

Moving Towards Enhancing Civil Society Participation through the National Observatory of Civil Society

التوجه نحو تعزيز مشاركة المجتمع المدني من خلال المرصد الوطني للمجتمع
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ABSTRACT:

ملخص باللغة العربية:

The constitutional revision of 2020 marked a pivotal step in affirming the constitutional position of civil society, as it explicitly acknowledged in the preamble, the vital and longstanding contribution of civil society institutions to shaping the state's identity and reinforcing democratic principles. The state has clearly adopted a policy of supporting civil society and encouraging its involvement in the management of public affairs. It has also provided a constitutional framework that guarantees the freedom to establish institutions and organizations constituting civil society, through the creation for the first time of an independent constitutional advisory body. This body is intended to strengthen interaction and cooperation between civil society institutions and the state, with the aim of achieving national development.

Keywords: Civil society; Democracy; Associations; Observatory; National values.

مثل التعديل الدستوري لسنة 2020 محطة أساسية في مسار تدعيم المكانة الدستورية للمجتمع المدني، من خلال النص الصريح في ديباجة الدستور على الدور التاريخي والأساسي الذي تلعبه مؤسسات المجتمع المدني في تشكيل هوية الدولة وتعزيز الديمقراطية، كما تبنت الدولة بشكل صريح دعم دور المجتمع المدني وتشجيع مشاركته في تسيير الشؤون العامة، ومنحت الإطار الدستوري اللازم لحرية إنشاء المؤسسات والتنظيمات المكونة للمجتمع المدني، من خلال إنشاء هيئة دستورية استشارية مستقلة لأول مرة تهدف إلى تعزيز التفاعل والتعاون بين مؤسسات المجتمع المدني والدولة بهدف تحقيق التنمية.

كلمات مفتاحية: مجتمع مدني؛ الديمقراطية؛ الجمعيات؛ المرصد؛ القيم الوطنية.

Introduction:

One of the primary reasons legal systems seek to support various development-oriented entities across multiple fields is the protection of human rights and freedoms. Perhaps the best example of such entities is civil society, the concept of civil society is among the most important modern notions that has recently gained significant attention. This can be attributed to a range of circumstances characterizing its emergence, which are closely linked to human rights and freedoms, although civil society organizations are often professional unions or human rights advocacy groups, they nevertheless possess the capacity to activate and modernize society across various domains¹.

1 The concept of civil society is considered one of the most debated concepts in legal and political thought, as there is no single, universally agreed-upon definition among scholars. This divergence stems from the complexity and ambiguity surrounding the concept, as well as the diversity of its components. Over time, the concept has evolved and been employed in various ways, eventually gaining a prominent position as a leading force and social authority within the state.

Most definitions of civil society build upon the foundational ideas and theories developed by social contract theorists such as Hegel, Marx, and Gramsci. These definitions emphasize core concepts such as an independent public sphere that exists between the family and the state, and a moral environment that guarantees individual rights and mutual respect. Such values were central to philosophers like Hobbes, John Locke, Kant, and Hegel. Furthermore, the notion of independence related to individual and group choices and freedoms is considered a fundamental component of these theories. This is often followed by an economic dimension, reflected in the structure of the market system.

Despite the extensive discourse, researchers have not reached a unified, comprehensive definition of civil society. Some define it as a society characterized by a diversity of voluntary organizations, including political parties, labor unions, associations, clubs, interest groups, and pressure groups. These non-governmental entities represent public participation and reflect the dynamic nature of the social fabric. They contribute to the creation of civic institutions that parallel state authority, thereby preventing its monopoly over all aspects of public life.

Civil society organizations are complementary groups that together form what is known as civil society an entity that has become highly relied upon internationally and nationally in the development and protection of rights and freedoms. It aims to contribute to what is known as participatory democracy by highlighting the conditions required for it, seeking to draw states' attention toward its establishment and guarantee within various legislations.

Algeria is considered one of the pioneering countries in adopting civil society compared to other Arab states. This is demonstrated by encouraging the creation of associations and civil organizations in practical terms. Civil society has served as a focal point for various social and political reforms undertaken by the state since independence until today, as part of an effort to use it as a tool for social and political change. This is evident in the successive laws enacted following each reform.

In addition to enhancing the status of civil society, the constitutional founder initiated profound social and political transformations aimed at democratic transition. For the first time, an independent constitutional advisory body dedicated to civil society was established, known as the National Observatory of Civil Society, to thoroughly understand the various aspects of this topic, we pose the following research question:

How far does the institutionalization of the National Observatory of Civil Society support the advancement and reinforcement of civil society's role and constitutional standing within the Algerian context ?

In order to answer this question, we adopted a descriptive and analytical approach appropriate to the nature of the subject. This research paper is divided into two main parts:

- **Chapter One:** The Legal Framework Governing the National Observatory of Civil Society.
- **Chapter Two:** The Founding of the National Observatory of Civil Society as a Foundational Mechanism for Strengthening and Enhancing the Effectiveness of Civil Society Institutions.

Chapter One: The Legal Structuring of the National Observatory of Civil Society

A comprehensive examination of the National Observatory of Civil Society's legal structuring necessitates an initial focus on the constitutional and statutory instruments that define its mandate and operation, followed by an analysis of its internal organizational makeup, particularly its human composition.

First: Constitutional and Legislative Foundations of the National Observatory of Civil Society.

The constitutional and legislative foundations of the National Observatory of Civil Society encompass the entire body of legal provisions that authorize the institution to perform its roles and responsibilities within the limits prescribed by law. This part, therefore, focuses on identifying the Observatory's normative anchoring within the Constitution as well as its legal underpinnings.

1– Constitutional Recognition of the National Observatory of Civil Society as an Instrument for Strengthening Democratic Engagement.

The constitutional reform enacted in 2020¹ marked a significant advancement for civil society by formally recognizing its status within the constitutional framework through the creation of the National Observatory of Civil Society as an advisory institution. This entity is tasked with delivering consultative opinions and proposals addressing civil society matters, while also playing a role in reinforcing national values, democratic engagement, and active citizenship.

1 Presidential Decree No. 20/442 dated December 30, 2020, concerning the promulgation of the constitutional amendment approved by the referendum of November 1, 2020, Official Gazette No. 82, issued on December 30, 2020.

It equally collaborates with various institutions in the pursuit of national development objectives¹, and represents the framework through which civil society institutions operate. This is clearly stated in the Constitution's preamble and other legal texts contained therein, as the constitutional founder recognizes civil society's role as an active partner alongside the state in managing public affairs, this represents a strong foundation for the role of the associative movement in managing public affairs. It also constitutes a remarkable transformation unprecedented in previous constitutional reforms, reflecting the importance of civil society's role in activating citizenship rights.

Undoubtedly, the constitutional recognition of the National Observatory of Civil Society constitutes a constitutional guarantee for this body by elevating it normatively to the status of constitutional advisory institutions. This affirms the strategic relevance of the Observatory within the institutional framework of the state, particularly in its role as an advisory body to the President of the Republic². Furthermore, elevating the Observatory to constitutional standing, reinforcing its legal authority, and enabling the full exercise of its mandate constitute a major step forward in positioning civil society as a core actor in both policy formulation and decision-making. It is thereby recognized as a vital and credible partner in safeguarding state cohesion, advancing participatory governance, and strengthening the principle of citizen oversight in support of holistic national development.

2- Decree No. 21/139 as a Concrete Expression of the Will to Involve Civil Society and Strengthen Its Position.

According to Article 213 of the 2020 Constitutional Amendment, presidential Decree No. 21/139 dated April 12, 2021, was issued concerning the National Observatory of Civil Society. This decree is intended to outline the structure,

1 See Article 213 of the 2020 Constitutional Amendment.

2 Laghwati Mohamed and Ben Jelloul Mostafa, *The National Observatory of Civil Society and its Role in Establishing Participatory Democracy*, Academic Journal of Legal and Political Research, Vol. 07, No. 02, Algeria, September 2023, p. 1036.

responsibilities, internal organization, and operational framework of the National Observatory of Civil Society.¹

The Observatory is vested with legal personality and financial independence, and its headquarters are established in Algiers². A dedicated budget is allocated to the Observatory, including a revenue section that covers state budget appropriations as well as donations and bequests. The budget further comprises an expenditure component allocated to operational and equipment-related costs. The Observatory's financial administration is governed by the provisions of public accounting regulations³.

Second: The Human Composition of the National Observatory of Civil Society and Membership Requirements.

Functioning as an advisory body to the President of the Republic, the Observatory provides a structured platform for dialogue, consultation, policy proposals, analytical review, and strategic foresight concerning civil society and the advancement of its functions⁴. In order to ensure the effective and efficient execution of its responsibilities, the legislator established a diversified human structure composed of qualified individuals and experienced professionals. Membership within this framework is contingent upon meeting a set of specific eligibility criteria.

1– Organizational Structure and Human Composition of the National Observatory of Civil Society.

The Observatory operates with administrative autonomy in structuring its internal bodies, allowing it to carry out its functions independently and without influence from any external

1 See Article 01 of Presidential Decree No. 21/139 dated April 12, 2021, concerning the National Observatory of Civil Society, Official Gazette No. 29, dated April 18, 2021.

2 Article 03 of Decree No. 21/139.

3 See Articles 36 and 37 of Decree No. 21/139.

4 See Article 02 of Decree No. 21/139.

administrative entity. Its organizational framework is composed of three primary bodies¹: the President, the Council, and the Bureau.

- The President of the Observatory:

The head of the Observatory is designated through a presidential decree issued by the President of the Republic, in accordance with standards of merit and national-level distinction. The President represents a key figure within the Observatory's structure, holding the position of leadership and supervision, as clearly reflected by the powers vested in them. Additionally, the President serves as the official spokesperson of the Observatory and represents it both nationally and internationally. In this capacity, the President is responsible for representing the Observatory in all its activities and before judicial authorities.

The President is responsible for directing the activities of the Observatory's Bureau, setting the agendas for its meetings, and ensuring the execution of its decisions. In the absence of specific appointment procedures, the President is authorized to appoint staff members. Their duties also include the preparation of reports concerning the Bureau's operations, the formulation of the Observatory's draft budget, annual work plan, and proposed internal regulations. Additionally, the President holds hierarchical authority over all personnel within the Observatory and is tasked with relaying relevant matters to the Bureau as necessary. The President further submits reports, recommendations, and advisory opinions to the President of the Republic, the Prime Minister, or the Head of Government, depending on the context. Moreover, they are empowered to sign agreements, contracts, and memoranda pertaining to the Observatory's activities and serve as the authorizing officer for disbursing its financial resources²

1 Article 25 of Decree No. 21/139.

2 Article 29 of Decree No. 21/139.

- The Governing Council of the Observatory:

The Council represents the principal structural component of the Observatory's organizational system, owing to the broad diversity reflected in its membership composition. It consists of all members (50 members) representing various categories detailed below.

The Council convenes at the request of the President every three months in regular sessions¹. Extraordinary sessions of the Council may be convened either at the initiative of the President or upon the request of two-thirds of its members². For meetings to be deemed valid, the attendance of at least half of the members is required. Should this quorum not be met, a rescheduled session must take place within 15 days, during which deliberations are considered valid regardless of the number of attendees³. Council resolutions are passed by a majority vote, and in cases of a tie, the President holds the casting vote⁴.

Among the principal functions responsibilities entrusted to the Observatory Council are:

- Endorsing the Observatory's recommendations and consultative opinions
- Validating its internal regulatory framework
- Reviewing and approving periodic reports issued by both the Bureau and the President of the Observatory
- Ratifying the Observatory's annual work plan and overseeing the evaluation of its implementation.

1 Article 30, Paragraph 02 of Decree No. 21/139.

2 Article 31, Paragraph 01 of Decree No. 21/139.

3 Article 31, Paragraph 02 of Decree No. 21/139.

4 Article 32 of Decree No. 21/139.

- Approving the institution's yearly financial and operational reports,
 - confirming the annual report intended for submission to the president of the Republic⁴
 - In addition to the establishment of specialized committees or thematic subcommittees as needed¹.
- **The Observatory's Bureau:**

The Bureau is composed of four members elected by the Council and is presided over by the President of the Observatory². These members serve on a full-time basis and are entitled to compensation and benefits as stipulated by a dedicated regulatory text³. The Bureau's responsibilities include: coordinating the work of various committees and overseeing their operations; addressing all matters related to the internal functioning of the Observatory; reviewing both the draft budget and proposed internal regulations; authorizing the execution of agreements, conventions, and contracts within the scope of the Observatory's responsibilities; and considering any issues referred by the President of the Observatory⁴.

In addition to its main organizational bodies, and as part of efforts to promote cooperation and coordination among them, the Observatory may establish specialized or thematic committees, along with a permanent secretariat tasked with managing the Bureau's operations and delivering technical support for the Observatory's activities, all under the supervision of the President. Furthermore, the Observatory comprises administrative divisions that also fall under the authority of its President. The overall administrative

1 Article 30 of Decree No. 21/139.

2 Article 33 of Decree No. 21/139.

3 Article 34 of Decree No. 21/139.

4 Article 35 of Decree No. 21/139.

management of the institution is assigned to a Secretary-General who is appointed by presidential decree¹.

2- Conditions of Membership in the Observatory:

The diversity of the Observatory's composition and its role in enhancing its consultative function requires that the authority to appoint and select members be jointly exercised by the President of the Republic and the relevant specialized bodies. committee responsible for appointing some of its members². This structure aims to reinforce the Observatory's independence and its freedom to carry out its missions without influence or external pressure. Presidential Decree No. 21/139 sets out the composition of the Observatory, which includes A President and fifty members constitute the body. The President is selected from among national experts and formally appointed by presidential decree issued by the President of the Republic, and his/her mandate may be terminated under the same conditions.

1 See Articles 26, 27, and 28 of Decree No. 21/139.

2 The composition of the committee primarily includes the President of the Observatory, who serves as chair, alongside the President of the High Islamic Council or their delegate, the head of the National Economic, Social and Environmental Council or their representative, the Director General of the Algerian Agency for International Cooperation for Solidarity and Development or their delegate, the Director General of the National Institute for Comprehensive Strategic Studies or their representative, the President of the National Human Rights Council or their delegate, and the National Commissioner for Child Protection or their appointed representative.

According to Article 07 of the aforementioned Decree, the Algerian legislator outlined a series of conditions that the committee must observe when appointing members. These conditions include the professional domain of the candidates, national territorial representation, ensuring youth inclusion in every category, periodic rotation of members, allowing only one representative per association, union, or institution, prohibition of serving successive terms, and the potential inclusion of other relevant selection criteria.

The decree also emphasizes the importance of gender parity in the Observatory's membership, in accordance with the principle of equality enshrined in the Algerian Constitution. It also stipulates that youth must represent half of the members selected by the committee, with "youth" defined as individuals under 40 years of age¹.

To uphold the constitutional principle of rotation in office, Article 08 of Presidential Decree No. 21/139 establishes that the members' term is limited to four (4) non-renewable years. Half of the Observatory's composition, across all categories listed in Article 06 of the same decree, must be renewed every two years in accordance with the rules outlined in the Observatory's internal regulations². The members subject to replacement during the initial renewal are selected through a random draw held in a general session three months prior to the renewal date, in accordance with the procedures outlined in the internal regulations³.

Chapter Two: The Founding of the National Observatory of Civil Society as a Cornerstone for Advancing and Empowering Civil Society Institutions.

Civil society is today considered one of the fundamental components of any modern democratic society. It plays a vital role in mobilizing efforts for the public good and contributes effectively to development and progress. Its organizations and missions offer numerous advantages and multiple benefit⁴.

Algeria stands among the leading countries in strengthening civil society by encouraging political activity, the creation of associations and unions and, most significantly,

1 Achour Bekkar, *The Foundational and Regulatory Framework of the National Observatory of Civil Society in Algeria*, Journal of Legal Studies, Vol. 09, No. 02, Algeria, December 2022, p. 553.

2 See Article 08 of Decree No. 21/139.

3 Article 39 of Presidential Decree No. 21/139.

4 Houssam Shahada, *Civil Society*, 1st edition, Bayt Al-Muwatin Publishing and Distribution, Lebanon, 2015, p. 28.

through the incorporation of the National Observatory of Civil Society into the 2020 constitutional revision, this advisory body plays a role in advancing national values and engages in institutional collaboration to support national development efforts. Accordingly, this chapter begins by examining the advancement of democratic values within the Algerian context, followed by an assessment of the constructive role played by the National Observatory of Civil Society in advancing the development process.

First: The Contribution of the National Observatory of Civil Society to Algeria's Democratic Transformation.

From a historical standpoint, the notion of civil society has consistently been intertwined with that of the state and has occupied a prominent position within Western political philosophy. Today, it resurfaces powerfully in connection with democracy and democratic transitions. Many thinkers have emphasized the complementary and reciprocal influence of both concepts, asserting that democracy, in the absence of civil society, proceeds "top-down," whereas its presence ensures a "bottom-up" dynamic. Thus, democratic transition follows two complete, parallel tracks. Therefore, developing civil society becomes central to democratic construction, as civil society serves as a school for political socialization based on democratic values that nourish the broader society.

It must be emphasized that focusing on civil society institutions draws attention to a vital dimension of the democracy issue. Democracy is not limited to certain political practices like political pluralism, constitutional principles ensuring the separation of powers, or fair elections. True democratic practice requires the democratization of society itself. Without this, democracy remains superficial and formal.

Since democracy is a method and set of rules for governance that addresses the issue of power through peaceful conflict management and orderly alternation among competing groups or conflicting interests, it shares the same normative foundation as civil society. Civil society institutions are among the most important channels of popular participation and

political influence. They serve as avenues for political competition and expression, making them the backbone of political decision-making processes.

While democracy ensures the recognition, protection, and preservation of freedoms such as expression, belief, and equal rights, civil society upholds the rights of citizens to organize, gather, access information, and promote transparency and tolerance.

In general, civil society and in Algeria, the National Observatory of Civil Society in particular plays a key role in enhancing democratic progress and establishing the necessary conditions for deepening democratic practices. Its inherent values are reflected through the roles and functions of its organizations, making civil society the infrastructure of democracy, both as a system of life and a method for managing society. It therefore serves as the ideal framework to act as a school for political socialization and practical training in democratic practice ¹.

1Article 04 of Presidential Decree No. 21/139 stipulates that: “The Observatory contributes to the promotion of national values, democratic practice, and citizenship...” Like most developing countries, Algeria is undergoing a transitional phase towards democracy. It is characterized by a regime known as “restricted pluralism,” which allows for certain freedoms while imposing specific conditions and limitations on their exercise. In such societies, the role of the state within civil society changes, as state intervention gradually diminishes and narrows significantly. Hence, civil society can be regarded as one of the tools for democratic transition, and its presence and strength are essential prerequisites for achieving further progress towards democracy and human rights.

See: Warda Zaârouri Hadouche, *Commentary on Presidential Decree 21/139 of 12 April 2021 concerning the National Observatory of Civil Society*, Critical Review of Law and Political Science, Vol. 16, No. 02, Algeria, June 2021, p. 421.

Second: The Positive Contribution of the National Observatory of Civil Society to the Development Process.

It has become widely accepted today that politics, like economics and social matters, is fundamentally about the development of the human being as an intrinsic value. Thus, it is legitimate to speak of developing every individual without exception fostering their psychological potential, physical capacities, and both visible and latent spiritual energies by promoting core values such as freedom, equality, justice, solidarity, and peace, Given the democratic transition that society has experienced, citizens have increasingly sought to form civil organizations to defend their rights. This shift has led to the rise of civil society, often as a response to injustice and authoritarianism, reaching a point of organized resistance.

Civil society is a powerful mechanism for promoting development at both national and local levels. Its strength and visibility significantly enhance the likelihood of development success. In fact, civil society has proven to be the most effective means of achieving social and economic progress and supporting political democratization. This is due to its intermediary role between citizens' needs and the state's responsiveness to those needs ¹.

In other words, civil society institutions contribute to building a culture of citizenship based on recognizing the individual's role in comprehensive development. This stems from the understanding that the human being is both the main driver and the ultimate goal of development. It is therefore essential to harness human potential and create space for

1 Abdesslem Abdellaoui, *Civil Society and the Activation of Local Development: A Comparative Study of the Cases of France and Algeria*, PhD Dissertation, specialization in Local and Regional Governance, Faculty of Political Science and International Relations, University of Algiers 3, 2016, p. 123.

individuals to fully express their capacity for innovation and renewal¹.

The role of the National Observatory of Civil Society in development has been clearly reinforced through its constitutional and legal recognition. This reflects the realization that grassroots participation is the best guarantee for successful development. In the past, development initiatives were often imposed top-down by governments without involving the governed. However, true development requires citizens' participation in three key phases: planning, implementation, and evaluation. The Observatory, with its largely consultative mission, contributes to this participatory approach. Its ultimate aim is to support comprehensive development and, by extension, to promote good governance².

Conclusion:

The 2020 constitutional amendment conferred elevated constitutional recognition upon civil society through the creation of the National Observatory of Civil Society as a formal advisory body. This institution plays a key role in issuing consultative opinions and recommendations on issues concerning civil society, while also contributing to the reinforcement of national values, democratic engagement, and civic responsibility.

Civil society contributes to the improvement of political quality by supporting the development of a governance system based on efficiency, rationality, and transparency one that respects human rights and upholds the principles of power alternation. It reinforces good governance through transparency,

1 It is thus confirmed that the role of civil society is fundamentally a developmental one, development here being understood in its comprehensive, multidimensional sense. This societal model indeed represents a legitimate framework for the collective management of conflict resolution methods, the achievement of diverse demands, and the affirmation of identities in the case of their plurality.

2 Mohamed Laghwati, Mostafa Ben Djelloul, op. cit., p. 1050.

accountability, and responsibility. Moreover, it enhances the role of public opinion, clarifies collective demands, promotes a civil culture, and raises political awareness. All of this helps overcome societal divisions and fosters consensus across different segments of society.

Therefore, civil society is a key and active element in improving governance. It encourages citizens to participate in public affairs and reaffirms the principle of citizenship based on each individual's capacity to assert their rights and express their civic identity.

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