

Technical Constitutional Amendments in Algeria: A Legal Study of Concept and Implications



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Abstract:

Constitutional amendment is one of the topics that has received considerable attention in constitutional jurisprudence and comparative legal studies, given that the constitution is the highest document and the supreme law of the state, and must therefore be characterized by a degree of permanence, supremacy, and stability, in order to achieve legal security and ensure the balance of powers within the state.

However, political, economic, or social changes may arise that require amendments to the constitutional document. This study aims to establish the meaning of the term "technical amendment of the constitution," as witnessed in Algeria at the end of 2025, and to identify its repercussions and outcomes.

Keywords: Constitution; amendment; technical amendment; President of the Republic; referendum; Parliament.

Introduction:

It is established in legal jurisprudence that the constitution is the supreme law of the state, as legal rules form a hierarchy with the constitution at its apex. Through it, the authorities of the state are organized, the scope of citizens' rights and freedoms is set out, and the duties incumbent upon them are defined. It also expresses the form of the political system and the relationships among the authorities themselves.

On this basis, the constitutional document must be drafted in precise language that does not lend itself to interpretation, and with well-defined concepts that admit no contradiction, since it must be characterized by a degree of permanence and stability. In this respect, it differs from ordinary laws, which the legislative authority may amend but always within the bounds of respect for the constitution as expressed in the maxim: *"The nation is capable of delegating the authority of making and repealing laws to a prince, or to an assembly, or to both together, but the prince or the assembly must then hold the fundamental laws sacred and not alter them unless the nation has expressly granted that power."*

However, this permanence should not harden into absolute rigidity. Rather, the constitution should be characterized by a degree of flexibility that allows amendments to be made whenever necessity demands, in response to emerging developments and changes.¹

Accordingly, most states with rigid constitutions, including Algeria, have provided for the mechanism to be followed in amending the constitution. This involves a set of procedures that naturally differ from those applicable to the amendment of other legal texts, as they are characterized by a degree of complexity and specificity that serves to preserve the supremacy of the constitution.

Successive Algerian constitutions, beginning with the Constitution of 1963 and ending with the constitutional amendment of 2020, devoted articles or entire chapters to the mechanisms and requirements of constitutional amendment. All of them vested this right in the President of the Republic, except for the Constitution of 1963, which shared it with the National Assembly, provided that the proposal was submitted by an absolute majority of its members, and the Constitution of 1996, which shared it with members of Parliament, provided that the proposal was submitted by three-quarters of the members of both chambers meeting jointly.

The Algerian constitution-makers recognized, in both the Constitution of 1976 and the Constitution of 1996 with its subsequent amendments, certain principles that are not subject to amendment, though differing in number. Their scope expanded in the most recent constitutional amendment of 2020 to encompass ten (10) principles and choices that cannot be altered through amendment. These have been known in constitutional jurisprudence as entrenched provisions. Among those principles and choices is the limitation of the presidential term to two terms, regardless of how office is assumed — whether consecutive or non-consecutive.

In December 2025, during the Council of Ministers meeting held on 28 December 2025 under the chairmanship of the President of the Republic, three draft laws were discussed. The first concerned a technical amendment to the Constitution, while the other two were organic laws relating to the electoral system and political parties. The President of the Republic ordered the postponement of the constitutional amendment to allow for further study.

Thus, the term "technical amendment to the Constitution" emerged, and discussions around it increased between supporters, who see it as strengthening the democratic path, institution-building, closing loopholes, and remedying imbalances and ambiguity in its provisions, and opponents, who see it as a way to increase the dominance of the President of the Republic and further strengthen his powers, and perhaps even an attempt to open presidential terms or increase their duration.

This study seeks to address the following research problem:

To what extent can the proposed amendments in Algeria be considered technical amendments?

From this stem the following subsidiary questions:

- What is the meaning and basis of the term "technical amendment to the Constitution" in constitutional jurisprudence?
- What are the implications of adopting these amendments for the balance of powers in Algeria?

To address this problem, the inductive method was adopted to identify and analyze the various legal texts, and reliance was placed on certain tools of the comparative method to compare the Algerian experience with some international experiences in adopting terms indicating constitutional amendment, according to the following plan:

- The conceptual grounding of the term technical amendment to the Constitution.
- The proposals presented for amendment and their political and legal implications.

1. The Knowledge-Based Grounding of the Term Technical Amendment of the Constitution:

It is assumed that the constitutional document should be drafted in a way that ensures technical precision, both in terms of language and in terms of clarity and accuracy, leaving no room for ambiguity or interpretation. However, as a result of developments occurring at either the political or social level, it may become necessary to revisit the constitutional document in a way that ensures its provisions remain in harmony with reality, in order to achieve legal security.

The first step that must be taken in order to draft the constitutional document properly lies in selecting a qualified drafter who possesses a set of skills, including familiarity with and specialization in law, along with analytical ability and legal knowledge, enabling him to formulate constitutional rules effectively. The state should also provide him with all the necessary resources and facilities to help him properly conceive the rules that suit society and express them in a manner that is both clear and readily understood by the reader. Those entrusted with drafting the texts of the constitution should then be chosen from among experts who have extensive experience and practice in law and who possess the competence that qualifies them to carry out this precise and demanding task.²

1.1 Technical Amendment of the Constitution in Constitutional Jurisprudence:

With the announcement by the political authority in Algeria, represented by the President of the Republic, of its intention to prepare a draft law for a technical amendment of the constitution, many discussions emerged regarding the appropriateness of the term and the extent of its technical nature. The discussion extended to questioning the intentions of the authority and what it intended through this amendment. The term was addressed in the literature of constitutional jurisprudence through attempts to establish and define the concept.

In truth, constitutional jurisprudence did not recognize the term "technical amendment of the constitution"; rather, it recognized the term constitutional amendment, or amendment of the constitution.³ Constitutional amendment was defined as every amendment affecting a constitutional text or part of it, or entire provisions of the constitution, and the right to initiate it belongs to whoever possesses sovereignty or part of it (Parliament and the Government). It is subject to the approval of the representatives of the nation and the people directly.⁴ Constitutional jurisprudence also recognized the term constitutional revision to express any change affecting a constitutional text, part of it, or entire provisions of the constitution.⁵ Constitutional law jurists spoke of the substantive amendment of the constitution and the simple amendment, while taking into consideration that constitutional documents contain the term amendment of the constitution without distinguishing whether the amendment is simple or substantive.

It is well established in constitutional jurisprudence that constitutions are capable of revision and amendment. The idea of amending the constitution appeared with the beginning of the codification of constitutions, and jurisprudence settled on it after receiving it from the French Revolution and adopting it.⁶ Constitutional customs have proceeded on the basis that the authority that establishes the constitution has the right to amend it, and with the development of constitutional practices, it became established practice to specify in constitutions, especially written ones, the authority entrusted with the amendment process and the procedures for it.⁷

However, at the same time, the constitution may stipulate that it is not permissible to amend its provisions for a certain period of time, such as the American Constitution, which prohibited its amendment before 1808, and the French Constitution of 1946, which prohibited its amendment if French territory was subjected to occupation. It may also prohibit the amendment of certain provisions established by the constitution. These provisions are immune from amendment, such as in the Moroccan Constitution, which prohibited any alteration of the monarchical system, and the French Constitution, which prohibited any alteration of the republican system.⁸

By referring to the Algerian constitutions since independence up to the latest amendment in 2020, we find that they address the concept of constitutional amendment without further detail. The Constitution of 1963 dealt with the issue of constitutional amendment in Articles 71 to 74,⁹ where Article 71 stipulated: "(The initiative for amending the constitution belongs jointly to the President of the Republic and the absolute majority of the members of the National Assembly)." The amendment is carried out through two readings and two votes by an absolute majority of the members of the National Assembly, separated by two months. The draft constitutional amendment law is also submitted to a popular referendum for the people's approval.

The Constitution of 1976 also approved the amendment of the constitution and restricted the right to initiate its amendment to the President of the Republic. It further required approval of the amendment law by the National People's Assembly by a two-thirds majority of its members with respect to the articles of the constitution, excluding the provisions relating to its amendment, and by a three-quarters majority of the National People's Assembly with respect to the special provisions related to its amendment. It also provided that the amendment may not affect certain principles and matters, such as the republican system, religion, the socialist option, the freedoms and rights of the citizen, the principle of voting by direct and secret universal suffrage, and the integrity of the national territory.¹⁰

Thereafter, the constitution-makers retreated and granted the President of the Republic alone the right to initiate constitutional amendments and submit them to the National People's Assembly for approval, then to a popular referendum for approval. The amendment is then promulgated by the President of the Republic through a law. The President of the Republic may also dispense with the popular referendum whenever the amendment law obtains the approval of three-quarters of the National People's Assembly, subject to review by the Constitutional Council to ensure that it does not affect the general principles governing Algerian society, the rights and freedoms of citizens, or the basic balances of the constitutional authorities and institutions,¹¹ with the note that the Constitution of 1989 was issued by presidential decree rather than by law.

This is also what was enshrined by the constitution-makers in the Constitution of 1996,¹² from Article 174 to Article 178,¹³ with a return to enshrining exceptions that cannot be subject to amendment. These were limited to six points covering the republican character of the state, the democratic system based on political party pluralism, the religion of the state represented by Islam, the Arabic language as the official language of the state, the citizen's freedoms and fundamental rights, and the integrity of the national territory.

The subsequent amendments to the constitution also enshrined the same orientation, beginning with the constitutional amendment of 2008,¹⁴ with an expansion of the exceptions that cannot be affected by amendment. These included, in addition to the foregoing, the national flag and anthem, and the prohibition on the President of the Republic serving more than two terms. The constitution-makers then returned in the constitutional amendment of 2016¹⁵ to enshrine the right of members of Parliament to submit a proposal for constitutional amendment to the President of the Republic, provided that the legal quorum for submitting the initiative is met, namely three-quarters of the members of both chambers of Parliament meeting together. This was likewise enshrined in the constitutional amendment of 2020,¹⁶ with the number of exceptions that cannot be affected by amendment increasing to 10 through the addition of the social character of the state and Tamazight as a national and official language of the state. It should be noted that the right of members of Parliament, at all stages of its exercise, remains dependent on the extent to which the President of the Republic responds to and adopts it, and then submits it to a popular referendum.

On the other hand, we find that the French Constitution, in all its amendments, recognizes constitutional amendment without detailing the form of the amendment, whether substantive or incidental. Article 89 granted the right of initiative for amendment to both the President of the Republic and members of Parliament upon a proposal from the Prime Minister.¹⁷ Likewise, the United States Constitution, in Article V (5), vested the right to propose constitutional amendments in Congress if two-thirds of the members of both houses deem it necessary, or to call, upon the request of the legislatures of two-thirds of the states, a convention for proposing the necessary amendments.¹⁸ The Egyptian constitution-makers followed the same approach. Article 226 of the Egyptian Constitution of 2019 granted the President of the Republic, as well as one-fifth of the members of the House of Representatives, the right to request the amendment of one or more articles of the constitution, with the requirement of specifying the articles proposed for amendment and the reasons for the amendment.¹⁹

1.2 Technical Amendment of the Constitution: Defining the Concept and Meaning

To define the concept of the technical amendment of the Constitution, we must first know the meaning of the term "technical" in the Arabic language. This term is a noun, and its derived verbal noun comes from "taqana" (to master). It is said: a man is tiqn and taqin, meaning one who masters things and is skillful; and a tiqn man is one who is articulate and ready in speech and response.²⁰ Perhaps this is what led some proponents of this term to apply it to the constitutional amendments announced by the Algerian authorities, which were addressed by researchers, journalists, and law professors through analysis and examination.

In this context, Professor "Moussa Boudehane" believes that the Algerian Constitution established rules and mechanisms that must be respected when making any amendment to the Constitution, without distinguishing between a substantive amendment and a simple one. Therefore, a technical amendment does not affect rights and freedoms or the balance between powers, and the term technical amendment of the Constitution refers to those amendments that do not affect the essence of the state's political system, nor rights and freedoms, nor the balance of powers.²¹

Meanwhile, the Chief of Staff of the Presidency of the Republic, Mr. Boualem Boualem, explained during the seminar he chaired on behalf of the President of the Republic, with the participation of the Prime Minister, the President of the National Independent Authority for Elections, and the Minister of Interior, Local Authorities and Transport, which was devoted to presenting and discussing the draft technical amendment of the Constitution and the organic law relating to the electoral system, that there is a fundamental difference between constitutional amendment and the technical amendment of the Constitution.²²

If constitutional amendment in all countries of the world and in comparative jurisprudence means "a tool for responding to the requirements of keeping pace with political

or social changes, economic development, strengthening the status of human rights, reorganizing public authorities, confronting certain crises, or complying with international agreements," then the technical amendment of the Constitution, in his view, is "an enabling constitutional tool aimed at closing constitutional loopholes for the purpose of addressing ambiguity or conflict between provisions that appear during their practical and actual application".²³

In the same context, some, including Professor "Moussa Boudehane", see that the technical amendment consists of amendments of an organizational and improvement-oriented nature that do not affect constitutional constants or the nature of the political system, but rather aim to remedy shortcomings according to requirements, fill gaps, and adapt the constitutional text to the requirements of current practice dictated by political, social, and economic circumstances.²⁴

Through these definitions, which confine the purpose of the technical amendment of the Constitution to avoiding ambiguity, deficiency, and contradiction that may affect its provisions, the content of the proposals submitted regarding the points to be amended is expected to become clear. The question arises as to whether the amendments will be limited to remedying shortcomings and contradictions between the provisions of the Constitution and filling gaps, or whether they will go beyond that to affect the organization of powers or the organization of the relationship between them. This has led some researchers to consider that the term technical amendment does not add any real value to the discussion in either the legal or political field. Rather, it performs a rhetorical function for the authority in order to reduce discussion around it and to take on a procedural character that ultimately serves to avoid resorting to a popular referendum.²⁵

In the same direction, some specialists in constitutional law believe that the Algerian Constitution allows two paths for amending its provisions. The first path consists of resorting to a popular referendum in order to approve those amendments, while the second path consists of relying on Parliament, as it embodies popular sovereignty, to approve those amendments, provided that the quorum set at three-quarters of the members of both chambers of Parliament is met. Therefore, the circulation of the term technical amendment at this stage suggests the intention of the authority to pass the proposed amendments through Parliament without the need to resort to a popular referendum.²⁶

2. The Proposed Aspects of the Amendment and Their Political and Legal Outcomes

Whatever term is used for the proposed constitutional amendment, the main consideration lies in the aspects that the amendment will affect, because the amendment of constitutions is, in principle, a healthy phenomenon, given the changes, in their broad sense, that occur and with which the constitution must keep pace. When examining the amendments that have affected the Algerian constitutions since independence, we find that they do not exceed eight (8) amendments, which is a small number compared to other constitutions, such as that of France, for example, which has been amended twenty-five (25) times. The consideration is not the number; rather, it is the purpose of the amendment. The amendments, especially the major ones, that Algeria has experienced all had their justifications.²⁷

2.1 Proposed points for the technical constitutional amendment in Algeria

The authorities in Algeria, through the Director of the Cabinet of the Presidency of the Republic, took the initiative to disclose the proposals that had been drafted, which consist, according to their view, of technical amendments that do not affect the essence of the Constitution or the basic principles on which it is based. They also do not affect the principle of separation of powers or the achievement of a balance among them, but rather came to fill certain gaps and correct some articles in terms of drafting. These proposals consist of ten (10) points, namely:²⁸

- The necessity of including the condition of proving the educational level for candidacy to the position of President of the Republic.
- Regulating the ceremonies of taking the constitutional oath by the President of the Republic.
- Proposing the possibility of the President of the Republic deciding to call for early local elections.
- Deleting the condition of obtaining the conforming opinion of the High Council of the Judiciary, on the occasion of appointment to specific judicial positions, or in the annual movement of presidents of judicial councils and public prosecutors, presidents of administrative courts, and state commissioners.
- Proposing the extension of the term of the elected President of the Council of the Nation to six (6) years instead of three (3) years.
- Improving the organizational framework for the opening of the ordinary parliamentary session, by determining the date of opening and closing the ordinary session, and ensuring better flexibility in determining the opening date and closing date, which shall be during the month of September without specifying the day, and ends ten (10) months after its opening.
- Proposing reconsideration of the composition of the High Council of the Judiciary in accordance with Article 180 of the Constitution.
- Regarding the National Authority for Elections, it is proposed to expand its tasks to include the complete supervision of electoral and referendum operations, and assigning the task of material and logistical preparation of these operations to the administration alone.
- The project of the technical amendment of the constitution proposes the inclusion of a transitional provision to be relied upon when needed, aimed at filling a constitutional vacuum and providing a basis for carrying out the process of half-renewal of the elected members of the Council of the Nation.
- It was proposed to include a transitional provision aimed at determining the deadlines for bringing institutions and bodies whose legal system, or composition, has undergone some change into conformity, by stipulating the necessity of carrying out this conformity within certain deadlines.
- Two additional proposals were also added after the extensive discussions that included the proposed points, during the presentation by the Minister of Justice, Keeper of the Seals, of the law containing the constitutional amendment before the joint committee between the two chambers of Parliament on 24 March 2026. The two points are as follows:²⁹
- Representation of the wilayas in the Council of the Nation, according to the population of the wilaya, either by one seat or two seats.
- In the event of disagreement between the two chambers of Parliament regarding a legislative text whose competence belongs to the Council of the Nation, namely local organization, territorial planning, and the territorial division of the country, the final word returns to it within its field of competence.

By the authority in Algeria announcing the points proposed for amendment, it has thereby dispelled the hypothesis that existed among a wide segment of actors in the political field, who believed that the technical amendment of the constitution mainly aims to extend the presidential term from five (5) years to seven (7) years, or to open presidential terms to more than two terms, despite the fact that the constitution-makers included the limitation of presidential terms among the entrenched provisions that cannot be affected by amendment. On the other hand, we find supporters of the opinion calling for opening the terms because limiting them, in their

belief, constitutes a violation of popular authority, which may wish to endorse its candidate at any level of electoral responsibility.

The postponement of the approval of the law relating to the constitutional amendment at the Council of Ministers meeting held on 28 December 2025, in order to deepen the study of the proposals, as well as the announcement of the ten proposals at a conference supervised by the Prime Minister and attended by the Director of the Office of the Presidency of the Republic, the Acting President of the National Authority for Elections, the leaders of political parties, and members of the government, had its political and legal significance. This is mainly because the announcement concerns the supreme law of the state, and therefore it was necessary to involve all actors and broaden the circle of consultation.³⁰

The idea of broadening consultation becomes even more established and confirmed through the conferences held by the Constitutional Court on the legal framework of the technical amendment of the constitution. These conferences took on a more academic than political character because of the nature of the supervision, as they were supervised by law professors who are members of the Constitutional Court, as well as the Adviser to the President of the Republic in charge of education and teaching. This is also evident from the level of discussion and even the nature of attendance. Alongside the employees of the Constitutional Court, there were students from the Faculty of Law, the Higher School for the Judiciary, the National School of Administration, the Higher School of Political Science, and the Faculty of Political Science.³¹

After the political and academic consultations that the project underwent, it was presented to the two chambers of Parliament meeting jointly under the presidency of the President of the Council of the Nation, and in the presence of the President of the Constitutional Court, the First President of the Supreme Court, the President of the Council of State, the Minister of Justice, Keeper of the Seals, representing the government, and the President of the National Independent Authority for Elections. The draft law was voted on after discussion during the session of the two chambers of Parliament meeting jointly on 25 March 2026, and was approved unanimously (542 votes, including 42 by proxy).³² It was then promulgated by the President of the Republic in issue 22 of the Official Gazette, pursuant to Law No. 26-04 of 26 March 2026.³³

Whatever the case, the question that must be raised after the announcement of the points included in the amendment is whether those aspects affected by the proposed amendment are merely technical aspects aimed at filling the gaps and deficiencies that existed in some articles of the constitution, or whether they go beyond that to affect the essence of the constitutional text, the arrangement of powers, and the regulation of the relationship between them?

2.2 A Legal Reading of the Ten Points Proposed for the Technical Amendment of the Constitution

Through reviewing the proposed points affected by the amendment, it becomes clear that many of them, in reality, came at the appropriate time in order to fill legal gaps produced by the actual application of the constitutional provisions, or to strengthen the position of certain authorities, which may give dynamism to political life and democratic practice in Algeria. This is reflected through the following points:

- The necessity of including an educational level requirement for candidacy to the office of President of the Republic. Successive Algerian constitutions have consistently established a set of conditions that must be met by a candidate for the office of President of the Republic, as it is the highest office in the state. However, they did not require an educational level as a condition for candidacy to this office. Article 87 of the 2020 constitutional amendment specified eleven (11) conditions, and the mechanism for their implementation was determined by virtue of the article, while this requirement was likewise not stipulated in the organic laws relating to elections.

It is unreasonable that one-third of the candidate lists for local elections, whether municipal or provincial, are required to have a university level according to the text of Article 176 of Organic Law No. 21-01 relating to the electoral system, as amended and supplemented,³⁴ while no educational level is required for the office of President of the Republic, who exercises extensive powers. He directs and leads the state's foreign policy, is the Minister of National Defense and the Supreme Commander of the Armed Forces, and is the first judge in the country, etc. Therefore, this office requires the availability of a set of objective qualifying conditions, among which is the educational level of the candidate.³⁵

On the other hand, the question arises as to the purpose of requiring an educational level for candidacy to the office of President of the Republic. Is it competence for assuming this office? And is competence limited to educational level? On the other hand, does requiring this not constitute a violation of one of the rights constitutionally guaranteed, namely the right to stand for election?

- The proposal to regulate the ceremonies of taking the constitutional oath through optimal organizational arrangements, by determining the body before which the President of the Republic takes the constitutional oath and the authority that reads the constitutional oath.

This matter is fundamentally protocol-related, and there is no constitutional or even legal text regulating it. Article 89 of the Constitution is surrounded by ambiguity, as it stipulates:

"(The President of the Republic takes the constitutional oath before the people in the presence of all the higher bodies of the nation during the week following his election. ...(and he assumes his duties immediately after taking the oath)."

Thus, if the principle is correct and possesses the significance and symbolism that it does, whereby the President of the Republic takes the constitutional oath before the people on the basis that the people are the ones who elected him, and they are the holders of the original authority, the mechanism for implementing this procedure remains difficult, if not impossible. What is meant by the people? Are they their elected representatives? If so, how does an elected official of the highest rank take an oath before an elected official of a lower rank? And how can the procedure be carried out if what is meant is the people as holders of authority?

Accordingly, the draft law containing the constitutional amendment provided that the President of the Republic shall take the oath before the members of Parliament in both its chambers meeting jointly, and in the event of the dissolution of the People's National Assembly, the oath shall be taken before the members of the Council of the Nation. As for the authority entrusted with supervising and reading the text of the oath, the procedure in force has been constitutionalized, namely that it is read by the First President of the Supreme Court. The Minister of Justice, Keeper of the Seals, justified the procedure by stating that it came as an embodiment of the principle of the will of the people, considering that the members of Parliament are the representatives of the people. As for the reading of the constitutional oath by the First President of the Supreme Court, this is because it constitutes the highest judicial body in the state. Furthermore, the various officials of constitutional institutions and the higher bodies of the state take the oath before the First President of the Supreme Court, including the members of the Constitutional Court, and in order to avoid any conflict that may arise when the President of the Constitutional Court assumes the position of Head of State, in application of the provisions of the last paragraph of Article 94 of the Constitution. This last statement, however, raises a point that should be addressed. Is the Supreme Court really the highest judicial body in the state? Especially since Algeria adopts a

dual judicial system, and the Council of State is a body parallel to the Supreme Court, with each of them having its own jurisdiction.

- Proposing the possibility for the President to call for the organization of early local elections. This proposal comes to strengthen the powers of the President of the Republic, who possesses the authority to organize early presidential elections pursuant to Article 91 of the Constitution. He may also dissolve the National People's Assembly or call early legislative elections pursuant to Article 151 of the Constitution. Therefore, it is reasonable, and in order to give a kind of harmony to the provisions of the Constitution, that the President of the Republic be granted the right to dissolve local councils (municipal and provincial) and call early local elections, especially when there are reasons that justify this, such as deadlocks within these councils or the inability to keep pace with the implementation of development programs and ensure the handling of citizens' concerns. On the other hand, granting this authority to the President of the Republic must be carried out in accordance with controls and conditions specified in the provisions of the Constitution in order to avoid the misuse of this authority, based on the idea that absolute power is corrupting.
- Proposing the deletion of the conforming opinion of the High Council of the Judiciary in appointments to specific positions and in the annual movement of presidents of judicial councils, presidents of administrative courts, and state commissioners, considering that the President of the Republic is the President of the High Council of the Judiciary. Article 181 of the Constitution stipulates that appointment to specific judicial positions is made by presidential decree after obtaining the conforming opinion of the High Council of the Judiciary. Although some see that the amendment proposal is justified on the basis that the President of the Republic is the President of the High Council of the Judiciary, and therefore it is not reasonable for him to request a conforming opinion when exercising his powers of appointment. However, we see that this proposal further strengthens the powers of the President of the Republic. These powers, whose expansion continues, may affect the independence of the judiciary. Even if the President of the Republic is the President of the High Council of the Judiciary, and this issue needs much discussion, the issuance of a conforming opinion by the Council regarding appointments to specific positions, as well as the movement of presidents of judicial councils, presidents of administrative courts, and state commissioners, is also justified because the High Council of the Judiciary is the body competent to oversee the career path of judges. This is a procedure applied in many countries, such as France, according to Article 65 of the French Constitution. It is assumed that the High Council of the Judiciary should be formed according to a philosophy that guarantees its independence, and the issuance of a conforming opinion is considered a guarantee of judicial independence because the Council is the body responsible for the career path of judges.
- A proposal to extend the term of office of the President of the Council of the Nation to six (6) years instead of three (3) years, as Article 122 of the Constitution fixed the term of the Council of the Nation at six (6) years, with the membership renewed by half every three (3) years. The article did not exclude the President of the Council of the Nation from the half-renewal process. The proposal ensures continuity and stability and guarantees the proper functioning of state institutions, considering the position of the President of the Council of the Nation as the second man in the state. The proposal is a guarantee of institutional stability as a result of accumulated experience. Consequently, excluding the President of the Council of the Nation from the half-renewal process is considered a necessity for improving and activating the work of the Council.³⁶

- Improving the regulatory framework for the opening of the ordinary parliamentary session. A proposal to reconsider the composition of the High Council of the Judiciary in accordance with Article 180 of the Constitution, by dispensing with three categories included in Article 180 concerning the composition of the members of the High Council of the Judiciary. These categories are:
 - The two personalities chosen by the President of the National People's Assembly from outside the deputies, and the two personalities chosen by the President of the Council of the Nation from outside its members.
 - Two judges from the trade union formation of judges.
 - The President of the National Human Rights Council.

Although the proposal to dispense with the membership of the personalities chosen by the presidents of the two chambers of Parliament, as well as the President of the Human Rights Council, is acceptable to some extent, it is not logical to dispense with the membership of two judges representing the trade union formation, considering the role entrusted to the High Council of the Judiciary in managing the professional life of judges. Therefore, it appears necessary for the trade union representation of judges to be represented within it. The composition of the Council should, in principle, be limited to judges, with a review of the presidency of the Council by the President of the Republic, in order to guarantee the independence of the judicial authority. Furthermore, strengthening the composition of the Council with the Prosecutor General of the Supreme Court would constitute a qualitative addition, considering that the Public Prosecution represents society, thereby achieving a balance of powers within the same authority.
- Concerning the National Electoral Authority, it is proposed to expand its tasks to include oversight of electoral and referendum operations in their entirety, and to assign the task of material and logistical preparation of these operations to the administration alone. The Constitution organized the National Independent Electoral Authority under Articles 200 to 203, whereby the Algerian constitution-makers entrusted this authority with the task of preparing, organizing, managing, and supervising electoral operations of all kinds. It also obliged the concerned authorities to provide the support and facilities necessary for the National Independent Electoral Authority to perform its duties.
- Organic Law No. 21-01 relating to the electoral system, as amended and supplemented, organized the National Independent Electoral Authority and determined its method of operation in managing electoral processes from Article Seven (7) to Article Forty-Nine (49). Therefore, as long as the National Independent Electoral Authority is the body entrusted with managing electoral operations, from the calling of the electoral body until the announcement of the provisional election results, what is meant by expanding its supervisory tasks over all electoral and referendum operations? Especially since Organic Law No. 21-01 relating to the electoral system, as amended and supplemented, already guaranteed it a supervisory role under Articles 10, 11, 12, 13, and 14 thereof. In addition, reassigning material and logistical preparation to the administration may affect the electoral process and its transparency on the one hand, and weaken the role and position of the Authority on the other hand. It is known that whoever controls the material and financial aspects possesses the actual decision-making power. On this basis, it would have been appropriate to strengthen the role of the National Independent Electoral Authority, structurally, organizationally, and in terms of human resources, in order to enhance its independence and enable it to manage electoral operations with full competence.
- The draft technical amendment of the Constitution proposes the inclusion of a transitional provision to be relied upon when needed, aimed at filling a constitutional

vacuum and providing a basis for conducting the half-renewal process of the elected members of the Council of the Nation, in order to provide a legal basis for the half-renewal of the members of the Council of the Nation. Some believe that transitional provisions are the most dangerous aspect of the amendment, because in reality they create the "founding moment" without declaring it. They determine who remains, who leaves, when renewal takes place, and how the transitional period between two stages, and between two systems, is managed.³⁷

- It was proposed to include a transitional provision aimed at determining the deadlines for bringing institutions and bodies whose legal system or composition has undergone some change into conformity, by stipulating the necessity of carrying out this conformity within specified deadlines.
- Representation of the provinces in the Council of the Nation according to the population of the province, with either one seat or two seats, based on the criterion of equality in representation, and in order to add more objectivity and fairness to the way citizens are represented in the Council of the Nation, and to harmonize it with the criterion adopted in the other elected councils.
- In the event of a disagreement between the two chambers of Parliament regarding a legislative text that falls within the competence of the Council of the Nation, namely local organization, regional planning, and the territorial division of the country, the final word shall belong to it in its field of competence. This is in order to establish the principle of balance and complementarity between the two chambers of Parliament, taking into account the nature of the texts subject to disagreement, and determining the most appropriate body to decide on them, considering the constitutional competence of each of them.

Conclusion:

From the foregoing, and at the conclusion of this study, we arrived at a set of results, which we summarize as follows:

Study findings:

- The term technical amendment of the constitution is not known in constitutional jurisprudence. Rather, what is known is the distinction between a simple amendment and a substantive amendment of the constitution. Likewise, the constitutions of the world do not distinguish between a simple and a substantive amendment, as they provide only for the amendment of the constitution.
- The procedures for amending the constitution do not differ whether the amendment is simple or substantive, neither in terms of the initiative to propose the amendment nor in terms of the procedures for its approval, whether by resorting to a referendum or by a parliamentary vote with a specified majority.
- Amendment of the constitution is a healthy and necessary process as a result of changes that may occur at the political, economic, or social level, which require the constitution, as the supreme law of the state, to keep pace with them.
- The constitutional revisions that Algeria has experienced since its first constitution are not numerous compared with countries that have a long democratic tradition. Therefore, the criticism by some that the Algerian constitution has lost its value as a result of its repeated amendments lacks objectivity and has no basis in fact.
- The proposals that the Algerian authorities presented for discussion, although in their entirety simple and not affecting the essence of the balance of powers within the state, came as a reinforcement of the powers of the President of the Republic. This may entrench the dominance of the executive authority over the legislative and judicial authorities and may also strengthen his control over the reins of executive power.

- The proposals presented addressed some of the gaps and imbalances in the provisions of the constitution. However, there are some loopholes that were not covered by the proposals. We mention, by way of example and not limitation, the failure of the constitutional provisions to address the program that must be implemented in the event that legislative elections produce a parliamentary majority. Is the program of the President of the Republic to be implemented, or the program of the Head of Government, considering that both were elected on the basis of the program presented to the people?
- The proposals are described by the term technical amendment of the constitution in order to avoid resorting to a popular referendum and to limit approval to a vote by the two chambers of Parliament.
- This amendment, despite being described as technical and concerned with filling gaps, in reality deals with matters of a political nature. Even if, on the surface, it does not affect the balance of powers within the state, it seeks, in one way or another, to strengthen the powers of the executive authority in relation to the other authorities.

Study Recommendations:

- Determining the educational level required for candidacy to the position of President of the Republic, instead of leaving the matter unspecified. It is preferable that the level be university-level.
- Regulating the authority of the President of the Republic in the matter of dissolving elected local councils, as recourse to this should be subject to certain conditions in order to avoid the exploitation of this authority in an improper manner.
- Refraining from the proposal to remove the requirement of obtaining the conforming opinion of the High Council of the Judiciary in appointments to specific positions, considering the need to regulate the authority of the President of the Republic in appointments, and because the Council is entrusted with overseeing the career path of judges.
- Refraining from removing two judges representing the judicial union from the composition of the High Council of the Judiciary, because the Council is entrusted with overseeing the career path of judges, including the imposition of disciplinary sanctions. Therefore, it is necessary for the judges' union to be represented within the composition of the Council.
- Strengthening the powers of the National Independent Authority for Elections, whether materially or structurally, and not assigning the material and logistical aspects to the administration, in order to guarantee the independence and transparency of the electoral process.
- Regulating the proposed transitional provision by specifying precisely when recourse to it may be made, in order to avoid its application in an improper manner that disrupts the proper functioning of the legislative institution.

1-Adhemar Esmein: *Usul al-Huquq al-Dusturiyyah*, translated by Adel Zouaiter, Mu'assasatHindawi, Egypt, 2022, p. 271.

2-Saddam Ibrahim Abu Azzam, Laith Kamal Nasrawin: *Mabadi' Al-Siyagha Al-Tashri'iyya*, Dar Al-Thaqafa Lil-Nashr Wa Al-Tawzi', Jordan, 2023, p. 46.

3-Khaled Shibli, "Mashrou' Al-Ta'dil Al-Doustouri fi Al-Jaza'ir: Qira'aQanounia fi Mafhoum 'Al-Ta'dil Al-Taqni'", full file address: <https://www.raialyoun.com>, consulted on 09/02/2026 at 15:15, published on 29 December 2025.

-
- 4-Youssef Hachi: *Fi Al-Nadhariya Al-Doustouria*, 1st Ed., Dar Ibn Al-Nadim Lil-Nashr Wa Al-Tawzi', Lebanon, 2009, p. 229.
- 5-Ibid., p. 229.
- 6-Muhammad Kadhim Al-Mashhadani: *Al-Qanoun Al-Doustouri: Al-Dawla – Al-Hukouma – Al-Doustour*, 1st Ed., Mu'assasat Al-Thaqafa Al-Jami'iya, Egypt, 2011, p. 264
- 7-Mohammed Ahmed Aziz: "Al-DoustourWaTa'dil Al-Doustour", *Majallat Al-Ma'had*, No. 13, 2023, p. 506.
- 8-Hamid Mazyani: "Al-Ta'dil Al-Doustouri Fi Al-Anthima Al-MouqaranaWa Fi Al-Jaza'ir", Vol. 16, No. 2, 2021, p. 394.
- 9-Constitution of 1963, adopted by the popular referendum of 08 September 1963, Official Gazette of the People's Democratic Republic of Algeria, No. 64, issued on 10 September 1963, pp. 894–895.
- 10-Articles 191, 192, 193, 194, Order No. 76-97 of 23 November 1976 promulgating the Constitution of the People's Democratic Republic of Algeria, Official Gazette of the People's Democratic Republic of Algeria, No. 94, issued on 24 November 1976, pp. 1325–1326.
- 11-Articles 163, 164, 165, 166, 167, Presidential Decree No. 89-18 of 28 February 1989 concerning the publication of the constitutional amendment approved by the referendum of 23 February 1989, Official Gazette of the People's Democratic Republic of Algeria, No. 9, issued on 01 March 1989, pp. 255–256.
- 12-Some constitutional law scholars argue that Algeria has had only three constitutions, the last of which was the 1989 Constitution, and that all subsequent texts merely constitute amendments to it. Others, however, maintain that the 1996 Constitution is a new constitution, despite the fact that the decree promulgating it explicitly states that it is merely an amendment.
- 13-Articles 174, 175, 176, 177, 178, Presidential Decree No. 96-438 of 07 December 1996 concerning the promulgation of the constitutional amendment approved by the referendum of 28 November 1996, Official Gazette of the People's Democratic Republic of Algeria, No. 76, issued on 08 December 1996, pp. 31–32.
- 14-Law No. 08-19 of 15 November 2008 concerning the constitutional amendment, Official Gazette of the People's Democratic Republic of Algeria, No. 63, issued on 16 November 2008, p. 8.
- 15-Law No. 16-01 of 06 March 2016 concerning the constitutional amendment, Official Gazette of the People's Democratic Republic of Algeria, No. 14, issued on 07 March 2016, p. 3.
- 16-Presidential Decree No. 20-442 of 30 December 2020 concerning the promulgation of the constitutional amendment approved by the referendum of 01 November 2020, Official Gazette of the People's Democratic Republic of Algeria, No. 82, issued on 30 December 2020, p. 3.
- 17-Constitution of the Fifth French Republic, French Presidency Website, available at: <https://www.elysee.fr/en/french-presidency/constitution-of-4-october-1958>, consulted on 12/02/2026 at 11:11.
- 18-Constitution of the United States of America, United States Senate Website, available at: <https://www.senate.gov/about/origins-foundations/senate-and-constitution/constitution.htm>, consulted on 12/02/2026 at 11:30.
- 19-Constitution of the Arab Republic of Egypt, Presidency Website, available at: <https://www.presidency.eg/media/46122/>, consulted on 12/02/2026 at 11:53.
- 20-Abdallah Ibn Al-Mukarram Ibn Abi Al-Hassan Ibn Ahmed Al-Ansari Ibn Manzour: *Lissan Al-Arab*, 2014 Ed., Dar Al-Ma'arif, Egypt, p. 437.
- 21-Amira Khato, "Bayna Al-Jawhar Wa Al-Mazhar... Madha Ya'ni Al-Ta'dil Al-Doustouri Al-Taqni Al-MourtaqabWa Ma Asbabouh?", available at: <https://www.awras.com/>, consulted on 15/02/2026 at 11:02.

22-Algerian Public Television Establishment, "Al-Ta'dil Al-Taqni Lil-Doustour: Idafa Naw'iya Li Ta'ziz Fa'aliyat Al-Soultat Wa Al-Mou'assassat Al-Doustouria", available at: <https://entv.dz/ar/news/>, consulted on 15/02/2026 at 11:50.

23-Ibid.

24-Amira Khato, op. cit.

25-Khaled Shibli, op. cit.

26-Amira Khato, op. cit.

27-Ben Tayfour Nasr Eddine, "Nadwa Bil-Mahkama Al-Doustouria Hawla Al-Itar Al-Qanouni Lil-Ta'dil Al-Doustouri Fi Al-Jaza'ir", available at: <https://cour-constitutionnelle.dz/ar/2026/02/16/>, consulted on 22/02/2026 at 13:57.

28-Presidency of the Republic, "Moudir Diwan Ra'is Al-Joumhouria Yatarra'as Nadwa Hawla Machroua'i Al-Ta'dil Al-Taqni Lil-Doustour Wa Qanoun Al-Intikhabat", available at: <https://www.el-mouradia.dz/ar/presidency/6974f7d488c585001e62019e>, consulted on 22/02/2026 at 15:03.

29-Council of the Nation, the Joint Parliamentary Committee hears a presentation by the Government's representative, Mr. Lotfi Boudjemaa, Minister of Justice and Keeper of the Seals, on the draft law concerning the constitutional amendment, available at: <https://www.majliselouma.dz/ara/events/>. Accessed on 25 March 2026 at 18:20.

30-Moussa Boudhan, "Qira'a Fi Al-Mouqtarahat Al-'Ashr Lil-Ta'dil Al-Taqni Lil-Doustour", Radio Algeria International, 25 January 2026, available at: <https://my.radioalgerie.dz/ar/node/47025>, consulted on 22/02/2026 at 00:02.

31-Constitutional Court, "Bayan Yata'allaq Bi Tanzim Nadwa Hawla: 'Al-Itar Al-Qanouni Lil-Ta'dil Al-Taqni Lil-Doustour'", 16 February 2026, available at: <https://cour-constitutionnelle.dz/ar/>, consulted on 23/02/2026 at 09:27.

32-Council of the Nation, Mr. Azzouz Nasri, President of Parliament, affirmed that the President of the Republic's initiative to amend the Constitution strengthens the rule of law and promotes institutional coherence. "Members of Parliament, in both chambers, unanimously approved the draft constitutional amendment law," available at: <https://www.majliselouma.dz/ara/events/>. Accessed on 29 March 2026 at 19:13.

33-Law No. 26-04 of 26 March 2026 concerning the constitutional amendment, Official Gazette of the People's Democratic Republic of Algeria, No. 22, issued on 26 March 2026, p. 11.

34-Order No. 21-01 of 10 March 2021 containing the Organic Law relating to the Electoral System, Official Gazette of the People's Democratic Republic of Algeria, No. 17, issued on 10 March 2021, p. 25.

- Order No. 21-10 of 25 August 2021 amending and supplementing certain provisions of Order No. 21-01 of 10 March 2021 containing the Organic Law relating to the Electoral System, Official Gazette of the People's Democratic Republic of Algeria, No. 65, issued on 26 August 2021, p. 5.

35-Moussa Boudhan, op. cit.

36-Ibid.

37-Mohamed Taher Aissani, "Al-Ta'dil 'Al-Taqni' Lil-Doustour Al-Jaza'iri: Handassa Jadida Lil-Soulta Am Tarmim Lil-Faraghat?", available at: <https://akhbarelwatane.dz/>, consulted on 25/02/2026 at 23:01.

References List:

A. Books

- Adhemar Esmein, *Usul al-Huquq al-Dusturiyyah*, translated by Adel Zouaiter, Mu'assassat Hindawi, Egypt; 2022.
- Saddam Ibrahim Abu Azzam, Laith Kamal Nasrawin, *Mabadi' Al-Siyagha Al-Tashri'iyya*, Dar Al-Thaqafa Lil-Nashr Wa Al-Tawzi', Jordan; 2023.

- Youssef Hachi, *Fi Al-Nadhariya Al-Doustouria*, 1st ed., Dar Ibn Al-Nadim Lil-Nashr Wa Al-Tawzi', Lebanon; 2009.
- Muhammad Kadhim Al-Mashhadani, *Al-Qanoun Al-Doustouri: Al-Dawla – Al-Hukouma – Al-Doustour*, 1st ed., Mu'assasat Al-Thaqafa Al-Jami'ia, Egypt; 2011.
- Abdallah Ibn Al-Mukarram Ibn Abi Al-Hassan Ibn Ahmed Al-Ansari Ibn Manzour, *Lissan Al-Arab*, 2014 ed., Dar Al-Ma'arif, Egypt; 2014.

B. Journal and Newspaper Articles

- Mohammed Ahmed Aziz, “Al-DoustourWaTa'dil Al-Doustour,” *Majallat Al-Ma'had*, No. 13; 2023.
- Hamid Mazyani, “Al-Ta'dil Al-Doustouri Fi Al-Anthima Al-MouqaranaWa Fi Al-Jaza'ir,” Vol. 16, No. 2; 2021.
- Khaled Shibli, “Mashrou' Al-Ta'dil Al-Doustouri fi Al-Jaza'ir: Qira'aQanounia fi Mafhoum 'Al-Ta'dil Al-Taqni,” *Rai Al-Youm*; 2025.
- Amira Khato, “Bayna Al-Jawhar Wa Al-Mazhar... Madha Ya'ni Al-Ta'dil Al-Doustouri Al-Taqni Al-MourtaqabWa Ma Asbabouh?” *Awras*; 2026.
- Moussa Boudhan, “Qira'a Fi Al-Mouqtarahat Al-'Ashr Lil-Ta'dil Al-Taqni Lil-Doustour,” *Radio Algeria International*; 2026.
- Mohamed Taher Aissani, “Al-Ta'dil 'Al-Taqni' Lil-Doustour Al-Jaza'iri: Handassa Jadida Lil-Soulta Am Tarmim Lil-Faraghat?” *Akhbar El Watane*; 2026.

C. Seminar and Conference Papers

- Ben Tayfour Nasr Eddine, “Nadwa Bil-Mahkama Al-Doustouria Hawla Al-Itar Al-Qanouni Lil-Ta'dil Al-Doustouri Fi Al-Jaza'ir,” Constitutional Court Seminar on the Legal Framework of Constitutional Amendment in Algeria, Algeria; 2026.

D. Legal Texts and Official Documents

- Constitution of the People's Democratic Republic of Algeria of 1963, Official Gazette of the People's Democratic Republic of Algeria, No. 64; 1963.
- Order No. 76-97 of 23 November 1976 promulgating the Constitution of the People's Democratic Republic of Algeria, Official Gazette of the People's Democratic Republic of Algeria, No. 94; 1976.
- Presidential Decree No. 89-18 of 28 February 1989 concerning the publication of the constitutional amendment approved by referendum on 23 February 1989, Official Gazette of the People's Democratic Republic of Algeria, No. 9; 1989.
- Presidential Decree No. 96-438 of 07 December 1996 concerning the promulgation of the constitutional amendment approved by referendum on 28 November 1996, Official Gazette of the People's Democratic Republic of Algeria, No. 76; 1996.
- Law No. 08-19 of 15 November 2008 concerning the constitutional amendment, Official Gazette of the People's Democratic Republic of Algeria, No. 63; 2008.
- Law No. 16-01 of 06 March 2016 concerning the constitutional amendment, Official Gazette of the People's Democratic Republic of Algeria, No. 14; 2016.
- Presidential Decree No. 20-442 of 30 December 2020 concerning the promulgation of the constitutional amendment approved by referendum on 01 November 2020, Official Gazette of the People's Democratic Republic of Algeria, No. 82; 2020.
- Law No. 26-04 of 26 March 2026 concerning the constitutional amendment, Official Gazette of the People's Democratic Republic of Algeria, No. 22; 2026.
- Order No. 21-01 of 10 March 2021 containing the Organic Law relating to the Electoral System, Official Gazette of the People's Democratic Republic of Algeria, No. 17; 2021.
- Order No. 21-10 of 25 August 2021 amending and supplementing certain provisions of Order No. 21-01 of 10 March 2021 containing the Organic Law relating to the Electoral System, Official Gazette of the People's Democratic Republic of Algeria, No. 65; 2021.

-
- Constitution of the Fifth French Republic, French Presidency Website, detailed website: <http://www.elysee.fr/en/french-presidency/constitution-of-4-october-1958> (consulted on 12/02/2026).
 - Constitution of the United States of America, United States Senate Website, detailed website: <http://www.senate.gov/about/origins-foundations/senate-and-constitution/constitution.htm> (consulted on 12/02/2026).
 - Constitution of the Arab Republic of Egypt, Presidency Website, detailed website: <http://www.presidency.eg/media/46122/> (consulted on 12/02/2026).
 - Algerian Public Television Establishment, “Al-Ta'dil Al-Taqni Lil-Doustour: IdafaNaw'iya Li Ta'ziz Fa'aliyat Al-SoultatWa Al-Mou'assassat Al-Doustouria,” detailed website: <http://entv.dz/ar/news/> (consulted on 15/02/2026).
 - Presidency of the Republic, “Moudir Diwan Ra'is Al-JoumhouriaYatarra'as Nadwa Hawla Machroua'i Al-Ta'dil Al-Taqni Lil-Doustour WaQanoun Al-Intikhabat,” detailed website: <http://www.el-mouradia.dz/ar/presidency/6974f7d488c585001e62019e> (consulted on 22/02/2026).
 - Constitutional Court, “Bayan Yata'allaq Bi Tanzim Nadwa Hawla: ‘Al-Itar Al-Qanouni Lil-Ta'dil Al-Taqni Lil-Doustour’,” detailed website: <http://cour-constitutionnelle.dz/ar/> (consulted on 23/02/2026).
 - Council of the Nation, “The Joint Parliamentary Committee Hears a Presentation by the Government’s Representative, Mr. Lotfi Boudjemaa, Minister of Justice and Keeper of the Seals, on the Draft Law Concerning the Constitutional Amendment,” detailed website: <http://www.majliselouma.dz/ara/events/> (consulted on 25/03/2026).
 - Council of the Nation, “Mr. Azzouz Nasri, President of Parliament, Affirmed that the President of the Republic’s Initiative to Amend the Constitution Strengthens the Rule of Law and Promotes Institutional Coherence,” detailed website: <http://www.majliselouma.dz/ara/events/> (consulted on 29/03/2026).