

## The Outcome of Legislative Texts Between the Two Chambers of Parliament in Algeria

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### Abstract:

The outcome of legislative texts in Algeria is characterized by complexity that reflects the dual nature of the parliament, composed of the National People's Assembly and the Council of Nation, as stipulated by the Constitution. The legislative process begins with the study of texts within the National People's Assembly, which has broad powers in proposing and amending, before referring them to the Council of Nation for consideration and voting. In the event of a disagreement between the two chambers regarding the content of the text, constitutional mechanisms for reconciliation are activated, such as forming a committee of equal members to attempt to reach a compromise. If the disagreement persists, priority may be given to the National People's Assembly in certain cases, as it directly represents the will of the people.

This legislative system aims to achieve a balance between the two chambers, with the National People's Assembly expressing the aspirations of citizens, while the Council of Nation ensures the review of legislation in line with the public interest. Nevertheless, this mechanism faces challenges, the most notable being delays in the adoption of legislative texts due to disagreements between the two chambers, highlighting the need to improve and activate constitutional reconciliation mechanisms to ensure harmony and effectiveness in the legislative process.

**Keywords:** legislative text, Council of Nation, National People's Assembly.

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### Introduction:

The process of preparing legislative texts in Algeria is a complex process aimed at achieving a balance between various authorities and enshrining the principle of separation among them. Legislative texts go through several stages to ensure their maturity and fulfill their constitutional and legal objectives. This process begins with a

legislative initiative from the President of the Republic or the government in the form of a bill, or from the members of Parliament in the form of a legislative proposal, which is then presented to the National People's Assembly, the lower house of Parliament, where it is discussed, amended, and voted on. After the National People's Assembly's approval, the text is referred to the Council of Nation, the upper chamber, which has the power to review and amend texts in accordance with the provisions of the Constitution. In the event of a disagreement between the two chambers, the constitution intervenes to determine the reconciliation mechanisms, allowing for the formation of a committee with equal members to reach a consensus. If the disagreement persists, in some cases, the National People's Assembly prevails, as it directly represents the popular will. This balance between the two chambers aims to ensure that no single party dominates the legislative process, reflecting the dual nature of the Algerian Parliament, which seeks to achieve mutual oversight and enhance legislative effectiveness while considering the specificity of the Algerian political system, which combines principles of representative democracy with a strong presidential character. The issue of the outcome of the legislative text between the two chambers of Parliament in Algeria is raised through the challenges facing this bicameral legislative process, particularly how to achieve a balance between the chambers without undermining the principle of separation of powers or harming the effectiveness of legislation. On one hand, the National People's Assembly has broader powers as a representative of direct people's will, while the Council of Nation is viewed as a reviewing body aimed at ensuring the quality of texts and their alignment with the higher interests of the State. However, this distribution may raise questions about the effectiveness of the oversight role of the Council of Nation, especially given its limited ability to radically amend legislative texts. In addition, other issues arise regarding how to resolve disagreements between the two chambers, where such disagreements could lead to the suspension of the approval of important legislative texts, negatively impacting the legal system's response to development challenges and citizens' needs. The question of priority in legislation also emerges, as emphasizing the will of the National People's Assembly in some cases may be perceived as a diminishment of the role of the Council of Nation as a complementary legislative institution. Thus, the main issue lies in seeking constitutional and practical mechanisms that achieve harmony and integration between the two chambers while ensuring the efficacy and democratic nature of legislation, reflecting a balance between people's will and the nation's higher interests.

**The Problem:**

How can the Algerian legislative system achieve harmony and integration between the chambers of Parliament in processing legislative texts, while ensuring a balance between the role of the National People's Assembly as a representative of popular will, and the role of the Council of Nation as a supervisory institution, without affecting the effectiveness of legislation or hindering the legislative process?

### **Section 1: Exclusivity of Legislative Action at the National People's Assembly**

The launch of legislative work at the National People's Assembly in Algeria represents an exclusive and first step in the legislative process. In fact, this Assembly is granted exceptional powers to discuss and amend bills before referring them to the Council of Nation, reflecting its pivotal role as a representative of the popular will and a primary source of legislation in the Algerian political system.

#### **Subsection 1: Forms of Legislative Initiative by the National People's Assembly**

The forms of legislative initiative by the National People's Assembly in Algeria consist of several mechanisms provided by the Constitution and regulatory laws to enable its members to play their pivotal role in presenting legislative proposals that reflect the aspirations of the people and the needs of society.

#### **Sub point 1: Government Dominance Over the Legislative Process (Whether Proposing Laws or Bills)**

The initiation phase of legislation is considered the first stage of legislation. Maurice Duverger believes that the initiative is the right to create a text of a law, budget, or decision... aimed at discussing and voting on it by Parliament <sup>(1)</sup>, while Robert Collard believes that the initiative of legislation is the authority, and whoever has the right to propose is the one who rules. Meanwhile, Mohamed Kamel Leili considers it: "part of the legislative process, such that it cannot take place without it, which makes the initiative an essential element of legislation <sup>(2)</sup>, while Said Boulchair defines the initiative as "a constitutional right granted to the executive or legislative authorities, or to the legislative authority alone, by virtue of which

<sup>(1)</sup> - Ben Safi Ali, "Organizing the Executive Authority in the 1996 Constitution and Determining the Nature of the Algerian Political System," a thesis submitted for a Master's Degree, Faculty of Law, University of Algiers, 2002-2003, p. 125.

<sup>(2)</sup> - Ismail Al-Badri, "The Powers of the Executive Authority in the Islamic State and Contemporary Constitutional Systems," Dar Al-Nahda Al-Arabiya 1993, p. 434.

a bill or proposal, a budget, or a resolution is presented to Parliament for discussion and vote as is or by introducing amendments.”<sup>(1)</sup>

If the Constitution stipulates that legislative authority is exercised by Parliament, which has sovereignty in preparing and voting on the law, then initiating laws is a right shared between the representatives and the Prime Minister. In fact, Article 136 of the 1996 Constitution, as amended and supplemented, stipulates that both the Prime Minister and the representatives have the right to initiate laws. If it is introduced by the government, it is called a "bill," and if it is introduced by the representatives, it is called a "proposed law." The executive authority not only shares the right to initiate legislation with Parliament, but also has the upper hand. In fact, the government bill and the parliamentary proposal are not on equal footing that is to say that the parliamentary proposal lacks the sharpness of ideas, the depth of study, and the skill of drafting due to the lack of the necessary competence and technical specialization. This makes it lack of priority and acceptance.

Meanwhile, government legislation (bills) dominates due to the human and technical capabilities of the government, which possesses all the necessary data and means that qualify it to control the state's legal needs by enabling it to implement its work plan because laws are an effective tool to achieve the objective of public policy, by transferring them directly to the field of implementation, as a result of their binding and enforceable nature upon completion of their creation<sup>(2)</sup>. This may be one of the reasons that explain the phenomenon of the government's dominance in the process of enacting laws.

Like all constitutional systems in the world, the legislative function of Parliament has deteriorated, and proposals for laws by representatives are almost non-existent, even though the power to enact laws originally belongs to Parliament. This abandonment or deterioration is the result of several factors in addition to the abovementioned, the resorting to parallel legislation by the President of the Republic, which consists mainly in the regulatory authority and orders, the weakness of the formation of representatives, their lack of control over technical issues, their distance from the electoral base, in addition to the formal and substantive legal conditions that restrict the representative's right to propose laws.

The government does not encounter any significant substantive restrictions in exercising its right to initiate bills, except for some simple formal restrictions, as addressed by the aforementioned Organic Law No. 99-02, such as the need that the

bill shall be accompanied by a statement of reasons, and that its text shall be written in the form of articles (Article 2).

<sup>(1)</sup> - Saïd Bouchair, *The Algerian Political System*, 3<sup>rd</sup> ed., Dar El-Houda, Ain Mlila, Algeria, 1993, p. 125.

<sup>(2)</sup> - Taher Touati, *The Duality of Executive Power in the Algerian Political System: The Problem of the Balance between Authority and Responsibility between 1999-2004*, a thesis submitted for a Master's Degree, Faculty of Law, University of Algiers, 2006-2007, p. 75.

2) Any bill whose subject is identical to that of a draft or proposal currently being examined by Parliament and whose content has been rejected or withdrawn less than twelve 12 months ago is inadmissible (Article 24).

The procedures for initiating bills consist of four (04) basic stages, which are the drafting of the law by the government, obtaining the opinion of the Council of Nation, then presenting it to the Council of Ministers, and finally depositing it with the Bureau of the National People's Assembly or the Council of Nation, as the case may be.

**1- Drafting of the bill by the Government:** The Constitution entrusts the government with submitting bills, on behalf of the Prime Minister. Usually, the preliminary bill is prepared by the relevant ministry or a special committee established for this purpose. It is then sent to the General Secretariat of the Government, accompanied by a report presenting the draft, which contains a presentation of the reasons and motives that led the ministry to take the initiative to prepare the draft text, as well as the political, economic, social and financial effects, in addition to all the details that the relevant minister wants to present, in order to get the Prime Minister to approve it <sup>(1)</sup>. The General Secretariat of the Government then distributes it to the various ministries to obtain their opinion and comments on the draft, then, the bill is presented in government meetings for study and enrichment.

When it comes to a bill with a general dimension concerning the organization of the civil service, the General Directorate of the Civil Service is responsible for preparing it. It is the Directorate General of the Civil Service that prepares draft texts relating to the status of state employees, local authorities, public institutions, and public bodies subject to the civil service system. The General Secretariat of the Government, for its part, is responsible for preparing drafts with a general dimension that do not originally fall within the purview of the General Directorate of the Civil Service or within the purview of any ministerial sector, or in the event that the Prime Minister takes the initiative to prepare a text when political necessity so requires.

**2- Obtaining the opinion of the Council of Nation:** Article 136 Paragraph 3 of the amended and supplemented 1996 Constitution stipulates that bills shall be submitted to the Council of Ministers, after consulting the Council of Nation. The Prime Minister shall then submit them, as the case may be, to the Bureau of the National People's Assembly or the Bureau of the Council of Nation.

"This procedure did not exist in the 1989 Constitution because that period was characterized by a single judicial system, but the 1996 Constitution created a system of judicial duality, an ordinary justice that rules ordinary disputes, consisting of a First Instance Court, a Court, and a Supreme Court, and an Administrative Court that decides administrative disputes, consisting of an Administrative Court and a Council of Nation, the latter of which has an advisory role and a judicial role..

*(1) - Omar Najib Addelaziz, The Legal Status of the Prime Minister in the Constitution of February 23, 1989, a Thesis submitted for a Master's Degree, Institute of Law, University of Algiers, 1995-1996, p. 107.*

According to Article 4 of Organic Law No. 98-01 of August 29, 1998, relating to the powers, organization, and operation of the Council of Nation <sup>(1)</sup>, and Article 3 of Executive Decree No. 98-261 of August 29, 1998, defining the forms and methods of procedures in consultative matters with the Council of Nation <sup>(2)</sup>, the bill and all elements of the file are sent from the General Secretariat of the Government to the General Secretariat of the Council of Nation, which expresses its opinion thereon. Here, we distinguish between two cases <sup>(3)</sup>:

**First Case:** If the bill is not urgent, the Council of Nation deliberates in the form of a general assembly chaired by the President of the Council of Nation, and including the Vice-President, the State Commissioner, the Presidents of the Chambers, and five (05) State Counselors, with the possibility of the ministers themselves participating or appointing representatives to represent them in the sessions to decide on issues related to their sectors. A ruling is not valid unless at least half of the members of the General Assembly are present, as stipulated in the provisions of Articles 35, 36, and 37 of Organic Law No. 98-01.

**Second Case:** In cases where the Prime Minister calls attention to the urgency of the issue, the President of the Council of Nation refers the bill to the Chairman of the Standing Committee, composed of a Chairman with the rank of President of the Chamber and at least four (04) Council of Nation councilors. The State Commissioner or one of his assistants attends the sessions and deliberations and submits his

memoranda in accordance with Article 38 of Organic Law No. 98-01. The deliberations of the General Assembly and the Standing Committee are decided by a majority vote of the members present. In the event of a tie, the President's vote shall be decisive. The opinion of the Council of Nation is recorded in the form of a final report sent to the Secretary-General of the Government by the President of the Council of Nation.

The Constitution Founder, pursuant to Article 136/03, granted the Council of Nation the authority to study bills before submitting them to the Council of Ministers. Here, the question arises as to the nature of the opinion issued by the Council of Nation.

*(1)- Organic Law No. 98-01 of August 29, 1998, relating to the powers, organization, and operation of the Council of Nation, Official Gazette, No. 64, People's Democratic Republic of Algeria, issued on August 30, 1998.*

*(2)- Executive Decree No. 98-261 of August 29, 1998, determining the forms and methods of procedures in consultative matters before the Council of State, Official Gazette, No. 64, People's Democratic Republic of Algeria, issued on August 30, 1998.*

*(3)- Yassine Rabouh, Governmental Dominance over Legislative Procedures in Algeria, Journal of Legal and Political Sciences, No. 15, 2017, pp. 227-228.*

The request for the opinion from the Council of Nation on bills is mandatory, failing which the law is rejected according to Article 02 of Executive Decree No. 98-261, and confirmed by the Constitutional Council's opinion when it examined the constitutionality of the Organic Law relating to the statutes of the Judiciary.

The procedure for submitting bills to the Council of Nation is mandatory, but its opinion is advisory, as its adoption or rejection is subject to the government's discretion, given the absence of a legal text requiring it to do so.

The Council of Nation's role consists in expressing its opinion from two aspects: formal and substantive. In the form, it examines the validity, clarity, and precision of the text's style, its deficiencies, and the contradictions between its articles, which could lead to difficult situations that give rise to difficult disputes. <sup>(1)</sup> Regarding substance, its study focuses on the legitimacy and regularity of the draft's provisions. It may also draw the government's attention to the fact that some of the draft's provisions fall within the regulatory domain, and the study may sometimes expand to include suitability. <sup>(2)</sup>

**3- Submitting the Bill to the Council of Ministers:** Article 136/01 states that the Prime Minister is the one with the authority to initiate bills. However, the Constitution, in the same Article 136/3, requires that bills shall be submitted to the Council of Ministers, where the final decision is made by the President of the Republic, who chairs this Council. He can reject the bill or make substantial amendments to it. In the face of this authority, the Prime Minister cannot respond because he cannot present bills to Parliament without presenting them to the Council of Ministers and without the approval of the President of the Republic. <sup>(3)</sup> This may reflect the continuous control of the President of the Republic over the initiative in legislation, despite the fact that the constitutional text of the constitution only authorizes the Prime Minister as a party participating with the members of the Parliament in exercising this right. <sup>(4)</sup>

We also note that the Constitution did not set a specific duration for the study of bills at the Cabinet level. Since the President of the Republic presides over the Council of Ministers and sets its agenda, he can delay holding its meetings. This could disrupt the work of the government, which constantly needs laws, especially in urgent situations, to implement its program and advance the economic, social, and cultural institutions it oversees.

<sup>(1)</sup>- Ben Safi Ali, *op. cit.*, p. 128.

<sup>(2)</sup>- Omar Thameri, *The Power to Initiate Legislation in the Algerian Political System, a Thesis submitted for a Master's Degree, Faculty of Law and Administrative Sciences, University of Algiers, 2005-2006, p. 33.*

<sup>(3)</sup>- Zineb Abdellaoui, *The Distribution of Power between the President of the Republic and the Prime Minister under the Constitution of 1996, a thesis submitted for a Master's Degree, Faculty of Law and Political Science, University of Batna, 2003-2004, p. 59.*

<sup>(4)</sup>- Omar Thamri, *op. cit.*, p. 33.

He is also responsible before Parliament for his failure to carry out these tasks. Thus, the President of the Republic has real power that enables him to paralyze government activity. <sup>(1)</sup>

**4- Submitting Bills to the Bureau of the National People's Assembly:** Article 136/3 of the Constitution of 1996 stipulates that bills shall be submitted to the Council of Ministers, after consulting the Council of Nation. The Prime Minister shall then submit them to the Bureau of the National People's Assembly. If the bill is approved,

the Prime Minister shall submit it to the Bureau of the National People's Assembly or the Bureau of the Council of Nation.

The Constitution specifically assigns the Prime Minister the authority to submit bills to the Bureau of the National People's Assembly or the Council of Nation, without the President of the Republic, so that the position of this latter would not be exposed to direct criticism by parliament members during the discussion of bills. <sup>(2)</sup>

Bills submitted to the Bureau of the two chambers of Parliament automatically receive approval and are discussed by the relevant committees because the Constitution, the Organic Law of the two chambers of Parliament, and their internal regulations do not include any restrictions regarding them. They also do not specify any legal condition or rule that would authorize the Bureau of the Council to object to bills, with the exception of the aforementioned legal conditions, which are essentially <sup>(3)</sup>:

- The subject of the bill must fall within the scope of legislation reserved for Parliament.
- Compliance with the procedures set forth in Article 136 of the Constitution (the opinion of the Council of Nation, then its submission to the Council of Ministers).
- The bill must be accompanied by a statement of reasons and its text must be written in the form of articles (Article 20 of Organic Law No. 02-99).

Its content must not be similar to the subject of a bill or proposed law under consideration in Parliament or that was withdrawn or rejected less than twelve (12) months ago (Article 24 of Organic Law No. 99-02).

Apart from these simple formal conditions, the Bureau of the National People's Assembly or the Council of Nation may absolutely not refuse to discuss or include a bill on its agenda, as it is not politically or even legally authorized to assess the admissibility of a bill approved by the Council of Ministers.

<sup>(1)</sup>- Zineb Abdellaoui, *op. cit.*, pp. 59-60.

<sup>(2)</sup>- Zineb Abdellaoui, *op. cit.*, p. 60.

<sup>(3)</sup>- Abdallah Boukoufa, *The Algerian Constitution (Origin - Jurisprudence - Legislation)*, Dar El-Houda, Ain El Mlila, Algeria, 2010, p. 86.

From the above, it is clear that the constitution founder established the priority of bills over proposed laws, whether Parliament held sessions. The government can request an extraordinary session to pass a specific bill. Thus, the government controls legislative initiative. On the other hand, we note the weakness of parliamentary proposals.

### **Sub point 2: The Legislative Authority of the National People's Assembly (NPA)**

The National People's Assembly (NPA) is the lower house of the Algerian Parliament and plays a pivotal role in the legislative process. Its primary function is to enact laws. Parliament, with its two chambers—the National People's Assembly and the Council of Nation exercises legislative authority. The Constitution stipulates that every bill or proposed law must be discussed by the National People's Assembly and the Council of Nation respectively, until its approval.

#### **First: Legislative Initiative:**

**1- Proposing Laws:** Members of the National People's Assembly have the right to propose laws in areas defined by the Constitution. A bill requires the signature of at least 20 members, reflecting collective cooperation in legislative initiative.

**2- Government Bills:** The government submits bills to the National People's Assembly for study and approval. These bills are given priority in the agenda, reflecting coordination between the executive and legislative authorities.

#### **3- Study and Discussion of Laws:**

**3-1- Standing Committees:** Draft and proposed laws are referred to the relevant standing committees for study and preparation of detailed reports. These committees constitute the backbone of legislative work, as they analyze the texts and propose the necessary amendments. <sup>(1)</sup>

**3-2 Plenary Sessions:** After the committees' study, the reports are presented to the Council's plenary sessions for discussion and voting. Representatives are allowed to express their opinions and propose amendments during these sessions, ensuring broad representation of various viewpoints.

<sup>(1)</sup>- *Kara Omar Bakir, Commitment and Fulfillment of the Covenant for the Truth and Integrity, December 24, 2024, online article on the website:*

*[https://karaomar.net/presentation\\_ar.php?utm\\_source=chatgpt.com](https://karaomar.net/presentation_ar.php?utm_source=chatgpt.com), accessed December 22, 2024.*

#### **4- Voting on Laws:**

**4-1- Adoption:** Legislative texts are voted on after being discussed. If approved, the text is referred to the Council of Nation for final adoption, ensuring that laws pass through two legislative stages to achieve balance and oversight.

**4-2- Amendments:** The Assembly may introduce amendments to proposed texts, provided that they do not alter the substance of the draft submitted by the government, thus ensuring the balance between powers is maintained. <sup>(1)</sup>

<sup>(1)</sup>- *Kara Omar Bakir, op. cit.*

#### **Second: The Limited Role of the National People's Assembly:**

##### **1- Executive Authority Dominance**

**1-1- Priority for Government Bills:** Government bills are given priority on the agenda, reducing the opportunity to discuss bills submitted by MPs. This situation weakens MPs' independent legislative initiatives.

**1-2- Legislation by Ordinance:** In some cases, the President of the Republic resorts to legislating by ordinance between two parliamentary sessions or in the event of a vacancy in the National People's Assembly, reducing the Assembly's role in the legislative process.

##### **2- Procedural Restrictions.**

**1-2- Conditions for Submitting Bills:** Submitting a bill requires the signatures of 20 MPs, making individual initiatives difficult to implement. This condition limits MPs' ability to submit legislative proposals independently.

**2-2- Timeframe for Studying Bills:** Short deadlines may be set for studying some bills, which hinders thorough debate and affects the quality of legislation. <sup>(1)</sup>

##### **Third: The Role of the Council of Nation:**

**1- Review and Adoption:** After the National People's Assembly approves a bill, it is referred to the Council of Nation, which can reject or amend it. This procedure may delay or amend the enactment of laws in ways that may not be in line with the National People's Assembly's vision.

**2- Required Majority:** Passage of some laws in the Council of Nation requires a three-quarters majority of members, making the passage of some legislation a challenge, especially if it does not have broad consensus.

##### **3- Constitutional Oversight:**

**The Constitutional Council:** The Constitutional Council can review the constitutionality of laws before they are promulgated. In the event of

unconstitutionality, the law is returned to the National People's Assembly for amendment, which may limit the Assembly's effectiveness in enacting laws. <sup>(2)</sup>

<sup>(1)</sup>- Mohamed Hamli, *The Dominance of the Executive Authority over the Legislative Authority in the Algerian Constitutional System*, Dar Al-Jamia Al-Jadida, Egypt, 2014, p. 105.

<sup>(2)</sup>- Lachheb Houria, *Political Oversight of the Constitutionality of Laws*, *Journal of Case-law*, Mohamed Khider University, Biskra, No. 4, Algeria, 2008, p. 159.

Although the National People's Assembly possesses significant legislative authority, its role remains limited due to the dominance of the executive authority, procedural restrictions, and the role of the Council of Nation in the legislative process. This situation calls for strengthening the Assembly's independence and activating its oversight role to ensure a greater balance between authorities in Algeria.

### **Subsection 2: Stages of Legislative Text Approval by the National People's Assembly**

The adoption of a legislative text by the National People's Assembly in Algeria goes through several organized stages that ensure a thorough and comprehensive study of the text before its adoption and referral to the Council of Nation. These stages are as follows:

#### **1- Legislative Initiation:**

**Government Bills:** are submitted by the government to the National People's Assembly. **Representatives' Proposals:** At least twenty representatives have the right to submit a bill. <sup>(1)</sup>

**2- Referral to the Relevant Committees:** After receiving a draft or proposed law, the President of the Assembly refers it to the relevant Standing Committee for study. <sup>(2)</sup>

**3- Study of the Bill in Committee:** The committee studies the bill article by article, hears from government representatives and the initiators, and prepares a report containing its recommendations and proposed amendments. <sup>(3)</sup>

**4- General Discussion in the Plenary Session:** The bill is placed on the agenda of the plenary session, where a general discussion is held on the principle and content of the bill. <sup>(4)</sup>

**5- Detailed Discussion and Voting:** After the general discussion, the articles are discussed and voted on, article by article, followed by a vote on the bill as a whole. <sup>(5)</sup>

*(1)- The National People's Assembly's Internal Regulations, from Article 68, relating to organizing the National People's Assembly and the Council of Nation, their operations, and relations, p. 15.*

*(2)- Article 69, The National People's Assembly's Regulations and the Organic Law Determining the Organization of the National People's Assembly, p. 16.*

*(3)- Article 70, The National People's Assembly's Rules and Procedures: The National People's Assembly shall elect, from among its parliament members, its representatives to national and international bodies, based on the texts governing them, p. 16.*

*(4)- Article 73, The National People's Assembly's Rules and Procedures: The National People's Assembly Bureau may, upon notification from the Minister of Justice, take steps to revoke the parliamentary capacity of a PM, p. 17.*

*(5)- Article 74, The National People's Assembly's Rules and Procedures: The National People's Assembly may dismiss one of its members if a final judicial ruling is issued against him for a reason, p. 18.*

6- Referral to the Council of Nation: After approval by the National People's Assembly, the text is referred to the Council of Nation for review and approval. <sup>(1)</sup>

7- Final Ratification and Publication: If approved by the Council of Nation, the text is sent to the President of the Republic for promulgation and publication in the Official Gazette. <sup>(2)</sup>

### **Sub point 1: Discussion of Legal Texts by the National People's Assembly (Proposals or Bills)**

#### **Types of Legal Texts Discussed by the National People's Assembly**

**1- Bills:** These are texts submitted by the government with the aim of regulating specific fields or amending existing laws. They express the state's policies and future directions and are given priority in discussion.

**2- Proposed Laws:** These are submitted by representatives individually or collectively to address societal issues or improve existing laws. They also aim to implement legislative initiatives by representatives of the people.

#### **3- Stages of Discussing Legal Texts**

**3-1- Introducing Texts:** bills are introduced by the government and the proposed laws are introduced by representatives to the Bureau of the National People's Assembly. The texts shall be accompanied by an explanatory memorandum explaining their reasons and objectives.

**3-2- Referral of Texts to Standing Committees:** The texts are referred to the relevant parliamentary committees for study, such as the Legal Affairs Committee. The committee discusses the texts in detail and prepares a report on them.

**3-3- Discussion in the Plenary Session:** The texts are presented to the plenary session of the Assembly, where members are given the opportunity to express their opinions. Amendments may be made to the texts based on the discussions.

**3-4- Voting:** The texts are presented to a vote. If they receive a majority, they are referred to the Council of Nation. The texts may be rejected or returned to the submitting party for additional amendments.

**3-5- Issuance and Publication:** After approval by the Council of Nation and the President of the Republic, the legal texts are issued and published in the Official Gazette to become effective. The importance of discussion within the National People's Assembly:

*(1)- Article 120 of the Algerian Constitution, Official Gazette No. 76 of December 8, 1996.*

*(2)- Article 126 of the Algerian Constitution, Official Gazette No. 76 of December 8, 1996.*

**3-5-1- Achieving Transparency:** Public debate within the Assembly provides an opportunity for the public to follow the legislative process and enhances trust between citizens and their representatives through open exchange of views.

**3-5-2- Ensuring the Quality of Legislation:** In-depth discussions between representatives and experts contribute to improving legal texts and avoiding loopholes.

**3- Promoting Participatory Democracy:** Engaging all relevant parties in the legislative process through open debates and the submission of amendments. Discussing legal texts in the National People's Assembly is a vital element in ensuring effective legislation that meets the needs of society. Through these discussions, transparency and quality are achieved, strengthening Parliament's role as a fundamental pillar of the democratic system.

### **Sub point 2: The Authority to Approve Amendments and Vote on Legal Texts**

The authority to approve amendments and vote on legal texts is one of the fundamental pillars of the National People's Assembly in Algeria. This authority is exercised through a set of specific procedures aimed at ensuring fair and democratic discussion of texts and achieving consensus among various political actors.

#### **First: Stages of Amendments to Legal Texts**

**1- Submitting Amendments:** Representatives or the government may submit amendments during the discussion of legal texts in plenary sessions. Amendments must be based on objective considerations that contribute to improving the legal text.

(1)

**2- Study of Amendments by Committees:** Proposed amendments are referred to the relevant committees (such as the Legal or Economic Affairs Committee). The committees study the amendments from constitutional, legal, and technical perspectives. The committees may also seek the assistance of experts or specialists to ensure the accuracy of the amendments. (2)

(1)- *Article 56 of the National People's Assembly's Rules and Procedures (2016), which stipulates that amendments may be submitted provided that procedural rules are respected.*

(2)- *Ali Slimane, "The General Theory of Obligation," Office of University Publications, 2003, p. 105.*

**3- Preparing the Final Report on Amendments:** The committees prepare a comprehensive report containing their opinions on the amendments, along with recommendations for acceptance or rejection. The report is submitted to the Council's Bureau for presentation in the plenary session.

**4- Discussing the Amendments in the Plenary Session:** The proposed amendments are discussed during the Council's plenary session in the presence of representatives. Representatives are given the opportunity to present their views on the amendments before voting on them. (1)

## **Second: Procedures for Voting on Legal Texts**

**1- Voting within Committees:** The relevant committees vote on the texts after studying them. This voting is considered preliminary before the texts are presented in the plenary session. Voting within the committees includes both the proposed amendments and the original texts.

### **2- Voting in the Plenary Session:**

The legal texts and amendments are presented to the plenary session for voting. Voting takes place first on the amendments, followed by voting on the legal text as a whole. Voting requires the specified quorum. (2)

**3- Announcing the Results:** - After the voting, the results are officially announced. The results are subsequently published in the Official Gazette to enhance transparency and inform citizens. (3)

### **Third: The Importance of the Authority to Approve Amendments and Vote**

#### **1- Improving the Quality of Legislation:**

Amendments allow to improve legal texts and make them more compatible with social and economic challenges. <sup>(4)</sup>

**Strengthening Participatory Democracy:** This authority enhances the participation of representatives from across the political spectrum, ensuring broader representation of interests.

<sup>(1)</sup>- *National People's Assembly's Rules and Procedures (2016), Article 60, p. 68.*

<sup>(2)</sup>- *Algerian Constitution (2020), Article 123.*

<sup>(3)</sup>- *Report "Enhancing the Transparency of Parliamentary Work," Publications of the National People's Assembly, 2018, p. 29.*

<sup>(4)</sup>- *Ali Filali, "The Algerian Political System," Office of University Publications, 2008, p. 370.*

**Ensuring Parliamentary Oversight:** Voting gives the Assembly the opportunity to carefully review legislation and ensure its compliance with existing laws.

#### **4- Enhancing Accountability and Transparency:**

By publishing voting results, citizens can monitor the performance of their representatives and hold them accountable when necessary.

The authority to approve amendments and vote is a central function of the National People's Assembly, contributing to ensuring the accuracy and comprehensiveness of legal texts. By improving procedures and enhancing transparency, this authority can more effectively fulfill its role in supporting democracy and achieving the interests of society. <sup>(1)</sup>

### **Section 2 : The Necessity of the Council of Nation's Intervention in Legislative Process**

The necessity of the Council of Nation's intervention in legislative process in Algeria is evident in the pivotal role it plays as the upper chamber of parliament, contributing to enhancing the quality of legislation and ensuring its compatibility with the supreme national interest.

#### **Subsection 1: The Council of Nation as a Key Partner in the Legislative Process**

The Council of Nation is the second chamber of the Algerian Parliament. It is a complementary legislative institution that contributes to strengthening the parliamentary system and the balance of powers. Its primary role is to partner with the

National People's Assembly in the legislative process, reflecting the dual nature of the Algerian parliament.

**Sub point 1: Initiative Limited to Legal Texts**

One of the aspects of the renewal and development brought about by the 2016 constitutional amendment is that members of the Council of Nation have the right to initiate legislation, alongside members of the National People's Assembly and the Prime Minister. Article 136: "The Prime Minister, parliament members, and members of the Council of Nation each have the right to initiate laws." <sup>(2)</sup>

Bills are open to discussion if submitted by twenty (20) members or twenty (20) members of the Council of Nation on issues stipulated in Article 137. Bills are submitted to the Council of Ministers, after the opinion of the Council of Nation, and then the Prime Minister submits them, as the case may be, to the Bureau of the National People's Assembly or the Bureau of the Council of Nation.

This demonstrates that the National Assembly has a key role in legislative work, in contrast to the 1996 Constitution, which limited the power to initiate legislation to the Prime Minister and deputies of the National People's Assembly.

<sup>(1)</sup> - Report "Transparency in Parliamentary Voting," National People's Assembly, 2016, p. 34.

<sup>(2)</sup> - Article 136/1 of the 1996 Constitution completed and supplemented

A review of Article 137 of the constitutional amendment of 2016 clearly reveals that the Algerian constitution founder granted the power to initiate laws to members of the Council of Nation in exclusively specific fields directly related to local organization. This qualifies them to initiate legislation in organization areas. <sup>(1)</sup>

The Constitutional Council explicitly based the content of the constitutional amendment of 2016 on the principle that the balance of the constitutional institution should not be compromised by enshrining the right of the Council of Nation to initiate legislation. Granting members of the National Assembly the right to initiate legislation strengthens the role of the National Assembly and embodies the duties assigned by the constitution founder to the two chambers of Parliament. This is in accordance with the content of Article 98 of the Constitution <sup>(2)</sup>:

"The government must annually submit to the National People's Assembly a statement of general policy. The statement of general policy shall be followed by a discussion of the government's work.

This discussion may conclude with a resolution, and may also result in the submission of a motion of oversight by the National People's Assembly in accordance with the provisions of Articles 153, 154, and 155 below.

The Prime Minister may request a vote of confidence from the National People's Assembly. If the resolution of confidence is not approved, the Prime Minister shall submit the government's resignation. In this case, the President of the Republic may, before accepting the resignation, resort to the provisions of Article 147 below: The government may submit a statement of general policy to the National Assembly."

The constitution founder's granted members of the Council of Nation the right to initiate legislation because the latter is characterized by a majority of members coming from local assemblies, where We find the two-thirds elected by direct and secret ballot, from among the members of the People's Municipal Assembly and the People's Province Assembly. <sup>(3)</sup> This means that they are familiar with and close to the local problems of the country, which allows them to give precise details about every small and large thing regarding the local communities, as well as the government's monopoly on initiating laws through bills due to the lack of proposals for laws, not to say their absence, from the National People's Assembly. This could be due to technical reasons that prevent them from performing their legislative role to the fullest extent. <sup>(4)</sup>

<sup>(1)</sup>- *Chebli Khaled, The Right of the National Assembly of Amendment, A Study Based on the Jurisprudence of the Algerian Constitutional Council and the Constitutional Debate*

<sup>(2)</sup>- *Article 98 of the Amended and Supplemented 1996 Constitution*

<sup>(3)</sup>- *Belhadj Salah, Political Institutions and Algerian Constitutional Law from Independence to the Present, 1st ed., Office of University Publications, Algeria, 2010, p. 243.*

<sup>(4)</sup>- *Chihoub Messaoud, The Bicameral Parliamentary System, Journal of Legal and Political Thought, No. 1, National Assembly, 2002, p. 11.*

## **Sub point 2: The Possibility of Amending Legal Texts**

The possibility of amending legal texts is a necessary process to ensure the flexibility of legislation and its adaptation to legal, social, and economic changes. It allows for the review of previous texts and the introduction of necessary amendments to meet societal needs and develop legal systems to enhance justice and legal stability.

### **First: The Relationship Between Philosophy of Amendment and the Right of Initiative**

In application of the principle that whoever has the right of initiative has the right of amendment, the constitution founder granted the Council of Nation the right to amend texts in which legislative action originates from the same chamber, whether a bill or a proposed law. Therefore, texts related to the fields mentioned in Article 137 of the Constitution, namely local organization, territorial division, and territorial planning, can be directly amended by the Council of Nation, as explicitly stipulated in Article 28 of Organic Law No. 16-12. <sup>(1)</sup>

Regarding amendment procedures, after the Council Bureau receives a legislative initiative that meets the conditions and takes the necessary measures, it sends it to the relevant committee for examination and study. Regarding committee work, Article 28 Paragraph 3 mentioned above is referred to the rules and procedures of each chamber to determine the procedures and conditions for discussion. In the case of a bill, a government representative presents the initiative to the committee while in the case of a proposed law, the presentation process is undertaken by the representative of the authors of the proposal. The text is then enriched through committee members' discussion of the initiative, where they can propose amendments to the text, which are then subject to a vote by the committee. If the committee's discussions are valid regardless of the number of attendees, voting is only valid if the majority of members are present at the first session. However, in the second session, which is held at least twenty-four (24) hours after the first session, the voting results are valid regardless of the number of attendees <sup>(2)</sup> knowing that the Commission can hear any member of the Government, the Council of Nation or any other competent person who assists it in carrying out its work. Discussions shall end within a period not exceeding two (02) months by voting on the amended text approved by the majority of the committee members.

*(1)- Article 28 of Organic Law No. 16-12: The competent committee, the government, the members of the National People's Assembly, and the members of the Council of Nation have the right to submit proposals for amendments of the bill referred to the competent committee for study.*

*(2)- Article 43 of the National Assembly Rules and Procedures, Official Gazette, No. 08, dated February 18, 1998, p. 3.*

The preliminary report of the relevant committee shall be distributed to the members of the Chamber by the Bureau of the Council of Nation three (03) days prior to the start of the discussion, for their review and submission of their proposals in the plenary session, if necessary. If the preliminary report is not submitted within the aforementioned deadlines, a discussion of the text may be scheduled in the plenary session, at the request of the government and with the approval of the Bureau of the Council of Nation. <sup>(1)</sup>

### **Second: Case of Amendments During the Discussion**

The recent constitutional amendment includes new powers, consisting in enabling the Council of Nation to propose amendments directly outside the equal-member committee. This power is linked to the existence or absence of the right of initiative, such that members do not enjoy this right outside the fields stipulated in Article 137 of the Constitution. While the 2016 constitutional amendment did not provide for the right of members of the Council of Nation to amend, the paragraph 2 of Article 28 of Organic Law No. 16-12 explicitly states that the amendment may relate to the original provisions of the text submitted to the Council of Nation, and the requested amendment may be implicit, i.e., the submission of an amendment to an amendment proposed by the relevant committee. <sup>(2)</sup>

To exercise this right, the legislator imposed substantive and formal conditions: for a proposed amendment to be accepted, it shall be submitted by at least ten (10) members, and shall be in writing and signed by its proponents. This condition precludes individual initiatives, unlike the French legislator, who did not require a specific quorum for the acceptance of a proposed amendment.

The proposal shall be submitted to the Council's Bureau 24 hours before the start of discussion of the text to be amended for a decision. In the event of acceptance, the Bureau shall refer it to the relevant committee. In the event of rejection, the Bureau shall notify the proponents of the rejection decision. <sup>(3)</sup>

In addition to the formal conditions mentioned above, there are substantive conditions, namely that the proposals must be reasoned and concise, that they relate to the article (s) of the text under consideration, and that any additional articles must be relevant to the subject. In addition, the government may invoke the restriction provided for in Article 139 of the Constitution, which stipulates that it will not accept any amendment proposal that includes an increase in expenditure or a decrease in revenue unless it is accompanied by measures to cover this deficit.

<sup>(1)</sup>- Article 25 of Organic Law No. 16-12,

<sup>(2)</sup>- Amine Cheriet, *The Right to Amend in the Algerian Parliamentary System*, *Al-Wasit Magazine*, No. 10, 2013, p. 135.

<sup>(3)</sup>- *Article 88 of the National People's Assembly, Official Rules and Procedures Gazette*, No.53, dated March 13, 1997, p. 3.

After receiving the proposed amendments referred to it and subject to deliberations, the competent committee shall include these amendments in its final report, which shall be presented for discussion and vote in the plenary session.

From the above, it appears that the latest constitutional amendment allowed the members of the Council of Nation to exercise their right in the amendment and in a direct manner during the discussion even in specific areas.

### **Subsection 2: The Council of Nation's Right to Object to Voting on Legal Texts**

Adopting the bicameral system and dividing Parliament into two chambers or two councils that share the legislative process will inevitably lead to the possibility of disagreement between these two chambers. This is a natural and logical matter, especially given the differences between the two chambers in terms of composition, jurisdiction, and the required percentage for adoption.

#### **Sub point 1: The Case of Disagreement with the National People's Assembly.**

The possibility of a disagreement between the Council of Nation and the National People's Assembly is mentioned in Article 120 of November 1996 Constitution, specifically in paragraph 4, which states: "In the event of a dispute between the two chambers... this dispute is expected and inevitable, otherwise, the Council of Nation becomes merely a chamber for adopting the legislation presented by the National People's Assembly. Therefore, the two chambers may disagree over a legal text when the Council of Nation objects to that text, or the Council of Nation may propose amendments that the National People's Assembly does not accept.

The Council of Nation is not obligated to adopt texts voted on by the National People's Assembly, as a disagreement arises simply because the text is not adopted by a three-quarters (3/4) majority of its members, it may approve and thus adopt, or it may disagree and oppose and thus not adopt." <sup>(1)</sup>

The conflict is stated in Article 120 of the Constitution in an absolute manner. It does not restrict it to being fundamental or essential, or related to form or content. In other words, the Council of Nation is given free rein to raise any type of dispute it deems necessary, without being subject to oversight. Paragraph 4 also mentions the disputed provisions without specifying them, and in the plural form, meaning that the dispute may be over a provision, a group of provisions, or even the entire legal initiative.

<sup>(1)</sup> - Bouzid Lazhari, *The Legislative Role of the Council of Nation in Light of Article 120 of the Constitution*, *Parliamentary Thought Magazine*, No. 7, Algeria, 2004, p. 7.

### **Sub point 2: Mechanisms of Dispute Resolution with the National People's Assembly**

Constitutional systems have adopted various solutions based on several methods. The back-and-forth method allows the legislative text to be passed from one chamber to the other until a solution is reached otherwise, the text continues to be passed back and forth between the two chambers indefinitely if a unified text is not reached. This ensures equality between the two chambers, while simultaneously obstructing legislative work if a solution is not reached. Another method is similar to the aforementioned method, except that it delegates the authority to resolve the dispute to one of the two chambers in the event of a continuing dispute. The other method is to refer the disputed text to a special committee in the event of a continuing dispute. <sup>(1)</sup>

Referring to the Algerian constitutional system, we find that it has adopted the method of the equal-member committee as a mechanism for resolving disputes between the National People's Assembly and the Council of Nation, in order to reach a consensus on a particular text regarding which there is disagreement. This is clarified in Article 120 of the Constitution, which states: "In the event of a dispute between the two chambers, a committee of equal members shall meet, at the request of the Prime Minister, consisting of members of both chambers, to propose a text relating to the provisions in dispute." This article gives the Prime Minister the right to request the formation of the committee, who shall communicate his request to the President of each of the two chambers of Parliament, so that the committee may meet within ten (10) days following the date of notification of the request. <sup>(2)</sup> In this regard, we find that the Constitution has given the Prime Minister the authority to directly intervene and thus influence the production of legislation. In this context, the Prime Minister enjoys discretionary power to request the committee to meet or not. The committee's meeting is subject to the Prime Minister's wishes. If he wishes, it shall meet, and if he does not wish, its meeting shall be delayed, thus leaving the text in abeyance. In the same context as this Article (120 of the Constitution), we find that no distinction is made between a minor dispute and a substantive dispute. A minor dispute is a technical or procedural dispute that can easily be resolved by the joint parliamentary committee. This dispute relates to technical issues related either to the linguistic formulation or the formal arrangement of its provisions, which can be settled quickly

and easily. A substantive dispute, on the other hand, is a severe and sharp dispute between the two chambers, with ideological dimensions. <sup>(3)</sup>

<sup>(1)</sup> - Moussakh Mohamed, Hamissi Reda, *The Joint Committee of Equal Members in the Algerian Constitutional System*, *Journal of Jurisprudence*, No. 4, Ouargla, p. 402.

<sup>(2)</sup> - Article 87 of the Organic Law, 99/02.

<sup>(3)</sup> - Meziani Hamid, *The Reality of Legislative Duality and Legislative Work in the Algerian Constitutional System: A Comparative Study*, a Master's Thesis, Faculty of Law and Political Science, University of Tizi Ouzou, 2011, p. 103.

### **Conclusion:**

The outcome of legislative texts between the two chambers of Parliament in Algeria represents a model reflecting the aspiration to achieve a balance between popular will and the oversight role in the bicameral legislative system. Although this system aims to ensure the quality of legislation and its consideration of the national interest, challenges related to disagreements between the National People's Assembly and the Council of Nation may lead to legislative disruption and delays in their implementation. The effectiveness of this legislative process relies on activating constitutional mechanisms to reconcile the two chambers and ensuring harmony between them, serving citizens' needs and strengthening the sovereignty of the law.

Following this study, a set of recommendations is presented, namely:

- Strengthening reconciliation mechanisms: The need to review and develop reconciliation mechanisms between the two chambers, such as strengthening the role of joint committees with equal members with equal members and setting strict timelines to avoid delays in the adoption of legislative texts.
- Clarifying powers of reviewing the Constitution and laws regulating the work of Parliament to more precisely defined the roles and powers of each chamber, which would reduce the possibility of disagreements arising between the two chambers.
- Intensifying institutional cooperation. Establishing effective communication channels between the National People's Assembly and the Council of Nation to facilitate consultation and prior coordination on bills.
- Enhancing legislative efficiency, raising the level of qualifications and expertise of representatives and members of the Council of Nation in legal and political fields in order to ensure objective and effective discussions that contribute to improving the quality of legislation.

- Involving civil society, activating the role of civil society and experts in evaluating legislative texts before their adoption, reflecting a diversity of opinions and reinforcing the principle of transparency.
- Monitoring the implementation of laws, ensuring monitoring the application of legislative texts after their adoption and evaluating their effects in order to determine the extent to which they achieve the objectives sought and introduce necessary amendments if necessary.