

The Effectiveness of Algeria's Constitutional Amendments

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ABSTRACT

Constitutions are established on the basis of the different realities and circumstances that a country may experience. The nature of these circumstances varies from one country to another, including political, economic, social, security-related and other circumstances requiring necessary reforms that begin with a reconsideration of the content of the state's constitution.

Most Arab countries experienced major historical upheavals during the so-called Arab Spring ,which resulted in the need to adapt to new realities ,namely by introducing constitutional amendments to address them .Algeria experienced that period in a particular manner due to the different internal factors that led to constitutional reform.

This research paper sheds light on Algeria's constitutional amendments ,with a special focus on the 2016 constitutional amendments ,as well as the 2020 constitutional amendments ,given the qualitative changes they introduced ,be it at the formal level ,that is ,in terms of the division of topics in the constitution ,or at the substantive level.

Keywords: *constitutional amendment, constitutional institutions, organization of powers, Constitutional Court, Parliament.*

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INTRODUCTION

A number of Arab countries experienced political transformations imposed by popular uprisings aimed at achieving decent life under a strong state endowed with robust institutions, a strong economy and security, with internal, regional, and international standing. Accordingly, these countries began to develop a strategy to overcome this major historical challenge by responding to popular aspirations through the adoption of deep political reforms.

Each of these countries introduced these reforms differently due to their specificities and the historical experiences their citizens went through, which gave some of them the ability to deal with political crises in a way that would avoid slipping away from the popular aspiration of building a strong country where justice, security and stability prevail. Algeria is one of these countries whose people acknowledged the need to cope with and overcome these crises with vigilance, given the difficult periods that the Algerian people have lived through when peacefully calling for change.

Since gaining its independence on 5 July 1962, the People's Democratic Republic of Algeria has known the following constitutions: the 1963 Constitution,¹ the 1976 Constitution,² the 1989 Constitution,³ and the 1996 Constitution,⁴ which was amended in 2002, 2008, 2016, and, most recently, in 2020. It is worth noting in this respect that the constitutional tendency is to consider that constitutional amendments submitted to a popular referendum produce a new constitution, whereas amendments submitted to a representative body, that is, parliament, are considered an amendment to the preceding constitution.

Compared to previous constitutions, the 1996 Constitution was characterized by a set of features that enhanced the process of building a state based on the rule of law. These include strengthening the principle of separation of powers and the promotion and development of political action by introducing partisan pluralism. While the latter term appeared for the first time in the 1996 Constitution, it already featured in the 1989 Constitution in the form of associations of a political nature, the promotion of rights and freedoms, and the enshrinement of guarantees for the independence of the judiciary.

¹ Constitution of the Republic of Algeria (1963). The constitution was ratified by the National Assembly on 28 August 1963, submitted to referendum on 8 September 1963, and published in the Official Journal on 10 September 1963. Algeria's legal texts can be consulted on the website of the Official Journal: www.joradp.dz.

² Presidential Decree No. 76-97 dated 30 Dhu'lqahdah 1396 corresponding to 22 November 1976 promulgating the Constitution of the People's Democratic Republic of Algeria, Official Journal, No. 94 of 2 Dhu al-Hijjah 1396 corresponding to 24 November 1976.

³ Presidential Decree No. 89-18 of 22 Rajab 1409 corresponding to 28 February 1989, relating to the publication of the text amending the constitution approved in the referendum of 23 February 1989, Official Journal of the Republic of Algeria, No. 9 of 23 Rajab 1409 corresponding to 1 March 1989.

⁴ Presidential Decree No. 96-438 of 26 Rajab 1417 corresponding to 7 December 1996, relating to the issuance of the text amending the constitution approved in the referendum of 28 November 1996, Official Journal of the Republic of Algeria, No. 76 of 27 Rajab 1417 corresponding to 8 December 1996.

Several amendments were made to the 1996 Constitution in two ways that were adopted and settled on in its successive amendments. Upon the President of the Republic's initiative, it is possible to amend the constitution either by submitting it to a popular referendum, or without doing so if it obtains the votes of three quarters of the members of the two chambers of Parliament.⁵ The President of the Republic entrusted the final approval of the constitutional amendment to Parliament in the years 2002, 2008, and 2016,⁶ whereas the 2020 constitutional amendment was submitted to a popular referendum.

Amendments to the 1996 Constitution began in 2002⁷ by including Tamazight as a national language for the first time in Algeria. Then the 2008 amendment⁸ introduced some changes regarding the organization of the executive authority and the possibility of re-electing the President of the Republic for an unlimited number of terms instead of only two, while also promoting women's political representation in elected councils. The 1996 Constitution was subjected to another amendment in 2016,⁹ which amended and introduced new provisions that we will outline in detail in this paper.

This research paper provides a comprehensive overview of the circumstances behind the 2016 draft constitution and the procedures followed in preparing it (I). It then considers its content and the novelties it introduced in response to popular demands (II), as well as its subsequent amendment in 2020 (III).

I. THE SPECIFICITY OF THE 2016 CONSTITUTIONAL AMENDMENT INITIATIVE

Several Arab countries witnessed popular movements demanding deep political reforms, which led in some places to overthrowing the regimes in place. Those revolutions were referred to as the Arab Spring given the aspirations of the peoples for a politically and economically better tomorrow that guarantees the citizens of those countries a respectable and decent life, beginning in the Republic of Tunisia – the cradle of popular revolutions – and followed by the Arab Republic of Egypt and Libya.

Unlike the popular revolutions witnessed by those countries during the Arab Spring, change under the 2016 constitutional amendment in the Algerian Republic had a certain specificity. No revolution took place in Algeria

⁵ Articles 174, 175 and 176 of the Constitution of Algeria (1996) correspond to Articles 208, 209 and 210 of the 2016 constitutional amendment.

⁶ For more details in this regard see: Zahia Aissa, "An Analysis of the Opinions of the Constitutional Council Related to the Draft Laws Including Constitutional Amendments for the years 2002, 2008, and 2016," *Algerian Journal of Legal, Economic and Political Sciences* 53, no. 1 (2016): 109-119.

⁷ Law No. 02-03 dated 27 Muharram 1423 corresponding to 10 April 2002 amending the constitution, Official Journal of the Republic of Algeria, No. 25 of 1 Safar 1423 corresponding to 14 April 2002.

⁸ Law No. 08-19 of 17 Dhuhlqahdah 1429 corresponding to 15 November 2008, including the constitutional amendment, Official Journal of the Republic of Algeria, No. 63 of 18 Dhuhlqahdah 1429 corresponding to 16 November 2008.

⁹ Law No. 16-01 of 26 Jumada al-Awwal 1437 corresponding to 6 March 2016, including the constitutional amendment, Official Journal of the Republic of Algeria No. 14 of 27 Jumada al-Awwal 1437 corresponding to 7 March 2016.

during that period, given the Algerian people's past experience under a period that threatened the country's security and taught them to deal with political crises in a way that averts any security drawbacks that may adversely affect the country's stability. Accordingly, the grounds for the 2016 constitutional amendment (A), as well as the procedures followed in adopting it (B), will be outlined in this section.

A. GROUNDS FOR THE 2016 CONSTITUTIONAL AMENDMENT

The socio-economic and political crisis that began in 2011 constituted the key trigger for the adoption of constitutional amendments in response to popular demands. This took place in 2016, after the project was postponed several times. The 2016 constitutional amendment was characterized by the fact that it was based on a set of successive consultations during the years 2011, 2012, and 2014. It was preceded by the issuance of major organic laws in 2012 in support of political reforms, including the Electoral Law, the Law on Associations, the Law on Political Parties, and the law related to the enhancement of women's opportunities in representative institutions.

The distinctiveness of the 2016 constitutional amendment manifested itself through the involvement of various parties in the consultations on the draft constitutional amendment, including the political class, national experts and figures, as well as civil society representatives. This was preceded by a major debate in the political arena on the method to be followed in preparing the draft amendment to the constitution, which featured mixed opinions on whether or not to appoint a constituent body or assembly for that purpose. As per the statement issued by the Council of Ministers following its meeting on 2 May 2011, this was settled by the President of the Republic appointing a specialized committee that was tasked with developing a draft while taking into consideration the suggestions, proposals and consultations with political parties and national figures to incorporate political reforms into the constitution.¹⁰

The preparation of the 2016 draft constitutional amendment had a consensual character in that it expanded the scope of consultations through the participation of multiple parties, in a manner that was not common in previous amendments.¹¹ The specialized committee prepared the draft and submitted it to the President of the Republic.

B. PROCEDURE FOR THE ADOPTION OF THE 2016 CONSTITUTIONAL AMENDMENT

The 2016 constitutional amendment was adopted in accordance with Chapter IV of the 1996 Constitution, which stipulates, in Article 174, that a constitutional revision may be decided on the initiative of both the President of the Republic and Parliament. Pursuant to Article 176, the President amended the constitution by submitting it to Parliament without subjecting it to a referendum. Indeed, the President was entitled to amend the constitution in two ways: either by submitting it or without submitting it to a popular referendum.

¹⁰ Nafissa Bakhti, "The Content of the 2016 Constitutional Amendment in Algeria," *Journal of Research in Law and Political Science* 2, no. 4 (2016): 96.

¹¹ Abbas Ammar, "Political Reforms Initiative," *Parliamentary Thought Journal* 27 (2011): 78.

Where no popular referendum is required, the institutions involved in the amendment procedure include the President, the Constitutional Council, and Parliament. In such case, the procedure can only be initiated by the President, who can directly promulgate the law pertaining to constitutional revision without submitting it to a popular referendum if it obtains the votes of three quarters of the members of the two chambers of the Parliament. However, this procedure needs to meet a set of conditions, mainly represented in the requirement of submitting the draft constitutional amendment to the Constitutional Council. The latter must issue a reasoned opinion regarding the amendment, in which it considers whether the draft amendment infringes on the general principles governing Algerian society, human and citizen's rights and freedoms, or whether it affects, in any way, the fundamental balance of powers and institutions. If the Constitutional Council determines that there is no violation of these provisions, the President may present the draft constitutional amendment to Parliament for its final approval without submitting it to a popular referendum.¹²

The 2016 constitutional amendment was adopted accordingly; the President sent the Constitutional Council a notification on 1 Rabi' al-Thani 1437 corresponding to 11 January 2016, which was registered in the General Secretariat of the council on the same date under No. 16/01. The notification contained a justified opinion on the amendment of the preamble to the 1996 Constitution, seventy-five articles of it, in addition to thirty-seven repeated articles.¹³ This highlights the size and importance of this amendment.

Following this notification, the Constitutional Council issued opinion No. 16/01/RTD/CC/ dated 18 Rabi' al-Thani 1437 corresponding to 28 January 2016.¹⁴ The two chambers of Parliament met on 7 February 2016 and approved the 2016 draft constitutional amendment, which obtained 499 votes in favour, two against, and 16 abstentions.¹⁵ The constitutional amendment was then published in the Official Journal pursuant to Act No. 16-01 of 26 Jumada al-Ula 1437 corresponding to 6 March 2016, containing the constitutional amendment (Official Journal of the Republic of Algeria No. 14 of 27 Jumada al-Ula 1437 corresponding to 7 March 2016).

The final approval of the constitutional amendment by Parliament may have generated criticism for not constituting a direct expression of popular will, but it was voted on by the representatives of the people, whereby introducing

¹² Corresponds to Article 210 of the 2016 constitutional amendment

¹³ It should be noted that the phrase "article...bis" was not mentioned when Law 16-01 containing the 2016 constitutional amendment was issued. Rather, Article 2 stipulated that the publication of this law should take place after coordinating and renumbering its articles in the Official Journal, thus dispensing with the phrase "bis", so that the text of the constitution is numbered on a regular basis from Article 1 to 218. This was a good choice, given that the number of repeated articles was considerable, and the constitution required structuring.

¹⁴ Opinion of the Constitutional Council No. 01/16/R T D/CC/ of 18 Rabi' al-Thani 1437 corresponding to 28 January 2016, Official Journal, No. 6 of 24 Rabi' al-Thani 1437 corresponding to 3 February 2016. For more details on the opinions of the Constitutional Council on the constitutional amendments for the years 2002, 2008, and 2016, see: Zahia Aissa, "An Analysis of the Opinions of the Constitutional Council".

¹⁵ Maamari Nasreddin, "An Analysis of the 2016 Constitutional Amendment," *Journal of Arts and Social Sciences* 17, no. 2 (2020): 85.

amendments through Parliament may be required in urgent cases. Indeed, such method helps avoid the lengthy procedures involved in scheduling a referendum and announcing its results, while also avoiding the mobilisation of costly human and material means for its organization.

Furthermore, the requirement for the Constitutional Council to issue an opinion to determine the admissibility of the content of the draft amendment in accordance with the constitution and in line with the main principles and foundations on which the state is based, constitutes a guarantee for the legitimacy of the amendment, given that the Constitutional Council is a key institution in the hierarchy of the state's constitutional institutions and its opinions are binding to everyone.

The chapter relating to constitutional amendment is one of the few chapters that remain unamended since the adoption of the 1996 Constitution, except for the fact that the 2020 amendment replaced the Constitutional Council with the Constitutional Court. It should also be noted that the principled actions of both the Constitutional Council and Parliament in the course of amending the constitution without a referendum, constitute the main factor in earning this method acceptance among popular circles.

II. THE EFFECTIVENESS OF THE 2016 CONSTITUTIONAL AMENDMENT

The 2016 constitutional amendment included a set of provisions whose importance manifests itself through the additions, amendments, or omissions contained therein on several issues, including those related to strengthening the rule of law and promoting citizens' rights and freedoms (A), as well as those related to constitutional institutions (B).

A. THE EFFECTIVENESS OF THE AMENDMENTS RELATED TO STRENGTHENING THE RULE OF LAW AND PROMOTING CITIZENS' RIGHTS AND FREEDOMS

The 2016 constitutional amendment included a set of provisions aimed at consolidating the rule of law. The latter is mentioned in every section of the constitution, from its preamble to its four titles to its interim provisions.

Paragraph 9 of the preamble to the constitution emphasized the renunciation of violence and encouraged dialogue by stipulating that: "The Algerian people shall be determined to keep Algeria immune from sedition, violence and all forms of extremism by establishing their spiritual and civilisational values which call for dialogue, reconciliation and fraternity within the framework of respect for the constitution and the laws of the republic.»

One of the major changes introduced by this amendment to Title I regulating the general principles governing Algerian society, is the inclusion under Chapter I for the first time of the Amazigh language as an official language, as part of the national identity that the state seeks to promote by establishing bodies for this purpose.¹⁶

¹⁶ Article 4 (1) of the 2016 constitutional amendment.

This amendment also purported to strengthen the rule of law by embodying the principle of separation of powers in Article 15, under the chapter regulating the functioning of the state. In order to reinforce democracy, the 2016 constitutional amendment established a fundamental principle, which is the principle of alternation of power at the highest level by imposing a two-term presidential limit and introducing an absolute and categorical prohibition to amend that limit by rendering the provision establishing it unamendable, unlike in past constitutions.¹⁷ It should be noted that the 1996 Constitution stipulated a two-term presidential limit, while the 2008 constitutional amendment carried no term limit. However, the two-term limit was re-introduced in 2016 alongside the prohibition of amending it.

The 2016 constitutional amendment further expanded and promoted rights and freedoms, as new provisions were introduced, including with regard to political, social and economic rights, which are intended to guarantee a decent life for citizens.

Among those provisions was strengthening the democratic process, political freedom, transparency, justice, promoting parity between men and women in assuming jobs, freedom of opinion, freedom of expression, freedom of peaceful assembly, and freedom of the written, audiovisual and electronic press. Such freedoms are inscribed within the limits of not prejudicing the dignity, freedoms and rights of others, while ensuring that information, ideas, pictures and opinions are freely published within the framework of the law and respect for the nation's fundamentals and its religious, moral and cultural values. Furthermore, press misdemeanors may not be subject to a penalty of deprivation of liberty, which reinforces the constitutional protection of freedom of the press.¹⁸

Other rights that were not included in previous constitutions were further incorporated, including the guarantee of the acquisition and transmission of information, documents and statistics to citizens. The exercise of such right shall not infringe on the private life and the rights of others, and on the legitimate interests of businesses, as well as the requirements of national security.¹⁹

The constitutional amendment also enhanced important principles in the economic and social fields by protecting and developing the national economy through the establishment of freedom of trade and investment, consumer protection, equality in taxation, protection of private property, protection of water resources and agricultural lands, and through penalizing any breach that may affect the national economy such as tax evasion and illegal competition.²⁰ Concerning the social field and the protection of citizens, the constitutional amendment strengthened and affirmed their social status through the protection by the state of the family and the child and the provision of adequate living conditions through multiple rights, including the right to a healthy environment.²¹

¹⁷ See Articles 88 and 212, last paragraph, of the 2016 constitutional amendment.

¹⁸ See Articles 34, 35, 36, 48, 49, and 50 of the 2016 constitutional amendment.

¹⁹ Article 51 of the 2016 constitutional amendment.

²⁰ This protection is mentioned in several sections of the constitution, including the preamble and the chapter on public rights, freedoms, and duties. For more details, see Articles 8, 9, 18, 19, 20... of the 2016 constitutional amendment.

²¹ Articles 68, 72 and 73 of the 2016 constitutional amendment.

It should be noted that the most important constitutional guarantee contained in the 2016 constitutional amendment regarding the protection of rights and freedoms was incorporated into Article 188(1), which made it possible for the first time to notify the Constitutional Council of a plea of unconstitutionality pursuant to a referral by the Supreme Court or the Council of State when one of the parties in a trial claims before the court that the legislative provision upon which the issue of litigation relies may adversely affect the rights and freedoms guaranteed by the Constitution.²²

B. THE EFFECTIVENESS OF THE AMENDMENTS RELATED TO THE REGULATION OF CONSTITUTIONAL INSTITUTIONS

The 2016 constitutional amendment addressed constitutional institutions by including new provisions regarding the regulation of powers (1). It also amended some provisions regarding oversight institutions and integrated new advisory bodies (2).

1. Changes to the Organization of Powers under the 2016 Constitutional Amendment

In order to enhance the status of the executive authority, new provisions were enacted regarding the conditions of eligibility for the Presidency of the Republic in Article 87, as follows: ensure that the candidate did not acquire a foreign nationality, certify the native Algerian nationality of the father and mother, prove the exclusive native Algerian nationality of the spouse, and justify a permanent residence only in Algeria for a minimum of ten years preceding the submission of the candidacy. These conditions of eligibility for the Presidency are meant to demonstrate the candidate's patriotism and sense of belonging necessary to assume such task.

Additionally, to guarantee the principle of alternation of power, the presidential term shall be five years, and the President may only be re-elected once, with no possibility for said limitation to be amended under an unamendable provision.²³

The reorganization of the executive authority through the 2016 constitutional amendment was characterized by the promotion of the status of the government through consultation with Parliament to appoint the Prime Minister, as well as the requirement for the government to present its action plan to Parliament for approval in order to carry out its functions. The amendment also enhanced the status of the Prime Minister in the executive field by conferring upon them the right to sign executive decrees without the approval of the President.²⁴ This differed from the previous constitutional amendment of 2008, which required the President of the Republic to outline their programme, while further requiring their approval to sign executive decrees.

²² This possibility gives citizens indirect individual access to the Constitutional Council to plead the unconstitutionality of laws that affect their rights and freedoms.

²³ Articles 87, 88, and 212, last paragraph of the 2016 constitutional amendment.

²⁴ Articles 91(5) and 99 (4).

Regarding the legislative authority, it can be noted that the 2016 constitutional amendment sought to upgrade the status of this authority and frame its political action. In this regard, two important articles must be mentioned.

Firstly, Article 114, which confirms the status of the opposition in parliament by stipulating that: “The parliamentary opposition shall have rights enabling effective participation in parliamentary activities and in political life, including:

1. The freedom of opinion, expression and assembly;
2. The benefit of financial aid granted to the elected members of Parliament;
3. The effective participation in legislative activities;
4. The effective participation in monitoring the Government’s action;
5. An appropriate representation in the organs of both Chambers of Parliament;
6. The referral to the Constitutional Council in accordance with the provisions of Article 187 (paragraphs 2 and 3) of the Constitution, concerning the laws passed by Parliament.»

Secondly, Article 117, which prohibits elected members of the People’s National Assembly or the Council of the Nation affiliated to a political party, to change their political affiliation: Members who voluntarily change the affiliation on the basis of which they were elected, shall forfeit their electoral mandate as of right. The legislator did well in moralizing political action. These articles are major guarantees in the opposition’s exercise of its legislative function.

The status of Parliament was further reinforced by restricting the ability of the President to legislate through decrees to urgent matters only, in accordance with Article 142. Moreover, according to Article 187(2), referral was extended to fifty deputies and thirty members of the Council of the Nation.

It is clear from the above that the constitutional amendment sought to strengthen the position of the executive and legislative authorities in a manner consistent with the political process during that period.

It remains that, in many cases, the legal texts are formulated in a way that seeks to achieve the goals with which the amendments were adopted. However, it is practice alone that can prove the effectiveness of said amendments. With regard to the legislative authority, its performance still fails to meet the desired aspirations. This is due to the poor performance of the political class on the ground through the limited action of political parties. Such action is limited for two reasons, the first being the large number of parties competing for power,²⁵ and the relative effort they put into seeking to effectively implement the programmes on the basis of which they are elected.

²⁵ This is confirmed by the professionalism of political action in some countries where political competition is limited to three or four political parties.

2. Changes to the Organization of Oversight Institutions and Advisory Bodies under the 2016 Constitutional Amendment

The most notable change introduced by the 2016 constitutional amendment concerning oversight institutions is the enhancement of the status of the Constitutional Council by expanding its composition, membership conditions, and term of office, and introducing the constitutional oath.

The number of Constitutional Council members was increased from 9 to 12 members, through which the constitutional, executive, legislative and judicial authorities were equally represented, with four members each. In terms of age, it was set at forty upon appointment or election day, for the wisdom and pride that this age entails, especially that the revelation descended upon the Prophet Muhammad at the age of forty. This is also the age of candidacy for the Presidency of the Republic, which is related to the presidency of the state on the part of the President of the Constitutional Council in the event that both the position of the President of the Republic and the President of the Council of the Nation become vacant. It is logical for the age required for the position of interim head of state to correspond to the age required for the President of the Republic.

The relevance of this amendment was also evident in terms of the requirement to have a professional experience of at least fifteen years in higher education in legal sciences or in the judiciary, or as a lawyer before the Supreme Court, at the Council of State, or in a high position in the state, for membership in the Constitutional Council, as well as in terms of establishing jurisdictional immunity in criminal matters for members of the council, and by extending their term to eight years. All these fundamental amendments reinforce the status and work of the Constitutional Council and ensure that it issues quality opinions and decisions that reflect the status it enjoys in the constitution.²⁶

In order to guarantee the integrity of the elections, the 2016 constitutional amendment established, under Article 194, the High Authority for Election Monitoring, tasked with ensuring the transparency of the presidential, legislative and local elections, as well as referendums. It was also tasked with ensuring the supervision of the revision of the voting lists by the administration, the preparation of recommendations to govern the electoral process, in addition to the organization of civil training courses for the benefit of the political parties on the monitoring of elections and the filing of appeals.

In the field of advisory institutions, the 2016 constitutional amendment integrated several new institutions, including the National Council of Human Rights, the High Council of Youth, the National Organ for the Prevention and Fight against Corruption, and the National Council for Scientific Research and Technology. The Social and Economic National Council was also constitutionalized.²⁷

²⁶ Articles 183-185 of the 2016 constitutional amendment.

²⁷ Articles 198-207 of the 2016 constitutional amendment.

Based on the above, it is evident that the legislator sought, through the new provisions contained in the 2016 constitutional amendment, to support building the state based on the rule of law with the aim of meeting popular demands. However, in many cases, the effectiveness of these amendments on the ground is questioned. It is clear that the matter is not limited to the quality of legal texts, as these may be of excellent quality. Rather, their effectiveness can only be guaranteed through implementation. We believe that successful implementation is everyone's responsibility. No country can succeed in its political reforms without the involvement of all parties: the government, the people, individuals, bodies and institutions. Civil society may play a major role in raising political, cultural and security awareness in this regard, while political parties and associations, considered close to citizens, may be the real key to raise awareness and prioritize national interests over individual interests. The lack of effective implementation led the people to call for the continuation of the reform process to embody the popular demands made in 2019.

III. THE IMPACT OF THE AUTHENTIC POPULAR MOVEMENT ON THE ADOPTION OF ADDITIONAL CONSTITUTIONAL AMENDMENTS

The outbreak of the peaceful popular movement witnessed by Algeria on 22 February 2019, through the authentic Hirak movement, gave a lesson to all peoples in the maturity and awareness of the proud Algerian people who called for change in an unprecedented civilized and peaceful manner, proving their high morals. In view of their demands to strengthen the rule of law, it was necessary to amend the constitution. The constitutional amendment was introduced on the initiative of the President of the Republic and adopted after being submitted to a popular referendum in accordance with Articles 8, 91(6), and 208 (3) of the 2016 Constitution.

The referendum on the constitutional amendment took place on Sunday, 1 November 2020 by virtue of Presidential Decree No. 20-251²⁸ dated 15 September 2020, including the call of the Electoral Commission for the referendum related to the constitutional amendment. The constitution was promulgated by Presidential Decree No. 20-442 of 30 December 2020,²⁹ introducing new developments, both in terms of structure (A) and content (B).

A. THE NEW STRUCTURE INTRODUCED BY THE 2020 CONSTITUTIONAL AMENDMENT

The 2020 constitutional amendment included the preamble, which is an integral part of the constitution, as per its last paragraph.³⁰ It is considered a key entry point into the constitution, with its reference to important historical

²⁸ Presidential Decree No. 20-251 of 27 Muharram 1442 corresponding to 15 September 2020, including the call of the electoral commission for a referendum in the constitutional amendment, Official Journal of the Algerian Republic No. 54 of 28 Muharram 1442 corresponding to 16 September 2020.

²⁹ Presidential Decree No. 20-442 of 15 Jumada al-Awwal 1442 corresponding to 30 December 2020, concerning the issuance of the constitutional amendment, ratified in the referendum of 1 November 2020, in the Official Journal of the People's Democratic Republic of Algeria, Official Journal No. 82 of 15 Jumada al-Awwal 1442 corresponding to 30 December 2020.

³⁰ Paragraph 27 of the preamble to the 2020 constitutional amendment.

milestones that Algeria has experienced. It also included the aspirations of the Algerian people and the foundations upon which the People's Democratic Republic of Algeria is based.

The 2020 constitutional amendment included six titles, unlike the 2016 constitutional amendment, which only had four. This new division was adopted to further detail some of the contents of the constitution previously included in unified titles. It was decided that dedicating separate titles to some of these contents was necessary due to their importance. Accordingly, the titles of the 2020 constitutional amendment were detailed as follows: Title I on the general principles governing Algerian society – maintained by the majority of the constitutions of the republic. Under the 2020 constitutional amendment, it contained only three chapters through which it organized Algeria, the people, and the state.

Title II regulating fundamental rights, public freedoms and duties is a new title in terms of the formal division of the constitution, as the rights and freedoms in previous constitutions were included in Title I on the general principles governing Algerian society. Under the 2020 amendment, it is contained in a separate title, which is divided into two chapters: Chapter I relating to fundamental rights and public freedoms and Chapter II relating to duties.³¹

Title III of the constitution deals with the organization and separation of powers. It should be noted that the term “separation of powers” was added to the constitution with this amendment.³² The terms executive, legislative, and judicial authority in the headings of its chapters were replaced by the following institutions: the President of the Republic in Chapter I,³³ the government in Chapter II (which is a new chapter given that the government was included in all previous constitutions in the chapter on the executive authority), Parliament in Chapter III, and the judiciary in Chapter IV.³⁴

In order to emphasize the new structure of the 2020 constitutional amendment,³⁵ Title IV regulating oversight institutions from Articles 184 to 205 was added and divided into four chapters. Chapter I included the Constitutional Court, which is considered the main achievement brought by the 2020 constitutional amendment, Chapter II contained the Accountability Council, Chapter III contained the independent National Independent Election Authority, which was constitutionalized by virtue of this amendment, and Chapter IV included the national High

³¹ This title extends from Article 34 to Article 83 of the constitution. Regarding the protection of rights and freedoms in the Algerian Constitution, see: Kamal Fneish, “The Role of the Algerian Constitutional Council in Guaranteeing the Rights and Freedoms of Citizens,” *Journal of the Constitutional Council* 15 (2020): 11-23.

³² Title III extends from Article 84 to Article 183.

³³ This chapter contains Articles 84-102. It includes a sub-heading related to exceptional circumstances.

³⁴ The government is regulated in Articles 103-113, and Parliament in Articles 114-162, at an average of 49 articles. This chapter entails the largest number of articles in Title III, which highlights the importance of the Parliament within the constitution. A sub-heading related to the Supreme Court of the State was included in Chapter IV relating to the judiciary, and the judiciary-related chapter was regulated in the 2020 amendment in Articles 163-183.

³⁵ It should be noted that Titles IV and V were merged into one title in the 2016 constitutional amendment regulating oversight and advisory bodies, which explains the doubled number of titles of the 2020 constitutional amendment.

Authority for the Prevention and Fight against Corruption, which was upgraded from an advisory institution³⁶ to an oversight institution due to the importance and specificity of its competence.

Title V of the Constitution covered advisory bodies, which were detailed in the form of sub-headings, unlike the previous titles, which were divided into chapters. These sub-headings included important advisory bodies; some were present in the previous constitutional revision, some existed and were amended, and some were established for the first time, which is a major gain brought about with this amendment. These bodies are, respectively, the High Islamic Council, the High Council for Security, the National Economic, Social and Environmental Council (the environment was added to this council in this amendment), the National Council for Human Rights, the National Observatory of Civil Society (which is the largest gain in the 2020 constitutional amendment in the field of advisory bodies), the High Council of Youth, the National Council for Scientific Research and Technology, and finally the Algerian Academy of Sciences and Technologies, a new body that highlights the importance attached by the legislator to scientific research.³⁷

Title VI is the last title of the 2020 constitutional amendment before the interim provisions. It included provisions on constitution amendment and its procedures, as well as unamendable provisions. The content of this title remained intact, with the exception of the replacement of the Constitutional Council with the Constitutional Court, and the incorporation of a number of unamendable matters (integrating among others the prohibition of undermining the Republican character of the state, Tamazight as a national and official language, the national flag and national anthem as symbols of the glorious revolution of November 1954, the republic and the nation, and finally the prohibition against holding more than two consecutive or discontinuous presidential terms of five years each).³⁸

The 2020 Constitution concludes with interim provisions (Articles 224 and 225), to the effect that institutions and bodies whose legal system has been amended, changed or abolished shall continue to perform their functions until they are replaced by new institutions and bodies within a maximum period of one year from the date of publication of the constitution in the Official Journal. Laws that must be amended or abolished in accordance with the provisions of the 2020 Constitution shall also remain in force until new laws are enacted or amended within a reasonable period. These interim provisions can be deemed to have been well drafted, whether in determining the period for the establishment of new bodies as not exceeding one year from the date of publication of the constitution in the Official Journal, which is a reasonable timeframe, or by not specifying a timeframe while emphasizing a reasonable period for the laws that require amending or abolishing, as the amendment and reformulation of laws requires lengthy procedures.

³⁶ This institution was mentioned in Title III of the 2016 constitutional amendment under Articles 202 and 203 of Chapter III regulating advisory institutions under the name of the National Organ for the Prevention and Fight against Corruption.

³⁷ These bodies are regulated in Articles 206- 218 of the 2020 Constitution.

³⁸ This title contains Articles 219- 223 of the 2020 Constitution.

B. SUBSTANTIVE CHANGES UNDER THE 2020 CONSTITUTIONAL AMENDMENT

The 2020 constitutional amendment included several provisions aimed at building and strengthening the rule of law, which was as a fundamental demand raised by the original Popular Hirak on 22 February 2019. These provisions can be found in multiple parts including the preamble, as well as the titles on strengthening the principles governing Algerian society, promoting rights and freedoms (1), organizing authorities, and strengthening government institutions through the establishment of new oversight institutions and advisory bodies in support of the establishment of a state based on the rule of law (2).

1. Key Constitutional Principles under the 2020 Constitutional Amendment

These principles were reinforced in Title I on the general principles governing Algerian society, as well as Title II on fundamental rights, public freedoms, and duties. The constitution proudly acknowledged the Algerian people's historical commitment to reflecting its roots through noble values that call for freedom, unity, progress and the building of a strong, democratic and prosperous state. The Algerian Constitution opens with the greatest sentence: "The Algerian people are a free people; and they are resolved to remain so." This was proven through all the sacrifices the Algerian people made to earn their freedom and independence from their brutal colonizers, thanks to the Glorious Revolution of 1 November 1954, which is a historical milestone highlighted in the preamble of the constitution.

To do justice to the sacrifices of this people through the authentic popular Hirak that called for change, the movement of 22 February 2019 had to be immortalized and highlighted in the preamble, recognizing it as a distinct historical milestone that proved the awareness, maturity, and high morals of the Algerian people.

The preamble also stressed the need to involve citizens and civil society, including the Algerian community residing abroad, in managing the public affairs of the state, strengthening national bonds, guaranteeing democratic freedoms for citizens, combating all forms of corruption, building a state based on the principle of separation and balance of powers, the independence of the judicial system, legal protection, the accountability of public authorities, and the guarantee of legal and democratic security.

On the international level, Algeria is proud of its identity, which is Islamic, Arab, Amazigh, African and Mediterranean. The country is committed to preserving peace, respecting human rights and working on development. Its foreign policy aims at strengthening its presence and influence in forums of nations through partnerships based on mutual interests and fully consistent with its national political, economic, social and cultural choices, while respecting the goals and principles of the United Nations, the African Union and the League of Arab States. Perhaps the most significant characteristic of the 2020 amendment at the international level was Algeria's possible participation in peacekeeping operations within the framework of the United Nations, the African Union, and the Arab League, and in full compliance with their principles and goals.³⁹

³⁹ Article 31(3) of the 2020 Constitution.

The 2020 Constitution was characterized by the promotion and protection of citizens' fundamental rights and public freedoms; this was reflected in Article 34 which, unlike other articles, was included at the beginning of Chapter I on fundamental rights and public freedoms under Title II, to emphasize first all the authorities and bodies' obligations in terms of fundamental rights and public freedoms, as stipulated in its first paragraph: "Constitutional provisions regarding fundamental rights, public freedoms and guarantees apply to all public authorities and institutions." This is a significant constitutional guarantee for the protection of rights and freedoms. The same article restricts fundamental rights and public freedoms for logical reasons mentioned in the second paragraph: "Any restriction of rights, freedoms and guarantees may only be imposed by legislation and for reasons related to maintaining public order and security, as well as those necessary to vouchsafe other rights and freedoms protected by the constitution."

This limitation was linked to the condition that these restrictions do not prejudice the essence of rights and freedoms, according to the third paragraph 3 of Article 34: "In all cases, these restrictions shall not prejudice the essence of these rights and freedoms." The article stipulated also a basic guarantee in the field of rights and freedoms, which is the state's obligation to guarantee legal security in implementing legislation relating to rights and freedoms by ensuring the readability, accessibility and stability of legal texts.

On the one hand, including this article at the beginning of the title on fundamental rights and public freedoms guarantees their protection. On the other hand, by restricting them, the article guarantees the continuity of the state that is above these rights and freedoms in some cases, as well as the interpretation that some rights and freedoms may be given and the difficulty of keeping it in accordance with the specificity of the Algerian state and its society.

Among the benefits of the constitutional amendment that included revising or adding numerous rights and freedoms, were the protection of the national economy while achieving social and economic balance, the protection of the environment, fighting corruption, the protection of private life and honor, consumer protection, freedom of expression, the right to education, the right to establish political parties and trade union right among others. Substantial additions were also made in various areas, including the guarantee of freedom of assembly and freedom of peaceful demonstration, and the right to establish associations. These rights are exercised by simply declaring them, and associations are not dissolved except by virtue of a judicial decision. Details were added on the content related to the freedom of the press, and perhaps the most important thing mentioned in it was the prohibition of publishing discrimination and hate speech, which, in our opinion, could have been generalized to include all individuals and institutions, not just all types of press. The constitutional amendment also forbade the interruption of journalistic activity except by virtue of a judicial decision. Consumer protection was also detailed, ensuring the neutrality of educational institutions and preserving their educational and scientific character, in order to protect them from any political or ideological influence. Additional new provisions included stipulating that "any person arrested must be informed of the reasons for their arrest" and that "medical examination shall be mandatory for minors" when the term of custody expires.⁴⁰

⁴⁰ See, for example, Articles 21, 24, 26, 27, and in terms of rights and freedoms Article s 34, 37, 38, 44, 45, 47, 50, 51, 52, 53, 54, 55, 57, 62, 65 69... of the 2020 Constitution.

Among the most important improvements of the 2020 constitutional amendment in terms of fundamental rights and public freedoms is the strengthening of the state's protection of women from all forms of violence in all places and situations in the public, professional, and private spheres. It also guaranteed victims' access to shelter and care facilities, appropriate appeal methods, and legal assistance.⁴¹ This addition deserves appreciation and respect for surrounding women with protection in all circumstances, whether they are staying at home or working, and regardless of their social or political status.⁴²

In order to enhance the government's proximity to citizens in managing their affairs and protecting their rights, Article 77 stipulated: "All citizens have the right to present to the administration, individually or collectively, petitions in order to present questions of general interest or infringements to their fundamental rights. The concerned administration must inform the petitioners, within a reasonable time period, of the response committed to their demands."

2. The Status of Constitutional Institutions under the 2020 Constitutional Amendment

The 2020 constitutional amendment included new provisions regarding the organization of power. Concerning the requirements of the candidates to the Presidency of the Republic, the amendment stated that the candidate shall be at least 40 years of age on the day of submission of their candidacy request, not on election day. Some provisions that were stipulated in previous election laws were also added to the constitution, mainly relating to giving proof of the fulfilment of the military service or of any other legal motive of its non-fulfilment. We believe that including this requirement in the constitution was necessary; in fact, we consider that fulfilling the military service is an essential condition for assuming the role of President of the Republic so that the person in this position is at least aware of the fundamentals of defending the homeland and the integrity of the national territory.⁴³

In addition to that, as previously mentioned, the presidential mandate was limited to two mandates (five years each); it was made clear that the two terms could be consecutive or discontinuous, and that in the case of interruption of the mandate for cause of resignation of the President of the Republic in exercise, that mandate would be considered completed.⁴⁴ There was no consensus on whether or not to limit the mandate, due to the fact that the authority that determines the mandates of the President of the Republic is the people; it is up to them to choose to renew or not the President's mandate in the elections, given that the main condition for staying in power is competence in the broadest sense.

⁴¹ Article 40 of the 2020 Constitution.

⁴² See: Ghanem Ahsan, "Women's Political Rights in Arab Maghreb Countries – A Comparative Study," (thesis submitted for a PhD degree in Public Law, Faculty of Law, University of Algiers 1, 2019-2020).

⁴³ It should be noted that the Military Service Law is applicable to both men and women, as it addresses the citizens concerned with the service without discrimination. In practice, however, it is compulsory for men, whereas women have not joined it yet.

⁴⁴ Article 88 of the 2020 Constitution. The President of the Republic cannot remain in their position for more than two mandates of five years each, as per Article 223(10), which lists the matters that cannot be amended.

Among the changes brought by the 2020 constitutional amendment regarding the Presidency of the Republic is that when the President of the Republic, because of a serious and lasting illness, is totally unable to perform their functions, the Constitutional Court shall propose to Parliament, by a three-fourths majority of its members, to declare the state of impediment,⁴⁵ contrary to what was in force in 2016, which was that the Constitutional Council had to propose to Parliament to declare the state of impediment on a unanimous basis. Perhaps the most important point mentioned in this regard in Article 94(1) of the 2020 Constitutional Amendment, is the addition of the sentence “The Constitutional Court shall meet by force of law and without a deadline.” If it is impossible for the President of the Republic to exercise their duties due to a serious and chronic reason, the Constitutional Court might raise this situation with full responsibility and independence.

One of the improvements of the 2020 constitutional amendment regarding the exercise of the President of the Republic’s powers in terms of legislating on urgent issues, is that the President must notify the Constitutional Court to look into the constitutionality of their decrees and decide on the matter within a maximum period of ten days.⁴⁶ This provision was very beneficial as it guaranteed compliance with the constitution. Additionally, under exceptional circumstances, the President of the Republic’s declaration of the state of emergency and the state of siege was restricted to a maximum period of thirty days, and the state of exception to a maximum period of sixty days, with the possibility of extending it with the approval of the Parliament.⁴⁷ The time restriction and the involvement of Parliament in approving any extension were not included in previous constitutions; this strengthened Parliament’s position under the constitution and created balance in the distribution of powers among the authorities.

As for the government’s leadership, the constitution listed two possibilities: It is either held by a Prime Minister when a presidential majority results from the legislative elections, or by a Head of Government when a parliamentary majority results from the legislative elections.⁴⁸ Due to this differentiation, the applied programme will be the programme of the President in the event of appointing a Prime Minister, who makes their proposal for the government to the President and prepares an action plan to implement the presidential programme. In case of appointing a Head of Government, the applied programme is that of the parliamentary majority; the Head of Government undertakes the formation of their government and prepares the programme for the parliamentary majority. This distinction gives the parliamentary majority⁴⁹ the opportunity to prove itself.

⁴⁵ Article 94(1) of the 2020 Constitution.

⁴⁶ Article 142(2) of the 2020 Constitution.

⁴⁷ “The duration of the state of emergency or siege may only be prorogued after the approval of the majority of the members of Parliament, convened in a joint session of both chambers.” (Article 97(2), and “The duration of the state of exception may only be prorogued after the approval of the majority of the members of the Parliament, convened in a joint session of both chambers (Article 98(5)).

⁴⁸ Article 103 of the 2020 Constitution. Algeria has known the duality of executive authority since the 1988 amendment, which created the position of Head of Government alongside the President of the Republic. The Prime Minister’s position was introduced by the 2008 constitutional amendment. Both positions were included in the 2020 Constitution, whereby the title to be adopted varies according to the results of the legislative elections.

⁴⁹ Article 105 and Article 110(1) of the 2020 Constitution.

Concerning Parliament, Article 114 of the constitution stipulates: “The legislative power is exercised by a Parliament, composed of two chambers, the National People’s Assembly and the Council of the Nation.” Bicameralism was thus affirmed. The distinguishing feature of the 2020 amendment with regard to Parliament is that it limited the parliamentary mandate to only two consecutive or discontinuous terms.⁵⁰ This seems logical, given the broad range of competencies within Algerian society that could be represented in Parliament. It also gives the opportunity for new members of political parties to become members of parliament.⁵¹ Efforts to reinforce Parliament’s status through this amendment were evident.

The 2020 constitutional amendment further strengthened oversight by creating new oversight institutions and upgrading advisory bodies to oversight institutions. Perhaps one of the most prominent new oversight institutions is the Constitutional Court, to which a separate chapter was allocated (Chapter I under Title IV concerning oversight institutions, Articles 185 to 198). The Constitutional Court is composed of 12 members: 4 designated by the President of the Republic including the President of the Court; 1 elected by the Supreme Court from among its members, 1 elected by the Council of State from among its members; 6 elected by suffrage from among the professors of constitutional law. The President of the Republic determines the conditions and modalities of election of these members.

According to Article 187, the elected or designated members of the Constitutional Court must be already 50 years of age on the day of their designation or of their election, enjoy a professional experience of at least 20 years in law and have followed a training in constitutional law, enjoy their civic and political rights and not have been convicted of a penalty involving the deprivation of liberty, nor belong to a political party. Article 108 also stipulates that the President of the Constitutional Court must fulfill the conditions stipulated in Article 87 (conditions to run for the Presidency of the Republic) of the constitution, except for age. We consider this logical, since the President of the Constitutional Court assumes the Presidency if the position of President of the Republic is vacant.

Unlike previous constitutions where the executive, the legislative and the judiciary authorities were represented in the formation of the Constitutional Council, the 2020 constitutional amendment did not include Parliament as a represented body in the Constitutional Court. Perhaps the objective was to limit the political nature of the court’s membership, which was further reinforced through the condition of non-adherence to a political party. Although the number of representatives of the judiciary was reduced from four to two members, the judiciary is actually represented in two ways: directly, through the election of two court members, and indirectly, through the role that the judiciary plays when a plea of unconstitutionality is made before it for referral to the Constitutional Court.

⁵⁰ Article 121, last paragraph of the 2020 Constitution.

⁵¹ Before limiting the number of parliamentary mandates, the Algerian Parliament had witnessed the same persons from several political parties repeatedly running for elections and winning seats.

There were changes too to the composition of the Constitutional Court. For the first time in Algerian constitutional history, the constitution explicitly acknowledged the importance of the elite in the legal field, requiring that 6 members be elected from among the professors of constitutional law. Presidential Decree N° 21-304 of 25 Dhu al-Hijjah 1442 corresponding to 4 August 2021 was issued, specifying the conditions and modalities for electing professors of constitutional law as members of the Constitutional Court.⁵² Article 3 of the allocated two seats for each of the Regional Conferences of Universities, the Center Conference (based at the the University of Algiers 1), the West Conference (based at the University of Oran 2), the East Conference (based at the University of Sétif 1).⁵³ The elections are organized under the supervision, management and control of a National Electoral Committee established at the level of the National Conference of Universities.

Article 9 of the decree stipulated the conditions for candidacy to the Constitutional Court, requiring the candidate to:

- be over 50 years old on election day,
- have the rank of professor,
- be a professor of constitutional law for at least 5 years and have scientific contributions in this field,
- be active in higher education institutions at the time of candidacy,
- have at least 20 years of experience in law in a higher education institution,
- enjoy full civil and political rights,
- not to have been convicted of a custodial penalty for a crime or offence and not have been rehabilitated, with the exception of unintentional offences, and
- not to be affiliated with a political party at least during the 3 years preceding the election.

With this decree, the President of the Constitutional Council issued Resolution No. 1 of 6 Muharram 1443 corresponding to 15 August 2021, that included the call for professor voters to elect professors of constitutional law as members of the Constitutional Court.⁵⁴ We believe that bringing in specialists in the field of constitutional law and under the above-mentioned conditions, will support the efficiency of the Constitutional Court in discharging its mandate, while guaranteeing compliance with the constitution.

In addition to the changes brought to the composition of the Constitutional Court, its powers were expanded, including the power to determine the compatibility of laws and regulations with treaties. It was further stipulated that the authorities specified in Article 193 (the President of the Republic, the President of the Council of the Nation, the President of the People's National Assembly, the Prime Minister or the Head of Government, depending on the case, 40 deputies,

⁵² Presidential Decree N° 21-304 of 25 Dhu al-Hijjah 1442 corresponding to 4 August 2021 was issued, specifying the conditions and modalities for electing professors of constitutional law as members of the Constitutional Court, Official Journal of the Republic of Algeria No. 60, 26 Dhu al-Hijjah 1442 corresponding to 5 August 2021.

⁵³ See the annex to Presidential Decree 304-21.

⁵⁴ Resolution No. 1 of 6 Muharram 1443 corresponding to 15 August 2021, that included the call of professor voters to elect professors of constitutional law as members of the Constitutional Court, Official Journal of the Republic of Algeria No. 63, 6 Muharram 1443 corresponding to 15 August 2021. According to this resolution, election day was set on 14 October 2021.

or 25 members of the Council of the Nation)⁵⁵ may notify the Constitutional Court of conflicts that may arise among the constitutional powers. These authorities may request the Constitutional Court to provide an interpretation of a constitutional provision or provisions, and the Constitutional Court shall issue an opinion in this regard.

In addition, the court's oversight is no longer limited to legislative text, but further include regulations, which is considered a significant gain in terms the guarantee of rights and freedoms. Concerning legislation on urgent issues, the 2020 constitutional amendment added the obligation for the President of the Republic to refer it to the Constitutional Court to determine its constitutionality. The court has to decide on the constitutionality within a maximum period of ten days; this in itself is considered an important gain that guarantees compliance with the constitution and the protection of fundamental rights and public freedoms.

Among the additions brought by the 2020 Constitution is the constitutionalization of the Independent National Authority of Elections,⁵⁶ the mandate of which is to prepare, organize, administer and supervise the presidential, legislative, and local elections as well as referendums. Among the most important functions of this authority is the registration of electoral lists and their revision, as well as the preparation of the electoral process,⁵⁷ voting, counting of votes and deciding on electoral disputes.

Ordinance No. 21-01 of 26 Rajab 1442, corresponding to 10 March 2021, on the organic law relating to the electoral system, determined the composition of this authority, which consists of a deliberative body represented by the Council of the Independent National Authority of Elections (consisting of 20 members appointed by the President of the Republic from among independent personalities, including 1 from the Algerian community established abroad), and an executive body represented by the head of the council of the authority. The authority also has extensions at the provincial and municipal levels and diplomatic and consular representations abroad. It is appointed for a six-year non-renewable term.⁵⁸

⁵⁵ The number was reduced compared to the constitutional amendment of 2016, which, according to Article 187(2), required a minimum number of 50 deputies, or 30 members of the Council of the Nation to seize the council.

⁵⁶ This authority was entrusted with the mission of organizing the 2019 presidential election before its constitutionalization in 2020, in the wake of the application of Article 102 of the 2016 constitutional amendment and the postponement of the organization of the presidential election to 18 April 2019, the termination of the duties of the head of the Independent High Commission for Election Monitoring by virtue of Presidential Decree No. 19-93 of 11 March 2019, and the repeal of all presidential decrees containing the appointment of members of the commission by virtue of Presidential Decree No. 19-94 of 11 March 2019. The Independent National Authority for Elections was created according to Organic Law No. 19-07 of 14 September 2019, which also resulted in the amendment of the electoral law according to Organic Law No. 08-19 of the same date. For more details about this authority, see: Faisal Dhaimi, "The Reform of the Electoral Legal System and its Role in Ensuring the Integrity of the Electoral Process" (thesis submitted for a PhD Degree in Constitutional Law, University of Algiers 1, 2019-2020).

⁵⁷ These competencies were exercised by the administration represented by the Ministry of the Interior, and in this way the constitution has separated the administration from the elections to ensure greater integrity.

⁵⁸ Ordinance No. 21-01 of 26 Rajab 1442 corresponding to 10 March 2021 on the Organic Law relating to the electoral system, Official Journal of the Republic of Algeria No. 17 of 26 Rajab 1442 corresponding to 10 March 2021. One of its distinguished features is that it brought together all the previous laws related to elections, namely Law No. 16-10 amended by Organic Law No. 19-07, the Organic Law on the Independent National Authority of Elections, and Organic Law No. 12-03 on ways to increase chances of access as representatives to elected assemblies. It also introduced, for legislative elections, the open list ballot with preferential voting and without panachage. This type of voting is one of the most important achievements of the new electoral law, which is a positive outcome of the 2020 Constitution.

In order to enhance oversight, an advisory body in the 2016 constitutional amendment was upgraded to an oversight institution in 2020, represented by the High Authority for Transparency and to Prevent and Combat Corruption. This new status is appropriate, as preventing and combating corruption falls more is more of a supervisory than an advisory function. Articles 204 and 205 of the constitution stipulated the role and functions of the High Authority for Transparency and to Prevent and Combat Corruption.

As for the constitutional advisory bodies, their role was reinforced through the creation of a very important observatory – the National Civil Society Observatory. Among the tasks assigned to this observatory, according to Article 213 of the constitution, is to present opinions and recommendations related to the concerns of civil society. It also contributes to promoting national values, democratic practice and citizenship, and participates with other institutions in achieving national development goals.

It was also decided that the National Economic, Social and Environmental Council had to look into issues in the environmental field in addition to all the other fields it operates in. Another body was created in the field of scientific research, the Algerian Academy for Science and Technology, which is an independent constitutional institution of a scientific and technological nature. This reflects the importance that the constitution grants to scientific research.⁵⁹

The above shows the importance of institution building in the 2020 constitutional amendment, whereby institutions were reorganized and their powers redistributed, and the role of oversight institutions and advisory bodies was reinforced.

CONCLUSION

Important historical milestones constituted the decisive factor in the need to proceed with constitutional amendments in response to popular demands and to keep up with the developments that Algeria had witnessed, whether on the political, social or economic levels. The 2016 constitutional amendment addressed the organization of power and the protection and promotion of rights and freedoms. However, the people were not satisfied with these amendments and called for reforms at an important historical milestone in 2019, which led to the need to adopt additional constitutional amendments to responds to those demands.

This was done in 2020, through a constitutional amendment that affected the entire content of the constitution, from the preamble to the general principles governing Algerian society, to the organization and separation of powers, oversight institutions, advisory institutions, constitutional amendment and interim provisions.

⁵⁹ Articles 209, 210, and 211 of the 2020 Constitution.

Less than a year had passed since the issuance of this constitutional amendment, when the state proceeded to establish the new bodies introduced by the constitution. This can be considered a successful step, given that all the constitutional institutions were activated in pursuit of the goals set by the 2020 constitutional amendment.

Ultimately, the success of any project to build a state based on the rule of law and endowed with strong institutions depends on the concerted efforts of everyone to achieve this goal, including the state, the people, individuals, bodies and institutions, because this is everyone's responsibility. Achieving this goal depends on several principles and foundations, the most prominent of which would be achieving security at large, social solidarity, political maturity, awareness and scientific progress, citizenship and a sense of responsibility, and sustainable development. The fulfillment of these objectives is everyone's responsibility, because an integrated effort is needed from the authority and the people, which is not impossible for Algeria, a country based on strong institutions and rich in competencies that can be relied upon in all circumstances, to lead the beloved country to even more progress and prosperity.

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