

Constitutional Controls on the Power to Dissolve the National People's Assembly in Algeria and Its Impact on the Principle of Separation of Powers



Bouguerne Toufik

University of setif2, Algeria, T.bouguerne@univ-setif2.dz

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Abstract:

One of the basic cornerstones of the contemporary state, the separation of powers seeks to balance the executive and legislative branches so preventing one from dominating the other. Under particular constitutional limits, the Head of State of the Republic in Algeria has the power to dissolve the National People's Assembly (NPA), meant to be used to maintain political stability and renew the parliamentary scene as required. But this authority may be used to increase executive control and diminish Parliament's function in legislation and supervision.

Keywords: National People's Assembly; Head of State of The Republic; Dissolution Power; Principle of Separation of Powers.

* Bouguerne Toufik, T.bouguerne@univ-setif2.dz.

Introduction:

Completely made up by the people via direct general elections, the National People's Assembly (NPA) is one of the most significant constitutional representative institutions in the country. It therefore shows their will, which is given to the elected deputies who have the power to legislate and oversee the executive authority as well as carry out several constitutional duties.

The idea of the separation of powers calls for cooperation among the constitutional authorities of the state (Lazraq, 2013, p. 171), accompanied by mutual oversight, whereby each authority monitors the others in case of constitutional overreach or when circumstances call for particular actions against one of the authorities to restore stability and the correct operation of institutions. These actions could involve the government losing confidence and being forced to resign as well as the process of dissolving the National People's Assembly.

One of the most contentious constitutional tools in political systems is the power to dissolve the NPA, which directly relates to preserving or upsetting the balance of power. The Head of State of the Republic in Algeria has the authority to dissolve the NPA under certain circumstances to handle political or legislative crises. But this right raises a basic question about its fit with the idea of separation of powers, which is regarded as the basis in creating a democratic state.

Given this background, the rules have to be examined to guarantee the power of dissolution does not turn into a weapon for executive supremacy at the expense of the separation of powers.

The main issue of the study revolves around:

Does the constitutional regulation of the power to dissolve the National People's Assembly (NPA) in Algeria strengthen the balance of powers, or does it turn into a tool for strengthening executive power?

We used a descriptive analytical method to examine the constitutional texts and evaluate how the dissolution power affected the separation of powers principle in order to address this issue.

Our three-part analysis addresses the problem. The first part emphasizes finding the fundamental ways the NPA could be dissolved in Algeria. The second part addresses the constitutional controls of dissolution; the third part addresses how dissolution affects the separation of powers.

1. Dissolution of the National People's Assembly (NPA) in Algeria: Between Mandatory and Discretionary Powers:

The constitutional founder specifically stated the circumstances under which the NPA could be dissolved to safeguard it.

1.1 Justifications for Dissolution:

The executive and legislative branches' balance essentially calls for giving each one a constitutional tool allowing it to confront any possible pressures from the other branch (Abdelnour, 2024, p. 70).

1.1.1 Stability of the Relationship Between the Government and Parliament:

A balance assumed to define their relationship controls the interaction between government and parliament, which influences stability in the state. Political strife and crises could upset this equilibrium, however, and cause the Head of State of the Republic to choose to dissolve the NPA to restructure the institutional scene (Mohamed, 2024, p. 296). The only way to create a new political composition more in line with the government is to dissolve the parliament if the opposition controls the legislative institution and rejects government proposals (Naji, 2006, p. 38), therefore impeding different interests and sectors. Conflicts among parties inside parliament that could cause coalition breakdowns also undermine the government and impede its operations, therefore forcing the Head of State to disband the parliament and summon new elections to rebuild the political alliances.

1.1.2 Overcoming Political Crises

Political crises, which cause protests and popular calls for change, might lead to parliament being dissolved as a solution. The dissolution in such a situation allows the people to voice their opinion, re-elect their representatives (Djajika, p. 192), and move the political and parliamentary balance of power to fit their will. Given the obvious indicators of political tension, it can also be a preventive tool to handle possible crises the situation suggests could happen. In such a setting, dissolution serves to prevent more complicated constitutional crises like continuous and ongoing motions of no confidence against the government .

1.1.3 Forming a New Parliamentary Majority:

The Head of State's choice to disband the NPA could be motivated by a desire for a new parliamentary structure able to coexist with the government and operate alongside it free of conflicts compromising the smooth operation of institutions (Tonsir, 2022, p. 12). Political interests drive alliances inside the parliament in a system that welcomes political pluralism; these alliances may support or oppose the government, therefore making these groupings unstable and liable to change at any time. The Head of State might choose to disband the parliament and conduct new legislative elections if he wants to build a parliamentary majority backing the government, therefore enabling the execution of its agenda and the passage of required laws (Omar & Baram, p. 179). These elections might produce a setup guaranteeing harmony between the executive and legislative branches.

1.1.4 Amendments to the Electoral or Constitutional System:

The makeup of the NPA is shaped by the kind of adopted electoral system, whether it is closed-list voting, open-list voting, proportional representation, or other systems that help decide the majority controlling the parliament. Its also related to the nature of constitutional system (Manal & Nabila, 2021, p. 280). Any change or reform in the electoral or constitutional system of the nation thus calls for new elections that fit the newly adopted system, which means the Head of State must decide to dissolve the parliament (Mohamed, 2024, p. 297).

1.2 The Dissolution of the National People's Assembly (NPA):

The revised Algerian Constitution of 2020 specifies the circumstances in which the NPA could be dissolved in various constitutional and political settings. Two primary forms describe the dissolution:

1.2.1 Mandatory Dissolution:

The NPA has to automatically dissolve if it denies confidence to the government twice in a row, therefore this form is not optional but rather a required action. Article 106 of the 2020 amendment specifies that the Prime Minister must first submit the NPA for approval the government's work plan, then a general discussion and approval procedure follows.

Should the NPA disapprove of the government's work plan even with changes. The Prime Minister must send his government's resignation to the Head of State of the Republic in this situation; the Head of State then names a new Prime Minister charged with drafting a new government work plan mostly meant to address the conflicts and deficiencies that caused the rejection of the first plan (Yasmina, 2021, p. 230).

The constitutional framers of Article 108 of the 2020 constitutional amendment included that if the NPA fails to approve the government's work plan once again, it shall be mandatorily dissolved to prevent an unending cycle of conflict between the NPA and the government over the government's work plan (Beqqa, 2019, p. 130). Until a new NPA is elected within a three-month period, the current government will keep running day-to-day business.

1.2.2 Dissolution Based on the Head of State's Discretionary Power:

The constitutional creator, in Article 151 of the 2020 Constitutional Amendment, gave the Head of State of the Republic the power to dissolve the NPA or call for early legislative elections by his decision in order to guarantee the proper operation of state institutions and their continuous coordination in a way that minimizes conflicts and disagreements (Saber, 2021, p. 234), which could compromise the coordination of efforts and activities to serve the public interest and sustain balance between them. Aiming to change the political scene or address a particular crisis, the Head of State's discretionary power in dissolving the NPA allows him to decide under conditions he considers suitable.

The Head of State aims to discover a new parliamentary majority that fits with the general direction of the government and can cooperate with it to fulfill the real goal of the principle of the separation of powers—based on cooperation and balance, not conflict—by deciding to dissolve the NPA and hold new legislative elections within three months. The Head of State might also use the decision to dissolve the NPA if he or she undertakes deep legal or political changes that alter the electoral or constitutional system, therefore making the composition of the NPA incompatible with the character of the system that emerged from these changes and requiring the election of a new Assembly.

2. Constitutional Controls for Dissolution of the National People's Assembly (NPA):

The constitutional founder wanted to surround the mechanism of dissolution with a set of controls helping to limit it and guarantee its use in a way that supports the state and the correct operation of its constitutional institutions.

2.1 Procedural Controls for Dissolution:

Dissolving parliament had such weight that it needed to be surrounded by required processes to be followed for its activation ([Naji, 2006, p. 60](#)); else, the choice to dissolve parliament would be deemed unconstitutional.

2.1.1 Consultation by the Head of State of the Republic:

The constitutional founder granted the Head of State of the Republic the authority to issue a decision to dissolve the NPA or hold early legislative elections, without limiting the cases and circumstances under which the Head of State could make such a decision. Particularly when the political situation calls for it or to address a crisis of confidence that could develop between the NPA and the government, the Head of State is granted complete discretionary authority to decide when such a decision is needed. The Head of State may also act should the makeup of the NPA no longer support state stability or effectively promote the legislative process.

Though not required to heed their views, the Head of State must hold a number of consultations before deciding to dissolve the NPA given his wide discretionary power. Depending on the circumstances, Article 151 of the Constitution requires the Head of State consult the Speaker of the Council of the Nation ([Mohamed, 2024, p. 301](#)), the Speaker of the NPA, the Head of State of the Constitutional Court, and the Prime Minister or Head of Government ([Beqqa, 2019, p. 130](#)).

2.1.2 Holding Legislative Elections:

The constitutional institutions of the nation seek to promote the public good and guarantee the administration of people's affairs. Any disturbance to an institution could compromise rights and liberties. The NPA's dissolution should not

be used to block legislative activity in support of the executive branch, which might result in the executive taking legislative powers unilaterally (Saber, 2021, p. 242). new legislative elections must be held within a maximum of three (3) months. New deputies will be elected to carry out legislative duties during this time. The deadline can be pushed back another three months, though, if elections cannot be held within the three months following the dissolution, depending on the Constitutional Court's view.

2.1.3 Presenting Head of Stateial Orders to the National People's Assembly (NPA):

The Constitution requires that all orders issued during the interim period be presented to each chamber of parliament at the first session following their issuance for approval, so guaranteeing that the legislative power in the hands of the Head of State does not become absolute and so supersede the parliament as the original legislative authority. Orders not approved are deemed null and void.

2.1.4 Adherence to Constitutional Cases for the Dissolution of the National People's Assembly (NPA)

The constitutional framers specified particular situations in which the NPA could be dissolved so safeguarding the constitutional institutions on which the state is founded. Article 108 of the Constitution defines these situations as when the government's work plan is rejected for the second consecutive time, so constituting mandatory dissolution. Any decision to dissolve the Assembly outside these conditions is thus unconstitutional and has to be voided. Notably, the constitutional framers did not define a legal form for the dissolution choice; they also did not mandate the Head of State of the Republic to justify or offer justifications for this choice (Abdelhalim, 2012, p. 110).

2.2 Barriers to the Dissolution of the National People's Assembly (NPA):

Just as some situations call for the NPA's dissolution and the quest for a new formation, the state may also find itself in need of maintaining its institutions in active operation.

2.2.1 Exercising the Functions of the Head of State:

Constitutional legitimacy allows the Head of State of the Republic to carry out his responsibilities as the people's representative, being directly elected by them. Likewise, the NPA is a constitutional body elected by the people so it has popular legitimacy. Philosophically, the right of dissolution calls for a mandate to execute it, which the Head of State who takes office during a Head of Stateial vacancy lack (Article 96 of the Algerian Constitution).

2.2.2 Declaring a State of Emergency:

Dealing with unusual situations calls for the cooperation and harmony of all state institutions, so they must always be present to act appropriately and pass

any required laws. Examining the constitutional clauses regulating states of emergency, siege, and exceptional situations reveals that the constitutional maker has sought to stop the NPA from dissolving under such conditions. Any decision to prolong these states is therefore subject to both houses of Parliament's combined approval. The aim is to maintain the state and conquer the challenging situation it is in, so this clause conflicts with the Head of State's power to disband the NPA during such times. A dissolution decision would end the declaration of exceptional circumstances, therefore endangering the state and its institutions.

2.2.3 The Impossibility of Dissolving the Council of the Nation:

The constitutional legislator has ruled out the possibility of dissolving the Council of the Nation given the significance of its Head of State and the Council of the Nation in guaranteeing the continuity of state governance until new Head of State elections are held (Abdelhafid, 2020, p. 36). The power of dissolution, therefore, was restricted only to the People's National Assembly in order to handle any emergency situation that could create a vacancy in the presidency and a disturbance of state operations, particularly if such a situation coincided with the absence of both parliamentary chambers owing dissolution.

3. The Impact of Dissolving the National People's Assembly (NPA) on the Principle of the Separation of Powers:

Directly elected by the people, the NPA, first chamber of the Algerian parliament, is a significant institution reflecting their will. Any interference with it, such as through dissolution, results in a redistribution of power favoring the other authorities, especially the executive.

3.1 The Dissolution Mechanism as a Tool to Weaken Parliament:

if this process is not followed correctly, it could become a weapon for the executive to undermine the legislative function when judged required. Parliament would be subjugated by this to serve the executive branch rather than supervise.

3.1.1 The Continuous Threat as a Constant Pressure on Parliament:

The Head of State may be driven to threaten to dissolve parliament by the ongoing rejection of government bills and policies, which then compels deputies to withdraw their opposition or take more moderate stances (Naji, 2006, p. 40). They know that a decision to dissolve would rob them of the different moral and material benefits they enjoy and lose their parliamentary mandates.

3.1.2 Dissolution as a Retaliatory Measure Against Parliamentary Opposition

Political parties and political activists are given constitutional right to oppose, which helps to reflect different intellectual and political orientations inside the parliament. This lets ideas be exchanged and challenged to find the optimal choices benefiting the public (Yasmina, 2021, p. 121). On the other hand, should

the Head of State of the Republic come under mounting opposition inside parliament and this opposition band together against his policies in a manner that impedes the execution of his agenda, he may choose to disband the parliament in a bid to restate a new parliamentary majority faithful to the government. This might go hand in hand with attempts to shape the direction of the voting procedure (Naji, 2006, p. 40).

3.1.3 Exploiting the Time of Dissolution for Political Purposes

This opens the door to using the time of dissolution for political ends supporting the Head of State's agenda. He could use it to get good election results by timing it during a time of division and weakness inside the opposition, or in the event of a strong political split among the political class. This might then change the political scene (Tonsir, 2022, p. 13). The Head of State could also use dissolution to postpone the debate on controversial legislation expected to generate major parliamentary debate or possible rejection. Dissolving parliament would allow the Head of State to delay the presentation of these concerns until a new parliamentary majority, one more willing and able to pass these bills, is constituted.

3.2 The Mechanism of Dissolution as a Tool for Consolidating Executive Power:

Though the NPA's dissolution was first meant to restore balance between the three branches of government, if not regulated it might become a weapon for the executive to dominate the legislative (Mohamed, 2024, p. 302).

3.2.1 Dissolution as an Infringement on the People's Will to Choose Their Representatives

A kind of representative democracy meant to empower people to freely select their representatives, who will voice their will, the NPA is formed by adopting a system of direct universal suffrage.

The Head of State of the Republic holds the decision to dissolve; if not exercised under tight criteria to handle situations influencing the public interest, this is seen as a violation of the people's will and their right to freely select their representatives. Especially if the electoral process is manipulated to change the makeup of the NPA in favor of a new majority, it signifies a suspension of the right to vote.

3.2.2 Obstructing Parliament's Role in Exercising Oversight

The separation of powers concept holds that power should be allocated such that every government branch can oversee and stop overreach by the others. On the other hand, should the NPA be dissolved often as a political practice, it could turn into a tool blocking executive branch parliamentary control (Mohamed, 2024, p. 302).

The 2020 constitutional amendment grants the NPA considerable supervisory authority, especially by means of the censure motion. Should the Head of State of the Republic authorize dissolution (Tonsir, 2022, p. 19), this control is suspended and the executive branch may use extraordinary powers during the NPA vacancy, especially regarding the Head of State's legislative power via decrees.

3.2.3 Controlling the Parliamentary Composition to Serve the Executive Authority:

Usually by means of alliances among several parliamentary blocs, the executive authority always tries to obtain a comfortable parliamentary majority that can help to simply pass its initiatives. Should this attempt be unsuccessful, it might consider disbanding the Parliament to influence the electoral process and guarantee the creation of a new parliamentary composition supporting the executive (Saber, 2021, p. 236).

3.2.4 Transforming Parliament from a Supervisory Institution to a Formal One:

The lack of explicit and exact limits on the Head of State's power to dissolve the NPA could transform Parliament into a merely formal institution, suggesting a balanced constitutional structure while really having no effect on the balance of powers. This would reduce the scope of its application to the narrowest confines. Parliament's power is in its independence and the control it exerts; weakening these qualities renders it useless and without any genuine and important function.

Conclusion:

Disagreements and conflicts between the constitutional institutions in the state could compromise citizens' interests and impair the appropriate operation of state affairs. This inspired the constitutional founder to create systems capable of achieving agreement and conflict resolution.

The Constitution's Article 108 turned the dissolution of parliament into a punitive response to second rejection of the action plan of the government. Thus, the first rejection causes the government to resign; the Head of State of the Republic creates a new government charged with drafting a new action plan following the NPA's observations and debates. But, for the second time, rejecting the proposal causes the NPA to be legally dissolved. Although this process reduces parliamentary power in debate and oversight and directly challenges its electoral mandate, it also prevents drawn-out conflicts between the government and parliament that might compromise the public interest. This sometimes compels parliament to ratify the government's action plan.

Should it seek to question the government and apply efficient control over it, this becomes a strong weapon of pressure on the NPA. The Head of State might

see this as a hindrance to carrying out his agenda, therefore he could use the power to dissolve parliament.

A genuine state of institutions therefore calls for constitutional engineering guaranteeing a genuine balance between the powers, therefore providing each branch the tools to defend itself from possible pressures from the other branches. Simultaneously, it should offer monitoring tools to control the other branches so they do not overstep their individual competences.

As for the mandatory dissolution outlined in Article 108 of the Constitution, alternative mechanisms should be developed to resolve disagreements over the government's program without resorting to the punitive dissolution of parliament. For instance, a joint committee between the government and the NPA could be formed to address disagreements about the government's program, avoiding dissolution in the event of a second non-approval, as it does not align with democratic principles based on respecting differing opinions.

The Head of State's authority to dissolve Parliament, as stipulated in Article 151 of the Constitution, must be carefully defined to avoid its generalization, as it has become the greatest threat to the oversight role of the NPA. This has rendered the Assembly a merely symbolic institution, unable to oppose the government.

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