The Presidential Third of the Algerian Council of the Nation Between the Strength of Inception and the Decline of Influence

الثلث الرئاسي لمجلس الأمة الجزائري بين قوة النشأة وتراجع التأثير

Zoubir Boulanaceur
Faculty of Political Sciences
University Constantine3 Salah Boubnider
zoubir.boulanaceur@univ-constantine3.dz

Date of send:14/04/2026 **Date of acceptance**:23/05/2026 **Date of publication**: 11/06/2026

Abstract: This study aims to clarify the reasons and factors underlying the establishment of the Council of the Nation and the appointed third within it, as well as the roles assigned to it in supporting the executive authority, particularly those relating to the process of voting on and enacting laws, and despite the constitutional amendments of 2016 and 2020, it continued to face certain constraints and difficulties that prevented it from exercising its legislative and oversight functions. To analyse this, we relied on historical and legal methodologies, as they are appropriate for this study, through this, we concluded that, having served previous regimes, this Council was subsequently abandoned, and many of its legislative powers remained in the hands of the executive authority.

Keywords: Presidential Thirds. Council of the Nation. Legislative Authority. Executive Authority.

* ***Corresponding author***

Introduction

The Algerian state went through a difficult period following the constitutional vacuum and the political crisis that escalated into a security crisis, which nearly shook the very foundations of Algeria's state institutions. After the cancellation of the legislative elections in December 1991, and the dissolution of the National People's Assembly coupled with the resignation of the President of the Republic in early 1992, this precipitated a return to constitutional legitimacy following the election of Mr El-Yamine Zeroual as President of the Republic in 1995, followed in 1996 by the establishment of new constitutional provisions, through which a new parliamentary chamber was created alongside the National People's Assembly, named the 'Council of the Nation'. The latter comprises elected members and others appointed by the President of the Republic to avoid repeating past mistakes, consolidate the state's institutional framework, expand local representation, and improve the drafting of legislation through the filter of the appointed presidential third, which serves as a pillar of the President's authority and that of the executive branch as a whole.

The 2016 constitutional amendments were introduced to bolster the role of the legislative authority, which was further strengthened by the 2020 constitutional amendment; nevertheless, the powers of the Council of the Nation remain incomplete and limited given its size and position within the Algerian state institutions.

The significance of this study lies in its examination of the contributions of the Council of the Nation, and in particular the appointed presidential third, to legislation and oversight, in light of the contradiction between the reality of its establishment and the subsequent constitutional amendments which gave preference to the executive branch without requiring the services of the presidential third to tip the balance and create equilibrium.

The aim of this study is to unveil the actual reasons and factors that led to the establishment of the Council of the Nation, the true role of the presidential third appointees within it, and the extent to which this relates to the Algerian political system in light of the powers granted to it under the constitutional amendments.

From the above, the following question arises: What are the true roles and powers of the presidential third appointees in light of the background to the establishment of the Council of the Nation and the amendments included in the 2016 and 2020 constitutions?

Based on this, the study's fundamental hypothesis is as follows: There is a contradiction in the amended constitutions between the justifications and effects of the presidential appointees, particularly regarding the exclusion and restriction of powers.

To answer this question, we adopted two main approaches:

The historical approach, to study the stages that the Council of the Nation, and especially the presidential appointees, has undergone since its inception to fulfill its designated functions.

The legal approach, to study and analyze the constitutional and legal texts and their conformity with actual practices, through the reality of the reforms and the effectiveness of the powers granted.

This study has been divided, according to a sequential methodological approach, into three main sections:

First Section: Justifications and Motives for the Establishment of the Council of the Nation.

Second Section: The Presidential Third: Between the Intentions of its Establishment and the Developments in Reality.

Third Section: Manifestations of the Restrictions and Obstacles Shackling the Powers of the Council of the Nation.

Firstly: Justifications and Motives for the Establishment of the Council of the Nation:

Following the promulgation of the 1989 Constitution, which stipulated the permissibility of establishing associations of a political nature and broke with the one-party system, numerous parties with different currents and orientations were founded. This was followed by municipal and provincial council elections, in which the Islamic Salvation Front (FIS) won the majority of seats. Then came the first round of legislative elections on December 26, 1991, which also resulted in the FIS winning the majority of seats, relegating the ruling National Liberation Front (FLN) to third place after the Socialist Forces Front (FFS). Before the second round took place, Presidential Decree 92-01 was issued, which dissolved the elected National People's Assembly during the one-party era (i.e., the parliament of the "National Liberation Front Party"), and the electoral process was halted, and the second round was cancelled (postponed and then cancelled).

On January 11, 1992, President Chadli Bendjedid announced his resignation before the members of the Constitutional Council. His resignation was accompanied by the dissolution of the National People's Assembly. Subsequently, on April 14, 1992, the Constitutional Council issued a statement indicating an institutional vacuum or constitutional crisis[1]. Since the 1989 Constitution did not address the situation of a simultaneous vacancy in the presidency and the inability of the Speaker of the National People's Assembly to assume the duties of the head of state, the procedure for such situations was to have the President of the Constitutional Council assume the duties of the head of state. However, the situation became more complicated after the President of the Constitutional Council refused to assume the duties of the head of state, arguing that the Algerian Constitution did not address the issue of a simultaneous vacancy in both offices, which prevented the President of the Constitutional Council from replacing the President of the Republic. He urged the existing institutions to ensure the continuity of the state[2].

The army then intervened in the name of the "State Security Council" to postpone the second round of elections, and the postponement later turned into a cancellation. This followed the establishment of a body called the "High Council of State"[3] on

January 11, 1992, to assume the powers of the President of the Republic, headed by one of the leaders of the Algerian Revolution, Mr. Mohamed Boudiaf[4]. The Islamic Salvation Front party was then banned, its members were thrown into camps in the Algerian Sahara, a state of emergency was imposed, and an advisory council was established in April 1992 to replace the parliament. After the assassination of President Boudiaf on June 29, 1992, he was succeeded by another historical figure, Mr. Ali Kafi, ushering in a dark decade marked by the loss of lives among ordinary citizens, members of the army and police, intellectuals, journalists, and union members[5].

Following this, the High State Council organized the National Reconciliation Conference, in which several parties and associations participated, on February 25-26, 1994. The State Security Council then appointed Defense Minister Liamine Zeroual as the new president of Algeria for a transitional period[6]. President Zeroual subsequently decided to end the transitional period and call for presidential elections on November 16, 1995, despite opposition from some politically influential parties in Algeria.

He then decided to amend the constitution in 1996 and complete the institutional structure of the state, which had previously been run by executive delegations and the National Transitional Council. During this period, a new party was founded to replace the National Liberation Front (FLN), named the National Democratic Rally (RND), on February 26, 1997. The RND contested the June 1997 legislative elections and won, despite protests from parties that accused the authorities of fraud. This was followed by local elections (municipal and provincial councils), which resulted in the establishment of the Council of the Nation (the upper house of parliament), as stipulated by the 1996 constitution. The same new party won these elections[7].

Following the amendment of the provisions of the November 28, 1996 constitution, which contains 182 articles, 52 of which pertain to the Council of the Nation, the Algerian constitutional framers adopted Article 98, which states: "Legislative power is exercised by a parliament composed of two chambers: the National People's Assembly and the Council of the Nation. It has sovereignty in drafting and voting on laws." Thus, the Algerian parliamentary system is based on the principle of bicameralism, also known as bicameralism, as is the case in many countries around the world (more than seventy)[8].

The explanatory memorandum accompanying the draft constitution issued by the Presidency of the Republic in May 1996, concerning the constitutional amendment, states in paragraph 28: "The establishment of this chamber, recognized in all democratic systems, aims to broaden the scope of national representation by guaranteeing the representation of local communities." Paragraph 30 of the same memorandum states: "The mixed composition of the Council of the Nation responds to the concern of prioritizing the maturity and competence of its members in managing the affairs of the nation, as well as the concern of ensuring its representation of the economic, social, and cultural sectors, and mobilizing historical,

political, and scientific energies in service to the nation." This concern is expressed in Article 101/2 of the Constitution: "Two-thirds of the members are elected by indirect ballot from among and by the members of the municipal and provincial councils."
-The President of the Republic appoints one-third of the members from among national figures and experts in the scientific, cultural, professional, economic, and social fields[9], as stipulated in the 2016 and 2020 constitutional amendments.

The first elections for the Council of the Nation were held on December 25, 1997, and the presidential appointments were made two days later, following the local elections on October 23, 1997. The National Democratic Rally (RND) won a majority of seats, securing 80 seats in the Council of the Nation and thus completing its dominance over both houses of parliament[10]. On January 4, 1998, the new legislative body was inaugurated alongside the National People's Assembly, thereby making the Council of the Nation a participant in the legislative process[11].

The Council of the Nation was established as a safeguard in the event of the dissolution of the National People's Assembly and the vacancy of the presidency due to resignation, death, or incapacity. Since the president does not have the right to dissolve the Council of the Nation, the constitutional loophole of 1989 was closed. The President of the Council of the Nation then assumes the presidency on an interim basis for a specific period (maximum 90 days) to organize presidential elections. The Constitutional Court is notified to confirm the vacancy, according to Article 88 of the 1996 Constitution, Article 102 of the 2016 Constitution[12], and Article 160 of the 2020 Constitution.

Thus, the Council of the Nation is considered a necessity imposed by the ruling authority to strengthen and protect the executive athority[13] and ensure the stability and continuity of state institutions. This is achieved through several distinctive features that differentiate the Council of the Nation from the National People's Assembly, including the six-year term of membership, its indissoluble nature, the majority system it uses to approve laws, and the high status of its president, who is considered the second most powerful figure in the state after the president[14]. It serves as a filter through which laws pass, undergoing rigorous scrutiny in their preparation and drafting, given its composition of national experts in various fields[15].

The one-third of members appointed by the President of the Republic to the Council of the Nation is considered the deciding factor, tipping the balance in favor of the executive branch, as it is the executive that selected, appointed, and installed them.

Secondly: The Presidential Third: Between Founding Intentions and Real-World Developments:

The Council of the Nation is composed of 144 members. Two-thirds (2/3) of its members are elected by indirect, secret ballot from among and by the members of the municipal and provincial people's assemblies, with two (02) members from each province, totaling 96 members. The President of the Republic appoints the remaining

third (1/3), i.e., 48 members, from among national figures and experts in the scientific, cultural, professional, economic, and social fields.

Membership in the Council of the Nation requires a minimum age of thirty-five (35), reduced from forty (40). The term of office for a member of the Council of the Nation is six (06) years, with half of the members being renewed every three (03) years. This process is called partial renewal.

The functioning and organization of the Council of the Nation are governed by founding texts (the Constitution) and regulatory texts, primarily Organic Law No. 02/99 of March 8, 1999, which defines the organization and operation of the National People's Assembly and the Council of the Nation, as well as The functional relationship between them and the government is governed by the internal regulations of the National People's Assembly, which were approved by the Assembly in a public session on January 22, 1998[16].

Two-thirds (2/3) of the members of the National People's Assembly are elected by other members elected at the municipal and provincial levels throughout the country. The election is conducted using a multi-member constituency system with a single-round majority vote at the provincial level, with each province being represented by two members[17]. This opens the door to manipulation and alliances between individuals and parties to serve narrow interests at the expense of the people, who choose their local representatives, not their national representatives, since they already elect their national representatives to the National People's Assembly.

While the President of the Republic appoints the remaining third of the members of the Council of the Nation from among national figures and experts, there are no binding constitutional restrictions on the President's appointment of these experts. He exercises this power at his discretion, as stipulated in Article 188, Paragraph 3 of the 2016 Constitution[18].

It was noted that the 2016 constitutional amendment, in Article 118[19], removed the exclusive fields (scientific, cultural, professional, economic, and social) from which the President of the Republic could select the appointed third, fields stipulated in previous constitutions (1996, 2002, 2008, and 2012). These fields were reinstated in the 2020 constitutional amendment, but without mentioning the cultural field in Article 121[20]. Was this an oversight by the Algerian constitutional legislator, or was it intended to grant the President greater freedom in selecting experts without restriction or link to a specific field? The previous specification of fields might have caused the President embarrassment in appointing his close associates and loyalists, or whomever he wished, even though constitutionally he was not obligated to consult anyone in this regard. Determining which qualifications are deemed suitable for membership in the National Assembly.

It should be noted that in 2016, the Algerian State was headed by Mr. Abdelaziz Bouteflika, and in 2020, the presidency of Mr. Abdelmadjid Tebboune began, coinciding with the events of the popular Hirak movement, the imprisonment of some prominent figures, and the death of the Chief of Staff of the People's National Army

and Deputy Minister of National Defense, Lieutenant General Ahmed Gaid Salah. This period also saw the beginning of discussions and accusations regarding the existence of cliques and gangs at the highest levels of power.

Furthermore, the appointment of members to the Council of the Nation differs from appointments to other positions made by the President of the Republic. While appointments to civil and military positions in the state are made by presidential decree, and their terms are terminated in the same manner and according to the principle of parallelism, this is not the case for the presidential third of the Council of the Nation members. The President of the Republic does not have the authority to terminate their terms. Their membership ends using the same procedures applied to elected members: either by lot during the partial renewal, at the end of their six-year term, upon death, or through resignation[21].

Article 122 of the 2020 Constitution stipulates: "The term of the Council of the Nation is six (6) years.

Half of the members of the Council of the Nation are renewed every three (3) years.

The term of Parliament may only be extended in very serious circumstances that preclude holding regular elections."

Parliament, meeting in joint session of both chambers, confirms this situation by resolution, based on a proposal from the President of the Republic and after consulting the Constitutional Court.

No one may serve more than two separate or consecutive parliamentary terms[22].

This provision is therefore an important guarantee of the appointed member's independence, ensuring they are not constantly threatened with dismissal throughout their term. This allows the appointed member to freely adopt their positions based on conviction and without any pressure[23]. However, appointed members cannot confront the executive authority that appointed them when exercising their legislative and oversight roles. This appointment will undoubtedly influence their positions, even if they contradict their convictions, especially since they feel bound by a moral and ethical obligation to the appointing authority. They come to see themselves as mere employees appointed to perform a task assigned to them within Parliament, rather than as parliamentarians representing the people[24].

The appointment of one-third of the members of the Council of the Nation by the President of the Republic allows certain national figures and experts in various fields to be present in decision-making positions. This is because they are often unable to integrate politically into parties, due to conflicts, propaganda competition, and other obstacles that deter qualified individuals and elites from political action[25].

The idea of appointment has faced considerable criticism, as it is seen as a means for the executive branch, represented by the President, to dominate the legislative branch. This is based on the majority required by the Algerian constitutional framers for voting on laws in the Council of the Nation (three-quarters of its members). This means that the abstention of the appointed third necessarily paralyzes the legal text. It can also play an arbitration role between the blocs that make up the Council, or it can

act as the deciding minority, holding the final say on a text voted on by the National People's Assembly. In other words, the appointment system reinforces the President's control over Parliament, both in terms of its composition and function. This contradicts democratic practice, which is based on the principle that Parliament represents the people[26].

It is also noteworthy that many members are chosen based on loyalty to the President or for activities that serve the regime's agenda within a system of patronage. Appointments often carry a personal reward, such as appointing individuals who demonstrated their loyalty through committees supporting the president in elections. They are also frequently made to bolster political parties allied with the regime, or even based on political stances supportive of the president[27]. Furthermore, almost all those appointed to the Algerian Council of the Nation were previously in power or held high-ranking positions within the state[28].

It was also noted that the composition of the Council of the Nation neglected the representation of members of the national community abroad and scientific experts in the diaspora, despite them being part of the electorate and entitled to representation in this council, similar to the composition of the National People's Assembly, which guarantees them a quota of seats distributed across their respective electoral districts[29].

The selective nature of the presidential appointment of one-third of the members leads to a sense of superiority and a lack of public oversight among them. Members shirk their responsibilities towards citizens' issues under the pretext that they are appointed by the President of the Republic—a "rising-class legitimacy."

The members who have successively served as President of the Council of the Nation are all presidential appointees. This is a clear indication of the executive branch's control over the work of the council, especially given the importance of this political position in the event of a presidential vacancy, as well as the presiding over joint sessions of Parliament. Furthermore, it prevents members of the Council of the Nation from electing one of their colleagues as president through normal procedures.

This became evident when President Abdelaziz Bouteflika faced obstacles, leading to his resignation and subsequent succession by Abdelkader Bensalah, a prominent figure within the regime. Bensalah had served as President of the National Transitional Council, then as President of the National People's Assembly, and was appointed to the presidential quota in the Council of the Nation, where he was elected president for consecutive terms beginning on July 2, 2002. This pattern continued even after the removal of the first president of the Council of the Nation, Bachir Boumaza, who had been elected in January 1998. Boumaza was forced to resign during the first partial renewal of the Council at the end of 2000, at the beginning of Abdelaziz Bouteflika's presidency, due to long-standing disagreements between them. He was replaced by Mohamed Cherif Messaadia[30], the former Secretary-General of the National Liberation Front (FLN) party during the period of one-party rule, a position he held for several terms until his removal following the events of

October 1988. He was then succeeded by Abdelkader Bensalah, followed by Salah Goudjil, and then Nasseri Azzouz. None of these individuals were outside the old regime or the presidential quota.

Furthermore, some argue for the need to maintain a balance between the country's constitutional institutions by mitigating tensions between the government and parliament and preventing any overreach or authoritarianism by any party that wins a majority of seats in the lower house[31].

Since the Council of the Nation's term is six years, this avoids any overlap with the presidential term limits, thus preventing a double vacancy[32].

It is likely that the real political motive is to control the final word in the final vote issue. Referring to the composition of the Council of the Nation, it was made up of 144 members before the amendment that took place in 2022, divided between 96 members elected by the members of the municipal and provincial people's councils, and 48 members appointed by the President of the Republic. Ordinary and organic laws are passed by a fixed majority, specifically three-quarters (3/4) of the members of the Council of the Nation.

Applying these figures to the ratification process in the Council of the Nation, we find that a text requires the approval of at least 108 members. This number can only be achieved through the intervention of the presidential appointees, who are appointed in all cases. Even assuming all elected members approve the text, this is insufficient for ratification. At least 12 members from the presidential appointees are required to complete and validly ratify it. This constitutes another effective tool for the executive branch, represented by the President of the Republic[33], to control legislation. It is a tactic to prevent an opposition party from controlling the legislative branch, based on the results of the annulled 1991 legislative elections, which were won by the Islamic Salvation Front (FIS).

Therefore, the amendment introduced a new quorum, eliminating the role of the appointed appointees, by adopting a new voting framework in the National Assembly through the 2016 constitutional amendment, which was further strengthened by the amendment... In 2020, Article 145 of the Constitution stipulates that the Council of the Nation ratifies the text voted on by the National People's Assembly by a majority of its members present for ordinary bills, or by an absolute majority for organic bills[34].

The power previously wielded by the appointed presidential third in determining the quorum for voting, which made the fate of a legal text contingent upon the approval of this third, was eliminated by the new organization. This organization adopted a simple majority quorum for ordinary laws and an absolute majority for organic laws, theoretically diminishing the effectiveness of the presidential third. Consequently, the Council of the Nation lost its subservient status to the executive branch and gained a degree of independence, albeit nominal, from the executive. Therefore, texts can be passed without the influence of the presidential third, even if not all of its members vote in favor[35]. This, in itself, represents a setback for the

Council of the Nation, given that the two-thirds elected members of the Council of the Nation primarily represent their respective parties, which are the same parties represented by their colleagues in the National People's Assembly.

Regarding the resolution of disputes between the two chambers, the drafters of the 1996 Constitution intended to make the second chamber an active participant in the fate of any legislative project, considering it a mechanism for achieving balance between the two chambers. However, the 2016 amendment deemed the previous system for managing disputes as an impediment to the legislative process and sought to rectify it through Article 138, which stipulates: "...In the event of a dispute between the two chambers, the Prime Minister or the Head of Government, as the case may be, shall request a meeting of a joint committee composed of members from both chambers, within a maximum period of fifteen (15) days, to propose a text concerning the provisions in dispute. The committee shall conclude its deliberations within a maximum period of fifteen (15) days.

The government shall submit this text to both chambers for ratification, and no amendment may be made to it except with the government's approval."

This process aims to reach a compromise text between the two chambers. If this proves impossible, and the disagreement persists, the 2016 and 2020 constitutional amendments granted the Prime Minister or Head of Government the authority to refer the matter to the National People's Assembly, which will have the final say in resolving the dispute. This is stipulated in the final paragraph of Article 145: "...in the event of a continued disagreement between the two chambers, the government may request the National People's Assembly to make a final decision. In this case, the National People's Assembly will adopt the text prepared by the joint committee or, failing that, the final text it voted on." Consequently, the Council of the Nation no longer possesses the power and authority it had before the 2016 amendment[36].

The 2020 constitutional amendment stipulated that both the National People's Assembly and the Council of the Nation establish standing committees within their respective internal regulations.

These committees serve as political workshops where examination, study, and discussion take place, fostering cooperation with ministries through their relationship in implementing proposals and opinions submitted by experienced members of parliament. This constitutes preventative oversight and leads to the participation of standing committees in government work[37].

On the other hand, the Algerian legislator, in drafting the 2020 Constitution, attempted to further separate the issue of government formation between the Presidency and the National People's Assembly, both of which are elected by direct and secret universal suffrage. Under the 1989 Constitution, the government and its head were formed by the parliamentary majority or through alliances. Then, the 2008 Constitution granted the President the power to appoint the Prime Minister and the government, implement his program, and consolidate executive power over the other branches of government. Following the 2020 amendment, which attempted to

reconcile these two approaches, Article 105 stipulates: "If the legislative elections result in a presidential majority, the President of the Republic shall appoint a Prime Minister and task him with proposing the formation of the government and preparing a plan of action to implement the President's program, which he shall present to the Council of Ministers."

Article 110 stipulates: “If the legislative elections result in a parliamentary majority other than the presidential majority, the President of the Republic shall appoint the Prime Minister from the parliamentary majority and task him with forming his government and preparing the parliamentary majority's program…”.

In the event that the parliamentary majority opposing the President is intransigent regarding its program, and the President does not approve it, this contradiction and discord, with each side insisting on implementing its program, leads to the disruption of institutional work, political deadlock, the obstruction of citizens' interests, and the paralysis of the state. The Constitution presupposes this situation and therefore emphasizes the necessity of political consensus between the President of the Republic and the parliamentary opposition majority. It establishes mechanisms and controls to preserve the status of each institution and ensure a balance between them, preventing any constitutional institution from overpowering the other, while affirming presidential supremacy[38].

Although a vote of no confidence in the government by parliament is a form of oversight, it is also a tool of pressure on the government against parliament. If the government does not obtain the approval of the National People's Assembly, it can fall, or the Assembly can be dissolved. On the one hand, if the National People's Assembly does not approve the vote of confidence, the Prime Minister submits his resignation. On the other hand, the President of the Republic can dissolve the National People's Assembly and refuse to accept the government's resignation. Thus, it is a double-edged sword, leading to deputies refraining from renewing confidence for fear of jeopardizing their own representation.

The president's sole power of deterrence, without any checks and balances, leads to political injustice and weakens the other branches of government. This deprives them of the sovereignty they themselves derive from the people through elections, creating a situation where one elected body is pitted against another, both claiming to represent the people, yet both in conflict and discord. Does this mean that representation of the majority does not reflect the free will of the people, or is there a deviation from expressing and representing the public interest? Therefore, when parliament is under the threat of dissolution at any time, it cannot be truly independent or effectively exercise oversight over the executive branch. The president can dissolve parliament or call early legislative elections after consulting with the Speaker of the National People's Assembly, the Speaker of the Council of the Nation, the President of the Constitutional Court, and the Prime Minister (Article 151, Paragraph 1 of the 2020 Constitutional Amendment), without amendment or justification (i.e., at the president's discretion, and even consultation is not binding).

If a majority opposes the president's position, parliament can be dissolved to secure a presidential majority from which to form a government. In this case, at the very least, the process of parliamentary elections should have been adhered to. Parliament cannot be dissolved within a specific timeframe of its term[39].

Furthermore, the role that the one-third of the parliament appointed by the president, comprising experts in various fields, can play cannot be denied, provided they are chosen fairly, without favoritism or narrow interests, and without excluding any party, even if their views do not align with some elements of the regime, while possessing the qualities of integrity, competence, and a proactive approach to serving the public interest.

This may rectify the shortcomings of the elections for two-thirds (2/3) of the Council of the Nation, including deficiencies in representation, qualifications, and legislative competence, without viewing this position primarily as a source of wealth, networking, and social advancement.

What has been observed is a decline in the power of the President of the Republic and those who represent him in certain institutions, such as the Council of the Nation and the government. The genuine opposition has been weakened, and the entire political process has been diluted in favor of hidden lobbies and entities. This occurs amidst a climate of self-serving patronage and corruption that has exhausted the will and trust of the people, fractured the foundations and institutions of the state, and threatens to undermine the unity of the state's components, history, religion, ethnicities, language, and fundamental principles.

Thirdly: Manifestations of the restrictions and obstacles hindering the powers of the Council of the Nation:

Despite the powers granted to the legislative authority in general, and to the Council of the Nation in particular, within its legislative jurisdiction, it has faced a number of obstacles and restrictions that impede its ability to fulfill its assigned task, effectively drawing boundaries that prevent it from carrying out its legislative function.

The constitutional framers continued to restrict the legislative branch with a set of limitations, such as the financial constraint imposed on legislative initiatives in the 2016 constitutional amendment, specifically Article 139, which states: “No draft law whose content or outcome is a reduction of public resources or an increase in public expenditures shall be admissible unless it is accompanied by measures aimed at increasing state revenues or providing funds in another chapter of public expenditures equal to at least the amounts proposed for expenditure.” This was further confirmed by Article 147 of the 2020 constitutional amendment.

This financial constraint is imposed on the legislative initiatives of members of the National People's Assembly and the Council of the Nation, but not on the government[40]. The government, along with its various administrative departments, primarily the Ministry of Finance, prepares this draft budget law. It justifies this by claiming that its technical departments possess the necessary information, expertise,

and knowledge of the state's economic and financial situation, as well as the nature and procedures of expenditures, to prepare the draft budget law. This contrasts with the parliament, which lacks a highly competent body in this vital area capable of preparing this sensitive project.

Similarly, regarding legislation pertaining to international treaties and agreements, the President of the Republic is primarily responsible for negotiating, signing, and ratifying them. The Constitution stipulates that ratification requires the approval of both houses of Parliament. These treaties are subject to review by the Constitutional Court to ensure their constitutionality before ratification, after which they supersede national laws. Even treaties that conflict with the Constitution can be amended to conform to them, with the amendment originating from the President of the Republic. This is stipulated in Articles 91, 153, and 154 of the 2020 Constitutional Amendment.

The Algerian Constitution grants the President of the Republic the power to consult the people on any issue of national importance through a referendum, to convene the electorate, and to call for early presidential elections (Article 91 of the 2020 Constitution). Furthermore, the President can declare a state of emergency or siege for a maximum of thirty (30) days in cases of urgent necessity. Any extension of this state of emergency requires the approval of both houses of Parliament (Article 97 of the 2020 Constitution).

In addition to the president's right to appoint individuals to civil and military positions in the state, such as judges, security officials, governors, the governor of the Bank of Algeria, the president of the Council of State, the first president of the Supreme Court, ambassadors and envoys, and the prime minister or head of government (Article 91 of the 2020 Constitution), this could lead to the marginalization of the legislative branch and locally and nationally elected bodies, and even to the manipulation of elections to the president's advantage through appointments, rewards, or penalties involving positions and jobs.

Furthermore, it restricts the scope of the law and grants the executive branch free rein in legislation through regulations and executive decrees[41].

This necessitates requiring members of parliament to possess experience and a high level of education that qualifies them to discuss such draft laws with a quality that may even surpass that of government members and their technical staff. The task of establishing appropriate and high-quality legal frameworks for managing state affairs is a delicate matter that requires specialists more than ordinary individuals who enjoy the trust of their constituents, in addition to ensuring the integrity of the candidate selection process and the elections themselves.

Furthermore, the legislative authority of the Council of the Nation is limited to three areas: laws related to local governance, regional planning, and the territorial division of the country. These are ordinary laws, not organic laws.

In addition, the parliament's legislative role is narrow and restricted to other areas, most notably its participation in ensuring the constitutionality of laws by referring them to the Constitutional Court. This was established by the 2020 constitutional

amendment as an independent institution tasked with guaranteeing respect for the constitution. The Constitutional Court regulates the functioning of institutions and the activities of public authorities, thus abandoning the Constitutional Council mechanism.

It should be noted that the 2020 constitutional amendment deprived Parliament, in both its chambers, of the right to participate in the formation of the Constitutional Court, unlike the previous arrangement where Parliament contributed to the formation of the Constitutional Council, with the Council of the Nation having two members on the Council.

The amendment also granted the Council of the Nation the right to form the Supreme Judicial Council by having the Speaker of the Council of the Nation appoint two members from outside the Assembly to this position[42].

Consequently, it appears that the Council of the Nation's oversight of the government's work is restricted, lacking effectiveness and influence, due to the complex conditions for using several of its mechanisms, particularly those related to questioning and investigation. Furthermore, its jurisdiction in financial oversight, like that of the People's National Assembly, has been frozen[43].

In addition to the government's dominance in the legislative process, from the agenda to the joint committee, the President of the Republic retains the right to promulgate laws, request a second reading, and issue notifications[44].

Consequently, there is significant interference by the executive branch in some of the powers that fall within the purview of the legislative branch, in favor of the President of the Republic and the Prime Minister or Head of Government. This disrupts the balance of power, in addition to the aforementioned restrictions imposed by the constitutional legislator and the traditions inherited through the exercise of power since independence.

Conclusion

The political and security imbalances that afflicted the institutions and very existence of the Algerian State during the Black Decade necessitated a return to constitutional legitimacy. This necessitated relieving the political and military actors of that period of their predicament by resorting to the ballot box to elect a legitimate president in 1995. This was followed by the constitutional amendment of 1996, which established a twin to the National People's Assembly, represented by the Council of the Nation, with the aim of creating balance and broadening national representation.

The existence of this new council might be interpreted as an ally of the executive branch, especially given that one-third of its members are appointed by the President of the Republic from among national figures and experts in the scientific, cultural, professional, economic, and social fields. This is intended to improve legislative work, activate oversight of parliamentarians, and ensure their adherence to discipline in the performance of their duties.

The disappearance of the political influences that characterized the process surrounding the creation of the second legislative chamber led the constitutional framers to backtrack and eliminate the obstructive role of the Council of the Nation in the 2016 and 2020 constitutional amendments. This was achieved by changing the voting quorum, restoring the elected representatives' authority, and by restructuring the process of resolving disputes, granting the National People's Assembly the final say. This marked a significant decline in the Council of the Nation's standing.

However, the government's involvement in the legislative process, through granting it the right to initiate laws and legislate by presidential decree, further diminished the role of the legislative institution. This occurred despite the inherent ambiguity of the political process in Algeria, particularly the prevalence of patronage, cronyism, and a lack of integrity in nominations and elections, all within a context of widespread political and financial corruption. Personal interests often supersede the public good, even at the expense of legal texts and their circumvention.

Conclusion

- The Algerian Council of the Nation was established as a result of the political and institutional vacuum that Algeria suffered during the 1990s

- Parliament does not enjoy its full legislative powers, especially the Council of the Nation, which cannot operate freely within the scope of its mandate.

- Granting members of the Council of the Nation the right to initiate laws, while restricting this initiative to specific areas defined in the constitution, effectively marginalizes the upper house.

- The presidential veto power, which previously prevented a quorum for the ratification of laws, is no longer effective given the changes to the voting quorum in the 2016 and 2020 constitutions. - Reorganizing the process of resolving disputes and granting the National People's Assembly the right to adjudicate them weakens the role of the Council of the Nation.

Recommendations:

- Require high academic qualifications for candidacy to the Council of the Nation, prioritizing those who have proven successful in local elected councils and are distinguished by their integrity and credibility, to ensure the establishment of a strong and stable legal framework that aligns with the demands and aspirations of the popular will

- Grant the Council of the Nation the right to propose laws in all areas, with the right to amend draft laws and proposals.

- Empower the Council of the Nation to set its session agenda according to the priorities it deems necessary.

- Remove all obstacles hindering Parliament and grant it the freedom to legislate without restrictions or conditions that undermine its popular sovereignty and its ability to legislate for the benefit of those who elected it or whom it represents, instead of limiting its role to discussing and enriching texts submitted by the government, which are often approved without change or amendment.

- Support the presidential quota with qualified Algerians in various fields residing outside the country, while granting the Algerian diaspora the right to elect their representatives to the Council of the Nation.

- Granting the right to request a meeting of the Joint Committee of the two chambers of Parliament as soon as a dispute occurs, and not to the Prime Minister, and this is in accordance with the principle of separation of powers recognized constitutionally.

- Imposing restrictions on government bills to prevent them from becoming a tool to stifle parliamentary activity and instead empowering Parliament. The President's broad legislative powers already make him a rival to Parliament.

- Revising the disciplinary procedures stipulated in the Council of the Nation's internal regulations to ensure they are more appropriate and effective, reflecting the importance of Council of the Nation members respecting the internal regulations and the sanctity of popular representation

- Drawing on the experiences of developed countries with upper houses to enhance the effectiveness and quality of legislation produced by these chambers, ensuring they are an addition rather than a burden or obstacle to the legislative process.

- Granting Parliament, the right to issue binding consultations regarding international treaties and agreements.

- Granting the Council of the Nation the right to legislate in the event of a presidential vacancy coinciding with the dissolution of the People's National Assembly, should the need arise, as an exceptional measure until new elections are held.

- Providing genuine and effective party representation by including highly qualified and competent members in the upper house to improve the quality of legislation and address the challenges facing the country with diverse and serious perspectives.

- The need to separate powers and for the legislative authority to have its legitimate right to enact laws, away from narrow calculations, in light of the executive authority’s superiority over the legislative authority, which has jurisdiction in the field of legislation.

Margins:

[1] Hamami Miloud, *“Justifications for the Establishment of the Council of the Nation in Algeria between Support and Opposition,”* Journal of Politics and Law Notebooks, Dr. Moulay Tahar University of Saida, Algeria, Vol. 15, No. 02, 2023, p. 167.

[2] Bouloum Mohamed Amine, *“The Presidential Third and Its Role in Maintaining Balance between the Legislative and Executive Authorities in the Algerian Constitutional System,”* Algerian and Comparative Public Law Journal, Djillali Liabes University, Sidi Bel Abbès, Algeria, Vol. 08, No. 01, May 2022, p. 89.

[3] Debla Abdelali, *The Modern Algerian State: Economy, Society, and Politics,* 1st ed., Dar Al-Fajr for Publishing and Distribution, Cairo, 2004, p. 221.
[4] Guira Ismail et al., *The Future of Democracy in Algeria,* 2nd ed., Democracy Studies Project in Arab Countries, Center for Arab Unity Studies, Beirut, 2009, p. 97.
[5] Kett Samir, *"The Problem of Democratic Transition in Algeria since the Adoption of Political Pluralism – A Structural Approach,"* Journal of Politics and Law Notebooks, Kasdi Merbah University, Ouargla, Algeria, No. 16, January 2017, p. 229.
[6] Belkacem Abbas & Ammar Bouhouch, *Algeria: Democracy and Development under the Authoritarian Bargain,* in *Explaining Democratic Deficit in the Arab World,* edited by Ibrahim El-Badri and Samir Makdisi, translated by Hassan Abdallah Badr, 1st ed., Center for Arab Unity Studies, Beirut, 2011, p. 309.
[7] Fekroun Abdelhak, *Leadership Crisis in the Arab World and the Problem of Conflict between the Political and Military Institutions – The Case of Algeria,* PhD dissertation in Political Science (Political and Administrative Organization), Department of Political Science and International Relations, Faculty of Law and Political Science, Mohamed Khider University, Biskra, 2014, p. 199.
[8] Council of the Nation Algeria website: www.majliselouma.dz/index.php/ar/2016-07-19, accessed on November 26, 2024 at 15:09.
[9] Boukra Idris, *The Position of the Council of the Nation in the Algerian Constitutional System,* Journal of Administration National School, Documentation and Administrative research center, Vol. 10, No. 01, 2000, pp. 69, 70.
[10] Belhassan Hassan, *The Impact of the Presidential Alliance on the Relationship between the Executive and Legislative Authorities in Algeria (2004–2012),* Majester's thesis in Maghreb Studies, Department of International Relations, Faculty of Political Science and International Relations, University of Algiers 3, 2017, p. 33.
[11] Maamri Nasr Eddine, *"Evaluation of the Council of the Nation Experience in Algeria,"* Journal of Arts and Social Sciences, Mohamed Lamine Debaghine University, Setif 2, Algeria, No. 25, December 2017, p. 121.
[12] Tounsir Ibrahim, *"The Formation of the Council of the Nation and Its Legislative Powers in the Algerian Constitutional System,"* Al-Haqiqa Journal, Ahmed Draia University, Adrar, Algeria, No. 38, 2016, p. 154.
[13] Hijab Yassine, *The Legislative Role of the Algerian Council of the Nation and the Moroccan House of Councillors – A Comparative Study,* Master's thesis in Law (Constitutional Law), Faculty of Law and Political Science, Mohamed Khider University, Biskra, Algeria, 2015, p. 13.
[14] Ibid., p. 12.
[15] Ibid., p. 14.
[16] Previously cited source: www.majliselouma.dz/index.php/ar/2016-07-19
[17] Tounsir Ibrahim, *op. cit.*, pp. 156–157.
[18] Ibid., p. 159.
[19] *Constitution of the People's Democratic Republic of Algeria,* Law No. 16-01, dated March 6, 2016, Official Gazette No. 14, issued March 7, 2016.
[20] *Constitution of the People's Democratic Republic of Algeria,* approved by referendum on November 1, 2020, promulgated by Presidential Decree No. 20-442 of December 30, 2020, Official Gazette No. 82, issued December 30, 2020.
[21] Bouloum Mohamed Amine, *op. cit.*, pp. 96–97.
[22] *Algerian Constitution 2020, op. cit.*
[23] Bouloum Mohamed Amine, *op. cit.*, p. 97.
[24] Ibid., p. 96.

[25] Maamri Nasr Eddine, *op. cit.*, p. 123.
[26] Hijab Yassine, *op. cit.*, p. 38.
[27] Belhassan Hassan, *op. cit.*, p. 33.
[28] Hijab Yassine, *op. cit.*, p. 38.
[29] Belhassan Hassan, *op. cit.*, p. 34.
[30] Ibid., pp. 39–40.
[31] Maamri Nasr Eddine, *op. cit.*, p. 123.
[32] Belhassan Hassan, *op. cit.*, p. 36.
[33] El-Borj Mohamed & Ben Ramadan Abdelkrim, *"The Position of the Algerian Council of the Nation in Parliamentary Work under the 2020 Constitutional Amendment,"* Journal of Constitutional Law and Political Institutions, Laboratory of Constitutional Law and Good Governance, Faculty of Law and Political Science, Abdelhamid Ben Badis University, Mostaganem, Algeria, Vol. 06, No. 01, 2022, pp. 24–25.
[34] Ibid., p. 25.
[35] Thamri Omar, *"Reforming the Council of the Nation: Expansion of Powers and Decline in Status,"* Journal of Law and Human Sciences, Ziane Achour University, Djelfa, Algeria, Vol. 14, No. 02, 2021, p. 509.
[36] Ibid., pp. 510–511.
[37] Qarsas Marwa & Huda Azzaz, *"Parliamentary Oversight Mechanisms over Government and Their Activation in Light of the 2020 Constitutional Amendments,"* Journal of Legal and Social Sciences, Ziane Achour University, Djelfa, Algeria, Vol. 6, No. 4, December 2021, p. 48.
[38] Bouloum Mohamed Amine, *op. cit.*, pp. 97–98.
[39] Qarsas Marwa, *op. cit.*, p. 44.
[40] Hafedh Allah Abdelali, *"Limits of Legislative Initiative of the Algerian Council of the Nation after the Constitutional Amendments of 2016 and 2020,"* Journal of Human Sciences, Larbi Ben M'hidi University, Oum El Bouaghi, Algeria, Vol. 09, No. 03, December 2022, p. 649.
[41] Biran Yamina, *"The Legislative Function of the Algerian Council of the Nation under the 2016 Constitutional Amendments,"* Journal of Legal and Political Studies, Ammar Thliji University, Laghouat, Algeria, Vol. 04, No. 02, June 2018, pp. 201–202.
[42] El-Borj Mohamed & Ben Ramadan Abdelkrim, *op. cit.*, pp. 30–35.
[43] Dambari Aziza, *"The Council of the Nation: Compatibility between the Reasons for Its Establishment and Its Powers under the 2020 Constitutional Amendment,"* Journal of Legal and Political Research, Mohamed Seddik Ben Yahia University, Jijel, Algeria, Vol. 09, No. 02, December 2024, p. 222.
[44] Biran Yamina, *op. cit.*, p. 201.