

THE IMPACT OF THE MECHANISM OF LEGISLATION BY ORDINANCES ON THE EFFECTIVENESS OF PARLIAMENTARY OPPOSITION IN ALGERIAN LEGISLATION

MEKHILEF MOHAMED NOUR EL ISLAM

University of Badji Mokhtar Annaba Algeria

mohamed-nour-el-islam.mekhilef@univ-annaba.dz

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Abstract:

The mechanism of legislation by ordinances is an exceptional means for exercising legislative authority, which is originally the exclusive domain of the Parliament. According to jurists, this technique presents both advantages and drawbacks, sparking considerable debate regarding the independence of the legislative and executive branches, especially within the realm of lawmaking. This study aims to explore the extent of the President of the Republic's intervention in legislative powers under both normal and exceptional circumstances, and its impact on parliamentary performance—particularly that of the opposition. This is especially pertinent given the diversity of political factions within the Parliament and the dominance of majority-rule voting systems, which are often aligned with the ruling government. This overlap blurs the line between legislative duties and the political affiliations represented within ministerial portfolios. Our study adopts a narrative-analytical approach and concludes with several proposals to achieve the desired balance between the legislative and executive branches, including recommendations for regulating the use of ordinance-based legislation.

Keywords: Legislation by ordinances, legislative authority, exceptional circumstances, Parliament, opposition.

Introduction:

The executive branch holds a prominent position within democratic systems, and the Algerian political system is no exception. It is clearly influenced by such systems, particularly the French political model, owing to the historical legacy inherited from the colonial era. This influence was especially pronounced in the early post-independence period, due to the lack of political culture and awareness among the ruling political class. At that time, knowledge of political affairs was not sufficiently developed to enable the Algerian governance system to establish autonomy from the prevailing French framework.

Based on this context, the constitutional founder accorded significant importance to the President of the Republic in the use of ordinance-based legislation, particularly in exceptional circumstances. This emphasis was deeply shaped by historical and psychological factors that influenced the constitutional architect.

The central research problem of this study concerns the extent to which parliamentary opposition is affected by the mechanism of legislation by ordinances, and to what degree it can comprehend and navigate this mechanism, especially given the overlap between executive and legislative powers.

I. The Role of Parliamentary Opposition in Enriching Legislation: Parliamentary opposition is considered a vital force in enhancing the discussion of draft laws, particularly those introduced by the government or by the President of the Republic in the form of ordinances. Hence, we deemed it necessary to begin by providing an overview of legislation.

1. The Broad Concept of Legislation:

a) Definition of Legislation:

Legislation is defined as “a legal procedure written in a general and permanent form, issued in accordance with the procedures set forth in the constitution and by the authority possessing legislative power in the state to which it applies, within its jurisdiction. Legislation is not nullified by lack of useⁱ.”

What drew our attention, however, was the abundance, diversity, and fragmentation of secondary legislation or regulatory acts, despite their status as important official sources of legal norms. This raises concerns, as primary legislation issued by the legislative authority should not delve excessively into administrative and organizational details. These matters are better addressed by the executive authority through subsidiary regulations, in line with the public interest. This distinction highlights the administrative nature of legal rules, regardless of attempts to distance them from that notion, since legal rules ultimately govern the relations among individuals (in private law) and between individuals and public entities (in administrative law)ⁱⁱ.

Considering the constitution as the fundamental form of legislation, it serves as a fertile ground for political principles. It is “a fundamental law that guarantees individual and collective rights and freedoms, protects the principle of popular choice, legitimizes the exercise of power, and ensures legal protection and oversight of the actions of public authorities in a society governed by legality and aimed at realizing the full potential of the individual in all dimensions.” Therefore, it delineates the limits of authority, particularly the dual relationship between the executive and legislative branches that is the focus of this study.

b) General Legislative Mechanisms: There is no dispute that draft laws can be introduced through three main pathways: (1) parliamentary initiative, (2) government initiative, and (3) presidential ordinances. In this study, our focus is limited to the President's initiative of introducing draft laws in the form of ordinances.

B-1) The Mechanism of Initiating Legislation by Presidential Ordinances:

The authority to legislate by ordinance is not exercised by the President through a legislative delegation from the legislative branch. Rather, it is exercised based on an explicit constitutional provision—namely Article 146 of the current Constitution. As a result, no authority can prevent the President of the Republic from exercising this power when the conditions for doing so are met. In this context, Ramzi Taha Al-Shaaer defines the issuance of legislative ordinances by the President as: “*an implicit recognition by the President of the legal existence of the legislation and an order for its implementation.*” Thus, the ordinance entails two aspects: the first is the President's certification that Parliament has approved the law within constitutional boundaries; the second involves directing executive officials to implement the law within their respective areas. This means that issuing ordinances is both independent from and subsequent to the enactment of the lawⁱⁱⁱ.

The legislative role of the President of the Republic appears in cases where the executive authority temporarily substitutes for the legislative authority under the conditions defined by the Constitution, particularly in Article 142 of the current Constitution^{iv}. This article specifies three scenarios that open the door for the President to act in place of the legislative authority: a vacancy in the People's National Assembly, during parliamentary recesses (after consultation with the Council of State), and the exceptional case stated in Article 98 of the Constitution.

B-2) Initiating Ordinances in Normal Circumstances: The mechanism of ordinance-based legislation, as stipulated in Article 142 of the current Constitution, allows the President to act as a substitute in the absence of the legislative authority under normal circumstances—such as parliamentary recesses—as well as during exceptional conditions under Article 98. These represent three irregular situations that arise due to exceptional circumstances.

Notably, Article 142 does not require that ordinance-based legislation in normal circumstances be restricted to exceptional issues. On the contrary, it may pertain to ordinary legislative domains^v. Once ratified by Parliament, presidential ordinances are considered legislative acts and are subject

to judicial review by administrative courts. They must undergo constitutional review if they include organic laws, and optionally if they concern ordinary laws^{vi}.

Also under normal conditions, Article 146 of the current Constitution grants the President the right to issue the Finance Law by ordinance if 75 days have passed since its submission without parliamentary adoption. The procedures for this are defined by the organic law referenced in Article 135. Furthermore, Article 147 prohibits any proposed amendment that would increase or decrease public spending allocations, except for measures to increase state revenues or reallocate savings from other budget chapters. These reallocations must be at least equal to the proposed new expenditures.

B-3) Initiating Ordinances in Exceptional Circumstances:

This case is governed by the final paragraph of Article 142, which refers to the possibility of the President legislating by ordinance under the provisions of Article 98. This article empowers the President to declare a state of emergency when the country faces an imminent threat to its constitutional institutions, independence, or territorial integrity.

The duration of this exceptional state is limited to 60 days and requires mandatory consultation with the President of the Council of the Nation and the President of the People's National Assembly, in addition to consultations with the High Security Council and the Council of Ministers. Under the last paragraph of Article 98, the President is authorized to take exceptional measures to preserve the nation's independence and constitutional institutions.

Importantly, this article constrains unilateral presidential action by requiring consultation with both parliamentary chambers, thereby ensuring the participation of parliamentary elites—including opposition or non-opposition members—in the decision to declare an exceptional state. This can be seen as one of the strengths of Article 98.

During a state of siege, presidential ordinances concentrate all authority in the hands of the military leadership of the People's National Army for the duration specified in Article 98. The army is then responsible for maintaining public order and security^{vii}.

Given the focus of this study on the role of the opposition, a critical question arises: What happens if members of Parliament remain silent when consulted by the President regarding the declaration of a state of emergency? Does this silence imply consent or refusal in response to the executive power represented by the President? The Constitution does not set a time limit for a parliamentary response. However, it can be inferred that the Constitution intends for an explicit approval to be recorded in the proceedings of the People's National Assembly, which would formally express Parliament's position on accepting or rejecting the presidential ordinance^{viii}.

2. The Parliament's Original Legislative Authority:

By principle, the legislative body—Parliament—is entrusted with the task of legislating on behalf of the people. This is explicitly stated in Article 139 of the current Constitution, which clearly affirms that legislative power is a primary, not exceptional, function of Parliament. However, the article also leaves room for exceptional circumstances by stating that this authority applies "in the domains allocated to it by the Constitution." If interpreted through the principle of *argumentum e contrario*, this implies the existence of domains in which Parliament does not have legislative competence—such as, but not limited to, the domain of finance, which will be addressed later in this study^{ix}.

In this context, the Constitution explicitly affirms Parliament's original legislative authority and adds, in the final paragraph of Article 114, that "each chamber of Parliament has the sovereignty to prepare and vote on laws." This use of the term "sovereignty" invites critique, as it contradicts the content of Article 139, which stipulates that Parliament may only legislate within constitutionally defined fields. By contrast, sovereignty implies unrestricted legislative power, which is not the case here.

The constitutional founder defined the legislative function and limited its scope through Article 139, outlining its various domains. Some of the most impactful areas on public policy include:

- Paragraph 12: "Voting on Finance Laws"—though this power is limited to a 75-day period, as outlined in Article 146;
- Paragraph 24: "The general system of mining, hydrocarbons, and renewable energy";
- Paragraph 27: "General rules relating to national defense and the use of civil authorities by the armed forces";
- Paragraph 15: "Monetary issuance regulations."

3. Parliamentary Opposition Between Participating in and Objecting to Legislation:

It is undisputed that the executive branch wields considerable legal and material dominance over the legislative branch—a reality that has been confirmed by political practice. The executive possesses significant tools of legal and practical influence over the legislative authority. Given that the government is formed by the parliamentary majority, this majority plays a pivotal role in defining the scope of duties entrusted to MPs by the electorate under representative democracy. In the Algerian legal system, which constitutionally defines the coexistence of the two powers, the relationship has increasingly become one of solidarity and consensus rather than confrontation. However, this political alignment has often led to the dilution of Parliament's traditional oversight and legislative role, creating a need to rationalize the majority's conduct to curb unchecked government practices.

The 2020 Constitution attempted to introduce flexibility in the functioning of parliamentary opposition while also preserving the institutional balance between the executive and legislative branches. Merely guaranteeing rights to the legislative institution is not sufficient to ensure its effective functioning. What is truly needed is liberation from the constraints imposed by majority rule, so that Parliament does not become a mere extension of the executive branch. Without this, parliamentary actors—particularly those representing the majority—may lose the essential ability to distinguish between the legislative and executive domains, thereby undermining the foundations of modern democracy.

The broader concept of opposition is tied to the recognition of a group's status within a political system that competes peacefully for access to and exercise of power^x. This understanding safeguards the citizen's right to political participation regardless of whether they belong to a small or major party within Parliament. While democracy may rely on majority rule, the constitutional founder sought to prevent the misuse of this principle by dominant opposition groups for political gains outside the public interest—especially in fiscal matters. To address this, the Constitution includes mechanisms that allow the government or the president to intervene in draft legislation proposals under certain conditions, which will be discussed in detail later.

It is important to note that the effectiveness of political opposition is directly linked to the presence of legal and political freedoms, the protection of rights, and the availability of political and legal environments that can guarantee those rights. There remains, however, some skepticism regarding the executive's genuine acceptance of political opposition in Algeria. Since independence, no opposition figure has ever ascended to the presidency, not even from major political parties. This raises questions about the superficial nature of the opposition's role, which appears unable to alter the deeply rooted perceptions held by the executive branch.

In practice, Algeria's political party system has shown a degree of passive acceptance of its limited influence, especially in legislative matters. This influence remains marginal, whether due to the opposition's limited parliamentary representation or its minimal participation in government. This will be further illustrated in our discussion of the objection by certain parties to voting on the hydrocarbons law.

Second: Legislative and Executive Powers in Algeria

By principle, the executive authority is tasked with executing the laws enacted by the legislative authority, in accordance with the separation of powers and Montesquieu's maxim: "*power must check power*".^{xi} However, this separation is characterized by a degree of flexibility that allows the executive branch not only to propose bills but, at times, to directly undertake actions with legislative implications. This occurs through implicit delegation of certain powers, granted by the legislature, and is known as delegated legislation.

This delegation is often reflected in phrases such as: "*in accordance with the provisions of this decision...*", "*the procedures for implementing this article shall be determined by regulation*", "*as prescribed by regulation*", "*as stipulated in the applicable regulations*", and others. While such expressions are widespread, they ultimately represent a shift of legislative responsibility from Parliament to the executive authority. This can become a challenge—not only for those subject to the legal rule in question, but also for judges who must resolve legal disputes based on the content, form, or interpretation of these rules.

This overlap necessitates addressing three key issues:

1. The obstacles disrupting the balance between the legislative and executive branches;
2. The extent to which Parliament serves as a framework for managing the overlap of powers;
3. The nature of the separation of powers in Algeria's political system.

1. Obstacles to Balance Between the Executive and Legislative Authorities in Algeria's Political System

To understand the state of political opposition in Algeria, one must first analyze the nature of the political system—starting with the Constitution and the actual exercise of executive power. Here, the tension between law and regulation becomes apparent, where sometimes the law infringes on regulatory authority, and vice versa. This dilemma has been the subject of frequent litigation in France, where the Constitutional Council often intervenes to delineate the boundaries between legislative and regulatory domains^{xii}.

Two primary obstacles undermine the balance between the executive and legislative powers:

A) Legislative Obstacle:

Although the Constitution allows for ordinance-based legislation in both normal and exceptional circumstances, this approach is often used during ordinary periods to bypass parliamentary opposition to certain bills. In such cases, the President uses ordinances to push forward government programs. This raises concerns about implicit coercion, whereby Parliament is left with the choice of either approving the proposed ordinance or facing the prospect of dissolution—a power granted to the President without strict limitations^{xiii}.

A notable example is Ordinance 01-04 of August 20, 2001, concerning the law on public economic institutions and their privatization, which sparked significant debate in political and civil society circles.

Returning to Article 142 of the current Constitution, we find that it does not specify the consequences or outcomes if the President submits ordinances to Parliament. It also omits reference to situations where Parliament remains silent, failing to express either approval or rejection. Additionally, Article 142 does not set a deadline by which Parliament must issue a response, even though it specifies the time frame within which the President must submit the ordinances. Surprisingly, the Constitution does not clarify the legal effect of Parliament's failure to approve—whether such ordinances are nullified going forward or retroactively if Parliament ultimately rejects them.

B) Political Obstacle:

From the perspective of those in power, Algeria's party system is often assessed based on a binary of "with or against" the government, irrespective of a party's ideology or program^{xiv}. This gives rise to the political dilemma of a dominant ruling ideology, particularly among parties that claim strong ties to the revolutionary heritage. These parties are presented as the true expression of political legitimacy, sometimes even embodying the state itself.

The 1996 Constitution introduced the Council of the Nation (upper chamber), which allowed the executive to directly participate in the legislative process. By controlling one-third of this chamber's membership—appointed solely by the President—the executive secures a dominant role in Parliament. This setup, in our view, undermines true and equitable representation of the two chambers. We suggest, instead, that this third of the Council should be elected rather than appointed to ensure fairness and political balance.

2. The Nature of the Separation of Powers Between the Executive and Legislative Branches in the Algerian System

The fourth case of legislative exception is established in Article 146 of the current Constitution, which grants the President of the Republic the authority to intervene if Parliament fails to pass the Finance Law within the 75-day deadline specified in that article. In such cases, the President may issue the government's draft as a presidential ordinance.

Our aim here is not to categorize each of these exceptions individually, but rather to explore the nature of their relationship with the opposition's reaction to them. Therefore, we have chosen to explain these cases under two dimensions: the advantages and disadvantages of ordinance-based legislation.

2.1. Advantages of Legislation by Ordinance

Legislation by ordinance, in our view, presents two key advantages:

- It enhances the flexibility of legislative boundaries.
- It supports the executive's administrative functions.

a) Ordinance-Based Legislation Enhances Flexibility:

At times, the weak performance of Parliament prevents it from effectively addressing complex issues—especially in economic and social fields. The legislative authority often lacks the depth of information that the executive possesses, particularly the President of the Republic. As a result, the Constitution implicitly allows the executive to substitute the legislature in certain areas. This is derived by *argumentum e contrario* from Article 139, which does not explicitly allocate all legislative fields to Parliament. Consequently, Article 141(1) provides: "*The President of the Republic exercises regulatory power in matters not reserved for legislation.*" This provision essentially delegates certain issues to executive regulation.

b) Ordinance-Based Legislation Supports Executive Administrative Work:

This form of legislation blurs the boundaries between law and regulation. It merges the executive's administrative function with legislative authority, producing acts that are legislative in substance but administrative in form. One key benefit is that it prevents legislative stagnation—particularly in financial matters—when Parliament refuses to vote or causes delays in decision-making.

2.2. Disadvantages of Legislation by Ordinance

a) A Tool for Executive Dominance Over the Legislature:

This mechanism, especially when applied to finance laws, illustrates how the executive consolidates power to the detriment of Parliament. Article 147 stipulates: "*No legislative proposal or amendment*

submitted by members of Parliament shall be accepted if its content or result is to reduce public revenues or increase public expenditures...”

In our view, this severely restricts parliamentary authority in fiscal matters, effectively reserving financial legislation for the executive under the pretense that it is better informed about fiscal allocations, data, and budgetary programs. This represents a legal deviation justified solely by the absence or weakness of the legislative branch. While such a system may appear legitimate in cases of emergency or parliamentary dysfunction, it poses a serious threat to the balance of power. It diminishes Parliament’s constitutional role and restricts its legislative freedom.

b) The Ambiguity of “Urgent Matters” in Article 142:

The phrase “urgent matters,” used in Article 142, is overly vague and politically charged, making its legal interpretation even more unclear. This ambiguity reinforces executive dominance and enables the President to encroach upon legislative authority, especially given the Constitution’s failure to define what constitutes “urgent matters” or to set clear boundaries for them.

Such vagueness facilitates hasty legislation that may not fully consider its societal implications—an outcome the Constitution aims to avoid. Ordinances may also become rigid and incomplete, especially when they reflect presidential programs that may not align with broader legislative goals. This is especially concerning in the context of term limits (now capped at two), where ordinances risk serving short-term ideological agendas rather than long-term national interests. Consequently, ordinance-based legislation can become more of a means to an end than an end in itself.

Third: The Legislative Authority of the President of the Republic (Legislation by Ordinance)

Parliament is inherently affected by legislation not issued through it, since it is the body constitutionally entrusted with original legislative authority. However, the degree of this impact varies depending on several factors, including the level of political party competition within Parliament and the effectiveness of parliamentary performance.

1. Cases of Legislation by Ordinance:

It is commonly observed that when the President presents legislative ordinances to Parliament for approval, it is practically difficult for the People’s National Assembly to reject them. This is due to the fragmented partisan landscape within Parliament, which comprises political parties of diverse ideologies and unequal representation. Achieving consensus to reject such ordinances is unlikely—even if parliamentary performance were perfectly impartial—especially given the political bias that often favors alignment with the President’s political stance, even if this alignment is not openly declared.

This tendency is further exacerbated by the concentration of power in the President’s hands, making ordinance-based legislation a tool to constrain Parliament. The President also holds the constitutional power to dissolve the People’s National Assembly under Article 151 of the Constitution. This exceptional authority can be exercised unilaterally, without any procedural or substantive constraints, raising concerns about its potential misuse against the legislative institution, thus weakening it.

The extent of this weakness is further underscored by how Parliament approves presidential ordinances: through a vote *without discussion*. This process strips representative democracy of its core value and role. Approving ordinances without examination turns MPs into automatic endorsers of executive decisions, demonstrating the subordination of the legislative to the executive. This subservience may not be formally acknowledged but is often evident in the backrooms of political party negotiations, particularly under the current excessive multi-party system—a dynamic less likely in two-party systems, where political positions are clearly polarized and opposition is structurally integral.

2. The Impact of Parliamentary Performance on Ordinance-Based Legislation:

The electoral system of any country plays a critical role in shaping parliamentary representation and determining how effectively its members can perform their duties in protecting citizens' rights, preserving national gains, and ensuring generational continuity.

In Algeria, parliamentary performance continues to suffer from inefficiencies, particularly concerning integrity and responsibility. This is evident both in the direct election process—through which members are elected to the People's National Assembly—and in the indirect process, wherein candidates are first elected to local popular councils and then selected to form two-thirds of the upper house (Council of the Nation). Political practice has revealed that this latter process is often driven more by *political bargaining* than by *conscience* or *transparency*.

In this regard, the political scientist Barthélemy famously remarked: *"It has become a principle of political science that communities should be governed by an elite of exceptional quality."*

This reflects a widespread concern that representative institutions may not always attract or promote individuals of the caliber required to safeguard democracy and effectively counterbalance executive dominance^{xv}.

If we consider Parliament's approval by majority vote in 2005 of Hydrocarbons Law No. 05-07^{xvi}, which was opposed by a parliamentary minority that failed to block it due to the dominance of the majority, we observe that the law was later reversed by a presidential ordinance. The President intervened and canceled the law in 2006 through an ordinance that was subsequently ratified by the same Parliament via Law No. 06-19, dated November 14, 2006, which approved Ordinance No. 06-10 of July 29, 2006, amending and supplementing Law 05-07 mentioned above.

When we reviewed the record of the People's National Assembly, we found that a total of 74 texts had been approved by Parliament, of which only 4 were legislative proposals initiated by Parliament itself—representing just 6.5%, a very low proportion relative to the desired level of parliamentary performance. In the 2000-2007 legislative term, Parliament made only one proposal out of 91, accounting for just 1.09%. During the 2007-2012 term, Parliament ceased initiating proposals entirely, with 73 draft laws introduced through presidential ordinances and 132 by the government^{xvii}.

This leads us to conclude that parliamentary performance plays a major role in addressing the practice of legislation by ordinance. Political practice shows that effective resistance to ordinances requires a distinguished parliamentary member governed by ethics and conscience, rather than allegiance to the President's policies or programs. The most sincere tool at their disposal remains their honest vote under the dome of Parliament.

Fourth: Prospects for Balancing Credible Parliamentary Performance and Purposeful Legislation by Ordinance

There is evident ambiguity in Article 142 of the Constitution, particularly in the phrase "urgent matters," which the constitutional drafters failed to define or delimit, thereby leaving the scope of the President's legislative authority open-ended. This ambiguity has fueled public debate about the independence of the legislative from the executive authority. Therefore, it is hoped that regulatory texts will clarify the meaning of "urgent matters" by specifying domains, events, or cases that justify the urgency implied by this phrase. This is essential to prevent Article 142 from becoming a loophole used by the President to justify ordinance-based legislation without constitutional legitimacy—something that infringes upon Parliament's original legislative mandate.

While we acknowledge the benefits of ordinance-based legislation, we hope the Constitution will impose more stringent substantive constraints, rather than merely formal ones. Below, we offer a theoretical outlook on the expected reforms in this area:

1. Prospects for Parliamentary Performance That Reflects Popular Aspirations

We previously emphasized the need to improve parliamentary performance in responding to the executive's role in legislation, whether initiated by the government or the President. Hence, it is essential to discuss the means of improving parliamentary performance—starting with the development of a robust electoral law that curbs the exploitation of corrupt money in politics, especially during the partial renewal of two-thirds of the Council of the Nation. This process remains surrounded by allegations of misconduct, even if not always substantiated by evidence, due to unethical practices often observed in elections limited to local council members.

Although these elections should reflect the people's aspirations—since citizens elect the local councils that then elect members of the Council of the Nation—the public has shown noticeable apathy. This includes reluctance to vote in local council elections or to select their municipal representatives. This disinterest is arguably a reflection of public disillusionment with parliamentary performance. The public increasingly sees Parliament as a platform for personal gain rather than public service. This perception has led to a disconnect between the electorate and the elected, with their only interaction occurring during election campaigns—something Algerian voters deeply resent.

2. Toward a Moderate Executive Power: Between Regulatory Dynamism and Legislative Boundaries

The constitutional drafters addressed the legislative void in areas not reserved for Parliament through Article 141 of the Constitution, which explicitly states: *“The President of the Republic exercises regulatory authority in matters not assigned to legislation.”* This implies that the application of laws through regulations falls under executive authority in non-legislative matters.

At first glance, this article appears to deal solely with the executive's regulatory functions. However, it actually addresses a legislative aspect of regulatory authority, since decrees and executive orders often serve legislative purposes. A clear example of this is Algeria's resort to this mechanism in 1992 during an exceptional situation, when the Presidency became vacant due to resignation. The High Council of Security adopted several measures, including the establishment of a High Council of State as declared on January 14, 1992. This body assumed the powers of the President, and its resolution of April 15, 1992, introduced legislative measures to ensure state continuity—measures known as legislative decrees^{xviii}.

Remarkably, some of these decrees are still in effect today, even though the circumstances that justified them have long passed. To prevent such legal and political gaps during exceptional situations, the Constitution must clearly and precisely outline how such phases should be managed both procedurally and substantively. This remains a key aspiration for future constitutional reforms in Algeria.

CONCLUSION

Through this study, we have enriched the discussion surrounding the dynamics of tension and balance between Parliament and the executive authority, represented by the President of the Republic—especially in light of the constitutional empowerment granted to the President to legislate by ordinance. While the benefits of this legislative technique cannot be denied, its drawbacks are also evident—particularly amid weak parliamentary performance and the broad constitutional language that tends to favor the executive. This is not only characteristic of Algeria's national legislative framework but appears to be a common trend across most, if not all, Arab regimes.

Practical political experience has demonstrated the existence of many obstacles that hinder the establishment of a genuine balance between the executive and legislative branches in managing this exceptional legislative mechanism. This is particularly true in the context of partisan pluralism, which has created a stark divide between major parties and minor ones in Parliament, thereby marginalizing the role of the minority opposition. This is especially problematic when the dominant party's platform aligns with the executive's agenda and ideology.

Addressing this institutional imbalance requires serious efforts to develop constitutional reforms—particularly in relation to the electoral system—and to establish mechanisms that prevent abuse by either side when dealing with ordinary or exceptional legislative procedures. Based on this analysis, we present the following recommendations, which we believe would foster the political and legislative flexibility needed to uphold the principle of separation of powers.

RECOMMENDATIONS:

- Draft a flexible electoral law that aligns with the aspirations of both ruling and opposition parties, while protecting the public interest and enhancing political participation within and beyond Parliament.
- Promote ethical political practice by revisiting the application of indirect democracy—especially regarding the renewal of two-thirds of the Council of the Nation—by shifting to direct public voting instead of selection by local elected officials, as is currently the case for the upper house.
- Clearly define, within legislation—especially the Constitution—the specific domains and scenarios that constitute “urgent matters” in order to prevent the overextension of this concept in favor of the executive at the expense of the legislature.
- Restrict the President’s power to dissolve the People’s National Assembly, ensuring that parliamentary approval of presidential ordinances is genuinely deliberative and not merely a formality to legitimize executive decisions.
- Enhance public mobilization through legal and political awareness, and by ensuring citizens have the right and the means to access accurate information.

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ⁱⁱⁱ Ramzi Taha Al-Shaaer (2001). *Constitutional Law*, Cairo, Dar Al-Risalah Al-Duwaliyya for Printing, p. 665.

^{iv} Presidential Decree No. 20-442 regarding the Constitutional Amendment of the People's Democratic Republic of Algeria, enacted in 2020 following the referendum of November 1, 2020, issued on 15 Jumada al-Awwal 1442 AH (corresponding to December 30, 2020), published in the Official Gazette of the Republic of Algeria (Issue No. 82, 2020).

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^{xii} Pierre Ebrard. Article 38 of the 1958 Constitution of the Fifth Republic, *Revue du Droit Public*, 196, pp. 182–183.

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^{xvi} Law No. 05-07 on Hydrocarbons, Official Gazette of the People's Democratic Republic of Algeria, Issue No. 72, published on February 15, 2005.

^{xvii} www.apn-dz.org – The official website of the Algerian Parliament. Performance Report of the People's National Assembly, legislative sessions, Parliamentary Bulletin, 2010, p. 14. Report accessed on March 3, 2025, at 19:32 local time.

^{xviii} Ajja, Djellali, previously cited source, p. 262.