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World Constitutions Illustrated

Edited by
Jefri Jay Ruchti

Algeria

**Presidential Decree No. 96-438 Promulgating
the Constitutional Revision of 1996**

Translated by
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William S. Hein & Co., Inc.
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2010

This translation is based on the French text published in the *Journal Officiel de la République Algérienne* No. 76 of 27 Rajab 1417 corresponding to 8 December 1996 as provided by the Secretariat General of the Government: www.joradp.dz

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**Presidential Decree No. 96-438 of 26 Rajab 1417
corresponding to 7 December 1996 concerning
promulgation in the *Journal Officiel* of the Democratic and
People's Algerian Republic of the constitutional revision
adopted by referendum on 28 November 1996.**

The President of the Republic,

Considering the Constitution, notably its Articles 7, 74-6, 9 and 167;

Considering Presidential Decree No. 96-348 of Aouel Joumada Ethania 1417 corresponding to 14 October 1996 concerning convocation of the electoral body for the referendum concerning the Bill of constitutional revision;

Considering the proclamation of the Constitutional Council of 20 Rajab 1417 corresponding to 1 December 1996 concerning the results of the referendum of 17 Rajab 1417 corresponding to 28 November 1996 on constitutional revision;

Decree:

Article 1

The Constitutional revision, adopted in terms of the referendum of 17 Rajab 1417 corresponding to 28 November 1996, is promulgated in the *Journal Officiel* of the Democratic and People's Algerian Republic.

Article 2

This decree will be published in the *Journal Officiel* of the Democratic and People's Algerian Republic.

Done at Algiers, 26 Rajab 1417 corresponding to 7 December 1996.

Liamine ZEROUAL

Constitution of the Democratic and People's Algerian Republic

Preamble

The Algerian people are a free people, decided to so remain.

Its history is a long chain of battles which have made Algeria forever a country of freedom and of dignity.

Placed at the heart of the great moments which the Mediterranean has known in the course of its history, Algeria has found in its sons, since the Numidian Kingdom and the epic of Islam until the colonial wars, its heralds of liberty, of unity and of progress at the same time as the builders of democratic and prosperous States in the periods of grandeur and of peace.

1 November 1954 was one of the summits of its destiny. The result of its long resistance to the aggressions directed against its culture, its values and the fundamental components of its identity which are Islam, its Arab [character] and Amazighité [*Al'-Mazighia*]; the first of November has solidly anchored the battles waged in the glorious past of the Nation.

United in the national movement afterwards within the National Liberation Front, the people have spilled their blood in order to assume their collective destiny in [their] recovered liberty and cultural identity and to endow themselves with authentically popular institutions.

Crowning the people's war by an independence paid for with the sacrifices of the best of their children, the National Liberation Front restored finally, in all its fullness, a modern and sovereign State.

Its faith in the collective choices has permitted the people to achieve decisive victories, marked by the recuperation of the national riches and the construction of a State for their exclusive service, exercising their powers in all independence and sheltering [them] against all external pressure.

Having always fought for liberty and democracy, the people intend, by this Constitution, to endow themselves with institutions based on the participation of citizens in the conduct of public affairs and which realize social justice, equality and liberty to each and to all.

In approving this Constitution, the work of their own genius, reflection of their aspirations, fruit of their determination and product of profound social changes, the people express and consecrate more solemnly than ever the primacy of the law.

The Constitution is [supreme] above all, it is the fundamental law which guarantees the rights and the individual and collective freedoms, protects the rule of the free choice of the people and confers legitimacy on the exercise of the powers. It enables the assurance of juridical protection and the control of the action by the public powers in a society where legality reigns and the development of man in all his dimensions [reigns].

Strong in their spiritual values, deeply ingrained, and in their traditions of solidarity and justice, the people are confident of their capacity and to work fully for the cultural, social and economic progress of the world, today and tomorrow.

Algeria, land of Islam, integral part of the Great Maghreb, Arab Mediterranean and African country, is honored by the radiance of its Revolution of 1 November and the respect which the country achieved and preserved by reason of its commitment to all the just causes of the world.

The pride of the people, their sacrifices, their sense of responsibilities, their ancestral attachment to liberty and to social justice are the best guarantees for the respect of the principles of this Constitution which they adopt and pass on to future generations, the worthy inheritors of the pioneers and the builders of a free society.

Title I

THE GENERAL PRINCIPLES: GOVERNING THE ALGERIAN SOCIETY

Chapter I

OF ALGERIA

Article 1

Algeria is a Democratic and People's Republic. It is one and indivisible.

Article 2

Islam is the religion of the State.

Article 3

Arabic is the national and official language.

Article 4

The capital of the Republic is Algiers.

Article 5

The national emblem, the State seal and the national hymn are determined by the law.

**Chapter II
OF THE PEOPLE**

Article 6

The people are the source of all power.

The national sovereignty belongs exclusively to the people.

Article 7

The constituent power belongs to the people.

The people exercise sovereignty by the intermediary of the institutions which they give to themselves.

The people exercise it by means of the referendum and by the intermediary of their elected representatives.

The President of the Republic may have direct recourse to the expression of the will of the people.

Article 8

The people give themselves the institutions which have for [their] objective:

—the safeguarding and the consolidation of the national independence.

—the safeguarding and the consolidation of the national identity and unity.

—the protection of the fundamental freedoms of the citizen and the social and cultural enrichment of the Nation.

—the suppression of the exploitation of man by man.

—the protection of the national economy against any form of breach of trust or of misappropriation, of abuse, of monopolization or of illegitimate confiscation.

Article 9

The institutions prohibit:

—feudal, regionalist and nepotist practices.

—the establishment of relations of exploitation and chains of dependency.

—practices contrary to Islamic morals and to the values of the Revolution of November.

Article 10

The people choose their representatives freely.

The representation of the people has no other limits than those established by the Constitution and the electoral law.

**Chapter III
OF THE STATE**

Article 11

The State derives its legitimacy and its *raison d'être* from the will of the people.

Its motto is: "By the People and for the People."

It is at the exclusive service of the People.

Article 12

The sovereignty of the State is exercised over its terrestrial space, its air space and its waters.

The State exercises equally its sovereign right established by international law over each of its different zones of maritime space which belong to it.

Article 13

In no case, can a part of the national territory be abandoned or alienated.

Article 14

The State is founded on the principles of democratic organization and of social justice.

The elected assembly constitutes the framework by which the will of the people is expressed and the control of the action of the public powers is exercised.

Article 15

The territorial collectivities of the State are the commune and the *Wilaya*.

The Commune is the basic collectivity.

Article 16

The elected assembly constitutes the basis of decentralization and the place of the participation of the citizens in the management of public affairs.

Article 17

Public property is an asset of the national collectivity.

It includes the subsoil, the mines and quarries, the natural sources of energy, the mineral, natural and living resources of the different zones of the national maritime domain, the waters and the forests.

It is, in addition, established concerning railroad, maritime and air transport, the posts and telecommunications, as well as [concerning] the assets established by the law.

Article 18

The national domain is defined by the law.

It includes the public and private domains of the State, of the *Wilaya* and of the Commune.

The management of the national domain is effected conforming to the law.

Article 19

The organization of external commerce pertains to the competence of the State.

The law determines the conditions of the exercise and of the control of external commerce.

Article 20

Expropriation can only take place within the framework of the law.

It gives rise to a prior, a just and equitable indemnity.

Article 21

The functions of service in the institutions of the State cannot constitute a source of enrichment or a means of serving private interests.

Article 22

The abuse of authority is reprimanded by the law.

Article 23

The impartiality of the administration is guaranteed by the law.

Article 24

The State is responsible for the security of persons and of property. It assures the protection of every citizen abroad.

Article 25

The consolidation and the development of the capacity for the defense of the Nation is organized around the National People's Army.

The National People's Army has for [its] permanent mission the safeguarding of the national independence and the defense of the national sovereignty.

It is charged to assure the defense of the unity and of the territorial integrity of the country, as well as the protection of its terrestrial space, of its air space and of the different zones of its maritime domain.

Article 26

Algeria defends itself [against] recourse to war [used] to infringe on the legitimate sovereignty and on the freedom of other peoples.

It endeavors to settle international differences by peaceful means.

Article 27

Algeria is [of] solidarity with all the peoples who are fighting for political and economic liberation, for the right of self-determination and against all racial discrimination.

Article 28

Algeria works for the reinforcement of international cooperation and for the development of amicable relations between States, on the basis of equality, of mutual interest and of non-interference concerning internal affairs. It subscribes to the principles and objectives of the Charter of the United Nations.

Chapter IV

OF CONCERNING THE RIGHTS AND LIBERTIES

Article 29

The citizens are equal before the law, no discrimination because of birth, of race, of gender, of opinion or of any other condition or personal or social circumstance, shall prevail.

Article 30

Algerian nationality is defined by the law.

The conditions for the acquisition, of retention, of loss and of revocation of Algerian nationality are determined by the law.

Article 31

The institutions have the objective of assuring the equality of rights and duties of all citizens [masculine] and citizens [feminine] in suppressing the obstacles, which obstruct the development of the human person and impede the effective participation of all in the political, economic, social and cultural life.

Article 32

The fundamental freedoms and the Rights of Man and of the Citizen are guaranteed.

They constitute the common patrimony of all Algerians [masculine] and Algerians [feminine], who have the duty of transmitting it from generation to generation to conserve its integrity and its inviolability.

Article 33

The individual and associative defense of the fundamental Rights of Man and of individual and collective liberties is guaranteed.

Article 34

The State guarantees the inviolability of the human person.

Any form of physical or moral violence or infringement of dignity is proscribed.

Article 35

All infractions committed against the rights and freedoms as well as physical or moral infringements on the integrity of the human being are punishable by the law.

Article 36

The freedom of conscience and the freedom of opinion are inviolable.

Article 37

The freedom of commerce and of industry is guaranteed. It is exercised within the framework of the law.

Article 38

The freedom of intellectual, artistic and scientific creation is guaranteed to the citizen.

The rights of the author are protected by the law.

The sequestration of any publication, the registration or any other means of communication and of information may only be carried out by virtue of a judicial mandate.

Article 39

The private life and the honor of the citizen are inviolable and protected by the law.

The secrecy of correspondence and of private communication, in all of its forms, is guaranteed.

Article 40

The State guarantees the inviolability of the domicile.

A search can only be made, on the basis of the law and with respect to it.

The search may only be carried out on a written order issued by [*emanant*] the competent judicial authority.

Article 41

The freedoms of expression, of association and of assembly are guaranteed to the citizen.

Article 42

The right to create political parties is recognized and guaranteed.

This right may never be invoked to infringe fundamental freedoms, [fundamental] values, and fundamental components of the national identity, the national unity, the security and the integrity of the national territory, the independence of the country and the sovereignty of the people as well as the democratic and republican character of the State.

With respect to the provisions of this Constitution, the political parties cannot be founded on a religious, linguistic, racial, gender, corporatist or regional basis.

The political parties cannot resort to partisan propaganda concerning the elements specified in the previous paragraph.

All obedience of political parties, under whatever form it may be, to foreign interests or parties, is proscribed.

No political party may resort to violence or to constraint, whatever the nature or the forms.

The other obligations and duties are specified by the law.

Article 43

The right to create associations is guaranteed.

The State encourages the development of the associative movement.

The law determines the conditions and the modalities of the creation of associations.

Article 44

Every citizen enjoying his civil and political rights, has the right to choose freely the place of his residence and to circulate on the national territory.

The right of entry and of exit from the national territory is guaranteed to him.

Article 45

Every person is presumed innocent until the establishment of his culpability by a regular jurisdiction and with all the guarantees required by the law.

Article 46

No one may be considered culpable if it is not by virtue of a law, duly promulgated prior to the incriminating act.

Article 47

One may only be prosecuted, arrested or detained in the cases determined by the law and in accordance with the forms that it has specified.

Article 48

In matters of criminal investigation, the detention for questioning is submitted to judicial control and may not exceed forty-eight (48) hours.

The person detained for questioning has the right to enter immediately into contact with his family.

The prolongation of the detention for questioning may only take place, exceptionally, under the conditions specified by the law.

At the expiration of the time period of detention for questioning, it is obligatory to proceed with a medical examination of the detained person if he demands it, and in any case, he must be informed of this possibility.

Article 49

Judicial error implies reparation by the State.

The law determines the conditions and modalities of the reparation.

Article 50

Every citizen fulfilling the legal conditions is an elector and eligible.

Article 51

Equal access to the functions and to employment within the State, is guaranteed to all citizens, without conditions other than those established by the law.

Article 52

Private property is guaranteed.

The right of inheritance is guaranteed.

The holdings of *Wakf* assets and foundations are recognized; their objectives are protected by the law.

Article 53

The right to education is guaranteed. Education is free within the conditions established by the law.

Primary education is obligatory.

The State organizes the system of education.

The State sees to the equal access to education and to professional training.

Article 54

All citizens have the right to the protection of their health.

The State assures the prevention [of] and the fight against epidemic and endemic illnesses.

Article 55

All citizens have the right to work.

The right to the protection, to the security and to hygiene at work, is guaranteed by the law.

The right to rest is guaranteed, the law determines the modalities of its exercise.

Article 56

The syndical right is recognized for all citizens.

Article 57

The right to strike is recognized. It is exercised within the framework of the law.

This exercise can be suspended or limited within the domains of national defense and security, or for any services or activities of vital interest for the community.

Article 58

The family benefits from the protection of the State and of the society.

Article 59

The living conditions of the citizens who cannot [work] again, who cannot [work] further or who will never be able to work, are guaranteed.

Chapter V
OF THE DUTIES

Article 60

Ignorance of the law is no excuse.

Every person is held to respect the Constitution and to conform to the laws of the Republic.

Article 61

Every citizen has the duty to protect and safeguard the independence of the country, its sovereignty and the integrity of its national territory, as well as all the attributes of the State.

Treason, espionage, defection to the enemy, as well as all infractions committed to the prejudice of the security of the State are punished with all the rigor of the law.

Article 62

Every citizen must loyally fulfill his obligations toward the national collectivity.

The commitment of the citizen toward the Fatherland and the obligation to contribute to its defense, constitute sacred and permanent duties.

The State guarantees respect for the symbols of the Revolution, the memory of the *chouhada* and the dignity of their rightful claimants and of the *moudjahidine*.

Article 63

The freedoms of each [person], taken together, are exercised with respect for the rights recognized to others by the Constitution, particularly with respect to the right to the honor, to the intimacy and to the protection of the family, to that of youth and of infancy.

Article 64

All citizens are equal concerning taxation.

Everyone must participate in the financing of public expenditures as a function of his contributory capacity.

A tax may only be instituted by virtue of the law.

No tax [*impôt*], contribution, excise [*taxe*] or right of any kind, may be instituted with retroactive effect.

Article 65

The law approves of the right of parents in the education and the protection of their children, as well as the duty of children to aid and assist their parents.

Article 66

Every citizen has the duty to protect public property and the interests of the national collectivity, and to respect the property of others.

Article 67

Every foreigner who finds himself legally on the national territory enjoys, concerning his person and concerning his belongings, the protection of the law.

Article 68

No one may be extradited if it is not by virtue of and in application of the law of extradition.

Article 69

In no case may a political refugee legally benefiting from the right of asylum, be delivered up or extradited.

Title II

THE ORGANIZATION OF THE POWERS

Chapter I

OF THE EXECUTIVE POWER

Article 70

The President of the Republic, the Head of the State, embodies the unity of the Nation.

He is the guarantor of the Constitution.

He embodies the State within the country and abroad.

He addresses the Nation directly.

Article 71

The President of the Republic is elected by universal, direct and secret suffrage.

Election is acquired with an absolute majority of the suffrage expressed.

The other modalities of the presidential election are established by the law.

Article 72

The President of the Republic exercises the supreme magistrature within the limits specified by the Constitution.

Article 73

To be eligible for the Presidency of the Republic, the candidate must:

— Enjoy solely Algerian nationality of origin;

— Be of Muslim faith;

— Be at least forty (40) years of age on the election day;

— Enjoy the plenitude of his civil and political rights;

— Attest to the Algerian nationality of his spouse;

— Give proof of participation in the Revolution of 1 November 1954 for candidates born before July 1942;

— Give proof of the non-involvement [*non-implication*] of his parents for the candidates born after July 1942, in acts hostile to the Revolution of 1 November 1954;

— Produce a public declaration of his personal and real property, both in the within Algeria and outside it.

The other conditions are specified by the law.

Article 74

The duration of the presidential mandate is of five (5) years.

The President of the Republic is re-eligible one sole time.

Article 75

The President of the Republic takes an oath before the people and in the presence of all the high instances of the Nation, in the week following his election.

He enters into [his] functions immediately after taking the oath.

Article 76

The President of the Republic takes the oath in the terms which follows:

In the name of God, most benevolent, ever merciful

“Faithful to the supreme sacrifices and the memory of our reverent martyrs and the ideals of the eternal November Revolution, I swear upon God Almighty to respect and glorify the Islamic religion, to defend the Constitution, to work tirelessly for the continuity of the State, to work to assure the necessary conditions for the normal functioning of the institutions and the Constitutional order, and to strive to strengthen the democratic path, to respect the free choice of the people, as well as the institutions and laws of the Republic, to preserve the integrity of the national territory, the unity of the people and the Nation, to protect the fundamental rights of man and of the citizen, to work relentlessly for the development and the prosperity of the people, and to pursue with all my strength the realization of the great ideals of justice, liberty and peace in the world.”

as God is my witness

Article 77

In addition to the powers conferred on him expressly by this Constitution, the President of the Republic enjoys the following powers and prerogatives:

- 1 — he is the Supreme Commander of all the Armed Forces of the Republic.
- 2 — he is responsible for the National Defense.
- 3 — he orders and conducts the foreign policy of the Nation.
- 4 — he presides over the Council of Ministers.
- 5 — he appoints the Head of the Government and terminates his functions.
- 6 — he signs the presidential decrees.
- 7 — he has the right of pardon, the right of remission or of commutation of penalties.
- 8 — he can, on any question of national importance, refer the people [to it] by way of referendum.
- 9 — he concludes and ratifies the international treaties.
- 10 — he confers the decorations, distinctions and honorary titles of the State.

Article 78

The President of the Republic appoints:

- 1 — to the offices and mandates specified by the Constitution;
- 2 — to the civilian and military offices of the State;
- 3 — to the designations ordered in the Council of Ministers;
- 4 — the President of the Council of State;
- 5 — the Secretary-General of the Government;
- 6 — the Governor of the Bank of Algeria;
- 7 — the Magistrates;
- 8 — those responsible for the security organs;

9 — the *Walis*.

The President of the Republic appoints and recalls the ambassadors and the extraordinary envoys of the Republic abroad. He receives the letters of credential and of recall of the foreign diplomatic representatives.

Article 79

The Head of the Government presents the Members of the Government which he has chosen to the President of the Republic for appointment.

The Head of the Government orders his program which he presents to the Council of Ministers.

Article 80

The Head of the Government submits his program to the approval of the National People's Assembly. To that effect, a general debate is opened.

The Head of the Government may adapt his program in light of this debate.

The Head of the Government presents to the Council of the Nation a communication concerning his program.

The Council of the Nation may issue a resolution.

Article 81

In case of non-approval of his program by the National People's Assembly, the Head of the Government presents the resignation of his Government to the President of the Republic.

He appoints a new Head of the Government following the same modalities.

Article 82

If the approval of the National People's Assembly is not newly obtained, the National People's Assembly is dissolved of right.

The existing Government is maintained to conduct current affairs, until the election of a new National People's Assembly which must take place within a maximum time period of three (3) months.

Article 83

The Head of the Government executes and coordinates the program adopted by the National People's Assembly.

Article 84

The Government presents annually to the National People's Assembly a declaration of general policy.

The declaration of general policy gives rise to a debate on the action of the Government.

The debate can be concluded by a resolution.

It may equally give rise to a motion of censure by the National People's Assembly in conformity with the provisions of Articles 135, 136 and 137 below.

The Head of the Government may demand a vote of confidence from the National People's Assembly. If the motion of confidence is not voted, the Head of the Government presents the resignation of his Government.

In that case the President of the Republic may, before the acceptance of the resignation, make use of the provisions of Article 129 below.

The Government may equally present to the Council of the Nation a declaration of general policy.

Article 85

In addition to the powers conferred expressly on him by other provisions of the Constitution, the Head of the Government exercises the following attributions:

1. — He allocates the attributions between the Members of the Government, in accordance with the constitutional provisions.
2. — He presides over the Council of the Government.
3. — He sees to the execution of the laws and regulations.
4. — He signs the executive decrees.
5. — He appoints to the offices of the State, without prejudice to the provisions of Articles 77 and 78 above.
6. — He sees to the good functioning of the public administration.

Article 86

The Head of the Government may present to the President of the Republic the resignation of his Government.

Article 87

The President of the Republic may not in any case, delegate the power to appoint the Head of the Government, the Members of the Government, as well as the Presidents and Members of the constitutional institutions for which another mode of designation is not specified by the Constitution.

Likewise, he cannot delegate his power of recourse to the referendum, to dissolve the National People's Assembly, to decide on anticipated legislative elections, to implement the provisions specified in Articles 77, 78, 91, 93 to 95, 97, 124, 126, 127 and 128 of the Constitution.

Article 88

When the President of the Republic, because of serious and enduring illness, finds himself in total impossibility of exercising his functions, the Constitutional Council, meets of right, and after having verified the reality of this impediment by all appropriate means, proposes by unanimity, to the Parliament to declare a state of impediment [*e'tat d'empêchement*].

The Parliament sitting with [the] Chambers meeting [jointly] declares the state of impediment of the President of the Republic, with a majority of two-thirds (2/3) of its numbers and enables [with] the interim of the Head of State, for a maximum period of forty-five (45) days, the President of the Council of the Nation, who exercises his prerogatives in accordance with the provisions of Article 90 of the Constitution.

In [the] case of [the] continuation of the impediment at the expiration of the time period of forty-five (45) days, it proceeds to a declaration of vacancy by resignation [,] following the procedure specified in the paragraph below and in accordance with the provisions of the paragraphs following this article.

In the case of resignation or of death of the President of the Republic, the Constitutional Council meets by right and declares the definitive vacancy of the Presidency of the Republic.

It immediately communicates the act of the declaration of definitive vacancy to the Parliament which meets of right.

The President of the Council of the Nation assumes the responsibility of Head of State for a maximum period of sixty (60) days, in the course of which the presidential elections are organized.

The Head of State, so designated, cannot be a candidate for the Presidency of the Republic.

In the case of coincidence of the resignation or the death of the President of the Republic and a vacancy in the Presidency of the Council of the Nation, for whatever cause that there may be, the Constitutional Council meets of right and declares by unanimity the definitive vacancy of the Presidency of the Republic and the impediment of the President of the Council of the Nation. In that case the President of the Constitutional Council assumes the responsibilities of the Head of State with the conditions specified in the preceding paragraphs of this article and Article 90 of the Constitution. He cannot be a candidate for the Presidency of the Republic.

Article 89

When one of the current candidates in the course of the second round of the presidential elections, dies, retires, or is incapacitated by any other reason, the President of the Republic in exercise [of the functions] or he who assumes the function of the Head of State remains in [his] functions until the proclamation of election of the President of the Republic.

In this case, the Constitutional Council prorogues the time period for the organization of the election for a maximum time period of sixty (60) days.

An organic law determines the conditions and modalities of implementing of these provisions.

Article 90

The Government, in office at the time of the impediment, of the death or of the resignation of the President of the Republic cannot be dissolved or reorganized until the entry into [his] functions by the new President of the Republic.

In the case where the Head of Government in [his] functions is a candidate for the Presidency of the Republic, he must resign of right. The function of the Head of Government is assumed by another Member of the Government designated by the Head of State.

During the periods of forty-five (45) days and of sixty (60) days referred to in Articles 88 and 89, no application can be made of the provisions specified in paragraphs 7 and 8 of Article 77 and of Articles 79, 124, 129, 136, 137, 174, 176 and 177 of the Constitution.

During the same periods, the provisions of Articles 91, 93, 94, 95 and 97 of the Constitution may only be implemented with the approval of the Parliament sitting with [both] Chambers [jointly], the Constitutional Council and the High Council of Security having been previously consulted.

Article 91

In case of compelling necessity the High Council of Security [having] met, the President of the National People's Assembly, the President of the Council of the Nation, the Head of Government and the President of the Constitutional Council having been consulted, the President of the Republic decrees the state of urgency or the state of siege, for a specified time period, and takes all necessary measures for the re-establishment of the situation.

The time period of the state of urgency or of the state of siege can only be prorogued following the approval of the Parliament sitting with [both] Chambers [jointly].

Article 92

The organization of the state of urgency and of the state of siege are established by an organic law.

Article 93

When the country is threatened by an imminent danger to its institutions, to its independence or to its territorial integrity, the President of the Republic decrees a state of exception.

Such a measure is taken [by] the President of the National People's Assembly, the President of the Council of the Nation and the Constitutional Council [having been] consulted, and the High Council of Security and the Council of Ministers in agreement.

The state of exception enables the President of the Republic to take the exceptional measures which the safeguarding of the independence of the Nation and the institutions of the Republic command.

The Parliament meets of right.

The state of exception terminates in the same forms and following the procedure above, which governed its proclamation.

Article 94

The High Council of Security in agreement, the President of the National People's Assembly and the President of the Council of the Nation [having been] consulted, the President of the Republic decrees the general mobilization in the Council of Ministers.

Article 95

The Council of Ministers [having] met, the High Council of Security in agreement, the President of the National People's Assembly and the President of the Council of the Nation [having been] consulted, the President of the Republic declares war in the case of effective or imminent aggression in conformity with the pertinent provisions of the Charter of the United Nations.

The Parliament meets of right.

The President of the Republic informs the Nation by a message.

Article 96

For the duration of a state of war, the Constitution is suspended, [and] the President of the Republic assumes all the powers.

When the mandate of the President of the Republic comes to its expiration, it is extended of right until the end of the war.

In the case of the resignation or of the death of the President of the Republic, or any other impediment, the President of the Council of the Nation assumes[,] in full [the attributions of] the Head of State and under the same conditions as the President of the Republic[,] all the prerogatives required by the state of war.

In case of coincidence of the vacancy of the Presidency of the Republic and of the Presidency of the Council of the Nation, the President of the Constitutional Council assumes the responsibilities of the Head of the State under the same conditions stated above.

Article 97

The President of the Republic signs the accords of armistice and the peace treaties.

He obtains the opinion of the Constitutional Council on the accords which he reports to it.

He submits them immediately for the express approval of each of the chambers of the Parliament.

Chapter II

OF THE LEGISLATIVE POWER

Article 98

The legislative power is exercised by a Parliament, composed of two Chambers, the National People's Assembly and the Council of the Nation.

The Parliament elaborates and votes on the law sovereignly.

Article 99

The Parliament controls the action of the Government under conditions established by Articles 80, 84, 133 and 134 of the Constitution.

The control established by Articles 135 and 137 of the Constitution, is exercised by the National People's Assembly.

Article 100

Within the framework of its constitutional attributions, the Parliament must remain faithful to the mandate of the people and remain in permanent awareness [*écoute*] of their aspirations.

Article 101

The Members of the National People's Assembly, are elected by universal, direct and secret suffrage.

The Members of the Council of the Nation are elected by two-thirds (2/3) by indirect and secret suffrage from among and by the Members of the Communal People's Assemblies and by the People's Assembly of the Wilaya.

One-third (1/3) of the Members of the Council of the Nation are designated by the President of the Republic from among the noted persons [*personalités*] and national competences in the scientific, cultural, professional, economic and social domains.

The number of the Members of the Council of the Nation is equal to half, at the most, of the Members of the National People's Assembly.

The modalities of the application of the second paragraph above are determined by the law.

Article 102

The National People's Assembly is elected for a time period of five (5) years.

The mandate of the Council of the Nation is prescribed at six (6) years.

The composition of the Council of the Nation is renewable by half every three (3) years.

The mandate of the Parliament can only be extended in the case of exceptionally grave circumstances, which impede the normal functioning of the elections.

This situation is determined by a decision of the Parliament, sitting with [both] chambers [jointly] on the proposal of the President of the Republic, the Constitutional Council [having been] consulted.

Article 103

The modalities of the election of the Deputies and those concerning the election or the designation of the Members of the Council of the Nation, the conditions of eligibility, the regime of ineligibilities and incompatibilities, are determined by an organic law.

Article 104

The validation of the mandates of the Deputies and that of the Members of the Council of the Nation belongs to the respective competence of each of the two Chambers.

Article 105

The mandate of the Deputy and of the Member of the Council of the Nation is national. It is renewable and cannot [be] consecutive with other mandate or function.

Article 106

The Deputy or the Member of the Council of the Nation who does not fulfill or [who] no longer fulfills the conditions of his eligibility incurs the forfeiture of his mandate.

This forfeiture is decided according to the case by the National People's Assembly or the Council of the Nation with a majority of its Members.

Article 107

The Deputy or the Member of the Council of the Nation is responsible before his peers who can revoke his mandate if he commits an act unworthy of his mission.

The internal regulations of each of the two Chambers specify the conditions under which a Deputy or a Member of the Council of the Nation may incur exclusion. It is decided according to the case by the National People's Assembly or the Council of the Nation, with the majority of its members, without prejudice to all other prosecution of common law.

Article 108

The conditions under which the Parliament accepts the resignation of one of its Members are established by an organic law.

Article 109

Parliamentary immunity is granted to the Deputies and to the Members of the Council of the Nation for the duration of their mandate.

They may not be made the subject of prosecution, arrested, or in general of any civil or criminal action or pressure [*pression*], on account of the opinions that they have expressed, of proposals that they have made[,] or of votes they have cast in the exercise of their mandate.

Article 110

Prosecutions can only be initiated against a Deputy or a Member of the Council of the Nation on the express renunciation of the concerned [person] [*l'intéressé*] or on the authorization according to the case by the National People's Assembly or of the Council of the Nation, which decides by a majority of its Members on the lifting of his immunity.

Article 111

In case of a flagrant offense or of flagrant crime, the arrest of the Deputy or the Member of the Council of the Nation, can proceed. The Bureau of the National

People's Assembly or of the Council of the Nation must be informed immediately of it.

The suspension of prosecution and the release of the Deputy or of the Member of the Council of the Nation can be demanded by the Bureau [so] informed. It will so proceed, in conformity with the provisions of Article 110 above.

Article 112

An organic law determines the conditions of replacement of a Deputy or a Member of the Council of the Nation in case of vacancy of his seat.

Article 113

The legislature begins of right on the tenth day following the date of election of the National People's Assembly under the presidency of its senior [Member] assisted by the two [most] junior Deputies.

The National People's Assembly proceeds to the election of its Bureau and to the constitution of its commissions.

The above provisions are applicable to the Council of the Nation.

Article 114

The President of the National People's Assembly is elected for the duration of the legislature.

The President of the Council of the Nation is elected after every partial renewal of the composition of the Council.

Article 115

The organization and the functioning of the National People's Assembly and of the Council of the Nation, as well as the functional relations between the Chambers of the Parliament and the Government are established by an organic law.

The budget of the two Chambers, as well as the remuneration of the Deputies and of the Members of the Council of the Nation, are determined by the law.

The National People's Assembly and the Council of the Nation elaborate and adopt their internal regulations.

Article 116

The sittings of the Parliament are public.

A record of the debates is made, the publicity of which is assured under conditions established by the organic law.

The National People's Assembly and the Council of the Nation may sit in closed session on the demand of their presidents, of the majority of their Members present, or of the Head of the Government.

Article 117

The National People's Assembly and the Council of the Nation create permanent commissions within the framework of their internal regulations.

Article 118

The Parliament sits in two ordinary sessions per year, each with a minimum duration of four (4) months.

The Parliament may be convoked in extraordinary session on the initiative of the President of the Republic.

It may be equally convoked by the President of the Republic on the demand of the Head of the Government or on the demand of two-thirds (2/3) of the Members which make up the National People's Assembly.

The closing of the extraordinary session takes place when the Parliament has completed the agenda for which it had been convoked.

Article 119

The initiative of law belongs concurrently to the Head of the Government and to the Deputies.

The proposals of law, in order to be receivable, are deposited by twenty (20) Deputies.

The Bills of law are presented in the Council of Ministers after the opinion of the Council of State [and] then deposited by the Head of the Government with the Bureau of the National People's Assembly.

Article 120

In order to be adopted, any Bill or proposal of law, must be the subject of deliberation successively by the National People's Assembly and the Council of the Nation.

The discussion of the Bills or proposals of law by the National People's Assembly proceeds on the text which has been presented to it.

The Council of the Nation deliberates on the text which was voted by the National People's Assembly and is adopted by a majority of three-fourths (3/4) of its Members.

In case of disagreement between the two Chambers, an equal commission, constituted with members of both Chambers, meets on the demand of the Head of the Government to propose a text concerning the provisions [which] are the subject of the disagreement.

This text is submitted by the Government for adoption by both Chambers and is not susceptible to amendment, save with the agreement of the Government.

In case of the persistence of the disagreement, this text is withdrawn.

The Parliament adopts the Law of Finance within a time period of seventy-five (75) days at the latest, counting from the date of its deposit, in conformity with the preceding paragraphs.

In case of its non-adoption within the specified time period, the President of the Republic promulgates the Bill of the Government by ordinance.

The other procedures shall be established by an organic law provided for in Article 115 of the Constitution.

Article 121

A proposal of law which has for its subject or for [an] effect the diminution of public resources or the augmentation of public expenditures, unless it is accompanied by measures which seek to augment the receipts of the State or to make economies which correspond, at least, to other items [*postes*] of public expenditures, is irreceivable.

Article 122

The Parliament legislates in the domains attributed to it by the Constitution, as well as the following domains:

1. — the fundamental rights and duties of persons, particularly the regime of public freedoms, the safeguarding of individual freedoms and the obligations of citizens;
2. — the general rules concerning personal status and to family law; and particularly to marriage, to divorce, to filiation, to capacity and to inheritance;
3. — the conditions of the establishment of persons;
4. — basic legislation concerning nationality;
5. — general rules concerning the status of foreigners;
6. — rules concerning judicial organization and the creation of jurisdictions;
7. — general rules of criminal law and of criminal procedure; and particularly the determination of crimes and misdemeanors, the institution of the corresponding penalties of any nature, amnesty and extradition and the penitentiary regime;
8. — the general rules of civil procedure and the means of execution;
9. — the regime of civil and commercial obligations and of property;
10. — the territorial division of the country;
11. — the adoption of the national plan;
12. — the vote of the budget of the State;
13. — the creation, basis and rates of taxes, contributions, excises and duties of any nature;
14. — the customs regime;
15. — the general regulations of the issuance of money and the regime of banking, of credit and of insurance;
16. — general rules concerning education and scientific research;
17. — general rules concerning public health and population;
18. — general rules concerning the right to work, to social security, and to the exercise of the syndical right;
19. — general rules concerning the environment, the framework of life and territorial management;
20. — general rules relating to the protection of the fauna and flora;
21. — the protection and safeguarding of the cultural and historic patrimony;
22. — the general regime of forests and pasture lands;
23. — the general regime of water;
24. — the general regime of mines and of hydrocarbons;
25. — the real estate regime;
26. — the fundamental guarantees granted to the functionaries and the General Statute of the Public Function;
27. — the general rules concerning the National Defense and of the utilization of the Armed Forces by the civil authorities;
28. — the rules of the transfer of property of the public sector to the private sector;
29. — the creation of categories of establishments;

30. — the creation of decorations, distinctions and honorific titles of the State.

Article 123

Other than the domains reserved by the Constitution to the organic law, the following matters equally pertain to the organic law:

- the organization and functioning of the public powers;
- the electoral regime;
- the law concerning the political parties;
- the statutes of the magistrature and of the judicial organization;
- the framework law concerning laws of finance;
- the law concerning national security.

The organic law is adopted with the absolute majority of the Deputies and three-quarters (3/4) of the Members of the Council of the Nation.

It is submitted for a review of conformity by the Constitutional Council before its promulgation.

Article 124

In the case of vacancy of the National People's Assembly or in periods of inter-session of the Parliament, the President of the Republic can legislate by ordinance.

The President of the Republic submits the texts which he has taken for the approval of each of the Chambers of Parliament, at their next session.

The ordinances not adopted by the Parliament lapse.

In the case of a state of exception defined in Article 93 of the Constitution, the President of the Republic may legislate by ordinances.

The ordinances are taken in the Council of Ministers.

Article 125

The matters, other than those reserved to the law, arise within the regulatory power of the President of the Republic.

The implementation of the laws arises within the regulatory domain of the Head of the Government.

Article 126

The law is promulgated by the President of the Republic within a time period of thirty (30) days counting from the date of its transmittal.

However, when the Constitutional Council is referred [to the matter] by one of the authorities specified in Article 166 below, before the promulgation of the law, this time period is suspended until the Constitutional Council has decided within the conditions specified in Article 167 below.

Article 127

The President of the Republic can demand a second reading of a voted law, in the thirty (30) days which follow its adoption.

In that case, a majority of two-thirds (2/3) of the Deputies of the National People's Assembly is required for the adoption of the law.

Article 128

The President of the Republic can address a message to the Parliament.

Article 129

The President of the National People's Assembly, the President of the Council of the Nation and the Head of the Government [having been] consulted, the President of the Republic can decide on the dissolution of the National People's Assembly or on anticipated legislative elections.

In these two cases, the legislative elections must take place within a maximum time period of three (3) months.

Article 130

On the demand of the President of the Republic or one of the Presidents of the two Chambers, the Parliament can open a debate on foreign policy.

This debate may be concluded, as is the case, with a resolution of the Parliament sitting with [both] Chambers [jointly] which will be communicated to the President of the Republic.

Article 131

The armistice accords, peace treaties, [treaties] of alliance and of union, the treaties concerning the frontiers of the state as well as treaties concerning the status of persons and those which involve expenditures not foreseen in the budget of the State, are ratified by the President of the Republic after explicit approval by each of the Chambers of Parliament.

Article 132

The treaties ratified by the President of the Republic, under the conditions specified by the Constitution, are superior to the law.

Article 133

The Members of the Parliament can interpellate the Government on a current question.

The commissions of the Parliament may hear the Members of the Government.

Article 134

The Members of the Parliament may address orally, or in written form, any question to any Member of the Government.

The written question must receive a response in the same form within a maximum time period of thirty (30) days.

The oral questions are the subject of a response during a sitting.

If one of the two Chambers believes that the oral or written response by the Member of the Government justifies it, a debate is opened within the conditions specified in the internal regulations of the National People's Assembly and the Council of the Nation.

The questions and the responses are published under the same conditions as the record of the debates of the Parliament.

Article 135

On the occasion of the debate on the declaration of the general policy, the National People's Assembly can bring into question the responsibility of the Government by the vote of a motion of censure.

Such a motion is only receivable when it is signed by at least a seventh (1/7) of the number of the Deputies.

Article 136

The motion of censure must be approved by a vote taken with a majority of two-thirds (2/3) of the Deputies.

The vote cannot be held until three (3) days after the deposit of the motion of censure.

Article 137

When the motion of censure is approved by the National People's Assembly, the Head of the Government presents the resignation of his Government to the President of the Republic.

**Chapter III
OF THE JUDICIAL POWER**

Article 138

The judicial power is independent. It is exercised within the framework of the law.

Article 139

The judicial power protects the society and the liberties. It guarantees to all and to each the safeguarding of their fundamental rights.

Article 140

Justice is founded on the principles of legality and of equality.

It is equal for all, accessible to all and is expressed by respect of the law.

Article 141

Justice is rendered in the name of the people.

Article 142

The criminal sanctions conform to the principles of legality and personality.

Article 143

Justice recognizes recourse against illegal acts of the administrative authorities.

Article 144

The decisions of justice are substantiated and pronounced in public audience.

Article 145

All the qualified organs of the State are required to assure at all times, and in every place and in every circumstance, the execution of the decisions of justice.

Article 146

Justice is rendered by the magistrates. They can be assisted by the people's assessors under the conditions specified by the law.

Article 147

The judge obeys the law only.

Article 148

The magistrate is protected against any form of pressure, intervention or maneuver of any nature that could injure the accomplishment of his mission or respect for his free arbitration.

Article 149

The judge is responsible before the Superior Council of the Magistrature and in the forms specified by the law, for the manner in which he performs his mission.

Article 150

The law protects the justiciable against any abuse or any deviation of the judge.

Article 151

The right to a defense is recognized.

In criminal matters it is guaranteed.

Article 152

The Supreme Court constitutes the regulatory organ of the activity of the courts and tribunals.

A Council of State is instituted, [as] the regulatory organ of the activity of the administrative jurisdictions.

The Supreme Court and the Council of State assure the unification of jurisprudence throughout the country and see to the respect of the law.

A Tribunal of Conflicts is instituted for the regulation of the conflicts of competence between the Supreme Court and the Council of State.

Article 153

The organization, the functioning and the other attributions of the Supreme Court, of the Council of State and of the Tribunal of Conflicts, are established by an organic law.

Article 154

The Superior Council of the Magistrature is presided over by the President of the Republic.

Article 155

The Superior Council of the Magistrature decides, under the conditions that the law determines, the appointments, the transfers and the advancement of the career of the magistrates.

It sees to respect for the provisions of the statute of the Magistrature and to the control of the discipline of the magistrates, under the presidency of the First President of the Supreme Court.

Article 156

The Superior Council of the Magistrature gives [its] consultative opinion prior to the exercise of the right of pardon by the President of the Republic.

Article 157

The composition, the functioning and the other attributions of the Superior Council of the Magistrature are established by an organic law.

Article 158

A High Court of the State is instituted to take cognizance of the acts which can be qualified as high treason by the President of the Republic, [and] the crimes and misdemeanors of the Head of Government, committed in the exercise of their functions.

The composition, the organization and the functioning of the High Court of the State, as well as the applicable procedures, are established by an organic law.

Title III
OF THE CONTROL AND THE CONSULTATIVE INSTITUTIONS

Chapter I
OF CONTROL

Article 159

The elected assemblies assume the function of control in its popular dimension.

Article 160

The Government renders account to each Chamber of the Parliament, on the utilization of budgetary credits which it has voted for each budgetary period [*exercise*].

The budgetary period is closed, as far as the Parliament is concerned, by the vote of each of the Chambers by a law providing the budgetary regulation for the budgetary period under consideration.

Article 161

Each of the two Chambers of Parliament can, within the framework of its prerogatives institute at any time a commission of inquiry on any matter of general interest.

Article 162

The institutions and organs of control are responsible to verify the conformity of the legislative and executive action with the Constitution and to verify the conditions of the utilization and of the administration of the material means and of the public funds.

Article 163

A Constitutional Council is instituted [with the] responsibility to see to respect for the Constitution.

The Constitutional Council sees to, in addition, the regularity of the operations of the referendum, of the election of the President of the Republic and of the legislative elections. It announces the result of these operations.

Article 164

The Constitutional Council is composed of nine (9) Members: three (3) appointed by the President of the Republic including [its] President, two (2) elected by the National People's Assembly, two (2) elected by the Council of the Nation, one (1) elected by the Supreme Court, and one (1) elected by the Council of State.

As soon as they are elected or appointed, the Members of the Constitutional Council cease any other mandate, function, responsibility or mission.

The President of the Republic designates, for a sole mandate of six (6) years, the President of the Constitutional Council.

The other Members of the Constitutional Council serve a single mandate of six (6) years and are renewed by half every three (3) years.

Article 165

Beside the other attributions which are expressly conferred on it by other provisions of the Constitution, the Constitutional Council decides on the constitutionality of treaties, laws and regulations, either by an opinion, if these are not rendered executory, or by a decision in the opposite case.

The Constitutional Council referred [to a matter] by the President of the Republic, issues an obligatory opinion on the constitutionality of the organic laws after their adoption by the Parliament.

The Constitutional Council decides equally [and] in the same forms specified in the preceding paragraph on the conformity with the Constitution of the internal regulation of each of the two Chambers of Parliament.

Article 166

The Constitutional Council is referred [to a matter] by the President of the Republic, the President of the National People's Assembly or the President of the Council of the Nation.

Article 167

The Constitutional Council deliberates in closed session; its opinion or its decision is given within the twenty (20) days which follow the date of the referral.

The Constitutional Council establishes the rules of its functioning.

Article 168

When the Constitutional Council rules that a treaty, accord or convention is unconstitutional, its ratification cannot take place.

Article 169

When the Constitutional Council rules that a legislative or regulatory provision is unconstitutional, it loses all effect from the day of the decision of the Council.

Article 170

A Court of Accounts is instituted, which is responsible for the control *a posteriori* of the finances of the State, the territorial collectivities and of the public services.

The Court of Accounts prepares an annual report which it addresses to the President of the Republic.

The law determines the attributions, the organization and the functioning of the Court of Accounts and the sanction of its investigations.

Chapter II

OF THE CONSULTATIVE INSTITUTIONS

Article 171

A High Islamic Council is instituted along side [*auprès*] the President of the Republic, responsible notably:

- for encouraging and promoting *ijtihad*;
- to provide its opinion with regard to the religious prescriptions concerning what is submitted to it;
- to present a periodic report of activity to the President of the Republic.

Article 172

The High Islamic Council is composed of fifteen (15) members, having a President appointed by the President of the Republic, from among the high national competences in the different sciences.

Article 173

A High Council of Security is instituted, presided over by the President of the Republic. This organ is responsible for providing to him [its] opinion on all questions concerning national security.

The modalities of organization and of functioning of the High Council of Security, are established by the President of the Republic.

Title IV

OF THE CONSTITUTIONAL REVISION

Article 174

Constitutional revision is decided on the initiative of the President of the Republic. It is voted in equal terms by the National People's Assembly and the Council of the Nation under the same conditions as [for] a legislative text.

It is submitted by referendum for the approval by the people in the fifty (50) days which follow its adoption.

The constitutional revision, approved by the people, is promulgated by the President of the Republic.

Article 175

The law containing the Bill of constitutional revision rejected by the people lapses.

It cannot be newly submitted to the people during the same legislature.

Article 176

Following the substantiated opinion of the Constitutional Council [that] a Bill of constitutional revision carries no infringement whatsoever to the general principles governing the Algerian society, to the rights and freedoms of man and of the citizen, nor affects in any manner the fundamental equilibria of the powers and of the institutions, the President of the Republic can directly promulgate the law containing the constitutional revision without submission to popular referendum, if it has obtained the approval of three-quarters (3/4) of the votes of the Members of the two Chambers of the Parliament.

Article 177

Three-fourths (3/4) of the Members of the two Chambers of the Parliament, meeting jointly, can propose a constitutional revision and present it to the President of the Republic, who can submit it to referendum.

If its approval is obtained, it is promulgated.

Article 178

No constitutional revision may infringe on:

1. the Republican character of the State.
2. the democratic order based on plural parties
3. Islam, as the religion of the State.
4. Arabic, as the national and official language.
5. the fundamental freedoms, on the rights of man and of the citizen.
6. the integrity and the unity of the national territory.

TRANSITORY PROVISIONS

Article 179

The legislative instance in place at the time of the promulgation of this Constitution and until the end of its mandate, the President of the Republic, at the end of the mandate of the legislative instance and until the election of the National People's Assembly, legislate by ordinance, including in the domains now pertaining to the organic laws.

Article 180

Pending the installation of the institutions provided for in the present Constitution:

— the laws in force concerning the organic domain remain applicable until their modification or replacement following the procedures established by the Constitution.

— the Constitutional Council, in its current composition, shall assure the prerogatives which have been conferred on it by this Constitution until the installation of the institutions represented within it. Any modification or addition must be effected subject to Article 164 (Paragraph 3) of this Constitution, having recourse to drawing by lot, as need be.

— the elected National People's Assembly assures the totality of legislative power until the installation of the Council of the Nation. However, the President of the Republic can postpone the promulgation of the laws adopted on the initiative of the Deputies until their adoption by the Council of the Nation.

Article 181

The renewal of one-half (1/2) of the Members of the Council of the Nation in the course of the first mandate, is effected at the end of the third year by lot. The replacement of the Members of the Council of the Nation proceeds by lot under the same conditions and following the same procedure which governed their election or appointment.

However, the drawing by lot does not apply to the President of the Council of the Nation who assumes the first mandate for six (6) years.

Article 182

The President of the Republic promulgates the text of the constitutional revision, approved by the people, which will be executed as the fundamental law of the Republic.

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