



## The role of popular movements in establishing the foundations of democracy in Algeria

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### Abstract:

The popular movement is considered a new term that emerged in the Algerian arena after citizens took to the streets to denounce the prevailing conditions in various fields.

This study attempts to provide a legal characterization of this concept and examine its impact on the foundations of democracy in Algeria. Establishing democracy requires the practical implementation of the principles of the peaceful transfer of power and popular participation. The topic was addressed using both descriptive and analytical approaches.

**Keywords:** Popular Movement, Democracy, Transfer of Power, Popular Participation, Peaceful Demonstration.

### Résumé :

Le « mouvement populaire » est considéré comme un terme nouveau apparu sur la scène algérienne après que les citoyens sont descendus dans la rue pour dénoncer la situation qui prévalait dans divers domaines.

Cette étude vise à proposer une caractérisation juridique de ce concept et à examiner son impact sur les fondements de la démocratie en Algérie. L'instauration de la démocratie passe par la mise en œuvre concrète des principes de transfert pacifique du pouvoir et de participation populaire. Le sujet a été abordé à la fois sous un angle descriptif et analytique.

**Mots-clés :** Mouvement populaire, démocratie, transfert du pouvoir, participation populaire, manifestation pacifique.

## **Introduction:**

Algeria abandoned the one-party system and transitioned to a multiparty system with the adoption of the 1989 Constitution, which provided a broader framework for fundamental freedoms and rights compared to previous socialist constitutions. It was the first constitution to embody democratic principles.

However, this transition was not preceded by the necessary preparation or by a thorough assessment of the prevailing political, economic, and social conditions. Rather, it came unexpectedly as a result of the events of October 1988. Consequently, the transition was more formal than practical, and its features have remained unclear in reality despite successive political and constitutional reforms. These reforms failed to meet the aspirations and demands of the Algerian people, particularly in light of economic deterioration, the spread of corruption across various sectors, unregulated government spending, and widespread bureaucracy.

These factors constituted indirect reasons that led the Algerian people to take to the streets to express their anger and dissatisfaction with the existing political system, as well as their desire to implement democratic principles and rebuild a state based on the rule of law under what became known as the **“Popular Movement (Hirak).”** This raises the following question:

**To what extent has the Popular Movement contributed to establishing the foundations of democracy in Algeria?**

Accordingly, the following sub-questions arise:

- What is the legal status of the term **“Popular Movement (Hirak)”**?



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- What are its implications for the foundations of democracy in Algeria?
- **To answer the research problem, the following aspects were addressed:**

## **Section One: The Legal Characterization of the Popular Movement**

The term “**Popular Movement (Hirak)**” is a relatively new concept that emerged in the Arab world during demonstrations demanding political change in various Arab countries, notably in **Egypt in 2011** and **Tunisia in 2010**. Similar to these countries, the Algerian people also took to the streets to express their rejection of the policies of the ruling authorities, adopting the term “**Popular Movement**” to describe their actions. Therefore, it is necessary to define this concept (**Subsection One**) and identify its legal basis (**Subsection Two**).

### **1. Concept of the Popular Movement**

As previously mentioned, the concept of the **Popular Movement (Hirak)** is relatively new in Algeria, having emerged on **22 February 2019**. Therefore, it is essential to provide a definition of the term (**Part One**) and distinguish it from similar concepts (**Part Two**).

#### **1.1 Definition of the Popular Movement**

The **Popular Movement**, referred to in French as *mouvement populaire* and in English as *popular movement*, is a term composed of two words: “**movement**” and “**popular.**”

- **Linguistic Definition of the Popular Movement**

The term **“Popular Movement”** is composed of two words: **“movement”** and **“popular.”**<sup>1</sup>

**Movement (Harak)** is derived from the Arabic verb *haraka* (to move). Linguistically, it refers to movement or motion and denotes any general manifestation of activity, as opposed to stillness. Therefore, movement is the opposite of stagnation, inactivity, or immobility.<sup>2</sup>

**Popular (Sha’bi)** is derived from the word *people (sha’b)* and is an adjective attributed to the people. The term *people* refers to a large group of individuals living within a specific territory, subject to a common social system, united by shared customs and traditions, and speaking a common language.

In English, the word **“movement”** is a noun with several meanings, including:

**“The act, process, or instance of moving.”**<sup>3</sup>

As for **“the people,”** it refers to a group of individuals or the general public.

Accordingly, the linguistic meaning of **“Popular Movement”** refers to the collective movement or activity of a group of people pursuing common demands, objectives, or interests.

"Persons collectivity or in general<sup>4</sup>"

**In the French language,** the term *mouvement* refers to the displacement of a body, a change of position in space, or the act of moving from one place to another.

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<sup>1</sup> [www.elmaany.com/ar/dic](http://www.elmaany.com/ar/dic) (consulté le 10/10/2020)

<sup>2</sup> [www.elmaany.com/ar/dic](http://www.elmaany.com/ar/dic) (consulté le 10/10/2020)

<sup>3</sup> Collins English Dictionary, harper collins publishers, 2009, p 488.

<sup>4</sup> Collins English Dictionary , op, p 555



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"Nom masculin : déplacement d'un corps, changement de position dans l'espace ou action de mouvoir, de changer de place .<sup>5</sup>"

**The term *populaire* (popular)** is an adjective that refers to anything related to the people.

"Adjectif, qui est relatif au peuple<sup>6</sup>"

### **Terminological Definition of the Popular Movement**

Before addressing the terminological definition of the **Popular Movement**, it should be noted that the term "**movement**" (**Hirak**) does not have a specific terminological definition. In contrast, the term "**popular**", derived from the word "**people**", has two principal meanings:

- **Social Meaning:** It refers to the group of individuals subject to the authority of a state and holding its nationality, regardless of their age or their capacity to perform legal or political acts.
- **Political Meaning:** It refers to all citizens who have the right to participate in the administration of public affairs, namely those who enjoy the right to vote and take part in political decision-making.<sup>7</sup>

Definition of the Popular Movement According to Mohamed Abdel Nour Researcher Mohamed Abdel Nour defines the popular movement as: "The endeavor of individuals to move from one status to another within the same community framework by adopting a new and temporary qualitative approach in order to bring about

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<sup>5</sup>[www.Larousse.fr/dictionnaires/français](http://www.Larousse.fr/dictionnaires/français)(consulté le 10/10/2020)

<sup>6</sup>[www.Larousse.fr/dictionnaire/français](http://www.Larousse.fr/dictionnaire/français)(consulté le 10/10/2020)

<sup>7</sup> Saïd Boulchair, *Constitutional Law and Comparative Political Systems*, Part One, 11th ed., **Office des Publications Universitaires (OPU)**, Algiers, Algeria, 2010, p. 57.

change. In its procedural sense, the movement involves leaving homes and private spaces, which disperse and isolate people, and gathering in public squares to convey a unified message to those responsible for public affairs. This message essentially expresses the people's desire to participate in determining the collective destiny of their communities, leaving public authorities with no option but to respond.”

According to this definition, the popular movement pursues two main objectives:

- To establish a new framework for managing public affairs in the short term by promoting new leaders and new systems capable of laying the foundations for a new phase.
- To achieve positive outcomes at the individual level in the medium and long term, resulting from the political and social changes brought about by the movement.<sup>8</sup>

**Thus, it can be said that a popular movement is the gathering and mobilization of the people in public spaces at a specific time and place to demand the fulfillment of several demands related to changing the existing political system or one of its foundations, or to achieving specific goals, whether political, economic, or social.**

**The popular movement in Algeria was characterized by its peaceful nature; it did not witness violence or negative clashes with security forces, or even among its own members. This is considered a qualitative leap, unlike the riots, vandalism, and arson that occurred during the events of October 1988. It was also characterized by several other features, most notably: its inclusiveness, encompassing all**

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<sup>8</sup> Mohamed Abdel Nour, *The Algerian Hirak from a Social Perspective*, published on the Al Jazeera Blogs website, 2019. Accessed on **10 November 2020**.



of the country's provinces and not being confined to specific geographical areas such as the capital.

Its inclusiveness, encompassing all segments of society, meaning that various social strata joined the movement. Age, culture, education, gender, and profession were not barriers to uniting the Algerian people around a specific goal: the effective implementation of constitutional principles.

- Its independence from representatives of political parties and civil society.
- The continuity and persistence of the popular movement, maintaining a consistent time and place.
- The mobilization and organization of the movement through social media, particularly Facebook.
- The constitutional awareness of the Algerian people, demonstrated by their demand for the application of constitutional principles.

## 1.2. Distinguishing the movement from similar terms :

The movement of the Algerian people into the streets came to be known as the **Popular Movement (Hirak)** rather than by other terms such as **demonstration**, **protest**, or **assembly**. What distinguishes the Hirak from these concepts can be illustrated through the following examples. The concepts of **revolution**, **coup d'état**, and **uprising** are excluded from this comparison because they differ fundamentally from the Popular Movement, particularly due to their association with violence.

- 1) **Protest** : A protest may take the form of a sit-in, vigil, march, rally, or public gathering. Thus, it can assume various forms and methods, but all share a common

purpose: the public expression of unmet needs, grievances, or demands.<sup>9</sup>

- 2) **Assembly** : An assembly is the right of individuals to gather, either for a short or long period, in a specific place to express their opinions through speeches, seminars, discussions, and the exchange of views. It may also aim at defending a particular opinion and persuading others to adopt it. Its objectives generally include education, awareness, and the promotion of the public interest.<sup>10</sup>
  
- 3) **Public Meeting** : The French jurist Georges Burdeau defined a public meeting as:  
“A temporary gathering of a number of persons, organized or arranged in advance, for the purpose of hearing and presenting ideas, exchanging opinions, and consulting one another in order to defend common interests.”<sup>11</sup>
  
- 4) **Demonstration** : A demonstration is the use of a public space by a group of individuals, either in motion or

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<sup>9</sup> Abdel Nour Ziyam, *Popular Protests in North Africa and Their Impact on the Democratic Transition Process: The Case of Egypt (2011–2013)*, Master's Thesis, Political Science and International Relations, Specialization in African Studies, 2013–2014, p. 12.

<sup>10</sup> Omar Abdullah Khamoush, *The Constitutional Framework for Popular Participation in Constitutional Amendment*, Halabi Legal Publications, Lebanon, 2013, p. 313.

<sup>11</sup> Mohamed Rahmouni, *Regulating the Exercise of Freedom of Assembly in Algerian Law: Associations and Political Parties as Models*, Doctoral Dissertation in Public Law, Faculty of Law and Political Science, Abou Bekr Belkaid University of Tlemcen, 2014–2015, p. 327.



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stationary, with the aim of collectively and publicly expressing a shared opinion or will through their presence, numbers, location, and slogans.

According to André de Laubadère Auby and Ducos, a demonstration is: “A collective expression of a particular will or set of ideas, regardless of whether they are political, social, economic, or religious in nature.”

It takes place in a public space and often involves discussion and the exchange of ideas, with the purpose of expressing opinions or adopting political positions.<sup>12</sup>

**Peaceful Demonstration** : is the act of a group of individuals expressing their opinions and defending their rights in political, economic, and social matters through non-violent means, such as gestures, chants, slogans, raising their voices, and repeating statements that reflect their demands in various public places, including streets and public squares.<sup>13</sup>

Accordingly, the **Popular Movement (Hirak)** closely resembles both a **peaceful demonstration** and a **public demonstration**, as it involves taking to public spaces and expressing opinions collectively without prior formal organization. However, it differs from a **protest, meeting, or assembly**, which are generally temporary events and are usually organized in advance.

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<sup>12</sup> *ibid.*, p. 333. (Referring to the same source by Mohamed Rahmouni cited above.)

<sup>13</sup> Ahmed Ben Aissa, *International and Constitutional Guarantees of the Freedom of Peaceful Demonstration*, *Afaq for Sciences Journal*, Vol. 5, No. 12, June 2018, Algeria, p. 36.

## **2. The Legal Basis of the Popular Movement**

Given that the term “**Popular Movement (Hirak)**” is relatively new and does not formally exist among established legal or even political concepts, it is necessary to determine its legal characterization within the Algerian legal system. This can be achieved by examining its constitutional foundations (**Part One**) and the legislation governing demonstrations and public meetings (**Part Two**).

### **2.1 Constitutional Basis of the Popular Movement**

This section examines the concepts addressed by the various Algerian constitutions, whether socialist or liberal in orientation.

**A. Socialist Constitutions :** The **1963 Constitution** was the first constitutional document of independent Algeria. It was a programmatic constitution founded on the principles of **socialism** and the **one-party system**, recognizing the National Liberation Front (FLN) as the sole political party in the country. Only its members were eligible to run for the Presidency of the Republic and for membership in the National Assembly.

The Constitution recognized a number of public rights and freedoms; however, these rights were restricted by the socialist orientation of the state. In paragraph 11 of the Preamble, the people were granted the right to oversee the institutions of the political system in order to ensure lasting stability.

Furthermore, under the chapter entitled “**Fundamental Rights**,” Article 19 guaranteed freedoms of expression, public communication, and assembly. Nevertheless, these freedoms



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were limited by Article 22, which prohibited their exercise in any manner that could undermine:

With regard to the **1976 Constitution**, it added **freedom of opinion** to the freedoms of expression and assembly. However, Articles 53 and 55 were subject to the provisions of Article 73, which required that the exercise of these freedoms should not infringe upon the Constitution, the fundamental interests of the community, the unity of the people and national territory, the internal or external security of the State, or the socialist revolution.

Thus, the socialist constitutions granted the people the freedoms of expression, assembly, and opinion, but did not recognize the right to demonstrate or to organize gatherings aimed at denouncing or protesting decisions taken by public authorities.

## 2.2 Liberal Constitutions

The **1989 Constitution** is considered the first liberal constitution in Algeria. It incorporated the principal foundations of democracy by adopting:

- Political pluralism;
- Elections as the source of governmental legitimacy;
- Individual and collective public freedoms;
- The peaceful transfer of power as a natural consequence of free and competitive elections;
- The principle of separation of powers; and
- Constitutional review to ensure the supremacy of the Constitution over ordinary legislation.<sup>14</sup>

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<sup>14</sup> Saleh Belhadj, *Political Institutions and Constitutional Law in Algeria from Independence to the Present Day*, Office of University Publications (OPU), Algeria, 2015, p. 143.

A separate chapter entitled “**Rights and Freedoms**” was devoted to the protection of fundamental rights. Article 35 guaranteed **freedom of opinion**, while Article 39 protected the freedoms of **expression** and **assembly**. Unlike the previous socialist constitutions, these freedoms were not subject to the same ideological restrictions, reflecting a democratic approach based on the broad exercise of rights and freedoms.

Despite affirming that **national sovereignty belongs to the people** and that **the people are the source of all authority**, the Constitution did not explicitly recognize the right to demonstrate or protest against governmental decisions, nor did it provide mechanisms for popular oversight of public authorities through public demonstrations.

The **1996 Constitution** retained the same freedoms without significant amendment until the **2016 constitutional revision**, which expressly recognized the **freedom of peaceful demonstration** in Article 49 and provided that the modalities for exercising this freedom would be regulated by law.

The constitutional recognition of this right was largely influenced by Algeria’s ratification of international treaties and conventions guaranteeing the freedom of peaceful assembly and demonstration.

Although the constitutional legislator did not expressly refer to the term “**Popular Movement (Hirak)**”, there is a strong similarity between the Hirak and the concept of **peaceful demonstration**. Consequently, the Hirak may be legally classified as a form of peaceful demonstration. It may also be regarded as a means of exercising **freedom of**



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**expression**, since it constitutes a collective and public expression of opinions, demands, and political aspirations.<sup>15</sup>

However, in the **2020 constitutional amendment**, the Popular Movement (Hirak) was expressly recognized in the Preamble, paragraph 10, which states:

“The people express their determination to translate their aspirations through this Constitution by bringing about profound social transformations aimed at building a New Algeria, as peacefully expressed since the popular movement that began on 22 February 2019, in complete harmony with its National People's Army.”

This recognition was further confirmed in the **Explanatory Memorandum** accompanying the constitutional revision project, which stated:

“The popular movement that began on 22 February 2019 had a particular impact on the national situation, which necessitated its inclusion in the Preamble as a distinguished event in the history of the Algerian people.”

Since the **Preamble constitutes an integral part of the Constitution**, the Popular Movement was effectively constitutionalized through the 2020 constitutional revision and consequently acquired a **constitutional foundation** within the Algerian legal system.

### 3. Legislative Basis of the Popular Movement

To identify the legislative basis of the Popular Movement<sup>16</sup>, reference should be made to the **Law on Public Meetings and**

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<sup>15</sup> *Explanatory Memorandum to the Draft Law on the 2016 Constitutional Revision*, Algeria, 2016, p. 20.

<sup>16</sup> **Law No. 89-28 on Public Meetings and Demonstrations**, dated 3 Jumada al-Thani 1410 AH, corresponding to 31 December 1989, published in the **Official**

**Demonstrations**, as amended and supplemented by **Law No. 91-19 of 2 December 1991**.<sup>17</sup>

Under **Article 2**, a **public meeting** is defined as:

“A temporary gathering of persons organized by prior agreement, held outside public roads and in an enclosed place accessible to the general public, for the purpose of exchanging ideas and defending common interests.”

Furthermore, **Article 15** defines **public demonstrations** as:

“Processions, parades, gatherings of persons, and, in general, all forms of demonstrations taking place on public roads.”

The same article provides that:

- Public demonstrations are subject to **prior authorization**.
- Political or demand-based demonstrations may only be held on public roads **during daytime hours**.

These provisions indicate that Algerian legislation regulates collective public action primarily through the legal framework governing meetings and demonstrations. Although the law does not explicitly refer to the term “**Popular Movement (Hirak)**”, its characteristics largely correspond to those of a public demonstration conducted in public spaces for political or social purposes. Therefore, from a legislative perspective, the Hirak may be legally classified within the framework governing **public demonstrations**.

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**Gazette No. 04**, dated **27 Jumada al-Thani 1410 AH**, corresponding to **24 January 1990**.

<sup>17</sup> **Law No. 91-19**, dated **25 Jumada al-Awwal 1411 AH**, corresponding to **2 December 1991**, amending and supplementing **Law No. 89-28 on Public Meetings and Demonstrations**, published in the **Official Gazette No. 62**, dated **27 Jumada al-Awwal 1412 AH**, corresponding to **4 December 1991**.



**“Other demonstrations may continue until 9:00 p.m.”**

Prior to the amendment of the law, the legislator used the term **“mob gathering”** (*attroupelement*) in the definition of public meetings and demonstrations instead of the term **“assembly”** (*rassemblement*), and distinguished between the two. A **mob gathering** was defined<sup>18</sup> as:

“A gathering resulting from prior agreement, generally involving people assembling in a public place with the intention of disturbing public order or infringing upon and restricting individual freedoms.”<sup>19</sup>

By contrast, an **assembly** is defined as: “A gathering of a number of persons in a specific place outside the public highway for a determined period of time, where participation occurs through individual invitations or through newspapers and journals, with the purpose of presenting ideas for discussion and reaching decisions or agreements concerning a particular interest.”

The distinction between the two concepts lies primarily in their location: one takes place on a **public highway**, while the other occurs **outside public roads**.

Referring to the **Law on Public Meetings and Demonstrations**, Article 19 provides that any demonstration held **without prior authorization** or **after having been prohibited** shall be considered a **mob gathering** rather than an assembly. Furthermore, Article 16(2) defines a **public highway** as:

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<sup>18</sup> Boutayeb Ben Nasser, *The Right to Peaceful Assembly in the Algerian Legal System, Notebooks of Politics and Law (Daftar al-Siyasa wa al-Qanun)*, No. 15, June 2016, p. 620.

<sup>19</sup> *Ibid.*, p. 620. (Referring to the same source cited above.)

“Any street, road, avenue, lane, square, or route of communication designated for public use.”

Accordingly, it can be argued that the **Popular Movement (Hirak)** does not possess a specific legal basis under Algerian legislation. It differs from a **public meeting**, which is temporary and held in an enclosed venue. However, it may be legally characterized as a form of **public demonstration** or **peaceful demonstration**, the latter having been recognized as a constitutional freedom under the **2016 constitutional amendment**, although no implementing legislation regulating its exercise has yet been enacted. The Hirak may also be regarded as a means of exercising **freedom of expression**.

## **Section Two: The Impact of the Popular Movement on Democratic Principles in Algeria**

The establishment and strengthening of democracy require a set of essential mechanisms, including:

- Political participation;
- Recognition of the principle of the peaceful transfer of power; and
- Participation in the decision-making process.<sup>20</sup>

The Popular Movement contributed to reinforcing certain democratic foundations in Algeria, particularly through the recognition<sup>21</sup> of the **principle of the peaceful transfer of**

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<sup>20</sup> Hocine Mezoued (2020). *The Future of Political Pluralism and the Transfer of Power in Algeria*, available on the [Al Manhal Platform](#), p. 2. Accessed 10/11/2020.

<sup>21</sup> Hocine Mezoued, *The Future of Political Pluralism and the Transfer of Power in Algeria*, available on the [Al Manhal Platform](#), p. 2. Accessed on **10 November 2020**.



**power (Part One)** and the strengthening of the **principle of popular participation (Part Two)**.

## **1- Recognition of the Principle of the Peaceful Transfer of Power in Algeria**

The French political scientist Maurice Duverger defined the **transfer of power** as: "Alternation or succession, a continuous process through which each political party moves from opposition to government and then from government to opposition. Such alternation is particularly visible in countries characterized by a two-party system."<sup>22</sup>

The principle of the peaceful transfer of power constitutes the essence of the democratic process, as it ensures the peaceful transition of authority and represents a positive mechanism that enriches political life and lays the foundation for political reform. For this reason, the principle has been addressed in Algerian constitutions (**Part One**) and has been applied, at least formally, in political practice (**Part Two**).

### **1.1 The Principle of the Transfer of Power in Algerian Constitutions**

The concept of the transfer of power refers to **political alternation** and the peaceful succession of political actors in exercising authority. It may therefore be regarded as the mechanism through which new rulers are selected and authority is entrusted to those considered most qualified to exercise it.

The principle ensures political alternation through constitutional and legal procedures that guarantee equality of

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<sup>22</sup> Abdel Nour Ziyam, *Previous Reference*, p. 23.

opportunity and freedom of choice. It is implemented through legally established mechanisms such as **elections** and **referendums**, which enable the exchange of roles between governing parties and opposition parties. This phenomenon is particularly evident in **two-party political systems**.<sup>23</sup>

In Algeria, the form of political alternation has varied according to the constitutional framework in force. Under the **socialist constitutions**, which were characterized by a **single-party system**, the transfer of power occurred exclusively among members of the National Liberation Front (FLN), the sole legal political party.

Under the **1963 Constitution**, national sovereignty was exercised by the people through representatives elected to a **National Assembly** by universal, direct, and secret suffrage for a term of five years<sup>24</sup>. The same principle was maintained under the **1976 Constitution**, where the legislative body became known as the **National People's Assembly**.<sup>25</sup>

With respect to the **executive branch**, however, the system differed. The President of the Republic was selected by the ruling party and subsequently submitted to the people for approval or rejection through universal suffrage. Consequently, although elections formally existed, political competition remained limited by the dominance of the single-party system, which restricted genuine political alternation in the exercise of executive power.

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<sup>23</sup> Widad Ghazlani, *Party Alternation in Power and Its Obstacles*, *Algerian Journal of Security and Development*, No. 9, July 2016, Algeria, p. 106.

<sup>24</sup> **Article 27**, *Constitution of the People's Democratic Republic of Algeria (1963)*.

<sup>25</sup> **Articles 128 and 129**, *Constitution of the People's Democratic Republic of Algeria (1976)*.



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Under the **1963 Constitution**, the President of the Republic was elected through **direct and secret universal suffrage** for a single term of **five years**. Under the **1976 Constitution**, the presidential candidate was elected by an **absolute majority** for a five-year term, which could be renewed multiple times.<sup>26</sup>

Thus, under the socialist constitutions, the transfer of power was manifested solely through elections, while political pluralism was absent. The lack of political pluralism prevented the emergence of competing political programs and alternative public policies. In a one-party system, public policy remained essentially uniform, and the transfer of power occurred only among individuals within the same ruling party rather than between competing political forces.

The principle of political alternation was formally recognized for the first time in the **1989 Constitution**, which introduced **multi-party democracy** and left the renewal of presidential terms unrestricted, similar to the approach adopted by the 1976 Constitution. The Constitution also emphasized the necessity of resorting to the ballot box as the primary mechanism for the transfer of power.

Under the 1989 Constitution:

- The President of the Republic was elected by **direct, secret, and universal suffrage**.
- Election required an **absolute majority** of votes.
- The presidential term was fixed at **five years**, renewable without constitutional limitation.<sup>27</sup>

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<sup>26</sup> **Article 39**, *Constitution of the People's Democratic Republic of Algeria (1963)*.

<sup>27</sup> **Articles 105 and 108**, *Constitution of the People's Democratic Republic of Algeria (1976)*. The presidential term was amended to **five years**, after previously being **six years**, pursuant to **Law No. 79-06**.

- Members of the **National People's Assembly** were also elected through periodic elections, and the legislative term could only be extended under exceptional circumstances.<sup>28</sup>

These principles were largely maintained by the **1996 Constitution**<sup>29</sup>. However, unlike the 2008 Constitution, the 1996 Constitution limited the President of the Republic to **two terms only**.

Subsequently:

- The **2008 constitutional amendment** removed presidential term limits and once again allowed unlimited renewals.
- This situation continued until the **2016 constitutional amendment**, which reinstated the limitation of the presidential mandate to **two terms**.

Furthermore, the **2016 constitutional revision** marked an important development by expressly affirming, for the first time in the Constitution's Preamble (paragraph 12), the necessity of ensuring **democratic alternation through free and fair elections**. Previous constitutions had not explicitly referred to this principle in their preambles.

In conclusion, the **liberal constitutions** granted constitutional recognition to the principle of the peaceful transfer of power through:

- The establishment of **political pluralism**;
- The limitation of presidential terms;
- The continued reliance on **elections** as the mechanism for accessing and transferring political authority.

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<sup>28</sup> **Articles 70 and 71**, *Constitution of the People's Democratic Republic of Algeria (1989)*.

<sup>29</sup> **Articles 95 and 96**, *Constitution of the People's Democratic Republic of Algeria (1989)*.



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These elements constitute essential conditions for achieving genuine democratic alternation and ensuring the peaceful transfer of power within a constitutional framework.

## 1.2 The Formal Application of the Principle of the Transfer of Power in Algeria

The establishment and consolidation of a democratic system require the **peaceful transfer of political power through free and competitive elections**, allowing authority to pass from the opposition to the governing party, or vice versa. Political power is not something that can be permanently possessed; rather, it is intended to be transferred and alternated through democratic processes. This objective is achieved by guaranteeing the freedom to establish political parties, organizations, and associations without undue restrictions<sup>30</sup>, as political pluralism constitutes one of the fundamental pillars of democracy.

Although Algeria adopted a democratic constitution in **1989**, genuine political alternation did not materialize in practice. Political parties had limited opportunities to exercise governmental authority, and elections – particularly presidential elections – were often criticized for lacking transparency and competitiveness. Since **1999**, when Abdelaziz Bouteflika assumed the presidency, no effective transfer of executive power occurred, as he remained in office for four consecutive presidential terms.<sup>31</sup>

The same situation affected elected institutions at both the national and local levels, where parties aligned with the

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<sup>30</sup> Amina Rekab, *The Process of Democratic Consolidation in Algeria*, available on the Politics DZ website. Accessed on **11 October 2020**.

<sup>31</sup> **ibid.** (Same reference.)

ruling authorities largely dominated the composition of elected assemblies.

Despite the constitutional and legal recognition of **political pluralism**, and despite the existence of numerous political parties in Algeria, the opposition remained relatively weak in terms of performance and effectiveness. Political competition was limited, and opposition parties played only a marginal role in decision-making processes. Consequently, these parties failed to establish a genuine system of political alternation, which remained largely concentrated in the hands of a limited number of governing parties, particularly within the legislative branch. Their participation often consisted merely of taking part in electoral processes and providing a formal appearance of political pluralism.

The immediate catalyst for the **Popular Movement (Hirak)** was the announcement made by Abdelaziz Bouteflika on **10 February 2019** of his intention to run in the presidential election scheduled for **18 April 2019**, despite his deteriorating health condition and his absence from both national and international public affairs for more than seven years.

The first demand advanced by the movement was the strict application of **Article 102 of the Constitution**, namely:

- The withdrawal of President Bouteflika's candidacy for a fifth presidential term due to his inability to perform presidential duties as a result of a serious and chronic illness; and
- The effective implementation of the principle of the peaceful transfer of power.

The first response of the competent authorities was the postponement of the presidential election. However, public protests expanded as citizens increasingly emphasized the necessity of political alternation and democratic transition.



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In this respect, the Popular Movement contributed significantly to strengthening the principle of the transfer of power by:

- Preventing the candidacy of the former president for a fifth term;
- Reaffirming the importance of alternation within the executive branch; and
- Promoting alternation within the legislative branch.

This latter objective was reflected for the first time in the **2020 constitutional revision**, which introduced limits on parliamentary mandates by providing that parliamentary office may be held for **only two terms**, whether consecutive or non-consecutive.

Therefore, the Hirak played an important role in reviving the democratic principle of political alternation and reinforcing constitutional mechanisms designed to prevent the concentration of power in the hands of a single individual or political group.

### **Strengthening the Principle of Popular Participation in Algeria**

This section examines the participation of the people in the exercise of political power and the management of public affairs, particularly through their influence on the political system, their role in overseeing public authorities, and their contribution to the consolidation of the democratic process, given that popular participation constitutes a fundamental principle of democratic governance.

Traditionally, the concept of **popular participation** has been limited to participation through **elections** and **referendums**, despite the broader role that citizens can play in managing public affairs. This principle has been

recognized both internationally and constitutionally in Algeria.

### 3. The Principle of Popular Participation in Algerian Constitutions

Democracy essentially implies the participation of the people in the exercise of power. Such participation can only be realized when citizens enjoy the necessary freedoms and rights. Consequently, the democratic principle has played a significant role in the recognition and protection of fundamental rights and freedoms.<sup>32</sup>

Popular participation has become a legally recognized right under international law. Article 21(1) of the United Nations's Universal Declaration of Human Rights, adopted on **10 December 1984**, provides that: "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives."<sup>33</sup>

Similarly, the International Covenant on Civil and Political Rights of 1966 recognizes the right of every citizen: "To take part in the conduct of public affairs, directly or through freely chosen representatives."

The principle of popular participation has also received constitutional protection in Algeria. The **1966 Constitution** recognized, in paragraphs 11 and 14 of its Preamble, the possibility for citizens to contribute fully and effectively to

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<sup>32</sup> Omar Abdullah Khamoush, *The Constitutional Framework for Popular Participation in Constitutional Amendment*, previously cited work, p. 314.

<sup>33</sup> *Universal Declaration of Human Rights*, in *Core International Human Rights Treaties*, Office of the United Nations High Commissioner for Human Rights, United Nations, 2006, p. 5.



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nation-building and to safeguard the stability of the country's political institutions.<sup>34</sup>

Furthermore, the Constitution affirmed that:

- Sovereignty is exercised by the people;
- Democracy should be developed through participatory mechanisms; and
- Workers should participate in the management of public institutions.

These provisions demonstrate that, from the earliest constitutional period following independence, the Algerian constitutional framework acknowledged the importance of citizen involvement in public affairs and considered popular participation an essential component of democratic governance.<sup>35</sup>

Under the **1976 Constitution**, paragraph 4 of the Preamble considered the participation of popular masses in the management of public affairs as one of the fundamental pillars of the Algerian state. This participation was to be ensured through the **People's Assemblies**, regarded as the basic foundation of decentralization. The Constitution also emphasized the mobilization and organization of the masses for the struggle aimed at social and economic development, the protection of the achievements of the socialist revolution, and the participation of workers in the management of enterprises.

It further highlighted popular involvement in:

- Economic, social, and cultural development;

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<sup>34</sup> *International Covenant on Civil and Political Rights*, in *Core International Human Rights Treaties*, previously cited work, p. 34.

<sup>35</sup> **Articles 9 and 20**, *Constitution of the People's Democratic Republic of Algeria (1963)*.

- The management and oversight of public administration and the state;
- The preparation of the national development plan through elected councils, workers' councils, and mass organizations.

In addition, the state was responsible for ensuring a favorable environment that would enable all citizens to participate effectively in public life.<sup>36</sup>

The **1989 Constitution** introduced a comprehensive chapter on **public rights and freedoms**, affirming that fundamental freedoms and human rights are guaranteed. It also provided multiple safeguards for the effective exercise of these rights, whether individual or collective, particularly regarding the people's participation in political power.

In paragraph 11 of its Preamble, it expressed confidence in the people's ability to contribute actively in various fields. It also recognized elected councils as the appropriate framework for citizens to:

- Participate in public affairs;
- Express their will; and
- Monitor the actions of public authorities.

It further emphasized the removal of obstacles that could hinder effective popular participation in public life.<sup>37</sup>

Similarly, the **1996 Constitution** reiterated in paragraph 17 of its Preamble the active contribution of the people in various fields and reaffirmed the role of elected councils as the institutional framework through which citizens express their will and oversee public authorities. It also stressed the

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<sup>36</sup> **Articles 7, 19, 23, 27, 31, 34, and 41**, *Constitution of the People's Democratic Republic of Algeria (1976)*.

<sup>37</sup> **Articles 14, 16, and 30**, *Constitution of the People's Democratic Republic of Algeria (1989)*.



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importance of promoting **participatory democracy** at the local level and creating suitable conditions for genuine citizen involvement in all areas.<sup>38</sup>

In conclusion, the **1976 Constitution** granted a particularly broad space to the principle of popular participation compared to other constitutions, addressing this principle through several provisions. However, it is also noteworthy that Algerian constitutions did not explicitly refer this freedom to a specific implementing law that would define its practical mechanisms and detailed procedures.

#### **4- The Role of Popular Participation in Decision-Making in Algeria**

True democracy can only be achieved by enabling citizens to actively participate in expressing their opinions and in the decision-making processes of public authorities.<sup>39</sup>

Popular participation in the exercise of power appears in several forms. In traditional democracy, it is reflected through mechanisms such as:

- Popular referendums
- Popular dissolution
- Popular initiative
- The recall or removal of the President of the Republic
- The dismissal of elected representatives

Currently, the scope of popular participation has expanded, even to include involvement in the process of

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<sup>38</sup> **Articles 15, 17, and 34**, *Constitution of the People's Democratic Republic of Algeria (1996)*.

<sup>39</sup> Ahcen Rabahi (2014). *The Mediator in Constitutional Law*, Houma Publishing House, Algeria, p. 182.

drafting the Constitution, as well as awareness of the rights, freedoms, and principles it contains.<sup>40</sup>

In Algeria, the **Popular Movement (Hirak)** played an important role in monitoring public authorities and holding them accountable for their actions. It emerged in response to what was perceived as violations of constitutional provisions, beginning with issues related to **Article 102**, particularly concerning presidential terms, and extending to broader concerns regarding national sovereignty.

The proper foundation of governmental authority lies in the participation and approval of the people, since the nation is the source of all authority<sup>41</sup>, and its will constitutes the basis of sovereignty within the state.<sup>42</sup>

The people demanded the application of **Articles 7 and 8**, which reflects a growing awareness that sovereignty belongs exclusively to the people and that it is exercised through constitutional institutions freely chosen through elections. Accordingly, the President of the Republic should be elected solely by the people, along with demands for broader political reforms within the existing system.

Public oversight or public opinion functions as a tool for challenging legal or constitutional rules that are considered undemocratic or inconsistent with contemporary developments. It acts as a means of defending constitutional principles. However<sup>43</sup>, it may also be misused in the absence

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<sup>40</sup> Ahcen Rabahi, *The Mediator in Constitutional Law*, Houma Publishing House, Algeria, 2014, p. 182.

<sup>41</sup> For further reading: Said Boualchair, *Constitutional Law and Comparative Political Systems*, Vol. 1, 11th ed., Office of University Publications, Algeria, 2010, p. 91.

<sup>42</sup> Sarhank Hamid Al-Barzanji, *Components of the Democratic Constitution and Mechanisms for Its Protection*, Modern University Office, n.p., 2019, p. 66.

<sup>43</sup> Omar Abdullah Khamoush, *Previously cited work*, p. 88.



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of sufficient constitutional awareness and civic education among the population, which can lead to unintended or counterproductive outcomes.

There has been a form of practical popular oversight over political authority through the **Hirak movement**, which monitored all decisions issued by the authorities, considering itself the source of sovereignty and legitimacy. It pressured the authorities to respect the Constitution, particularly in relation to rights and freedoms, and to respond to popular demands.

However, it is noticeable that the people were not effectively involved in setting the foundational principles or clear guidelines of constitutional amendments, despite being a party to the **social contract**. The concept of the social contract contributed to the development of democracy by establishing the idea that political authority can only exist with the consent of the people, while also rejecting despotism and reinforcing the principle of popular sovereignty.<sup>44</sup>

The social contract is understood as an agreement between parties through which they relinquish all or part of their rights in order to ensure order and stability, thereby creating mutual obligations for each party.

This view is supported by Professor Reda Dghabar, who emphasizes that before any constitutional amendment, there must first be an agreement on the envisioned model of governance and the nature of the political system to be adopted in Algeria. He argues that this is fundamentally a political rather than a legal issue, and that the people must agree on it before legal experts proceed with drafting

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<sup>44</sup> Sarhank Hamid Al-Barzanji, *Previously cited work*, p. 293.

constitutional amendments. In this sense, the Constitution is a **social contract linking society and authority**, and therefore it should not be produced unilaterally by the ruling power.<sup>45</sup>

Democracy can only be achieved through **political participation**, which is one of its fundamental principles. It means that every individual has a role and voice in decision-making, whether directly or through intermediary institutions and organizations defined by law.<sup>46</sup>

One of the main challenges facing popular participation in public affairs, particularly in constitutional reform, is the lack of political and legal awareness among citizens. Many citizens are unable to fully understand state requirements, their own rights and freedoms, the legal mechanisms available to defend them, or the competencies of constitutional institutions and fundamental constitutional principles.

## Conclusion

In conclusion, the Popular Movement (Hirak) has contributed, at least formally, to the consolidation of certain democratic principles, particularly the principle of the **peaceful transfer of power** and the principle of **popular participation**. However, in practice, the conditions for building a fully-fledged democratic system in Algeria remain insufficient for several reasons:

1. **Ineffectiveness of political pluralism**

Despite the large number of political parties, many do

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<sup>45</sup> Said Boualchair, *Previously cited work*, p. 43.

<sup>46</sup> Abir Chelgham, *New Changes in the Arab World: Are They the Path to Achieving Democracy?*, *Algerian Journal of Political Studies*, Issue 3, June 2015, Algeria, p. 50.



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not function as genuine opposition forces due to a lack of political culture and political awareness among party activists. In addition, the principle of political alternation is often not practiced within party structures themselves.

2. **Absence of genuine political competition**  
This results from the lack of fair and transparent elections and the dominance of certain parties over political power, with alternation occurring only between a limited group of actors.
3. **Weakness of representative institutions (Parliament)**  
Parliament has become largely supportive of executive decisions, with limited or no effective opposition, even when such decisions do not serve citizens' interests.
4. **Limited legal and political awareness among citizens**  
This is due both to educational levels and to public dissatisfaction with the political scene, whether related to the ruling authority or political parties. As a result, citizens often refrain from participating in public affairs, even through elections or referendums.

Nevertheless, the will of the Algerian people remains persistent and oriented toward overcoming democratic stagnation and establishing genuine democratic governance in practice.

To achieve this, several measures are necessary:

1. **Effective consolidation of the principle of peaceful transfer of power and political competition**  
This requires organizing free and fair elections through strict monitoring of all electoral stages, ensuring accountability in case of violations, and

involving both citizens and political parties in the process.

2. **Strengthening the role of Parliament vis-à-vis the executive authority**, as the representative of popular sovereignty, through:

- Real implementation of the separation of powers and reinforcement of Parliament's legislative authority;
- Restricting excessive reliance on executive decrees and limiting autonomous regulatory power; and
- Expanding the legislative domain while ensuring proper balance between institutions.

In addition, participatory democracy should be strengthened within national institutions, similar to local councils, by enabling citizens to propose and debate legislation.

3. **Establishing legal mechanisms regulating popular participation in public affairs and oversight**, in order to ensure that such participation does not exceed legal boundaries or undermine legal security and institutional stability.

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