separation between the authorities will lead to each of them using the power granted to them to limit the transgression of the other authorities, and will not use them against themselves.

2.3. Constitution rules as political rules

An aspect of jurisprudence bestowed a political character on constitutional rules. Because the constitution, according to their opinion, determines the holder of power in the state, and thus carries a political meaning. The constitution is not only a way to show the power that dominates society, but it is also a way to achieve political balance. This is because the constitutional rules regulate the practice of those holding power and their relationship with each other. And that the constitutional rules do not restrict these people, but rather they restrict each other, through the control that they exercise over each other, because the multiplicity of powers will make each authority limit the other powers, and the attempt to cross any authority within the limits drawn by the constitution. In this sense, the constitution is a result of the agreement between the rulers on the contribution of each of them in the exercise of power, and this agreement in the exercise of power was proven in the constitution. It will transform from a means of political balance into a mechanism of action that clarifies what the rulers aspire to achieve in the future. Thus, the constitution is a platform for future political action that the ruler works to achieve.[2] In the sense that the constitution is the embodiment of a political vision and it is made

[1] Dr. Samir Tanago: The General Theory of Law, Manshaat Al Maarif, Alexandria, 1974, pp. 83-84.

[2] Dr. Monther Al-Shawi, op.cit, pp. 124-127.

by those who hold the rulers themselves or by a party under their supervision. Therefore, the main purpose of it is to perpetuate the authority of these rulers[1].

However, we believe that the constitutional rules give political character to the constitutional rules is an exaggeration. Although there are political topics organized. However, when the constitution organized these aspects, it was only for a legal purpose, to prevent power from deviating, and not to perpetuate the authority of the rulers. Rather, in order to adjust its performance in a way that makes it advance society. It also organized power in order to find a kind of balance between power and freedom, because the risk of breaching the latter often comes from the former.

3. The legal nature of the preamble to the constitution and the impact of technology

The preamble is defined as a document that declares at the beginning of the constitution, according to the literary formula, the rights and freedoms of citizens, through which the people learn about the philosophy of the state system, the rights it enjoys, and the duties that are imposed on it. It is simply an introduction to the constitution.[2] Most constitutions contain an introduction or a preamble that precedes the texts of the constitution. This introduction may be written in the form of paragraphs or in the form of a narrative, including principles and provisions that are important in most cases. There are many examples of this, including the French constitution of 1946, the Egyptian constitution of 1971, and the interim Iraqi constitution of 1968.[3] Jurisprudence differed on the extent of the legal value of the introduction of constitutions. Many opinions were expressed regarding them, some of whom considered them to be guiding rules, and some of them considered them to be objective rules. Therefore, we will divide this requirement into three parts. We will devote the first section to the rules of the preamble as guidelines. In the second section, we will discuss the substantive rules of the preamble. In the third section, we will

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[1] Dr. Taha Hamid al-Anbaki: Contemporary Constitutional Systems - Their Foundations and Applications, Hammurabi Center for Research and Studies, Baghdad, 2013, p. 52.

[2] Baltrash Mayassa, Preamble to the Constitution in Comparative Constitutional Law According to the Algerian Constitutional Amendment of 2016.

[3] Walid Muhammad Al-Shennawy, The Role of Constitutional Introductions in Constitutional Interpretation (a comparative study), Journal of Legal and Economic Research, Mansoura University - Faculty of Law, Issue 53, p. 515

discuss technological development and its impact on the constitution and its nature.

3.1. Preamble rules as guidelines

The belief that the introduction to constitutions is just a directive goes back to Plato, where he emphasized that the introduction is formulated to convince people why laws are morally good. Virtue is enshrined in the foreground - the spirit of the law - which regulates the rhythm of the people, and the foreground of laws constitutes the place where the legislator explains and justifies his laws. Therefore, there must be an introduction at the top of every law to justify its texts, and the introduction must be characterized by rhetoric in its nature. Hence it shall not confine itself to teaching but must endeavour to persuasion. A good premise will convince people to obey the law. Not because of the civil or criminal penalties associated with the law, but because the law is good. The purpose of the introduction is to mitigate the roughness or dullness of the law. Therefore, the texts of the introduction are not considered an integral part of the law, do not create rights, and do not acquire binding force that has only a persuasive guiding value.[1] They are rules that depict the spirit and conscience of the group and work to clarify the features and objectives of the system that must be prevailed in the state. They are considered as principles that are not defined by texts and cannot be considered, therefore, as binding rules that can be invoked. Therefore, they are stripped of the status of immediate obligation, and the legislator is bound by two obligations, one of which is political and lies in The necessity of his intervention to issue the necessary legislation to put these principles into practice, and the other is legal and lies in the fact that the legislator cannot violate these principles and rules in the legislation he issues, otherwise his work is considered unconstitutional.[2]

3.2. Preamble rules as substantive rules

The proponents of this view believe that the introductions of constitutions are objective rules, but they differed about their objective value as to whether they have the same constitutional value as other constitutional rules, or less. So this matter has been disputed by three directions. The first believes that the premises of constitutions have a legal value that is higher than the value of constitutional texts, because they contain the foundations on which these texts must be based.

[1] Walid Muhammad al-Shennawi, op.cit, pg. 572
[2] Ihsan Hamid Al-Mufarhi and others, op.cit, p. 241

They are considered as the supreme law of the state and its provisions must be followed, and the judiciary adheres to them during its adjudication of any dispute, and then it is superior to the constitutional texts themselves. This opinion is rejected. For two reasons, the first because it conflicts with the principle of the gradation of legal rules, which does not include rules that transcend the constitution and the second, is because it conflicts with logic. The original constituent authority is the one that drafted the constitution and included in it a preamble.

The second trend, it believes that the introductions of constitutions have the same value as the constitutional rules, just like the constitutions. Thus, they have a value that transcends ordinary legislation, as it stems from the constituent authority. Therefore, in the introduction and the core of the constitution, they have the same legal value, as they are expressions of one will and issued in one document.

A third trend appeared, hoping that the preambles of constitutions enjoy the power of ordinary laws, as they provide for some rights, but they do not rise to the rank of constitutional texts, and this allows the legislative authority to amend the principles contained in the preamble, but the administration must adhere to respecting them as it is committed to respecting ordinary legislation.[1]

3.3. The impact of technological development on the constitution and its nature

After knowing that constitutional rules are legal rules and that constitutional law is a law in the full sense and that its types are numerous according to the criterion of distinction between them. It remains to point out that written constitutions are characterized by stagnation, which requires consistency and stability for the provisions of the constitution and for many justifications, including the preservation of individual rights and freedoms. Although it is considered one of its advantages, at the same time it leads to a defect and prevents it from developing with the development of society. This is a challenge for many reasons, the most important of which is the tremendous scientific development that has taken place rapidly in the world. This made the needs of society in continuous development accordingly. And his relationships diverge. The constitutional rules must keep pace with these changes that are taking place

[1] Hanan Muhammad al-Qaisi, Brief in Constitution Theory, Al-Sabah Library for Publishing and Distribution, Baghdad, 2012, pp. 69-71.

in society in order to organize them in line with the needs of society. Whatever the principles governing constitutions as rigid and describing them as permanent, this does not mean that they are eternal. The constitution, being one of the branches of public law and the basic law of the state, has been affected by the development in the field of technology. This turned the world into a small village, especially after the spread of globalization ideas. This development has a positive and a negative effect. This is what we will discuss in two separate points, as follows:

Firstly: the positive impact the positive impact of technological development can be summarized in many aspects with a constitutional dimension, and we can see the impact of this development on several aspects, most notably:

A. E-government: Technological development enhances the capabilities of governments through electronic means that enable them to implement the control mechanism among its parts. These means increase the effectiveness of control as they provide permanent control in all aspects of activity. It also has a lower cost when compared to the exorbitant costs of traditional control. In addition, these means also facilitate the activation of popular oversight, as citizens can easily access information. Technology can also be used to provide services by the authorities. This reinforces the principle of the rule of law and submission to it, and contributes to reducing abuse of power, combating corruption, and reducing bureaucracy, which contributes to speed in providing services and enhances their quality.[1] And it makes the authorities adhere to the principle of legality, for which the constitutional texts are the first source.

B. Increasing the effectiveness of constitutional texts related to rights and freedoms: The Internet, mobile smart phones, and devices that operate with wireless Internet connection have become increasingly important, as a part of everyday life. And the continuous development in the speed of access to information enhances freedom of expression. It leads to ease and ease of

[1] Dr. Hanan Muhammad Al-Qaisi, Electronic Administration and Public Service Delivery, Al-Huqooq Journal, Vol. 4, pp. 16-17, 2012, p12.

global discussions on important and fundamental issues in countries, and also as tools for increasing political participation. And it led to an increase in the number of human rights defenders and the provision of new tools for documenting human rights abuses and exposing these abuses,[1] and the means of technology play an important role in the aspect of rights. If we go back to the spectrum of civil and political rights, we find that the citizen can express his opinion freely and without restrictions. He can also address the internal and international bodies concerned with human rights easily and in a short time. In the field of economic, social and cultural rights, it has become easy to search for work through the means of modern technology. Considering that the right to work is one of the most important economic and social rights, in addition to the possibility of distance learning using these means.[2] These means have proven their effectiveness during the Corona crisis through their use by citizens and institutions to enjoy some constitutional rights.

Secondly: As for the negative impact, we can see it affecting the principle of the rigidity of the constitution as well as some rights and freedoms

A. The impact of development on the nature of the constitution: Technological development affects the nature of the constitution. It is known that constitutional jurisprudence, as mentioned above, divides constitutions in terms of the possibility of amending them into flexible and rigid constitutions. Flexible constitutions are constitutions that respond to developments in society and whose amendment does not require complex formalities, unlike rigid constitutions that require a measure of stability and formalities that differ from those followed in ordinary laws. And the rapid

[1] The annual report of the Office of the United Nations High Commissioner for Human Rights and the reports of the Secretary-General, issued by the United Nations General Assembly on 6/30/2014, p. 3.

[2] Dr.. Muhammad Al-Tarawneh, The Impact of Technology and Social Interaction on Human Rights, Arab Judges Union website, available at: http://arabunionjudges.org/?p=6610 , visit date: 10/7/2022.

pace of development in modern means requires that amendments be made to the texts of the constitution to make it compatible with the requirements of society so that the constitutional text is not limited to accommodating these cases and leads to a constitutional crisis that may lead to the overthrow of the constitution through political violence.[1] Technological development reduces the rigidity of the constitution.

B. The negative impact of technological development on human rights: The first negative impact that can be mentioned in this regard is related to the right to privacy. The concept of the right to privacy in its traditional concept was based on the sanctity of the home and personal property. This right was linked to the place more than the person. But technological progress and scientific development have created matters related to personal life. Thus, the right to privacy has become a number of rights that contribute to distinguishing a person from others. It gives him the ability to choose the direction he desires. Thus, the right to private life has become more linked to the person than to the place. Linked to the right to privacy is the right to physical integrity. There is no doubt that a development at this speed can be reflected in a negative way and is embodied in threatening these rights as a whole. As a result of the ease of viewing, transferring and processing information. This is a result of the technological development.[2] This requires the intervention of the constitutional legislator to protect this right. Because technological development will make this right constantly violated as a result of easy access to information. The means of modern technology make the correspondence of individuals and their personal data that are stored by digital means subject to publication, circulation and monitoring by

[1] Dr. Majid Najm Aidan al-Jubouri, m. Omar Majid Ibrahim Al-Hazaa: The rules of the constitutional document are inalienable, Journal of the College of Law for Legal and Political Sciences, Vol. 9, p. 32, 2020, p. 372 and beyond.

[2] Dr. Obeidi Mohamed and others: Law and modern technology, 1st edition, Laboratory of Law and Local Development, Algeria, 2021, p. 349.

government agencies for many considerations, including those related to combating crimes or national security. Through specialized programs in this field. The violation is not limited to government agencies, but also the leading companies in the field of social communication that use personal information and share it with third parties.[1] All of this is a violation of a basic human right due to technological development.

C. Internationalization of manifestations of sovereignty: If the world becomes a small village due to technological development. The spread of globalization ideas. And the internationalization of a lot of internal matters. And specialized international organizations carry out their duties. Especially with regard to human rights. This resulted in the restriction of the sovereignty of states. It is no longer able to take whatever action it wants in the domestic and international arena, but rather it is governed by the texts of international conventions and treaties that constitute international law.[2]

There has become an organic correlation between the legal state and international legitimacy, so states must be more respectful of basic human rights and freedoms. Where international legitimacy requires that the actions of states in this regard be in conformity with international standards, and the need to build the state, especially the political system, based on international legitimacy. This is due to the idea of internationalizing manifestations of sovereignty, especially with regard to human rights.[3] Thus, the country's constitution is subject to international law. The principle of the supremacy of international law applies to national law. The superpowers do not advance international legitimacy unless there is something that affects the interests of those countries. Then it will work to extract a decision or interpretation of a law

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[1] Dr. Fadel Sayed Ali: The Effects of Technological Development on the Protection of the Right to Privacy in the European System of Human Rights, Journal of the al'ustadh for Legal and Political Studies, Vol. 5, No. 2, 2020, p. 1635.

[2] Hashim bin Awad bin Ahmed Al Ibrahim: State sovereignty between its traditional concept and the phenomenon of internationalization, a master's thesis submitted to the Middle East University, Faculty of Law, 2013, p. 133.

[3] Dr. Ibrahim Muhammad Salih Al-Sharfani, op.cit, p. 41.

that frees its hand in acting.[1] Therefore, we find that international legitimacy is affected by the composition of the international community and the balance of power in it in a certain historical period.[2] This will make the door open for external interference and violation of the state's sovereignty, which is slowly fading away.

4. Conclusion

The conclusion includes the following results and recommendations:

4.1. Results:

A. Jurisprudence distinguished between constitutional and non-constitutional rules with a formal criterion that limited constitutional rules to the texts found in the constitutional document. As for the objective criterion, it does not distinguish on the basis of the external form of the constitutional rule, but rather on its subject matter. It follows that the legal rule acquires a constitutional character in rigid laws, and it is superior to other rules that appear in ordinary legislation, to form a constraint on the ordinary legislator when regulating a particular subject.

B. There are three trends regarding the nature of constitutional rules. The first denied it the legal capacity for the absence of one of the elements of the legal rule, which is the penalty. As for the second, he considered it legal because the penalty is available, even if its form differs. While the third trend considered it to be of a political nature because it enshrines the authority of the rulers.

C. There are three opinions regarding the legal value of the introductions to constitutions. Some of them considered them to have no legal value because they are mere philosophical principles. While others considered texts of legal value.

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[1] Muhammad al-Atrash and others: Arabs and the challenges of the world order, 1st edition, Center for Arab Unity Studies, Beirut, 1999, p. 123.

[2] Dr. Muhammad Khalaf Ramadan al-Jubouri: International legitimacy and the position on the occupation of Iraq, a research published in Al-Rafidain Journal of Law, Vol. 11, p. 40, 2009, p. 5.

D. Modern technology has affected the constitution in its subjects, which are represented in power, its functions, rights and freedoms. This impact was represented by two aspects, positive that reinforce the provisions of the constitution that regulate these issues, and negative that affects rights and freedoms and the governing principles of the provisions of the constitution.

4.2. Recommendations

A. We suggest preparing feasibility studies before making any constitutional amendments. In order for these studies to ensure the effectiveness of constitutional texts.

B. Working to make the constitutional text a living text that interacts and adapts to technological developments because it is in continuous development.

C. Adopting e-governments and stipulating them in the body of the constitutional document. And making it an approved mechanism that contributes to reducing red tape and eliminating corruption of all kinds.

D. Reducing, as much as possible, texts that have absolute stagnation. Because such texts will be unable, after a period of time, to keep pace with the development in society, even if they relate to a right of high value, because rights and freedoms are in continuous development.

E. Finding mechanisms to ensure the activation of modern technology in all parts of the country to provide the best service to the citizen and in record time.