

## A Critical Reading of the 2020 Constitutional Amendment in Algeria

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### Abstract

The 2020 Constitutional Amendment constitutes a landmark moment in the transformations that Algeria underwent in the wake of the 2019 Hirak popular movement. Adopted through a popular referendum, it sought to translate the reform aspirations of the Algerian people into a new constitutional architecture—one premised on robust guarantees for public freedoms, a renewed commitment to the separation of powers, and an attempt to forge a meaningful equilibrium among the country's principal constitutional institutions, notably the President of the Republic, Parliament, and the judiciary.

Against this backdrop, the present article offers a focused analytical and critical reading of the amendment's most salient provisions, assessing the extent to which the changes introduced are capable of delivering the institutional reforms demanded by the Hirak.

**Keywords:** Constitution; Constitutional Amendment; President of the Republic; Parliament; Judiciary; Rights and Freedoms.

### Introduction

The 2020 Constitutional<sup>1</sup> Amendment represents the seventh in Algeria's constitutional history.<sup>2</sup>It came in the aftermath of the popular Hirak movement of 22 February

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<sup>1</sup>For the full text of the 2020 Constitutional Amendment, see the Official Gazette of the People's Democratic Republic of Algeria, No. 82, dated 30 December 2020.

<sup>2</sup>Algeria has experienced four constitutions (1963, 1976, 1989, 1996) and seven constitutional amendments, as follows: First Amendment: through Parliament, enacted 7 July 1979, comprising 14 articles concerning the President of the Republic and his powers under President Chadli Bendjedid. Second Amendment: through Parliament, enacted 12 January 1980, comprising two articles, establishing by this amendment an Audit Court responsible for supervising the financial

management of state services and governmental bodies. Third Amendment: through popular referendum on 3 November 1988, exclusively concerning the creation of the post of Head of Government and its powers. Fourth Amendment: through Parliament in 2002, recognizing Amazigh as a national language following popular demonstrations in the Kabylie region during the first term of President Abdelaziz Bouteflika. Fifth Amendment: through Parliament in 2008, opening presidential mandates to allow President Bouteflika to stand for a third term, while replacing the post of Head of Government with that of Prime Minister and enabling the President to delegate some of his powers to the

2019, which brought down the fifth presidential term of Abdelaziz Bouteflika, and was followed by the presidential election of 12 December 2019, won by President Abdelmadjid Tebboune. Having pledged to enact a new constitution that would shield the country from any monopolization of power, guarantee the separation and balance of powers, advance the ethics of public life, and safeguard citizens' rights and freedoms, Tebboune wasted no time: on 8 January 2020, he established a committee of experts tasked with formulating proposals for constitutional revision. Chaired by Ahmed Laraba—a university professor and member of the United Nations International Law Commission—the committee was instructed to produce a draft constitutional bill within no more than two months, guided by a roadmap setting out seven major thematic axes and inviting any useful proposals aimed at deepening the rule of law while respecting the overall coherence of the constitutional order and responding

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Prime Minister. Sixth Amendment: through Parliament in 2016, following the establishment of a committee of legal experts in April 2013 to draft a new constitution, in the wake of reform initiatives launched by President Bouteflika in early 2011 in response to the Arab Spring upheavals; the process was relaunched in 2015 and culminated in an amendment covering 73 articles. Seventh Amendment: through popular referendum on 1 November 2020, following the establishment by President Abdelmadjid Tebboune of a committee in January 2020, which submitted a draft to the President on 26 March before its official announcement on Thursday, 7 May, with amendments encompassing 73 proposals. Note: The official website of the Constitutional Court classifies only the 1963 and 1976 texts as full constitutions, treating the 1989 and 1996 documents as constitutional amendments on the basis of the formal criterion that both were published in the

appropriately to the concerns expressed by the popular movement.

On 24 March 2020, the Laraba Committee delivered its findings to the President,<sup>3</sup> after which a public consultation process was opened before the draft amendment was officially announced on 7 May 2020, following receipt of more than 1,800 submissions. The popular referendum on the draft amendment was held on 1 November 2020.<sup>4</sup>

The amended constitution contains 225 articles,<sup>5</sup> and the constitutional architecture was restructured with the number of chapters rising from four to six—adding a chapter on freedoms and a chapter on oversight institutions.

This article accordingly addresses the following central research question:

***Did the 2020 Constitutional Amendment constitute a qualitative shift toward building***

Official Gazette as amendments. See the Constitutional Court website: <https://cour-constitutionnelle.dz/ar> (accessed 5 July 2025).

<sup>3</sup>The Laraba Committee worked across six thematic axes: fundamental rights and public liberties; strengthening the separation and balance of powers; the judiciary; the Constitutional Court; transparency and anti-corruption; and the National Independent Electoral Authority.

<sup>4</sup>For the complete results, see Constitutional Council Declaration No. 01-20 of 12 November 2020 containing the final results of the 1 November 2020 referendum.

<sup>5</sup>This figure is unprecedented in Algerian constitutional history. By comparison: 78 articles in the 1963 Constitution; 199 in the 1976 Constitution; 167 in the 1989 Constitution; 182 in the 1996 Constitution; and 218 in the 2016 Amendment.

*a state of law and institutions, in response to the reform demands articulated by the popular Hirak movement?*

To address this question, the study examines the amendments across three principal thematic axes:

- The Preamble and Public Rights and Freedoms
- The Organization and Separation of the Three Powers
- Oversight Institutions and Advisory Bodies

## **1. The Preamble and Public Rights and Freedoms**

### **1.1. The Preamble**

A constitutional preamble is understood as an introductory text that defines the overarching philosophy of the political system and articulates the values and principles upon which the constitution rests. Preambles have steadily acquired greater legal significance,<sup>6</sup> increasingly serving as interpretive references for constitutional provisions. In Algeria, the

preamble forms an integral part of the constitutional bloc.<sup>7</sup>

The preamble of the 2020 Constitutional Amendment surveys the various phases of Algeria's history across twenty-five paragraphs, and notably constitutionalizes the Hirak popular movement itself, declaring that 'the people express their determination to translate their aspirations into this Constitution by achieving profound social and political transformations in order to build a new Algeria, for which they have peacefully called through the authentic popular Hirak that began on 22 February 2019.' It is worth noting that the draft preamble had initially employed the expression 'popular movement' before adopting the more resonant designation 'Hirak.' Anti-corruption and human rights conventions are also embedded through paragraphs 13 and 16 of the preamble, which respectively state that 'Algeria expresses its commitment to working for the prevention of and fight against corruption in accordance with the international conventions it has ratified' and that 'the Algerian people express their

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<sup>6</sup>For further details on preambles, see: Miassa Beltrach, 'The Constitutional Preamble in Comparative Constitutional Law and Under the 2016 Constitutional Amendment,' *Algerian Journal of Legal and Political Sciences*, University of Ben Youssef Ben Khedda, Algiers, No. 3, Vol. 55, 2018, pp. 7–38.

<sup>7</sup>The Algerian legislature has elevated the preamble to the status of a constitutional text, rendering its provisions binding upon legislation. This places the Algerian Constitution ahead of the French Constitution, in which the preamble is considered a philosophical preface only. The preamble of the present amendment transcends superficial philosophical discourse to attain

the level of binding constitutional provisions. It also incorporates novel ideas absent from previous state constitutions, framing the various phases through which Algeria has passed—including the period of national reconciliation—and enshrining the rights and duties of the Algerian people alongside their national identity grounded in the three constants of Arabism, Islam, and Amazighness. The mechanisms relied upon by the state to promote the constituent elements of national identity—such as the High Council for the Arabic Language, the High Islamic Council, and the Amazigh Language Academy—are all constitutionalized and attached to the Presidency of the Republic.

attachment to human rights as enshrined in the Universal Declaration of Human Rights of 1948 and the international conventions ratified by Algeria.'

It is noteworthy that the preamble spans three full pages, making it somewhat lengthy by the standards of comparative constitutionalism, where brevity is generally prized. By contrast, the preamble to the French Constitution runs to just four lines.<sup>8</sup>

Within Chapter One—dedicated to the general principles governing Algerian society (Articles 1 to 33)—the amendment addresses Algeria, its people, and its state, reaffirming Tamazight as both a national and official language. Article 4 provides: 'Tamazight is likewise a national and official language. The state shall work to promote and develop it in all its linguistic varieties used across the national territory. An Algerian Academy for the Tamazight Language, placed under the authority of the President of the Republic, shall be established. The Academy shall draw on the work of experts and shall be responsible for creating the necessary conditions for the promotion of Tamazight with a view to consolidating its status as an official language.

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<sup>8</sup>The preamble to the French Constitution of 1958, as amended in 2008, reads: 'The French People solemnly proclaim their attachment to the Rights of Man and the principles of national sovereignty as defined by the Declaration of 1789, confirmed and complemented by the Preamble to the Constitution of 1946, and to the rights and duties as defined in the Charter for the Environment of 2004. By virtue of these principles and

An organic law shall determine the modalities of application of this article.'<sup>9</sup> Furthermore, Tamazight has been added to the entrenched provisions shielded from amendment under Article 223.

Chapter One also incorporates several new provisions, including the final paragraph of Article 17—which provides that, 'for the purpose of achieving economic and social balance in communes with limited development and ensuring better provision for the needs of their populations, the law may grant certain less developed communes special measures'—as well as strengthened environmental protection under Article 21, whose final paragraph mandates 'the protection of the environment in all its terrestrial, maritime, and atmospheric dimensions, and the adoption of all appropriate measures to penalize polluters.' In addition, Article 26 compels the administration to remain impartial and to respond to citizens' requests, providing that 'the administration is at the service of the citizen. The law guarantees the impartiality of the administration. The administration shall be required to give a reasoned response within a reasonable time to requests that necessitate the issue of an administrative decision. The

that of the self-determination of peoples, the Republic offers to the overseas territories which have expressed the will to adhere to them new institutions based on the common ideal of liberty, equality and fraternity and conceived for the purpose of their democratic evolution.'<sup>9</sup>Article 04 of the 2016 Amendment, we find it to be identical, with the only change being the use of the term 'Tamazight' instead of 'Amazigh'.

administration shall deal with the public with complete impartiality, in compliance with the rule of law and in providing service without delay.'

For the first time, Algeria's constitution expressly provides for the participation of the Algerian Army in peacekeeping operations—Article 31 states that 'Algeria may, within the framework of respect for the principles and objectives of the United Nations, the African Union, and the Arab League, participate in the maintenance of peace.' This signals a doctrinal shift in the Armed Forces' strategic posture, reflecting the security threats that have made the possibility of intervention necessary to preserve the country's regional security perimeter.

## **1.2. Strengthening Individual and Collective Rights and Freedoms**

A defining feature of the amendment is its dedication of Chapter Two in its entirety to rights, public freedoms, and duties as a standalone chapter (Articles 34–83). Drafted to internationally recognized standards consistent with contemporary constitutionalism, the amendment introduces a sweeping array of

individual and collective rights. It substantially expands the catalogue of constitutionally guaranteed rights—adding twenty-three new rights—and affirms equal access for all citizens to public functions and positions, subject solely to conditions established by law,<sup>10</sup> advancing progressively through the following domains:

- Consolidation of fourth-generation rights relating to the environment, information, and culture.
- Freedom to practice religious worship within the limits set by law (Article 51).
- Freedom of assembly and peaceful demonstration, guaranteed and exercisable upon prior notification (Article 52).
- The right to establish associations, exercisable upon prior notification; associations may only be dissolved by judicial order (Article 53).
- The right to found newspapers and periodicals upon prior notification (Article 54).
- The right to establish television and radio channels, electronic websites, and online

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<sup>10</sup>It should be noted that Article 51, paragraph 2, of the 2016 Amendment—which stipulated that exclusive Algerian citizenship was a prerequisite for assuming senior state responsibilities and political functions—generated considerable controversy. Critics argued it effectively excluded expatriate talent and competencies residing abroad, while supporters maintained it was a logical and self-evident political and constitutional requirement, on the ground that an Algerian who had

acquired a second nationality had done so subject to a set of obligations that would compromise their impartiality in matters involving Algeria and the state of their naturalization if they were to hold a senior public office. The Constitutional Council settled the debate in Opinion No. 01/16, affirming that the principle of equality is the general rule and is constitutionally enshrined, but that there is no objection to restricting certain sensitive responsibilities and functions on an exclusive basis in view of their particular character.

newspapers, within conditions prescribed by law (Article 54).

- The right to establish political parties, which may be dissolved only by judicial order (Article 57).
- Promotion of women's political rights through expanded representation in elected assemblies (Article 59).
- The state shall encourage youth participation in political life (Article 73).

A reading of this chapter reveals that the rights and freedoms enshrined by the 2020 Constitutional Amendment are fully commensurate with those found in the most advanced constitutions in the world—particularly with regard to the promotion of women's rights, through the recognition of gender parity in employment and in the assumption of responsibilities. In this respect, Algeria aligns itself fully with international principles on the advancement of women's rights. The amendment further enshrines the right to peaceful demonstration, citizens' right of access to information, press freedom, a prohibition on the imprisonment and detention of journalists, the consolidation of political rights through the provision of financial support for political parties represented in elected assemblies, and the recognition of economic and social rights through the constitutionalization of investment and trade

freedom, as well as citizens' rights to housing, employment, and social security—with corresponding state responsibilities explicitly defined. Unlike many countries that have embraced a purely capitalist orientation at the expense of social protection, Algeria's constitution charts a clear course toward a market economy while preserving the social character of the state. This reflects the considerable weight attached by the constitutional legislator to a social dimension rooted in the principles of the glorious November Revolution, reinforced by implementation and monitoring mechanisms designed to ensure the proper application of constitutional provisions.

## **2. The Organization and Separation of Powers**

Chapter Three of the Constitutional Amendment, entitled 'Organization and Separation of Powers,' comprises ninety-eight articles (Articles 82 to 182), arranged across four sections: Section One on the President of the Republic (Articles 84–102); Section Two on the Government (Articles 103–113); Section Three on Parliament (Articles 114–162); and Section Four on Justice (Articles 163–182).<sup>11</sup> Numerically, half the chapter dedicated to the powers is accounted for by the legislative branch, whose most notable feature

corresponding to the conventional designations of executive, legislative, and judicial powers.

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<sup>11</sup>In the 2016 Amendment, this chapter was entitled 'Separation of Powers' and comprised three sections

in the amendment is the granting, for the first time, of legislative initiative rights to the Council of the Nation, coupled with enhanced mechanisms for parliamentary oversight of the government. The following sections survey the most significant changes introduced by the 2020 Amendment with respect to each of the three powers, in the order established by the constitution.

### 2.1. The President of the Republic

The 2020 Amendment reconstitutes Algeria's political system as a presidentialist system in which power tilts decisively toward the President of the Republic—the apex of the country's governmental structure— notwithstanding the fact that the 2016 Amendment had sought to restructure the relationship between the President and the Prime Minister so as to give more explicit, albeit formal, expression to the dual nature of executive power.<sup>12</sup> The new text tightens the conditions of eligibility for the presidency and

its electoral mandate, and Article 88 provides that 'no person may exercise more than two consecutive or separate mandates, and in the event of interruption of a presidential mandate due to the resignation of the incumbent President or for any other reason, such mandate shall be counted as a full term.' The presidential mandate has been placed among the constitutional constants immune from any future amendment, alongside the republican character of the state, the democratic system founded on political pluralism, Islam, the Arabic language, the inviolability of national territory, and the national flag and anthem—all listed in Article 213.<sup>13</sup>

A reading of the chapter on the President reveals the enduring dominance of the executive power.<sup>14</sup> The President was further granted the power to appoint the heads of regulatory authorities under item 11 of Article 92. Article 183, concerning the Supreme Court of the State—which has jurisdiction over acts

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<sup>12</sup>It is notable that the legislature consolidated and reaffirmed the unity of executive power, having retreated from the earlier concept of institutional duality in which each branch was divided into two parallel components: a dual judiciary (ordinary courts and administrative courts), a bicameral legislature (National People's Assembly and Council of the Nation), and a dual executive (President of the Republic and Head of Government—the latter replaced by the Prime Minister in 2008, with some of its powers partially restored in the 2016 amendment). See: Abdelali Haha and Amal Yaïch Tamam, 'The Legal Status of the President of the Republic Under the 2016 Constitutional Amendment,' *Journal of Legal and Political Sciences*, No. 14, October 2016, p. 75.

<sup>13</sup>Article 74 of the 1996 Constitution, which originally limited presidential mandates to a single renewal, had already generated significant controversy when

President Abdelaziz Bouteflika resorted to the 2008 amendment to open presidential terms, allowing him to stand for a third mandate (first: 1999–2004; second: 2004–2009; third: 2009–2014; fourth: 2014–2019), before reverting in the 2016 amendment to closure of terms and a single renewal as provided in the 1996 Constitution. This cycle confirms the 'personalization' of the article and its amendment to order—a criticism that ultimately prompted the elevation of the presidential mandate question to the status of an immutable constitutional constant immune to revision.

<sup>14</sup>The draft submitted by the Laraba Committee proposed the creation of a 'Vice-President' post—to be appointed rather than elected—with a view to ensuring continuity of the mandate in the event of a vacancy. This proposal was ultimately abandoned in the final amendment text following substantial criticism.

capable of being characterized as high treason committed by the President during his mandate, as well as felonies and misdemeanors committed by the Prime Minister or Head of Government in the exercise of their duties—was retained without any deadline for the enactment of the organic law that must define its composition, organization, operation, and applicable procedure. It should be recalled that this provision was first introduced into the 1996 Constitution under Article 177, yet the required organic law has never been promulgated despite the passage of approximately thirty years.

## 2.2. The Government

The 2020 Amendment introduced an unprecedented constitutional innovation in Algerian constitutional history by simultaneously providing for both a Prime Minister and a Head of Government within a single constitution. Article 103 stipulates: 'The government shall be led by a Prime Minister in the event that the legislative elections produce a presidential majority, and by a Head of Government in the event that they produce a parliamentary majority.' Article 105 clarifies: 'If the legislative elections produce a presidential majority, the President of the Republic shall appoint a Prime Minister and entrust him with proposing the composition of

the government and preparing a work plan for the implementation of the presidential programme, which he shall present to the Council of Ministers.' Conversely, Article 110 provides: 'If the legislative elections produce a parliamentary majority other than the presidential majority, the President of the Republic shall appoint the Head of Government from within the parliamentary majority and entrust him with forming his government and preparing the programme of the parliamentary majority.'

It follows that neither the Prime Minister nor the Head of Government possesses an independent political programme: the programme is either that of the President or that of the parliamentary majority. This reflects a new orientation in the Algerian constitutional system post-2020, in which the President's freedom to appoint the head of government is constrained—on the one hand by the constitutional imperative that the parliamentary majority has the right to have its own choice of Head of Government installed, and on the other by the obligation to implement its programme rather than the presidential programme.<sup>15</sup>

Under Article 104, 'the President of the Republic shall appoint the members of the government on the proposal of the Prime

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<sup>15</sup>Barzouq Haj, 'A Preliminary Reading of the Content of the 2020 Constitutional Amendment,' *Journal of Constitutional Law and Political Institutions*, published

by the Constitutional Law and Good Governance Laboratory, Faculty of Law and Political Science, Abdelhamid Ibn Badis University, Mostaganem, Algeria, Vol. 6, No. 1, 2022, p. 10.

Minister or Head of Government, as the case may be.' This marks a regression from the 2016 Amendment, which had required the President to consult the parliamentary majority before appointing the Prime Minister—Article 91/5 having provided that 'the President of the Republic shall appoint the Prime Minister after consulting the parliamentary majority and shall terminate his functions.'<sup>16</sup> It also represents a step back from the earlier possibility of the President appointing government members after consulting the Prime Minister. Article 93 of the 2016 Amendment, which had provided that the Prime Minister 'coordinates the action of the government'—itself drafted to remove the reference that he 'implements the programme of the President of the Republic'<sup>17</sup>—was replaced by Article 109 of the 2020 Amendment, which provides that 'the Prime Minister shall implement and coordinate the work plan approved by the National People's Assembly,' consistent with Articles 80 and 81 of the 2016 Amendment.<sup>18</sup> Those articles had

already substituted the Prime Minister's work plan with a Government work plan, which is required under Article 98 to be presented to the National People's Assembly in the form of a general policy statement,<sup>19</sup> thereby anchoring the concept of governmental accountability for its work plan—the political programme upon which it obtains parliamentary confidence and for which it must account at the end of each year when the Prime Minister presents the General Policy Statement.<sup>20</sup>

### 2.3. Parliament

The 2016 constitutional revision had already broadened Parliament's oversight prerogatives, explicitly recognized the rights of the opposition for the first time, required the government to respond to written and oral questions within specified time-limits, made parliamentary scrutiny of economic agreements mandatory, obliged the government to present the General Policy Statement at regular intervals, required the Audit Court to submit an annual report to

compel the government to present a general policy statement to the National People's Assembly—thereby enabling Parliament to discharge its oversight functions and monitor the government's adherence to its approved work plan, holding it accountable when implementation falls short. This new formulation had not been adopted in Article 84 of the previous Constitution, which merely required the government to present a general policy statement without emphasizing the mandatory nature of that obligation. See: Parliament in Light of the 2016 Constitutional Reforms, General Directorate of Legislation, National People's Assembly, September 2016.

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<sup>16</sup>It must be noted that consultation here is binding only as a procedural formality; its outcome is not binding upon the President of the Republic.

<sup>17</sup>This phrase had appeared in Article 79/2 of the 1996 Constitution.

<sup>18</sup>These became Articles 93 and 94 following the 2016 Amendment, and are Article 106 in the 2020 Amendment.

<sup>19</sup>It is not, however, obligatory before the Council of the Nation: the final paragraph of Article 111 provides that the Prime Minister or Head of Government, as applicable, 'may present to the Council of the Nation a statement on general policy.'

<sup>20</sup>The constitutional legislator, by virtue of Article 98 of the Constitution, enshrined the mandatory form to

Parliament, granted the Council of the Nation legislative initiative powers in defined areas, extended the right of referral to members of Parliament—previously reserved to the President and the presidents of the two parliamentary chambers—and restricted recourse to presidential ordinances to urgent matters. All of these gains were consolidated in the 2020 Amendment.

It is instructive to recall the roadmap that the President had set out for the Laraba Committee upon its establishment, which included the bold proposal to revisit the composition of the Council of the Nation—including the mechanism for appointing the presidential third—with a view to giving priority to academic and scientific competencies while ensuring national representativeness, alongside an objective assessment of the possibility of expanding the Council's powers to amend legislation. This proposal was ultimately abandoned in its entirety in the final draft,<sup>21</sup> in a manner that

preserves the Council of the Nation's function as a safety valve and a brake against any potential slippage in constitutional and political interactions between the executive and legislative branches. The upper chamber was, however, granted the right to initiate legislation and the right to amend in specified domains.<sup>22</sup> Article 143 of the 2020 Amendment provides that 'the Prime Minister or Head of Government, as applicable, deputies, and members of the Council of the Nation shall have the right to initiate legislation.'<sup>23</sup> However, Article 144 confines the Council's right of initiative to three exclusive domains: 'bills relating to local organization, land-use planning, and territorial subdivision shall be filed with the Office of the Council of the Nation.' This restriction does not meaningfully deepen the upper chamber's exercise of its right of initiative—given, for instance, that territorial subdivision may occur at most once in a quarter-century.<sup>24</sup> The same observation applies to local organization and

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<sup>21</sup>The 1996 Constitution established the Council of the Nation for the first time, introducing bicameralism into Algeria. Considerable debate persists over the Council's utility, between those who support its continuation and those who oppose it; in practice, the second chamber has not generated any demonstrable added value or quality improvement in legislative work—on the contrary, it has added complexity and delay—while its annual budget is estimated at between 400 and 500 billion centimes. For further discussion, see: Mamri Nasreddine, 'Evaluating the Experience of the Council of the Nation in Algeria,' *Journal of Social Sciences*, Mohamed Lamine Debaghine University Sétif 2, No. 25, December 2017.

<sup>22</sup>Khaled Chabli, 'A Study in Light of the Jurisprudence of the Algerian Constitutional Council and the 2016 Constitutional Revision,' *Ech-Chaab Newspaper website*, <http://www.ech-chaab.com/ar>, 28 March 2016.

<sup>23</sup>Constitutional law professor Kaïs Chérif observed that the rehabilitation of the legislative branch is reflected in the extension of the Council of the Nation's activity, whose members may now initiate legislation—a development that, in his view, will lend considerable importance to local elections and will transform the pattern of bill tabling and legislative initiative according to the subject matter under consideration. He further noted that the Council of the Nation is no longer a rubber-stamp chamber for legislation passed by the National People's Assembly but has become a body endowed with competence to legislate, deliberate, and amend. See: 'Algeria's Constitutional Experience: Among the Richest in the World,' <http://www.elwatanmedia.com>, 18 April 2016.

<sup>24</sup>The last territorial subdivision law dates from 1984.

land-use planning, even though the amendment was right to note that members of the Council of the Nation—especially the elected two-thirds—possess considerable experience in local governance as elected representatives serving in communal and wilaya people's assemblies.

The proposed amendments are designed, in particular, to strengthen the principle of the separation of powers by enhancing Parliament's role and achieving a greater balance between its two chambers, and by expanding parliamentary prerogatives through the following measures:

- Granting the Council of the Nation the right of legislative initiative and amendment in exclusively defined subject-matters.
- Strengthening parliamentary oversight mechanisms by dedicating

a plenary session in each legislative term to monitoring governmental action in the mandatory presence of the Prime Minister, fixing a deadline for the convening of the Joint Committee at the Prime Minister's initiative in the event of disagreement between the two chambers<sup>25</sup>, Fixing a deadline for the government to respond to interpellations and written questions submitted by members of Parliament—deadlines that will ensure greater speed in both parliamentary and governmental work.<sup>26</sup>

- Enshrining the effective presence of deputies in parliamentary proceedings<sup>27</sup> and prohibiting

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<sup>25</sup>The role of the Prime Minister was extremely powerful when he had absolute authority to convene the Committee of Equal Members whenever he wished, without any time limit, before his authority was restricted under Article 138/05 of the 2016 Constitutional Amendment (which is the same as Article 145 of the 2020 amendment), under which he is now required to convene the Committee of Equal Members within a maximum of 15 days of the dispute arising. Practice has shown that in cases where the disagreement is substantive, the Prime Minister has often ignored the committee's summons, as occurred with the law on advertising, which the Council of the Nation rejected in its entirety on July 29, 1999; the Prime Minister did not request a meeting of the Committee of Equal Members to examine the disputed provisions. On this subject, see: Abdessalam Salmi, *The Bicameral System in the Algerian Constitutional System*, Master's Thesis, Faculty of Law, University of Blida, April 2006, p. 91. Chami Rabah, *The Role of the Council of the Nation in the Algerian Parliament*, Master's Thesis in Local

Administration Law, Faculty of Law and Political Science, Abou Bakr Belkaid University, Tlemcen, 2012, p. 79.

<sup>26</sup>Deadlines for the government to respond to written and oral questions from members of parliament, as well as to interpellations, have been set under Article 158 within thirty (30) days of the date of their notification, so that the question does not lose its purpose and the objective for which it was raised, following previous problems, particularly the accumulation of questions and the government's failure to respond in a timely manner, which renders the question irrelevant.

<sup>27</sup>Article 118 stipulates that "a deputy or member of the National Assembly shall devote himself or herself entirely to the performance of his or her duties; the rules of procedure of the National People's Assembly and the National Assembly shall include provisions requiring the active participation of their members in committee proceedings and plenary sessions, subject to the penalties applicable in the event of absence." This is intended to put an end to the phenomenon of

changes of political affiliation during the mandate.

- Establishing a single parliamentary session lasting ten months.
- Restricting legislation by ordinance under Article 142 of the amendment by limiting it exclusively to matters of an 'urgent nature'—although this raises the question of who has the authority to assess the urgency criterion in ordinances issued by the President of the Republic.
- Granting the parliamentary opposition a range of rights,<sup>28</sup> notably the right to refer the

Constitutional Court in respect of the conformity of legislative texts and presidential decrees with the constitution, as well as the right to propose an agenda item for debate in the National People's Assembly.

- Expanding the scope of organic laws by transferring other subjects from the domain of ordinary legislation to the organic domain, given their political significance.<sup>29</sup>
- Recognizing the possibility of engaging the political responsibility of the government following an interpellation, under Article 161 of

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absenteeism, which has become a cause for concern and has negatively impacted the conduct of business; it is highly likely that financial penalties will be imposed on those who are absent. In this context, Articles 114 through 116 of the 2017 Rules of Procedure of the National Assembly set forth the penalties imposed on those who are absent, stipulating that:

-If a member of the National Assembly is absent from the proceedings of the standing committees or plenary sessions for three (03) consecutive times during a session without a valid excuse, they shall be subject to the following penalties:

\*A written warning shall be issued to him/her

\*A list of members absent from the proceedings of the National Assembly sessions shall be published in the Official Gazette of Debates and on the National Assembly's official website.

\*The names of members absent from the proceedings of the standing committees shall be recorded in the committee meeting minutes, and copies of the committee attendance sheet shall be sent to the Vice President in charge of legislation and the leaders of the parliamentary groups.

\*A financial deduction shall be made from the parliamentary allowance received by the member, proportional to the number of days the member was absent from the proceedings of the standing committees and the plenary sessions.

-If a member is absent three (03) consecutive times during the same session without a valid excuse, they shall be barred from running for any position in the

Council's bodies and committees in the next term (the Council Bureau shall determine the procedures for implementing this article).

The draft rules of procedure for the National People's Assembly stipulate that only absences related to a representative's official activities in their constituency or their attendance at a party event at the national level, or their presence on a mission abroad, participation in a mission of a national nature, taking legally prescribed leave, or their presence to perform the rituals of Hajj and Umrah." It also established penalties for absentees, stipulating that "a deputy absent from the proceedings of standing committees or from voting sessions shall be barred from running for any position within the Council's bodies and committees during the subsequent annual renewal, as well as from participating in parliamentary missions and delegations abroad during the current parliamentary session".

<sup>28</sup>See Article 116, which enumerated seven (7) prerogatives accorded to the opposition enabling its genuine participation in parliamentary work and political life: freedom of opinion; financial allowances; oversight of governmental action; appropriate representation in the organs of both parliamentary chambers; the right to refer matters to the Constitutional Court; and parliamentary diplomacy.

<sup>29</sup>For example, the law on finance laws (Law 84/17) was elevated to an organic law (Article 140 of the 2020 Amendment).

the amendment, which provides that 'the National People's Assembly may, in the course of debating the General Policy Statement or following an interpellation, vote on a censure motion directed at the government's responsibility.'

- Capping parliamentary mandates at two terms under Article 122, whose final paragraph states that 'no person may exercise more than two parliamentary mandates, whether consecutive or separate.'
- Confining parliamentary immunity to actions strictly connected with parliamentary duties, in accordance with Article 129, which provides that 'a member of Parliament shall enjoy immunity in respect of acts related to the exercise of his functions as defined in the Constitution.'

#### **2.4. The Judiciary**

The legal question at issue here concerns the independence and impartiality of the judiciary in Algeria and the new guarantees introduced by the 2020 Constitutional Amendment, building upon the gains of the 2016 Amendment. The latter had already constitutionalized certain principles regarded as guarantees for litigants—including the principle of two-tier adjudication, the obligation to give reasons for judicial orders, the strengthening of protection for advocates

against pressure and interference that impairs the exercise of their role in the administration of justice, and the consolidation of the right to defend litigants' interests in accordance with the requirements of the law.

The 2020 Amendment affirmed the independence of the judiciary: Article 163 provides that 'the judiciary is an independent power; the judge is independent and is subject only to the law,' while Article 180 states that 'the Supreme Judicial Council shall guarantee the independence of the judiciary.' This contrasts with the 2016 Amendment, which had assigned the President of the Republic the role of guarantor of judicial independence under Article 156, which read: 'The judicial power is independent and is exercised within the framework of the law. The President of the Republic is the guarantor of the independence of the judicial power.' The wording of the second paragraph of Article 156 implied that the President was the principal—indeed the true—guarantor of judicial independence, potentially diminishing the significance of the other guarantees enshrined in the constitution. The 2020 Amendment's retreat from this formulation is a positive development, coinciding with the removal of the Minister of Justice from the vice-presidency of the Supreme Judicial Council and the conferral of that position upon the First President of the Supreme Court, as provided in item 2 of Article 180.

The constitution has also enshrined the composition of the Supreme Judicial Council as follows: The Supreme Judicial Council is presided over by the President of the Republic, who may delegate the chairmanship to the First President of the Supreme Court. The Supreme Judicial Council is composed of:

- The First President of the Supreme Court, serving as Vice-President;
- The President of the Council of State;
- Fifteen (15) judges elected by their peers across the various judicial grades;
- Six (6) persons selected on the basis of their competence from outside the judiciary—two chosen by the President of the Republic, two by the President of the National People's Assembly from among non-deputies, and two by the President of the Council of the Nation from among non-members;
- Two (2) judges from the judges' trade union;
- The President of the National Human Rights Council.

Despite this, some observers question whether the principle of judicial independence—enshrined since the pluralist constitution of 1989—is genuinely applied in

practice, given the President's exclusive authority to appoint and remove the holders of the most senior judicial positions: the President and Prosecutor-General of the Supreme Court, the President of the Council of State and the State Commissioner, and his power of appointment to other judicial functions.<sup>30</sup> Article 181 does, however, guarantee the Council's involvement in this process, providing that 'the Supreme Judicial Council shall decide, in accordance with the conditions determined by law, on the appointment, transfer, and career path of judges. Appointment to specific judicial functions shall be made by presidential decree following a conforming opinion of the Supreme Judicial Council.'

### **3. Oversight Institutions and Advisory Bodies**

Chapter Four of the Constitutional Amendment (Articles 184–205) underwent extensive revision aimed at improving the effectiveness of certain institutions—above all the Constitutional Court, as the supreme body entrusted with ensuring the conformity of legislation with the constitution—as well as at achieving a qualitative advance in electoral monitoring and providing stronger guarantees and greater transparency obligations for the government in organizing electoral processes.

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<sup>30</sup>Article 92, final paragraph, provides: 'In addition to the functions referred to in paragraphs 8 and 5 above, an

organic law shall determine the other judicial functions to which the President of the Republic shall appoint.'

The chapter simultaneously lays the groundwork for a number of advisory institutions covering vital sectors and constituencies.

### 3.1. Oversight Institutions

#### 3.1.1. The Constitutional Court

The Constitutional Court is an independent constitutional oversight institution created by the 2020 Constitutional Amendment in place of the Constitutional Council, charged with ensuring respect for the constitution and regulating the functioning of institutions and the activity of public authorities.<sup>31</sup> Although the constitutional legislator adopted the designation 'Constitutional Court,' it refrained from specifying the judicial nature of the institution and did not situate it within the chapter dedicated to the judicial power, placing it instead among the oversight bodies. In this regard, the Court resembles the Constitutional

Council—a political institution with certain judicial attributes. Supporting this interpretation is the constitutional legislator's retention of several features of the Constitutional Council model: membership capped at twelve, with four appointed by the President; the preservation of the oath formula administered to members; the specification of certain eligibility conditions; and the maintenance of members' immunity and the rules governing referral.<sup>32</sup>

Thirteen articles (Articles 185–198) are devoted to the Court, affirming its independence,<sup>33</sup> composition, membership conditions, competences, referral mechanisms,<sup>34</sup> and the binding force of its final decisions. These provisions aim to entrench the Court's independence—administrative and financial—and to define its competences as electoral judge in national consultations,<sup>35</sup> while fundamentally reconstituting its

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<sup>31</sup>Gharbi Ahcen, 'The Constitutional Court in Algeria,' *Al-Shamila Journal of Law, Faculty of Law and Political Science, Badji Mokhtar University, Annaba, Algeria*, No. 1, June 2021, p. 64.

<sup>32</sup>*Ibid.*, pp. 66–70.

<sup>33</sup>One manifestation of this independence is the Court's exclusive authority to establish its own rules of procedure freely, without being subject to any external authority, as reflected in Article 185/3: 'The Constitutional Court shall determine its own rules of procedure.' This contrasts with the French Constitutional Council, whose organization and operating rules are governed by an organic law jointly elaborated by the government and both chambers of Parliament, as stipulated in Article 63 of the current French Constitution: 'An organic law shall determine the rules of organization and operation of the Constitutional Council, the procedure to be followed before it, and in particular the time-limits within which disputes shall be referred to it.'

<sup>34</sup>The 2020 Amendment preserved the provisions introduced by the 2016 Amendment, which had extended the right of referral to the Prime Minister and a specified number of members of Parliament (fifty deputies from the National People's Assembly or thirty members of the Council of the Nation). It also introduced a mechanism new to Algerian constitutional practice—the 'plea of unconstitutionality'—under Article 195 (corresponding to Article 188 of Constitutional Law 16/01), drawing on the French constitutional experience following the 2008 amendment with regard to what is known as the 'priority question of constitutionality.'

<sup>35</sup>The Constitutional Court examines the challenges it receives concerning the provisional results of presidential elections, legislative elections, and referenda, and declares the final results of all such operations (Article 191).

membership by introducing the election of half its members from law professors at universities, excluding Parliament from membership,<sup>36</sup> and recognizing the casting vote of the President of the Court in the event of a tie.

### **3.1.2. The Audit Court**

Established in 1980, the Audit Court is vested with broad supervisory powers over public bodies generally responsible for the conclusion of public procurement contracts. It exercises dual oversight—administrative and judicial—over the management of public funds by the state and bodies affiliated to it, whatever their legal status. However, its jurisdiction was narrowed in 1990 by Law 90/23, which excluded commercial and industrial public enterprises from its remit and stripped it of its judicial powers. Order No. 95/20 on the Audit Court subsequently restored the position, re-expanding the Court's jurisdiction to encompass all public funds regardless of legal status. Order No. 95/20, as amended and supplemented by Order No. 10/02, thus conferred on the Court comprehensive jurisdiction over public funds,

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<sup>36</sup>Article 186 of the Amendment specifies a membership of twelve (12): four appointed by the President of the Republic, including the President of the Court; one from the Supreme Court; one from the Council of State; and six elected from professors of constitutional law.

<sup>37</sup>The Court's—and other oversight bodies'—inability to refer matters directly to the judiciary, being limited instead to notifying responsible officials, does not guarantee proper application of the law or effective enforcement, as actual practice has confirmed. In the Khalifa Bank case, a report from the Deputy Governor

including the power to refer matters to the judiciary—via a communication to the territorially competent public prosecutor, with notification to the Minister of Justice and the relevant authorities—where it discovers facts constituting criminal offences.<sup>37</sup>

The 2020 Constitutional Amendment constitutionalized the Audit Court for the first time within the oversight institutions, under Article 199, which characterizes it as a supreme independent institution for financial oversight, responsible for ex post auditing of state and local authority funds, public services, and state commercial capital. However, a critical reading of the new constitutional provisions reveals that they do little more than reinforce the Court's reporting and publication powers, and subject its organization to an organic law, without introducing substantive changes to its legal status and competences that would significantly enhance its effectiveness.<sup>38</sup>

### **3.1.3. The National Independent Electoral Authority**

of the Bank of Algeria was transmitted to the Minister of Finance with a view to criminal prosecution in connection with illegal capital transfers, but without any notification to the public prosecutor's office—the file remained in the minister's desk drawer.

<sup>38</sup>Rabhi Karima, 'New Developments in the Financial Oversight of the Audit Court Under the 2022 Constitutional Amendment,' *Ma'rifa Issues Journal*, University of Djelfa, Algeria, No. 4, December 2022, p. 73.

Electoral contests have invariably been the epicentre of the conflict between the authorities and the opposition, given the persistent allegations of electoral fraud. In a significant step, the 2020 Constitutional Amendment provided for an Independent Electoral Authority as an oversight body in the electoral domain—a positive development, given its constitutionalization following the abolition of the High Electoral Monitoring Body, and particularly noteworthy since the Authority had initially been established by Organic Law 19/07. Following the 2020 Amendment, Order 21/01 containing the Organic Electoral Law was enacted, setting out the organic and functional framework for the Authority. Under the relevant legislative provisions, the Authority exercises oversight over all electoral operations from the moment the electorate is convened until the announcement of provisional results, with the aim of ensuring the transparency and integrity of electoral operations in a framework of independence as guaranteed by the constitution and the organic law.<sup>39</sup>

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<sup>39</sup>Amir Souad, 'The National Independent Electoral Authority in Light of the 2020 Algerian Constitutional Amendment and Order 21/01 Containing the Organic Law on the Electoral System,' *Al-Risala Journal for Humanities Studies and Research*, Arab Tebassa University, Tebessa, Algeria, No. 3, May 2022, pp. 286–288.

<sup>40</sup>Articles 202 and 203 provided that 'a national body for the prevention of and fight against corruption shall be established,' with its principal mandates including: proposing a comprehensive anti-corruption policy that enshrines the principles of the rule of law and reflects integrity, transparency, and accountability in the

### **3.1.4. The High Authority for Transparency, Prevention of, and Fight Against Corruption**

The National Body for the Prevention of and Fight Against Corruption was established in 2006 under Law 06/01 before being constitutionalized in 2016.<sup>40</sup> The majority of its powers were advisory in nature: notwithstanding its designation as a body for both prevention and combat, its actual mandate related primarily to prevention. Article 22 of Law 06/01 required the Body, upon discovering facts of a criminal character, to transmit the file to the Minister of Justice, who was then empowered to initiate public prosecution if warranted.<sup>41</sup>

The 2020 Constitutional Amendment renamed the Body—under Article 204—the High Authority for Transparency and Prevention of and Fight Against Corruption, and modified its role by endowing it with broader powers to move beyond a merely advisory posture toward a genuinely active role in corruption prevention and control.<sup>42</sup>

management of public property and funds, and contributing to its implementation; and submitting an annual report to the President of the Republic on the assessment of its activities relating to the prevention of and fight against corruption, the shortcomings identified, and any recommended remedies.

<sup>41</sup>Boudhane Moussa and La'ali Boukmich, 'The Role of the Judiciary and Certain Related Bodies in Combating Corruption in Algerian Legislation,' published by the Laboratory for African Studies in the Humanities and Social Sciences, No. 15, 2018, p. 576.

<sup>42</sup>The regulation of the High Authority's composition and powers by law—in contrast to the former National

The manifestations of the Authority's independence are apparent in both its organic dimension—through the diversity and pluralism of its composition, fixed-term mandates, protection of members against arbitrary dismissal, and the multiplicity of bodies authorized to propose appointments—and its functional dimension—through the recognition of its financial and administrative independence and its legal personality. This independence is, however, relative, given certain constraints: the concentration of appointment authority in the hands of the President of the Republic and the obligation to submit an annual report to him, notwithstanding the expansion of the Authority's powers across information, strategic, awareness-raising, and advisory functions, all oriented toward corruption prevention and control.

### **3.2. Advisory Bodies**

Chapter Five of the 2020 Constitutional Amendment governs advisory institutions across twelve articles, constitutionalizing certain existing councils and creating new ones—a total of eight councils and bodies, in addition to the High Council for the Arabic Language<sup>43</sup> and the Algerian Academy of the

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Body for the Prevention of and Fight Against Corruption, which was governed by presidential decree by virtue of its placement under the President of the Republic—reflects the legislature's intent to assign it a broader role. See: Gharbi Ahcen, 'The High Authority for Transparency and the Prevention of and Fight Against Corruption Under the 2020 Constitutional

Tamazight Language,<sup>44</sup> referred to in Articles 3 and 4 respectively of the Constitutional Amendment.

#### **3.2.1. The High Islamic Council**

Article 206 establishes the High Islamic Council as an advisory body attached to the President of the Republic, mandated to encourage and promote *ijtihad* (independent legal reasoning), to issue *shar'i* opinions on matters referred to it, and to submit periodic activity reports to the President of the Republic. Article 207 specifies that the Council is composed of fifteen (15) members, including the President, all appointed by the President of the Republic from among the country's leading national competencies in the various disciplines of knowledge.

#### **3.2.2. The High Security Council**

An institution in existence since the 1976 Constitution, the High Security Council is provided for in Article 208 of the 2020 Amendment. It is presided over by the President of the Republic, who determines its organization and operating rules. The Council renders advisory opinions on matters related to national security and performs a strategic advisory role on sensitive security questions—particularly those involving crises and

Amendment,' *Abhath Journal*, No. 1, June 2021, Ziane Achour University, Djelfa, Algeria, p. 687.

<sup>43</sup>Law No. 86/10, enacted 19 August 1986, establishing the Algerian Academy of the Arabic Language.

<sup>44</sup>Organic Law No. 18/17 of 2 September 2018, relating to the Algerian Academy of the Amazigh Language.

threats—assisting the President in formulating high-level security policy.

### **3.2.3. The National Economic, Social and Environmental Council**

First established by Order No. 68/610 of 6 November 1968, this Council is among the most significant advisory bodies. It operated until its dissolution in 1976 by a decree of 30 December 1976, before being re-established by Presidential Decree No. 93/225 of 5 October 1993. It was constitutionalized in the 2016 Amendment and further strengthened in the 2020 Amendment by the addition of an environmental dimension. Articles 209 and 210 designate it as an adviser to the government, charged with providing a framework for the participation of civil society in national consultation on development and environmental policies within a sustainable development framework, and with evaluating and studying questions of national interest in the economic, social, environmental, educational, training, and higher education domains.<sup>45</sup>

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<sup>45</sup>France is among the earliest states to have established such a council, and many Arab states have followed suit. See: El-Ayeb Samia, 'The Legal Framework of the National Economic and Social Council in Algeria,' *Annals of the University of Guelma for Social and Human Sciences*, Vol. 9, No. 14, p. 421.

<sup>46</sup>Law No. 16/13 of 3 November 2016 determining the composition of the National Human Rights Council, the modalities for appointing its members, and the rules

### **3.2.4. The National Human Rights Council**

The 2016 constitutional revision constitutionalized a new body charged with defending and promoting human rights in Algeria, designated the National Human Rights Council—successor to the 'National Advisory Commission for the Promotion and Protection of Human Rights,' established in 2009 by Order No. 09/04 of 27 August 2009, as supplemented by Presidential Decree No. 180/10 of 11 July 2010, which had itself replaced the 'National Human Rights Observatory' first established in 1992 and abolished in 2001.<sup>46</sup>

Under Article 212 of the 2020 Amendment, the National Human Rights Council is mandated to monitor, provide early warning, and assess respect for human rights. It examines—without prejudice to the powers of the judiciary—all cases of human rights violations that it observes or to which its attention is drawn, and takes all appropriate measures accordingly. It may refer its findings to the relevant administrative authorities and to the competent judicial authorities if the circumstances so require. The Council initiates

governing its organization and operation was enacted; in this context, the reconstitution of the legal framework for the National Human Rights Council is aimed at aligning it with the Paris Principles. See: Samir Chawki, 'The National Human Rights Council as an Alternative to the Advisory Commission for the Promotion and Protection of Human Rights,' *Journal of Law and Human Sciences*, University of Djelfa, Vol. 12, No. 1, May 2019, pp. 49–67.

awareness-raising, information, and communication activities to promote human rights, and issues opinions, proposals, and recommendations relating to their promotion and protection.

### **3.2.5. The National Observatory for Civil Society**

A newly created body under the 2020 Amendment, the National Observatory for Civil Society functions as an advisory body attached to the President of the Republic, submitting opinions and recommendations on matters concerning civil society, contributing to the promotion of national values, democratic practice, and citizenship, and cooperating with other institutions in the pursuit of national development objectives.<sup>47</sup>

By establishing this body, the constitutional legislator acknowledged the central role played by the various formations of civil society in leading and organizing the popular Hirak. Article 213 assigns its regulation to the President of the Republic, who signed Presidential Decree No. 139/21 on

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<sup>47</sup>According to the most recent census by the Ministry of the Interior and Local Communities, the number of national associations reached 1,027, while local associations numbered 92,627. Since the introduction of political pluralism, Algeria has also seen the establishment of more than 60 trade union organizations, the majority representing workers in the public sector—despite the fact that the private sector accounts for more than six million workers (representing 63% of national employment positions), where union representation remains extremely low.

12 April 2021 defining its mandate, composition, operation, and organization.<sup>48</sup>

### **3.2.6. The High Council for Youth**

Article 214 provides: 'A High Council for Youth shall be established; it is an advisory body attached to the President of the Republic. The Council shall include representatives of youth, representatives of the government, and representatives of the public institutions responsible for youth affairs.' Article 215 defines its role as rendering advisory opinions and recommendations on matters relating to the needs of youth, and contributing to the promotion of national values, national consciousness, civic spirit, and social solidarity among youth. According to Presidential Decree No. 21/416, the Council comprises 348 members in addition to its President.<sup>49</sup>

### **3.2.7. The National Council for Scientific Research and Technologies**

Articles 216 and 217 of the Amendment establish this Council to support public authorities in defining national policies in the

<sup>48</sup>Under Article 6 of Presidential Decree 21-139, the Observatory comprises the President and 50 members appointed on a parity basis between men and women: 30 from associations, 8 from national competencies, and 12 representing trade unions, national professional organizations, and other civil society bodies.

<sup>49</sup>The High Council for Youth had previously existed, was dissolved, reinstated in the 2016 Amendment, and confirmed again in the 2020 Amendment.

fields of scientific research and technological development. The law shall promote technological and scientific innovation, enhance the level of national competencies in this field, assess the effectiveness of the national research system, and work to valorize research results and place them at the service of the national economy and sustainable development. The Council is placed under the authority of the Prime Minister and is composed of leading researchers, scientific figures, and technical experts with proven experience in scientific research, including the national elite residing abroad, as well as directors of economic enterprises and senior executives from the social and economic sector.<sup>50</sup>

The Council is specifically mandated to promote national research in the field of technological and scientific innovation, and to assess the effectiveness of the national bodies specializing in the valorization of research results for the benefit of the national economy within a sustainable development framework. The Council comprises forty-five (45) members, including its President, selected from among scientific figures possessing the requisite technical capacities and national scientific competencies residing abroad, as well as directors of principal economic

enterprises engaged in research and development.

### **3.2.8. The Algerian Academy of Sciences and Technologies**

The Algerian Academy of Sciences and Technologies is a reference body for expertise and consultation across the various fields of science, and a partner for state institutions and public and private bodies. It aims to promote science and technology, to strengthen their impact on society, and to contribute to the realization of national development guidelines and objectives. The Academy was constitutionalized under Article 218 of the 2020 Constitutional Amendment as an independent body of a scientific and technological character, attached to the President of the Republic. The institution was established in Algeria by Presidential Decree No. 85/15 of 10 March 2015, and in 2022, Law 22/02 of 25 April 2022 was enacted to determine its organization, composition, operation, and mandate. In addition to the 46 founding members, the Academy comprises 154 other members progressively selected by their peers at a session of the Academy's General Assembly from among persons of recognized standing in the fields of science and technology. Upon the completion of its

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<sup>50</sup>See: Samati Saïda, 'The National Council for Scientific Research and Technologies: A Newly Established Mechanism to Support Scientific Research

and Technological Development in Algeria (An Analytical Reading in Light of Law 20/01 as Amended in 2022),' *Sawt al-Qanun Journal*, No. 1, November 2024.

membership, the Academy will comprise 200 permanent members.<sup>51</sup>

## Conclusion

The 1 November 2020 Constitutional Amendment introduced a series of far-reaching changes affecting multiple dimensions of political practice and the deepening of democracy in Algeria. It also incorporates numerous improvements designed to reinforce national unity, strengthen national belonging, celebrate historical heritage, affirm the national identity in its three constituent elements, consolidate democratic freedoms, deepen the principle of the separation of powers, strengthen the position of the parliamentary opposition, activate legislative oversight of the executive, and introduce new procedures to enhance the credibility of elections.

In light of the foregoing, we consider it necessary to put forward the following proposals to address certain lacunae that remain unresolved:

- The constitutional novelty of providing simultaneously for a 'Prime Minister' and a 'Head of Government' should be abandoned; it would be preferable to retain the latter with genuine executive powers while curtailing the President

of the Republic's dominance over all decisive appointments across the apparatus of the state.

- Article 142, which governs legislation by ordinance, specifies no sanction for the President's failure to submit ordinances to Parliament at its first session; this gap should be filled by introducing a time-limit, providing for the automatic nullification of ordinances not submitted to Parliament at its first session, and amending the organic law to recognize Parliament's right to deliberate on the substance of ordinances.
- The government's authority to control the parliamentary agenda should be curtailed, with priority in this regard accorded to Parliament.
- The oversight role should be strengthened by adopting additional types of questions—particularly 'topical questions' or 'questions of the hour' as practised in the Moroccan system, or 'questions to the government' as they are designated in the French system.
- The constitutional deadlines fixed for governmental responses to parliamentary questions remain

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<sup>51</sup>See: Samati Saïda and Rabti Zahia, 'The Algerian Academy of Sciences and Technologies: A Reference Body for Expertise and Consultation—A Study in Light

of the New Law 22/02,' *Journal of Legal and Social Sciences*, Ziane Achour University, Djelfa, Algeria, No. 2, June 2024.

deficient because they are not accompanied by sanctions establishing individual or collective ministerial responsibility. Moreover, the allocation of a single weekly session for responses to parliamentary questions has not yet attained the threshold that would genuinely reinforce parliamentary oversight; in France, for example, three to four weekly sessions are scheduled for governmental appearances before Parliament to respond to parliamentary questions.

- Individual ministerial accountability should be introduced, compelling each minister to work diligently to improve the performance of his ministry and preventing him from sheltering behind collective cabinet responsibility as a shield for his own shortcomings.
- The legislative and institutional measures necessary to secure the full independence of the judiciary must be adopted; the judiciary must not become an instrument in political games or a mechanism for authorizing executive or legislative commands in disregard of the law.

In conclusion, we reaffirm the pressing need for the proper application of the amendment's provisions which, however imperfect, represent in their totality a positive

step—one that has in many instances addressed longstanding demands of the opposition and of constitutional law scholars. Electoral integrity remains, in our view, the key to all issues and concerns, for all political and democratic practice is contingent upon it. The establishment of a 'National Independent Electoral Authority' and the endowment of that authority with genuine powers constitutes an encouraging step forward, pending further consolidation through measures designed to reinforce the prestige of state institutions and restore citizens' confidence in them.

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