



The Right of Parliament to Initiate Legislation in the Algerian Political System: An Analytical Study

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Abstract:

Certain constitutional provisions suggest that Parliament enjoys broad legislative sovereignty as an institution representing the State's general policy. In practice, however, the Algerian political system reveals significant limitations on the legislative initiative of deputies of the People's National Assembly and members of the Council of the Nation, despite the establishment of a bicameral parliamentary system. This study examines the constitutional, legal, and institutional constraints that affect Parliament's ability to propose laws and assesses the extent to which the two chambers exercise this competence independently and effectively. Using analytical and comparative methods, the study considers the development of legislative initiative under the constitutional reforms of 1996, 2016, and 2020, together with the procedural and financial controls governing parliamentary proposals. Particular attention is given to the presidential third mechanism, the mandatory constitutional review of the internal rules of both chambers, restrictions on legislative initiative in financial matters, the formal character of political pluralism, and the limited effectiveness of the parliamentary opposition. The analysis shows that, although constitutional reforms have expanded the formal right of legislative initiative, practical and institutional constraints continue to limit its effective exercise. These constraints reinforce executive influence over the legislative process and weaken the legal and institutional position of Parliament. The study concludes that strengthening parliamentary autonomy requires reconsidering the mechanisms that restrict legislative initiative, particularly those affecting financial legislation, parliamentary representation, internal regulatory autonomy, and the effective participation of the opposition in legislative work. Accordingly, reform is necessary to strengthen representative democracy and restore institutional balance among the constitutional powers.

Keywords: Proposal Of Laws; Parliamentary Initiative; Parliament; The People's National Assembly and The Council of The Nation; Democratic Representation.

1. Introduction

State constitutions differ in the organization of their legislatures. Some establish a bicameral parliamentary system, while others adopt a unicameral system. This variation is not based



solely on theoretical considerations. It is also shaped by the constitutional traditions and precedents of each state (Chantebout, 2011, p. 251; Mammeri, 2008, p. 258).

The Algerian constitutional system is no exception. Algeria initially adopted a unicameral legislature under the Constitution of 1963 (Constitution of the People's Democratic Republic of Algeria, 1963). Article 28 provided that: "The National Assembly expresses the popular will, undertakes voting on laws, and supervises governmental activity." Under the Constitution of 1976, the legislative chamber was designated the "People's National Assembly."¹

Following the events of 5 October 1988, which marked a decisive turning point in the development of the Algerian political system, the Constitution of 1989 introduced significant constitutional reforms (Mammeri, 2008, p. 259). These reforms established several principles associated with a pluralist democratic system. They included the separation of powers, under which each authority exercises its constitutional competences independently. However, the Constitution maintained the unity of legislative power through a unicameral legislature consisting solely of the People's National Assembly (Article 92 of the Constitution of the People's Democratic Republic of Algeria, 1989). The Assembly was subsequently dissolved on 4 January 1992.

To address the institutional imbalances arising from the transformation of society (Presidential Memorandum Concerning the Draft Constitutional Amendment, 1996, p. 3) and the adverse conditions that accumulated during the 1990s (Brahimi, 1996, p. 59), the constituent authority introduced further reforms through the Constitution of 1996.² These reforms formed part of the process of consolidating the rule of law (Presidential Memorandum Concerning the Draft Constitutional Amendment, 1996, p. 3).

1-Constitution of the People's Democratic Republic of Algeria, approved by referendum on 19 November 1976, promulgated pursuant to Ordinance No. 76-97 of 22 November 1976, Official Gazette of the People's Democratic Republic of Algeria, No. 94, dated 24 November 1976, as amended and supplemented by:

- Law No. 79-06 of 7 July 1979, Official Gazette of the People's Democratic Republic of Algeria, No. 28, dated 10 July 1979.
- Law No. 80-01 of 12 January 1980, Official Gazette of the People's Democratic Republic of Algeria, No. 03, dated 15 January 1980.
- Referendum of 3 November 1988, promulgated pursuant to Presidential Decree No. 88-223 of 5 November 1988, Official Gazette of the People's Democratic Republic of Algeria, No. 45, dated 5 November 1988.

2- Constitution of the People's Democratic Republic of Algeria, approved by referendum on 28 November 1996, promulgated pursuant to Presidential Decree No. 96-438 of 7 December 1996, Official Gazette No. 76, dated 8 December 1996, p. 6, as amended and supplemented by:

- Law No. 02-03 of 10 April 2002, Official Gazette of the People's Democratic Republic of Algeria, No. 25, dated 14 April 2002.
- Law No. 08-19 of 15 November 2008, Official Gazette of the People's Democratic Republic of Algeria, No. 63, dated 16 November 2008.
- Law No. 16-01 of 6 March 2016, Official Gazette of the People's Democratic Republic of Algeria, No. 14, dated 7 March 2016.
- Referendum of 1 November 2020, promulgated pursuant to Presidential Decree No. 20-442 of 30 December 2020, Official Gazette of the People's Democratic Republic of Algeria, No. 82, dated 30 December 2020.



The 1996 Constitution established a bicameral parliamentary system within the legislative branch. It also introduced a joint parliamentary committee composed of equal representation from both chambers as a constitutional innovation (Hartani, n.d., p. 65). This development was followed by the extension of the right of legislative initiative to the Council of the Nation under the 2016 constitutional amendment. The constituent authority retained this mechanism in the 2020 constitutional amendment. Previously, legislative initiative had been confined to the People's National Assembly and the executive authority.

Legislative initiative remains a matter of considerable scholarly interest because it constitutes a fundamental procedure on which the functioning of any legal system depends. However, the constituent authority's recognition of Parliament's right to initiate legislation is neither absolute nor unrestricted. It is subject to constitutional controls and limitations that constrain parliamentary legislative initiative.

This raises two principal questions. First, to what extent is parliamentary legislative initiative affected by the limitations established by the Constitution? Second, to what extent are the two chambers of Parliament, as components of the legislative authority, autonomous in exercising the right to propose laws in light of the constraints affecting that right?

These questions require analysis through both analytical and comparative methods.

The 2020 constitutional amendment did not depart significantly from the previous amendments to the 1996 Constitution with respect to expanding Parliament's legislative initiative and promoting equality between its two chambers. In particular, the 2016 constitutional amendment strengthened this competence by granting the Council of the Nation what is commonly referred to as the "right to propose a law."

Accordingly, the constituent authority vested the legislative authority, composed of the two chambers of Parliament, with the right to propose laws (First Section). Nevertheless, the exercise of this right by deputies and members of the Council of the Nation remains limited. This weakness results from various factors that constrain Parliament's legislative function (Second Section).

2. Substantive and Financial Controls Governing the Exercise of the Right to Propose Laws

Legislative initiative may be defined as the right to submit a legislative text to Parliament which, upon approval, acquires the force of law.³ It has also been defined as the act that establishes the basis of legislation and determines its content and subject matter (Helmy, 1980, pp. 10-11). Its significance is reflected in the principle that whoever exercises legislative initiative influences the direction of legislation (Barthélemy, 1932, p. 348).

The amended and supplemented Constitution of 1996 did not expressly define the right of legislative initiative. It nevertheless distinguished between two forms of legislative initiative. An initiative submitted by parliamentarians is conventionally referred to as a proposal of law,

3- "To propose legislation," said Royer-Collard, "is to govern." See: (Barthélemy, 1932, p. 348).



proposition de loi, while an initiative submitted by the Government is referred to as a draft law, *projet de loi*.

In principle, the constituent authority therefore established a dual system of legislative initiative involving both chambers of Parliament, with the aim of maintaining institutional balance between them. However, the procedural rules governing the exercise of this right demonstrate its restricted character.

2.1 Substantive Controls on the Right to Propose Laws

The right to propose laws is a constitutional right embodied in the legislative initiative granted to members of Parliament. It enables them to submit proposals for new laws or amendments to existing legislation. Its scope extends to matters concerning citizens' lives and the organization of the State.

2.1.1 The Right to Propose Laws

The right to propose laws constitutes an essential component of the legislative process. It enables members of the legislature to draft legislative texts, examine and debate them, and adopt them as binding legislation.

Under the 1996 Constitution, the right of legislative initiative was limited to deputies of the People's National Assembly and did not extend to members of the Council of the Nation. Article 119 provided: "Both the Head of Government and the deputies have the right to initiate laws." This right was not granted to the Council of the Nation, either as an institution or through its members. Before the 2016 constitutional amendment, the Council of the Nation was not legally entitled to initiate or amend legislation. This restriction limited its legislative role in the preparation and adoption of laws.

Before the 2016 constitutional amendment, the constituent authority also required a proposal of law to be submitted by twenty (20) deputies of the People's National Assembly before it could be examined. By contrast, the French constituent authority granted individual members of the Senate the right to propose laws.⁴

The 2016 constitutional amendment introduced a distribution of legislative initiative between the two chambers of Parliament. It granted the right to initiate laws to twenty (20) deputies of the People's National Assembly or twenty (20) members of the Council of the Nation. However, legislative proposals submitted by members of the Council of the Nation were constitutionally limited to three (3) fields: local organization, regional planning, and administrative division.

Pursuant to Article 143, the 2020 constitutional amendment strengthened the right of representatives of the people to propose laws, in a manner comparable to the French Constitution.⁵ However, it made no express reference to the quorum required for deputies of the

4- In the French political system, the Senate has the right to initiate legislation by individually proposing a bill. See: (Ardant, 2001, p. 105).

5- "The right to initiate legislation belongs concurrently to the Prime Minister and to members of Parliament." (Article 39, Paragraph 2, of the French Constitution, 1958).



People's National Assembly or members of the Council of the Nation to submit a proposal of law. This resulted from the deletion of the paragraph that had previously prescribed such a quorum.

Accordingly, proposals of law falling within the competence of the Council of the Nation are submitted to it for examination and amendment. Once adopted, they are transmitted to the People's National Assembly for approval.⁶ By contrast, the People's National Assembly may initiate legislation in all fields of ordinary and organic law, except for matters excluded under Article 144 of the Constitution.

2.1.2 The Substantive Limits on the Right to Propose Laws

Algerian constitutions have adopted the principle of limiting Parliament's legislative competence, which had been unrestricted under the Constitution of 1963. Although the constituent authority introduced organic laws as a new category of legislation under the Constitution of 1996, Parliament's legislative domain remained constitutionally limited in comparison with that of the executive authority.

Under Article 140 of the Constitution of 1996, Parliament legislates in six fields concerning the organization and functioning of public authorities, the electoral system, political parties, information, the basic statute of the judiciary and judicial organization, and finance laws, following the removal of the field of national security.⁷ Parliament also legislates by organic law in other matters expressly provided for by the Constitution.

Organic laws are adopted by an absolute majority of the deputies and members of the Council of the Nation. This requirement differs from that provided for in the second paragraph of Article 123 of the Constitution before the 2016 amendment. That provision required an absolute majority of deputies and a three-quarters ($\frac{3}{4}$) majority of the members of the Council of the Nation. Although the constituent authority did not expressly determine the status of organic laws or their binding force within the hierarchy of legal norms, it elevated certain matters previously governed by ordinary laws to the rank of organic law. Organic laws are also subject to prior review of their conformity with the Constitution by the Constitutional Court before promulgation, upon referral by the President of the Republic ([Article 190 of the Constitution of the People's Democratic Republic of Algeria, 1996](#)).

The Algerian constituent authority did not expressly define the position of organic laws within the hierarchy of legal norms. However, the Constitutional Council stated in several opinions that compliance with organic laws derives from the principle of the hierarchy of legal norms.⁸

6- The Algerian constituent authority followed the approach adopted by its French counterpart, which requires the Prime Minister to submit bills primarily concerning the organization of local authorities to the Senate first ([Article 39 of the French Constitution, 1958](#)).

7- Following the 2016 constitutional amendment, the constituent authority removed the paragraph concerning national security from the areas reserved for organic laws, reducing them to six areas after they had previously numbered seven.

8- The Constitutional Council affirmed the existence of the principle of the hierarchy of legal norms in one of its opinions, stating that "the legislature arranged the references cited in the organic law subject to referral according



Constitutional provisions nevertheless establish a hierarchical relationship between organic and ordinary laws. This is reflected, first, in the significant fields reserved for organic laws and the matters they regulate and, second, in the stricter procedures governing their enactment.

The supremacy of organic law over ordinary law is also reflected in the prohibition against ordinary laws encroaching upon matters that the Constitution reserves exclusively for organic laws. Conversely, organic laws occupy a higher normative rank and may therefore amend or affect ordinary laws. This distinction was reflected in the constitutional amendments of 2016 and 2020, which elevated certain matters previously governed by ordinary laws to the category of organic laws and subjected them to the specific procedures governing their enactment and promulgation.

Pursuant to Article 139 of the Constitution, Parliament also legislates in thirty (30) fields. The field concerning approval of the national plan was removed by the 2016 constitutional amendment,⁹ while the 2020 constitutional amendment added public procurement to Parliament's legislative domain.

Notably, the general rules governing public procurement were transferred from the regulatory domain to the domain of ordinary legislation within the hierarchy of legal norms ([Point 10 of Article 139 of the Constitution of the People's Democratic Republic of Algeria, 1996](#)). The constituent authority thereby altered the normative force of the legal instrument governing this field and placed it within the category of ordinary laws, in recognition of the financial significance of public procurement and its regulatory requirements. Consequently, the general rules governing public procurement became matters of ordinary legislation falling within Parliament's legislative competence.

In addition to these fields, Parliament legislates in other matters provided for separately in the amended and supplemented Constitution of 1996. The Constitution does not determine the legal quorum required for the adoption of ordinary laws. It merely provides that: "The Council of the Nation approves the text voted on by the People's National Assembly by a majority of its members present with regard to ordinary draft laws." It may therefore be inferred that both chambers are subject to the same voting requirement, namely approval by a majority of the members present.

Ordinary laws are not subject to mandatory conformity review, but they remain subject to constitutional review. The competent constitutional review body may be seized by 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 Head of Government, as the case may be. It may also be seized by forty (40) deputies or twenty-five (25) members of the Council of the Nation.¹⁰

to the chronological order in which the legislative texts were issued, contrary to the requirements of the principle of the hierarchy of laws, a matter that must be rectified." ([Opinion No. 03/R.C.C./11, 2012](#)).

9- The phrase "approval of the national plan" appeared in Article 122 prior to the 2016 constitutional amendment.

10- The legal threshold for referring a matter to the Constitutional Council by parliamentarians required fifty (50) deputies or thirty (30) members of the Council of the Nation, noting that the latter number was reduced by the 2020 constitutional amendment. See: ([Article 193 of the Constitution of the People's Democratic Republic of Algeria, 1996](#)).



The scope of ordinary legislation ultimately depends on the extent to which Parliament exercises its constitutionally conferred legislative authority and protects its competences against encroachment or substitution by the executive authority. Accordingly, the objective is not to restrict or diminish the scope of parliamentary legislation, but to ensure its effective exercise and the enactment of laws initiated by Parliament itself.

2.2 Financial Controls on the Exercise of the Right of Legislative Initiative

Members of Parliament may submit legislative proposals with financial implications. Such proposals may create new public resources, abolish existing resources, reduce their rates, establish new public expenditures, or increase existing expenditures. The finance law is a fundamental measure of the effectiveness of the legislative authority in adopting financial and budgetary rules. Legislative proposals in this field are subject to mandatory controls, including constitutional controls and legal controls.

2.2.1 Constitutional Controls on Legislative Initiative in Financial Matters

Financial operations conducted by public authorities, including the collection of revenues and the execution of expenditures, constitute the means through which economic and social policies are implemented (Chaouche, 2013, p. 5; Hussein, 2016, p. 75). These operations are incorporated into the general budget. The general budget comprises the final revenues and expenditures determined annually by the finance law and allocated in accordance with the legislative and regulatory provisions in force.¹¹

Article 147 of the Constitution restricts the exercise of legislative initiative by members of Parliament in financial matters. It applies where the purpose or effect of a legislative proposal is to reduce public resources or increase public expenditure. In such cases, members of Parliament must provide measures intended to increase State revenues or identify reductions under another category of public expenditure in an amount at least equal to the proposed expenditure. This requirement seeks to prevent increases in public expenditure intended to satisfy electoral demands (Chaouche, 2013, p. 67). In this respect, it follows the approach of the French Constitution, which expressly regulates proposals and amendments submitted by members of Parliament.¹²

11- Law No. 84-17 of 7 July 1984 relating to Finance Laws, Official Gazette of the People's Democratic Republic of Algeria, No. 28, dated 10 July 1984, as amended and supplemented by Law No. 88-05 of 12 January 1988, Official Gazette of the People's Democratic Republic of Algeria, No. 02, dated 13 January 1988, and as amended and supplemented by Law No. 89-24 of 31 December 1989, Official Gazette of the People's Democratic Republic of Algeria, No. 01, dated 3 January 1990. Its provisions remained in force until 2022. It should be noted that this Law was enacted under the 1976 Constitution, which recognized only laws in their ordinary form. As for Organic Law No. 18-15, mentioned above, it was enacted in the form of an organic law; however, its provisions can only be applied through a Finance Law and a Law containing the budget settlement for the year 2023, both in their ordinary form.

12- "Proposals and amendments submitted by members of Parliament are inadmissible where their adoption would result either in a reduction of public resources or in the creation or increase of a public expenditure." (Article 40 of the French Constitution, 1958).



The constituent authority also included in Article 147 the phrase “amendment of a law submitted by members of Parliament.” The obligation therefore applies to members of Parliament rather than to the Government. The provision thus resolves an issue that had previously remained unsettled concerning the form of legislative initiative subject to these financial restrictions, namely whether they apply to a proposal of law or to a draft law.

The inclusion of a specific constitutional provision governing finance laws in the 2020 constitutional amendment confirms the continued distribution of powers and competences in financial matters. It also confirms the limitation of Parliament's role primarily to approval.

The wording of Article 147 indicates that Parliament is excluded from initiating finance laws. The constituent authority used the expression “no proposal of law or amendment shall be accepted” rather than “initiative of a law.” It also used the expression “the President of the Republic issues the Government's draft by ordinance” rather than “the President of the Republic issues the finance law by ordinance.”

Although the Constitution recognizes Parliament's legislative competence in financial matters, it merely provides for a parliamentary vote on the State budget. It does not expressly provide for parliamentary initiation of annual or supplementary finance laws. Moreover, parliamentary consideration of the draft finance law is subject to strict procedural time limits for discussion and voting. The maximum period for approval is seventy-five (75) days ([Article 146 of the Constitution of the People's Democratic Republic of Algeria, 1996](#)). Of this period, forty-seven (47) days are allocated to the People's National Assembly and twenty (20) days to the Council of the Nation. If disagreement arises between the two chambers, the joint committee has only eight (8) days to resolve it ([Article 44 of Organic Law No. 16-12, 2016](#)).

These time limits restrict Parliament's ability to assess the necessity and adequacy of budgetary appropriations or to adopt amendments it considers appropriate. In practice, its role is largely confined to approving the draft finance law as a whole. This restriction places additional pressure on the legislative authority where it fails to vote within the prescribed legal deadlines. It may therefore weaken parliamentary authority and affect the effective exercise of legislative power.

Furthermore, the application of these financial restrictions exclusively to parliamentary initiatives may discourage members of Parliament from submitting legislative proposals because of the risk of inadmissibility ([Idir, 2023, p. 59](#)).

2.2.2 Legal Controls Governing the Proposal of Laws in Financial Matters

In addition to the constitutional conditions prescribed above, Article 22 of Organic Law No. 16-12 requires every proposed law to be accompanied by a statement of reasons and drafted in the form of articles. It must not be similar to a draft law or proposed law that Parliament examined, rejected, or withdrew during the preceding twelve (12) months. The proposed law must be deposited with the competent parliamentary chamber and communicated to the Government. The Government must issue its opinion within a maximum period of two (02)



months from the date of notification ([Articles 19, 21, 22, and 24 of Organic Law No. 16-12, 2016](#)).

On this basis, the legislator requires Parliament to vote as a whole on the revenues and expenditures of the State's general budget, including expenditures relating to special Treasury accounts ([Mahrazi, 2005, p. 441](#)).

In practice, Parliament has never rejected a draft finance law. This is largely attributable to the consistent support of the parliamentary majority, since rejection of the draft finance law is considered a rejection of the Government's action plan. Constitutionally, such rejection may result in the withdrawal of confidence from the Government or the dissolution of the People's National Assembly ([Mahrazi, 2005, p. 441](#)).

The expression "Parliament approves the draft finance law," contained in Article 44 of Organic Law No. 16-12 ([Paragraph 1 of Article 44 of Organic Law No. 16-12, 2016](#)), also indicates that the right to initiate financial legislation is confined to the executive authority. Accordingly, the Algerian constituent authority and legislator have restricted Parliament's legislative powers in the preparation of finance laws. This restriction adversely affects parliamentary legislative performance. This is reflected in the limited number of proposed laws submitted and in the inadequacy of the legal and institutional mechanisms available to Parliament to exercise its competences independently and effectively.

3. Legal and Institutional Factors Affecting the Proposal of Laws

Certain constitutional provisions suggest that Parliament enjoys a degree of autonomy in proposing laws as an expression of legislative policy, which in practice reflects the general policy of the State ([Al-Sawi, 2003, p. 58](#)). Nevertheless, the exercise of this right by deputies and members of the Council of the Nation remains notably limited within the Algerian political system, despite the adoption of parliamentary bicameralism.

The weakness of the legislative institution in exercising the right to propose laws is attributable to constitutional factors and legislative factors. These factors reduce the effectiveness of parliamentary legislative initiative and weaken the legal and legislative position of both chambers of Parliament.

3.1 Constitutional Factors Weakening the Exercise of Legislative Initiative

The executive authority plays an important role in influencing the internal rules of both chambers of Parliament through the constitutional conformity review exercised by the Constitutional Court upon referral. This mechanism enables the executive authority to exert significant influence over legislative activity. In addition, the mixed composition of the Council of the Nation reinforces such influence and weakens Parliament's legislative role.



3.1.1 Subjecting the Internal Regulations of Both Chambers of Parliament to Constitutional Conformity Review

The internal regulations (Anon., 2017; Anon., 2026) of the two chambers of Parliament contain provisions governing parliamentary organization and activity. They regulate the opening of the legislative term, the conditions for acquiring parliamentary membership, and the election of the presidents and bureaus of both chambers and their legislative bodies. They also govern the organization and conduct of parliamentary proceedings, the exercise of governmental oversight, and parliamentary representation in national and international bodies.

A preliminary reading of the final paragraph of Article 135 of the amended and supplemented 1996 Constitution, which provides that “Each of the People's National Assembly and the Council of the Nation draws up its internal regulations and approves them,” may suggest that both chambers enjoy autonomy in adopting their internal regulations. However, this autonomy is limited by the requirement that such regulations undergo mandatory constitutional conformity review before entering into force (Article 3 of the Rules Governing the Functioning of the Constitutional Council, 2019). Although internal regulations may contain provisions of a constitutional nature in the substantive sense (Francis & Troper, 2003, p. 50), they remain subject to mandatory referral to the Constitutional Court (Opinion No. 10/R.N.D./C.C./2000, 2000).

The Algerian constituent authority appears to have drawn inspiration from the French model of mandatory referral without having historically contributed to the development of that mechanism (Idir, 2019, pp. 1277-1278). This is particularly significant because the Algerian Parliament has never occupied a central position within the political system, unlike Parliament in the French political system under the Fourth and Fifth Republics (Ardant, 2005, p. 537).

This raises questions concerning the legal and institutional justification for requiring the internal regulations of either chamber to be referred to the Constitutional Court (Ardant, 2005, p. 57). Such questions are particularly relevant where parliamentary practice has not demonstrated Parliament's capacity to impose its political choices and where its effective autonomy in the legislative field remains limited.

The constitutional review of internal regulations may therefore operate as a mechanism through which the executive authority influences their content and exercises control over parliamentary legislative activity. This interpretation is consistent with the historical establishment of the French Constitutional Council at the initiative of President De Gaulle as an institution intended, among other purposes, to control Parliament and restrict its role (Bernard, 1996, p. 31).

Accordingly, the head of the executive authority may use the referral mechanism not only to challenge the internal regulations of either chamber and prevent their application or secure the annulment of their provisions, but also to facilitate their amendment. The scope of such review may therefore extend beyond the assessment of constitutional conformity and reflect an executive political orientation. Such influence may constitute a restriction on the institutional independence of Parliament.



3.1.2 The Effect of the Composition of the Council of the Nation on the Effectiveness of Parliamentary Legislation

Pursuant to Articles 8 and 12 of the amended and supplemented Constitution of 1996, the Algerian constituent authority established that the people exercise their sovereignty through their elected representatives and in their name, given the practical impossibility of exercising it directly. The selection of representatives is therefore essential to the embodiment of popular sovereignty. This principle constitutes the foundation of any representative system based on the will of the electorate and expressed through elected assemblies (Carré de Malberg, 1922, p. 283). In this regard, the People's National Assembly,¹³ comprising 407 deputies (Law No. 26-07, 2026; Order No. 21-02, 2021), consists of representatives elected by direct, secret, and universal suffrage for a five-year term. By contrast, the Council of the Nation comprises 174 members selected through a system combining election and appointment (Article 121 of the Constitution of the People's Democratic Republic of Algeria, 1996).

The method of appointment adopted in certain constitutional systems for the composition of the Council of the Nation restricts the principle of electoral democracy and limits the exercise of popular sovereignty through elected representatives.¹⁴ Representation within the Council of the Nation is not determined by population density. Instead, 116 members are elected by indirect and secret suffrage from among the members of the Municipal People's Assemblies and the Provincial People's Assemblies (Article 6 of Order No. 21-02, 2021), while 58 members are appointed from among national personalities and persons of recognized competence.¹⁵

This appointment mechanism grants the President of the Republic discretionary power to select members of the Council of the Nation. It therefore raises a constitutional question regarding the extent to which popular sovereignty may be exercised through appointed rather than elected representatives.

The method adopted in the Algerian political system since 1996 for appointing members of the Council of the Nation constitutes a restriction on the principles of freedom of candidacy and representative democracy.¹⁶ This is particularly evident in view of the absence of such a method

13- The People's National Assembly comprised 462 deputies pursuant to Ordinance No. 12-07 of 13 February 2012, determining the electoral constituencies and the number of seats to be filled in parliamentary elections, Official Gazette of the People's Democratic Republic of Algeria, No. 08, dated 15 February 2012 (repealed).

14- Algeria has experienced the method of appointing the body entrusted with legislative functions during periods described as exceptional, such as the National Constituent Assembly of 1962, the Revolutionary Council that emerged from the coup of 19 June 1965, as well as the transitional institutions established during the period from 1992 to 1997, namely the National Consultative Council and the National Transitional Council. For further details on this subject, see: (Achouri & Ibrahimi, 2003, p. 18).

15- The constituent authority removed the restriction relating to the fields of specialization for the appointment of the presidential third, which, prior to the 2016 constitutional amendment, had been limited by the third paragraph of Article 101 to the "scientific, cultural, professional, economic, and social fields." In the 2020 constitutional amendment, the constituent authority reinstated, in the final paragraph of Article 121, the formal restriction relating to the fields from which members of the Council of the Nation (the presidential third) are appointed.

16- "There can be no democracy without elections. Whatever the motivations or reasons invoked, all provisions relating to the sovereignty of the people, particularly Articles 6 and 7, are undermined and lose their meaning once



in the composition of legislative assemblies in comparative representative systems (Al-Tamimi, 2019, p. 783). It also confirms, in principle, the absence of a legal obligation binding appointed members in the exercise of their constitutional competences (Article 117 of the Constitution of the People's Democratic Republic of Algeria, 1996).

Although the constituent authority granted the President of the Republic, as representative of the Nation, discretionary power to appoint one third of the members of the Council of the Nation, this power was intended to enhance legislative work, incorporate active forces marginalized by universal suffrage (Imran, 2013, p. 184), and provide a form of oversight over the first chamber (Cherif, 2006, p. 127). Nevertheless, this mechanism has significantly contributed to shifting the institutional balance in favor of the executive authority. The head of the executive may therefore influence appointed members to secure support for his choices and decisions (Hartani, n.d., p. 71; Tamer, n.d.). This reinforces the view that the appointment mechanism contributes to maintaining the President of the Republic's predominance over Parliament (Imran, 2013, p. 184).

Accordingly, the presence of appointed members within the legislative institution appears to have limited practical value, particularly in light of the functions performed by advisory bodies such as the National Economic, Social and Environmental Council (Presidential Decree No. 21-37, 2021). These bodies already provide opinions and advisory proposals to the same institution.

3.2 Legal Factors Restricting the Right of Legislative Initiative

Although the Algerian constituent authority re-established political pluralism and subsequently recognized certain rights of the opposition, it referred the regulation of the establishment of political parties to the organic legislator (Article 57 of the Constitution of the People's Democratic Republic of Algeria, 1996). Consequently, party accreditation remains subject to approval by the executive authority. This confirms executive intervention in shaping political parties that support its legislative choices, while limiting the effectiveness of political opposition.

3.2.1 The Formal Nature of Parliamentary Party Pluralism

Political parties constitute a fundamental pillar of pluralist democracy.¹⁷ The constituent authority recognized political pluralism as a manifestation of democracy and political parties as institutional intermediaries between the people and public authorities (Article 223 of the Constitution of the People's Democratic Republic of Algeria, 1996). Since political parties constitute an essential mechanism of democratic participation (Sherif, 2005, p. 497), the

part of the national representation is not elected but appointed by the President of the Republic." See: (Mammeri, 2008, p. 259).

17- For further details on political parties and their role in political life, see: (El-Sharkawy, 2007, p. 193; Hauriou, 1967, pp. 384-388).



political life of the State cannot be assessed solely through its constitutional institutions. It must also be evaluated in light of the effectiveness of its party system (Abu Zayd, 2003, p. 279).

The Algerian constitutional system underwent a fundamental transformation in 1989 with the abolition of the one-party system¹⁸ and the recognition of political pluralism, freedom to establish political parties, and the right to stand for election. These principles were regulated by the Law on Associations of a Political Character (Law No. 89-11, 1989). This law was adopted by deputies belonging to the single party and was influenced by the French comparative model of regulating political parties under the law governing associations (Law of 1 July 1901 Relating to the Association Contract, 1901).

Despite the recognition of freedom to establish political parties following the political and economic opening consolidated by the amended and supplemented Constitution of 1996, the legislator maintained executive oversight over the exercise of this freedom (Organic Law No. 12-04, 2012). Although the organic law relating to political parties established legal guarantees, the Ministry of the Interior retained preventive control over applications for party establishment through a prior authorization system. In regulating this freedom, the legislator therefore shifted from the prior declaration system established under the Law on Associations of a Political Character to the prior authorization system provided for by the organic law relating to political parties (Order No. 97-09, 1997).

The executive authority, represented by the Ministry of the Interior, is the administrative body entrusted with supervising the activities of political parties. It may also prohibit political formations whose electoral strength is perceived as a threat (Djamel, 2016, p. 145). The granting of official accreditation does not exclude the possibility of administrative arbitrariness. Such intervention may occur from the declaration of establishment and the issuance and publication of the accreditation decision in the Official Journal to proceedings concerning suspension or dissolution before the Council of State (Idir, 2023, p. 39).

These procedures operate in the absence of sufficient legal safeguards to ensure the neutrality of the administration toward political parties. Consequently, the administrative authority may assume a discretionary adjudicative role in dealing with unwanted parties. Such a practice is inconsistent with the constitutional guarantee of freedom to establish political parties.

Accordingly, party pluralism appears to be formally recognized within parameters determined by the executive authority. Although political pluralism exists formally, it may continue to function according to a one-party logic. This restricts the development of genuinely representative parties reflecting diverse political and ideological orientations and capable of influencing public opinion. In this respect, it differs from the British two-party system,¹⁹ which

18- "The current Constitution is regarded as the most important constitutional text in the country's history because it marks a break with a system that dominated the Algerian political regime for twenty-seven years, a system characterized by the rule of a single party over all the mechanisms of the State." See: (Bendourou, 1989, p. 1305; Mammeri, 2008, p. 267).

19- "The existence of two major opposing, disciplined, and recognized parties, one of which forms the government while the other constitutes the opposition, alternating in these roles according to which of them prevails in the



is based on the alternation of power between the two principal parties (Cheriet, 2003, pp. 119-128).

It follows that a contradiction exists between the Constitution's recognition of party pluralism as a democratic choice and the administrative mechanisms that subject accreditation to the discretionary authority of the executive, represented by the Minister of the Interior. This contradiction deprives pluralism of much of its substantive effect and implicitly preserves characteristics associated with a one-party system.

Moreover, subjecting the establishment of political parties to broadly formulated controls restricts their freedom and reduces the practical effectiveness of party pluralism. This operates in favor of parties aligned with the orientations of the executive authority. It also weakens the competitive character of parliamentary legislative activity and limits the representative function of deputies in expressing the popular will.

3.2.2 The Fragility of the Opposition's Role in the Legislative Process

The parliamentary opposition constitutes an essential constitutional guarantee of democratic governance and an important safeguard for public freedoms. By virtue of its representative function, it acts as a counterweight to potential excesses or abuses by the executive authority. It also represents a political alternative to the incumbent Government through the oversight and legal mechanisms available to it.

Recognizing the role of the opposition in reinforcing the separation and balance of powers, the constituent authority sought to strengthen its constitutional status through Article 116 of the amended and supplemented Constitution of 1996. This provision granted the opposition rights that had not been expressly recognized in previous constitutions, notably the right to effective participation in legislative work.

However, Article 116 does not precisely define the scope of the legislative work assigned to the parliamentary opposition. Nor does it specify the proportions governing the exercise of the right to propose laws. Moreover, the internal rules of the parliamentary chambers contain no explicit provisions regulating this matter.

Although the expression "legislative work", understood broadly, may encompass rights granted to all parliamentarians, including the right to propose laws and submit amendments before the competent committees, its general formulation permits discretionary and restrictive interpretation. Legislative intervention is therefore necessary to define these rights more precisely and ensure their effective constitutional protection.

In this regard, the absence of an express provision in the internal regulations of the People's National Assembly should be noted. By contrast, the internal regulations of the Council of the Nation link parliamentary opposition status to the existence of a parliamentary group. In practice, opposition status is therefore difficult to establish where no parliamentary group

House of Commons or, ultimately, before the electorate." See: (Esmein, 1914, p. 172; Chagnollaude de Sabouret, 2015, p. 273)



capable of effective participation in legislative activity has been formed. The existence of a parliamentary opposition is thus closely linked to the organizational framework of parliamentary groups.

Accordingly, parliamentary opposition may be regarded as a collective right exercised within the framework of parliamentary groups.²⁰ The establishment of such a group requires the agreement of at least ten (10) deputies, enabling it to exercise the rights guaranteed under Article 116 of the Constitution. Nevertheless, the opposition's exercise of the right of legislative initiative remains constrained by the absence of a strong and effective political opposition.²¹ It is also affected by the control exercised by parties supporting the President of the Republic over the chairmanships of the Committees on Legal and Administrative Affairs and Freedoms, and Finance.

Consequently, constitutionally guaranteed participation in legislative activity risks becoming largely formal. This remains the case notwithstanding the historical exception in which the presidency of the People's National Assembly was held by the leader of an opposition party during the period of the popular movement.²²

4. Conclusion

On the basis of the analysis of the Constitution, the organic law governing the organization and functioning of the People's National Assembly and the Council of the Nation, their functional relationship with the Government, and comparative legislative experience, this study proposes several recommendations to address the legal constraints affecting the exercise of the right of legislative initiative by members of the Algerian Parliament. These recommendations may be summarized as follows:

- Establish a clear constitutional framework that ends the mixed political system combining features of the presidential and parliamentary systems in a manner that reinforces executive dominance over legislative activity. Instead, either a flexible or strict separation of powers should be adopted to ensure a clear allocation of competences among public authorities.

20- Whether a parliamentary group is politically classified as part of the opposition is determined on the basis of its founding file submitted to the Bureau of the Council of the Nation. The establishment of the parliamentary group is announced during a plenary session of the Council, specifying the name of the group, the list of its members, and the composition of its bureau. This information is published in the Official Journal of the Council's proceedings.

21- The weakness of the opposition parties vis-à-vis the will of the President of the Republic became apparent during the voting on the draft constitutional amendments of 2016 and 2020. Despite their rejection of the drafts, it was observed on the day of the vote that the opposition parties abstained from voting on them rather than voting against them.

22- On 11 July 2019, Mr. Slimane Chenine, leader of the parliamentary group of the "Union for Ennahda, Justice and Construction," a parliamentary alliance comprising three opposition Islamist parties, was elected President of the People's National Assembly of Algeria, succeeding the resigned President, Mr. Mouad Bouchareb, of the National Liberation Front party.



- Review the constitutional mechanisms governing the President of the Republic's power to intervene in the composition of the legislative authority. This requires abolishing the system of the "presidential third," under which members of the Council of the Nation are appointed by the President of the Republic, particularly given the existence of advisory councils affiliated with the executive authority. Full democratic election should be adopted to ensure genuine representation and popular legitimacy of the legislative institution.
- Abolish the procedural and substantive restrictions imposed on Parliament's right of legislative initiative, particularly in financial matters and matters relating to the public budget. This would enable members of the legislative authority to assume a more effective role in the legislative process, free from governmental dominance that often confines deputies to debating and supplementing draft laws submitted by the executive. Such draft laws are generally approved without substantial amendments reflecting genuine parliamentary will.
- Strengthen parliamentary legislative activity by transforming the parliamentary function generally, and the role of the parliamentary opposition in particular, from a mechanism of formal approval into an institutional forum for substantive legislative debate. Parliament should also serve as an effective mechanism for amending legislative texts and influencing the general policies of the State.

Author Contributions

The author was responsible for the conceptualization, methodology, investigation, formal analysis, preparation of the original draft, and review and editing of the manuscript. She has read and approved the final version of the manuscript.

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