

THE REQUIREMENTS OF THE SEMI-PRESIDENTIAL REGIME WITH POLITICAL COEXISTANCE

A comparative study between Algerian and French political Systems

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Abstract:

This study reveals that the semi-presidential system may encounter an exceptional situation that deviates from its fundamental principle of power-sharing, which grants significant authority to the President of the Republic. In such situations, the President is compelled to navigate coexistence with a parliamentary majority opposition government. This necessitates the implementation of safeguards and rules to ensure the stability of the regime. Including the limitation of the President's authority to dismiss the government and the distribution of powers and competencies to ensure a balanced dynamic. This approach adopted by the French constitutional founder was neglected by the Algerian constitutional founder.

While constitutional provisions in Algeria defining the relationship between the President of the Republic and the Prime Minister closely mirror those in France, the lack of specific guarantees leaves little room for a stable implementation of a parliamentary majority opposition government's program. This deficiency poses a threat to the political regime's stability during periods of dual political coexistence.

Key words: *coexistence, semi-presidential, parliamentary, guarantees, safeguards. Stability*

Introduction:

Political regimes, they always seek to create stability at the level of state institutions. Certainly, there is success for some countries that are typical experiences. and They have become a benchmark through relative stability, such as the presidential regime in the United States ,and the parliamentarian in Britain, the Assembly Government in Switzerland, the federal regime in Germany and the, and France's semi -presidential regime, the latter which has been in force in Algeria for more than a

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while, but with the recent constitutional amendment, we have created the possibility of swinging between two Political regimes, the parliamentary system and the semi-presidential system, a situation where requires guarantees of stability in the midst of this swing.

In this comparative study, between the semi-presidential regime in Algeria and the semi-presidential regime in France we can raise following problematic:

What are the safeguards of the stability in the semi-presidential regime during the coexistence periods between the President of the Republic and a parliamentary non-presidential majority government?

I. Concept of the political coexistence

The semi-presidential regime has many characteristics, one of them is to give a broad power over the Prime Minister, especially if the Prime Minister attached to the same strategies and program of the President of the republic, in which case there is no problem on the balance of the political regime. That brings us to a different situation when the election produces a parliamentary, non-presidential majority government owns a different orientation affiliated with the opposition, and this Prime Minister and his cabinet have their own program and independent ideology. Under this situation, the two pillars obliged to work in a political coexistence, others name it dual coexistence. So, what is a dual coexistence, and what are its requirements to make a stable semi-presidential order?

A. Notion of the political coexistence in the semi-presidential regime

Before explaining the concept of the political coexistence in the semi-presidential regime, we must explain the meaning of the semi-presidential regime, deferent types of governments that can emerge from the legislative elections.

a. The duplication of the executive authority and the types of governments in the semi-presidential regime:

01- The duplication of the executive authority:

The whole essence of the dual executive power or the bipolar branch of the executive power, lies on dividing power between the President of the Republic and the Prime Minister, Where the Government develop and implements policies, while the president's position remains formally limited, as in the parliamentary regime. This disparity created an imbalance within the executive power resulting many consequences and negatives outcomes, which led to search for a different balanced form of regimes can combine and strengthening the position of the president of the republic meanwhile providing parliamentary majority to share power with the president, which we will name afterwards "The semi-presidential

regime”, some jurists may call it “semi-parliamentary regime”, in which case power divided by two institutions, the presidency of the republic and the government, both legitimized by the people through elections, however they are both constitutionally independent institutions, whereas the president is elected through a universal suffrage, whilst the PM(Prime Minister) named by the parliamentary majority .

Through constitutional provisions related by organic and functional relationship, the semi-presidential system tends either to be presidential or parliamentary¹.

The characteristics of the semi-presidential regime are as follows:

- *The president of the republic is elected by a general secret ballot.*
- *Neither the head of state nor Parliament has full control choosing, appointing the ministers.*
- *The Government is accountable to Parliament for all its actions.*
- *The President of the Republic has broad powers over the executive power².*

02- Types of governments that come from the legislative elections in the semi-presidential regime:

According to Sandy SKACH, the semi-presidential regime, besides the separation of the three authorities) has created a new separation in which case the separation between the presidency and the First minister, pointing also the success of the semi-presidential regime depends on the constitutional provisions and election law.

Speaking of this law (election law), it can sort out the types of governments, called electoral established governments, as followed:

- *Unified majority government: where the President of the Republic and the Prime Minister possesses the same majority the same majority, same vision, which makes this regime strongly stable, consequently a powerful government.*
- *Divided majority government: where the Prime minister has a different vision of the President of the republic, furthermore he has a parliamentary majority, which makes this position under the obligation of constitutional review, to ensure the political system stability.*
- *Divided minority government: where neither the President nor the prime minister has a parliamentary majority, which is likely can create an uncertain weak government, as an outcome of multiple alliances and different visions and political platforms.*

As a result, to what have been said above, and speaking of the second type of government (Divided majority government), the semi-presidential regime would be in a “political coexistence”, which brings us an uncertainty whether this regime will be able to be stable enough? So

“what are the safeguards that could establish a healthy semi-presidential regime in case of a political coexistence?”

b. The coexistence in a semi-presidential regime.

Returning to what we discussed previously, a main challenging question is created about a non-presidential parliamentary majority government in a semi-presidential regime, which has to coexist with the presidency, so what is coexistence? What are the main crucial aspects to remain stable and to prevent it from failing?

01-The concept of a dual coexistence:

We can determine the concept of a dual coexistence in the semi-presidential regime across two points, the first is to determine the situation that requires resorting to dual coexistence, and the second point is the reason for departing from the normal situation of the semi-presidential regime, and the emerging of a non-presidential parliamentary government.

• Reasons for being under a dual coexistence situation:

The is a possibility that a parliamentary majority government might form, also it could have a different vision (even opposite one) confronting the President's vision in the semi-presidential regime, which categorized among mixed regimes that combine many other regimes advantages³, such as what the French model is, where the President of the Republic is elected By the people through the universal ballot, this makes it closer to the presidential regime, due to the strengthening of the President's position .Upon close observation of the relationship between the government and parliament through structure and responsibilities, it kept the parliamentary character. Due these common and derived characteristics from more than one regime, some jurists name it the semi-presidential regime, while others are call it the semi-parliamentary regime⁴.

Rulers in the semi-presidential regimes often seeking through legislation to have a government that emanates from a parliamentary majority that can supports the President of the Republic, in order to gain from its principles, preserving its characteristics from which managing to strength the position of the President of the Republic at the cost of the prime minister.

However, a parliamentary majority government can have a different vision from the President of the Republic, and therefore, the Prime Minister and the government will be among who stand against the President's approaches, this requires a change in the relationship between the two poles of the executive authority. As a result, we could define the dual coexistence as a situation in which the President of the

Republic come from an intellectual or ideological spectrum that stands against the spectrum represented by the Prime Minister. France lived this situation after the election of the socialist Francois Mitterrand⁵, in which the General Assembly forced him to choose Mr. Jacques Chirac⁶ representing the Right-wing capitalist to be Prime Minister in 1986. The same situation required cooperation and solidarity between the President and the Prime Minister in order to maintain stability of the political system and to achieve the goals⁷.

• **The concept of the non-presidential parliamentary majority government:**

It can be defined through three different angles: Technical (**terminological**), procedural and theoretical:

- **The Technical definition of the parliamentary government:**

It is the government in which the people select, whether in periodic times or a limited period of time that exercises power and takes power on behalf of the people, in this situation the will of the government is the will of the people.

- **The procedural definition of the parliamentary government:**

That government that emanates from the legislative authority and be out of the majority in Parliament.

- **Theoretical definition of the parliamentary government:**

According to the parliamentary theory, there are parties or coalitions of a group of political parties that manages to reach the parliamentary majority through the legislative elections, and they form a government or coalition⁸.

The government of the absolute majority in elected parliaments is a form that presents in the parliamentary regime, where there is a parliamentary majority that has emerged from elections; usually this government continues for a full legislative term, this type of government first appeared in Britain, it spreads afterwards too many countries European such as Sweden, Denmark and Norway⁹.

A majority parliamentary government in bipartisan regimes differs from governments in multiparty regimes where it is under forms of alliances and coalitions, while a majority parliamentary government is characterized by a single party's dominance over other parties, which makes it strong and far from the risk of impeachment, schism, given the cohesion and unity of the party¹⁰.

In the parliamentary regime, the head of state is the one who is authorized to appoint and finish the duties of the Prime Minister and the ministers, but this authority is limited, as he must select the Prime Minister from the party that have the parliamentary majority even he has not a consensual basis with the party's orientation and ideology, in order

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*to ensure the continuity of the government. The Government's strength varies according to the party system applied, whereas the multiplicity of parties makes reaching a parliamentary majority very difficult, at which point it is sometimes resorting to coalitions forming alliances. At the contrary while the adopted system is the bipartisan system, where the parliamentary majority guarantees a strong, supported and homogeneous government*¹¹ t.

*The Prime Minister's nomination is attached with the parliamentary system, which is an independent position from the President of the Republic and its competencies comes from the constitution, and thus ensures the existence of a polar dualism of the executive authority*¹²..

02- Initials of dual coexistence in the semi-presidential regime:

In France, it is worth mentioning that the failure of both the parliamentary regime and the association's government regime, the constitutional founder in the fifth republic has strengthened the position of the President of the Republic and weakened the ministry's position, so he made him the public policy maker because is Council of Ministers Chairman, and the role of the Prime Minister and the ministers here is limited by implementing the president's program, but this is associated with the proportion of representation of the supportive bloc in the National Assembly, so if he has a presidential majority, his position would be strong and coherent and monopolized the power, this is what France experienced during Charles de Gaulle, and Jacques Chirac 1995, in this case the semi-presidential regime conforms to the principles on which it is based .

Speaking of dual coexistence between the poles of the executive authority in France, which represents an exception that could likely appear, for example, during the reign of Francois Mitterrand, the right - wing Jacques Chirac was named, it was a hard political circumstance to accept, until it become a fact, despite the position of the President become challenged, in order to rule the state's affairs without Problems or crises, and to achieve coherence, compliance and coexistence between constitutional institutions. This was the first dual coexistence recorded in 1986 with the arrival of a parliamentary majority that has a different vision from the President's path, as the latter was not drawn as it was expected, given the long term of the remaining period of his presidency that extends for more than two years. The acceptance of coexistence from Francois Mitterrand with a Prime Minister opposed to his political views surprised many analysts, because coexistence between two different political visions was not acceptable in the Fifth Republic traditions, and this exceeds that it violates one of the foundations that the French regime

has made, since its foundation in 1958, but the dual coexistence that was between Mitterrand and Chirac, it was preceded by guarantees and classified and known consensus, especially those issued by Chirac, he plays an important role in solving the problem of dual coexistence, as there were bilateral meetings preceding the Council of Ministers meetings, and determining the duties and competencies each, where Mitterrand held the defense and foreign affairs, while Chirac took over the internal affairs, while at the moments of dispute, some concessions from both sides were given for the greater good¹³.

In the legislative elections 1997, a socialist parliamentary majority government was also created; with the right-wing Gaullist President Jacques Chirac named Lionel Jospin as Prime Minister¹⁴.

B. Requirements of the regime's stability in dual coexistence:

Given the difficulty of the dual coexistence between, and in keeping with what we explained above, in addition to the threat of the political regime's uncertainty, what are the safeguards (guarantees) that prevent this threat?

Driven by this question, defining the concept of the political stability, the safeguards that prevent the regime's stability through the two parts as it follows.

a. Concept of the political regime's stability

The word "stability" came from the verb stabilized (source: stability), defined by the Arabs as the staying in a place meaning steady, and the word "political" came as an adjective of this steadiness¹⁵.

As for the concept of political stability, the systematic school followers believe that political stability is the stability of the political system and the harmonization between its institutions. This definition has subsequently been modified, and gone beyond the concept of stability of the political system and harmonization between its institutions towards the capacity of the political regime and its adaptability against internal and external variants, therefore as a result, any greater change from the ability of the political regime to adapt, will inevitably threaten regime's stability¹⁶. As already mentioned the stability of the political, administrative and constitutional regimes can be defined as those whose economic, cultural, social and military institutions are stable in their organizations, infrastructure, disciplinary and administrative divisions, ensuring balance and stability against any sudden political variants that may occur¹⁷.

The structural-functional approach gave a definition of a political stability based on duty path, so that the behavior of any living creature is typically balanced, so the imbalance is an anomaly, exception and unnatural¹⁸. Based on that they defined the political stability as the ability

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of the government institutions to adapt towards variants and maintain balance. But it was criticized for focusing on one part which is the institutional organic standard; it's insufficient to elaborate the political stability. Furthermore there is another approach that links the political stability, the government performance including the government stability and non-short-term change, and between the Government's ability to fulfill its commitments and achieve public policy, achieve public demands about both development and positive effective deterrent force of the Government¹⁹.

Gabriel Almond relate the political stability with the functioning performance of the regime, saying: "The functioning performance of the regime is essential to survive and adapt, and by maintaining its stability and resilience depends on how much the dynamic balance between the political regime and the transformative process, and performance". He also added that political stability is attached to the effectiveness of the political regime, and lies within the level of democratization, where democratic regimes are flexible and more adaptable²⁰.

According to the approaches mentioned before, the concept of political stability encompasses the stability of the political regime and the coherence of its institutions. It also involves the system's capacity to adapt and change in response to developments and shifts while maintaining constancy and its current state.

Lijphart has distilled political stability into four elements: the preservation of the political regime, civil order, legitimacy, and effectiveness. However, this definition poses a fundamental question: « Is the attribute of stability associated with the regime or with democracy²¹ »

Numerous jurists have delved into the concept of political regime stability, emphasizing that its essence is not merely a result of military or security strength but rather a convergence of social, political, and cultural factors. Savante (1999) posited that there is no standard procedural definition of political regime stability, but it comprises two essential elements which are the regime meaning the absence of randomness, violence, coercion, and discontinuity with political systems, and continuity meaning a relative absence of change in the components of the political regime, or in other words, a low level of political evolution, and the absence of political movements and social forces seeking to alter the centerpiece of the regime²².

Political instability or political risks are complex concepts that are difficult to define and quantify. Political instability results from the political disturbances and violent changes in political power, whether through constitutional or legal changes. Lepsett defined political

instability as simply the opposite of political stability which is a lack of constancy²³.

There are two approaches to defining political instability: the first, proposed by Linderghen and Pool (1990) and Alisina (1996), defined the political instability as the rate of change in executive power. The second approach, adopted by Fineris and Guptas (1986), Gupta (1991), Alisina and Perotti (1996), defined political instability as an indicator of sociopolitical instability, based on various aspects such as demonstrations, political assassinations, coups, civil wars, and political violence²⁴.

According to the concept presented by Abdurrahman Hassan, political instability is defined as the inability of the political regime to successfully handle crises it encounters, and inability to manage existing conflicts within society in a manner that allows control and management of the situation, accompanied by its use of political violence and a decline in its legitimacy and efficiency²⁵.

From these definitions and concepts, we can conclude that political instability is synonymous with the instability of the political regime, as they share the same criteria with minor variations concerning institutional adaptation to changes, as found in the broader meaning of political stability. Based on this premise, our study will thus take place.

b. Assurances of Stability in the Semi-Presidential System during Dual-Coexistence Periods:

Based on the progress have been made in this research so far, the emergence of a parliamentary majority government divergent from the President of the Republic, led by a Prime Minister or Head of Government, is an exceptional scenario that deviates from the intended framework of the semi-presidential regime. This system typically reinforces the President's central role and strengthens his authority. However, the possibility of having a co-executive partner can undermine the President's powers, potentially leading to a situation that may cause crises and expose the political regime to instability. This instability can result from the lack of harmony and alignment between the President's vision and ideology and the opposing parliamentary majority's vision and ideology.

To address this issue, the concept of 'dual coexistence' has emerged, accompanied by assurances and reconciliations. Therefore, what are the assurances that ensure the stability of the semi-presidential regime in the event of the emergence and formation of a non-presidential parliamentary majority government?

01-Assurances related to the organic independence of the non-presidential parliamentary majority government:

The safeguards related to the organic relationship between the President of the Republic and the Prime Minister or the heads of ministries aim to limit the authority of the President of the Republic in appointing and dismissing the Prime Minister and ministers in general, and to establish the organic independence of the government from the President of the Republic²⁶..

Therefore, in the presence of a non-presidential parliamentary majority in the semi-presidential regime, the primary constitutional guarantee is to oblige the President of the Republic to appoint the Prime Minister among the non-presidential parliamentary majority, whether it is a party majority or a coalition of parties, besides to the necessity of restricting the authority to dismiss the government or removing its leader by the President of the Republic, where the term 'removal' means ending the duties even against the will of the removed²⁷.

However, from another point of view, sharing the executive authority in the semi-presidential regime, for greater effectiveness of the government, requires the existence of a mechanism for the President of the Republic to be able to dismiss it in case of ineffectiveness, thereby, two options have been provided for the dismissal of the government, one allows the President to dismiss the government but in a restricted manner, which is the half parliamentary- half presidential option, where both the head of state and the legislative council together have the power to dismiss the government. The second option is the option of the presidency of the ministry - the head of state, which is a mechanism exclusively held by the legislative council to dismiss the government.

Therefore, dismissal clarifies the organic relationship between the head of state and the head of the government, where the head of state becomes relatively weaker than the prime minister if his authority to dismiss the government is restricted, and vice versa. If the head of state have broad authority to dismiss the government, then the Prime minister and ministers become mere executive officials²⁸.

After expounding the foregoing, it's safe to say that the possibility of removing the government through the presidential-parliamentary option is a safeguard against the monopoly of power, authoritarianism, and the annulment of power-sharing, which could lead to instability in the semi-presidential regime during the period of dual coexistence.

In addition to the aforementioned mechanism about dismissing the government, which is restrictive, the head of state in the semi-presidential regime has another authority through which he can indirectly dismiss the government, namely the power to dissolve parliament. As a result, the government tenders its resignation after the formation of the new

legislative council, and this power is considered strong with far-reaching effects. However, it must be available in the semi-presidential regime to address the deadlock, stagnation, and power-sharing failure that necessitate the dissolution of the legislative council and starting anew. At the same time, it serves as alternative for the inability to dismiss the government under the parliamentary-presidential option and as a mechanism to restore balances²⁹.

Therefore, guarantees related to the organic relationship within the executive authority, which make dual coexistence possible while guaranteeing the stability of the political regime, reside in restricting the authority of President of the republic to dismiss the government and dissolve the legislative council, ensuring that the cases of dissolution should serve power-sharing and not be power abuse. This applies whether it is a discretionary dissolution or a mandatory dissolution.

The discretionary dissolution occurs if the legislative council fails to perform its duty, experiences division and reaches a state of a deadlock, besides the mistrust in the government. In this case, the objective justifications for dissolving the legislative council must be clearly defined and strict rules regarding the frequency and procedures of dissolution should be established. As for the mandatory dissolution, it occurs if the parties in the legislative council are unable to form a government for an extended period, creating an opportunity for the head of state to monopolies the power vacuum. To avoid such a situation and to provide better conditions for the formation of a stable government, constitutions grant the head of state the right to dissolve the legislative council and call for new legislative elections, albeit with restrictions³⁰.

With that being said, and due to the direct and strong relationship between the legislative council and the government, dissolving this council is an indirect dismissal of the government in case it has been formed. It puts an end to the opportunity for sharing power if it has not been formed yet. Therefore, to ensure the stability of the political regime when a non-presidential parliamentary majority controls the legislative council, restrictions on parliamentary dissolution and restrictions on government dismissal must be imposed³¹.

02-Assurances related to the competencies between the President of the Republic and the Prime Minister of the non-presidential parliamentary majority government:

In the semi-presidential regime, three models have been developed for power-sharing and directing public policy. The first model is the client agent model, in which the president controls both foreign and domestic policies, while the government is solely responsible for implementation. The second model is the formal president model, in which the prime

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minister holds full authority over the executive power and public policy. The third model, which is the most important to our search, is the governance model. In this model, the president and the prime minister simultaneously share overlapping and complementary powers simultaneously. The French constitution adopts this model, where the government is responsible for general national policy and the President remains the head of state and a symbol of national unity. This ensures the effectiveness of the government. In dual coexistence, this flexible divided functions, tasks and competencies often requires co-signing, along with other formal rules, creates a political environment in which the role of the balancing and estimating President remains without hindrance to the government in managing domestic policy, in addition to the president's role as the supreme commander of the armed forces and the supervisor of foreign affairs, defense, and security³².

However, in order to create greater functional balance between the President, Prime minister, and the Government, making dual coexistence possible and the political system more stable, constitutional commitment is required as followed:

- Internal affairs are assigned to the Prime minister, with the President exercising a governance role and intervening only in crucial cases. The president exercises specific powers as the supreme commander of the armed forces, with defined responsibilities in the functional competencies related to foreign affairs, national defense, and national security, while the prime minister retains all other unspecified functions of the president concerning state policy.

-The president participation in planning of domestic policy is limited to specific domains (foreign affairs, national defense, and national security).

-The President exercises his competencies regarding national defense, foreign policy, and national security in consultation with the Prime minister through a mechanism of combined decision-making and co-signing.

-The government retains responsibility for local policy in all remaining functional domains and exercises its authority in the cabinet after consultation³³.

-The safeguards related to the functional relationship, which must be available in the semi-presidential regime to maintain the stability of the political regime, must meant to achieve a balance in the distribution of competencies and tasks, besides to limiting the authority to declare a state of emergency (Martial law). It has been observed that the declaration of the martial law has been exploited by several ruling

authorities in many countries, especially in the Middle East and North Africa, as occurred in Algeria following the victory of an opposition party. The army felt threatened, and forced the president to dissolve the parliament, resign, and cancel the second round of election. Therefore, in order to maintain the stability of the dual coexistence regime and prevent the abusing exploitation of authority (Declaring a state of emergency/Martial law) during crises for the purpose of monopolizing power preventing the set-aside the opposition that forms the government, with the caveat that the right to dissolve the parliament should be prohibited at the late stage of the president's term, also during a state of emergency, ensuring the continuity of the government.

II. Dual Coexistence

In the Algerian and French Political Regimes

The coexistence between the President of the Republic and a government emerging from a non-presidential majority, as previously mentioned, represents a departure from the typical semi-presidential regime. This regime typically grants extensive powers and authority to the President of the Republic, requires constitutional safeguards to ensure political stability. In the Algerian model, a parliamentary majority was formed in 1991, in absence of safeguards for dual coexistence and a reluctance to accept the idea of power-sharing to the opposition's benefit, the political regime lived a crisis that led into a security crisis, escalating to years of instability.

Given the challenging and hard experience resulting from the formation of an opposition parliamentary majority, did the Algerian Constitutional Founder address what had been overlooked in the previous constitutions as a guarantee for the stability of the political regime during the period of coexistence?

The constitutional amendment of 2020, which allows for the possibility of a similar situation, in which the formation of a non-presidential parliamentary majority and the establishment of a government led by a Prime Minister with a strengthened position and legitimacy comparable to that of the President of the Republic, raises the question of whether the French experience of political coexistence can be applied to the Algerian regime.

These questions will be processed in the following chapters of our study.

A. The Balance between the President's position and a Non-Presidential Parliamentary Government in the French regime during the Political Coexistence.

After the failure and shortcomings of the Fourth Republic's political regime in France, both internally and externally, President René Coty³⁴

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turned to General Charles de Gaulle³⁵ to lead the government on May 29, 1958. De Gaulle was granted authorization by the National Assembly to draft a new constitution for the country, which was subsequently put to a popular referendum on September 28, 1958, and resulted a majority approval. This marked as the beginning of the era known as the Fifth Republic, which is the current constitution with some amendments. It introduced a hybrid regime, combining elements of both presidential and parliamentary regimes to rationalize the parliamentary structure. This, however, created a system with ambiguous characteristics and intermingling competencies, leading legal scholars, including Maurice Duverger, to refer to it as a semi-presidential or semi-parliamentary presidential regime³⁶.

As a conclusion, the nature of this semi-presidential regime is unclear due to the complexity of its structure and the overlapping of responsibilities, without constitutional constraints, it can lead to instability, particularly in a state of dual political coexistence. In response, the French Constitution introduced rules that specify domains of intervention and the distribution of powers within the executive authority to create organic and functional balance between the President of the Republic and the Prime Minister.

a. The Autonomy of the Government in the French Constitutional System

The French political system is semi-presidential, where the president is elected through general elections for a term of five years, limited to two consecutive terms. Until 2002, there was a seven years term with unlimited terms. Presidential candidates must manage to obtain an absolute majority, either in one round or, if necessary, in a second round. This popular legitimacy grants the President of the French Republic a significant position, reflected in the scope of powers and authorities granted to him within the constitution.

The second pole of executive power in France is known as the Prime Minister and the members of the government, selected by the President of the Republic. They can only be removed from office by the National Assembly, in which the regime always seeks to have a majority for the party to which the President of the Republic belongs in order to establish a semi-presidential regime according to French standards. However, this situation is not fixed, as the National Assembly can be controlled by a party opposing the President of the Republic. In such cases, power must be divided between the two poles, as previously discussed and referred to as political coexistence, accommodation, or dual coexistence, all of which

denote the same concept which France has experienced three times in a total of nine years³⁷.

Determining the degree of the government's autonomy from the President of the Republic can be achieved by examining the President's authority to dismiss the government and its leader and the extent of limitations in this matter. This assessment has significant implications for the stability of the semi-presidential regime during periods of dual coexistence, either negatively or positively; because of the removal of the Prime Minister or the government, which possesses a legitimacy equivalent to that of the President of the Republic due to its electoral origin and majority that controls in the legislative council, can be a highly destabilizing action. Therefore, it is essential to restrict this power.

The French Constitution addresses this issue through Article 8, which states, "The President of the Republic appoints the Prime Minister and terminates his duties based on his government's resignation. The President of the Republic appoints the members of the government and terminates their duties based on the proposal from the Prime Minister³⁸." Despite the President's authority to appoint and, under certain circumstances, dismiss the Prime Minister and the government, there is an organic balance achieved by the requirement of the Prime Minister's resignation. This mechanism prevents unilateral decisions regarding the dismissal of the government and Prime Minister and ensures political stability in the dual coexistence regime which has already been achieved in the French experience.

In addition to the direct dismissal of the government, the President of the Republic can indirectly dismiss the government by dissolving the legislative council. The authority to dissolve the legislative council threatens the stability of the government and the entire political regime. Therefore, it must be constrained.

The French Constitution restricts the timing of dissolution. The President cannot dissolve the National Assembly more than once a year, and dissolution is not allowed during a state of emergency, as stipulated in the final paragraph of Article 16 of the French Constitution³⁹. Despite these limitations, the French Constitution lacks substantive restrictions, and the President has wide discretionary authority to dissolve the National Assembly following consultation with the Prime Minister and the heads of the legislative authorities. This, however, does not change the fact that the National Assembly has only been dissolved five times since 1958 due to the commitment to political coexistence⁴⁰.

b. Assurances of the Political Coexistence Related to Functional Distribution and Jurisdiction within the Executive Authority.

As for the functional relationship, the French constitution defines a domain that creates a form of convergence in the balance of power between the President of the Republic and the Prime Minister. The French constitution assigns domestic policy and national defense to the Prime Minister, while the President remains the supreme commander of the armed forces and handles foreign policy. The Prime Minister still holds domestic policy. These following points detail how to create functional balance, ensuring the regime's stability:

01-Domestic Policy and Cabinet Presidency (Council of ministers):

The Cabinet is a regular government meeting chaired by either the President of the Republic or the Prime Minister based on delegation. It sets a specific agenda according to Article 21, Paragraph 4 of the French Constitution. The President has the authority to decide government matters through this forum, and it should be distinguished from the Cabinet Council, which is coordinated by the Prime Minister and he lacks decision-making authority⁴¹.

To ensure the smooth flow of government activities and the effective implementation of public policy, the French Constitution grants the Prime Minister the authority to manage this activity and provides powers that allow him for more control over developments within the state, such as the enactment of legislation and the exercise of independent regulatory authority⁴².

As a result, the government formulates public policy, but the final decision rests with the President as the presiding officer (decision maker) of the Cabinet Council. This interplay is characterized by balance and cooperation in the implementation of public policy.

02-Security, Defense and competencies in Exceptional and Emergency Situations:

According to Article 15 of the French Constitution, the President of the Republic is the commander of the armed forces and presides over higher councils and committees of national defense. Administration and the armed forces fall under the government's jurisdiction, as stipulated in Article 20, Paragraph 2. The Prime Minister is responsible for national defense, as stated in Article 21. The Prime Minister can appoint to military positions, having regard to the provisions of Article 13, which define the scope of the President's appointments⁴³.

Through these constitutional texts, the French constitutional founder divides authority in the domain of security and defense between the President and the Prime Minister, ensuring that this critical authority is not monopolized. This serves as a guarantee of political regime stability,

whether in a majority presidential government or in a political coexistence scenario.

Regarding functional distribution in exceptional and emergency situations, Article 16 of the Constitution grants the President absolute powers to confront exceptional circumstances⁴⁴, while the authority to declare a state of emergency(martial law) is given to the government⁴⁵.

As a conclusion to what being said, a balance and a restriction on the President's exclusive power to declare a state of emergency, which doesn't makes him the dominant figure in the executive authority. This restriction helps create a balance in the power regarding to the declaration of a state of emergency, ensuring the stability of the political regime.

03-Foreign Policy:

Foreign policy in the French regime falls under the jurisdiction of the President of the Republic to create balance. In the context of political coexistence between leaders like Mitterrand and Chirac, success was achieved through predefined guarantees and explicit or implicit agreements. Jack Chirac's role in resolving the dual coexistence issue and establishing a balanced power dynamic should be acknowledged. Bilateral meetings between the two executive powers preceded Cabinet Council meetings to align viewpoints, unify visions, and clarify roles and responsibilities. Mitterrand retained responsibility for defense and foreign affairs, while Chirac took charge of domestic affairs. Any disagreements were resolved through concessions by both parties for the greater good of the state⁴⁶.

B. The Balance between the President's position and a Non-Presidential Parliamentary Government in the Algerian regime in state of Political Coexistence.

As discussed at the introduction to the first chapter of the second section, conditions to form a parliamentary government opposed to the President of the Republic have been met. In the absence of guarantees for political coexistence and a refusal to share power, the political regime lived a state of instability, leading to violent security disturbances. The question we raised then, is whether the constitutional founder rectified these shortcomings and introduced safeguards to prevent the regime from entering a state of instability or not.

Regarding the assurances of stability in the semi-presidential regime within the aforementioned, according to the constitutional amendment of 2020, the relationship comes as follows:

a. Government's organic independence level in the Algerian Constitutional regime:

Article 91/5 of the 2020 constitutional amendment states that "the President of the Republic appoints the Prime Minister and terminates his functions." It is noteworthy here that this dismissal can be made unconditionally whenever the President wishes, even if this government has confidence of the parliament. This has led successive governments to be dismissed by the unilateral decision of the President of the Republic without consulting with the National People's Assembly⁴⁷.

Certainly, there is no problem if the dismissed government is a presidential majority government. However, if it is a parliamentary majority government in a period of political coexistence, its dismissal represents a threat to the stability of the political regime, it's because this government has legitimacy from the people's will through elections, a legitimacy that is equivalent to the President of the Republic's legitimacy. Dismissing it is a decision against the will of the people. Therefore, the constitutional founder made ending the Prime Minister's duties the same way as ending the President of the Government's duties, which contradicts the guarantees of political coexistence that restrict the President's authority in dismissing the Prime Minister.

As for the indirect way of dismissing a parliamentary majority government, it is through dissolving the National People's Assembly. Referring to the constitutional provisions related to the dissolution of the National People's Assembly, it's been found two cases: the dissolution according to Article 108, which occurs when the National People's Assembly rejects the government's action plan for the second time after rejecting the first government's action plan. In this case, the role of the President of the Republic is formalized and superficial through issuing a decree to terminate the duties⁴⁸.

The most important here, is the dissolution according to the provisions of Article 151. The constitutional founder adhered to what was stipulated in previous constitutions (except for the 1963 constitution), which grants the President of the Republic the power to dissolve the National People's Assembly unconditionally and whenever he wishes to do so. This authority is exclusive to the President and cannot be delegated according to Article 93 of the current constitution⁴⁹.

As a result to that, the absence of restrictions on the dissolution of the National People's Assembly poses a threat to the survival of the opposing parliamentary majority government during the period of political coexistence. The constitutional founder did not provide guarantees in this matter, similar to the French constitutional founder who only imposed a time limit, which is not sufficient. So without guarantees limiting the

President's authority to dissolve the National People's Assembly, the political coexistence cannot continue.

b. Assurances of the Political Coexistence Related to Functional Distribution and Jurisdiction within the Executive Authority.

As mentioned previously, the French political regime has established a balance through a rational distribution of powers and jurisdictions in a manner that ensures the stability of the regime in the case of the formation of a presidential majority government and in the state of imposing political coexistence on the President of the Republic. In this regime, the responsibility for domestic policy was assigned to the Prime Minister, while foreign policy was entrusted to the President of the Republic; he even still holds the defense as the supreme commander of the armed forces, while the responsibility for defense was assigned to the Prime Minister. In addition to these responsibilities, we will be discussing the authority to declare a state of emergency, which played a significant role in interrupting the electoral process in the past and blocking the path to political coexistence.

Based on those facts, did the Algerian constitutional founder respect this distribution, which ensures the stability of the political regime during the period of political coexistence?

01 - Internal Policy and the Chairmanship of the Council of Ministers:

The government council is a council chaired by the Chief of government, as our study pertains to the situation during the period of political coexistence. It serves as the regulatory framework for implementing the state's public policy, convening once a week to monitor and coordinate government activities and to prepare topics to be discussed and decided upon in the Council of Ministers.

Thus, the Council of Ministers is the framework through which all decisions are executed. The President of the Republic presides over it, making him the dominant figure in shaping public policy, even in the presence of another pole of executive power during the period of political coexistence⁵⁰.

Article 91/4 states that the President of the Republic chairs the Council of Ministers, regardless of the type of government. This can potentially create a barrier for a non-presidential parliamentary majority government during the period of political coexistence when it seeks to implement its program. This sets the stage for conflicts during the coexistence period. Furthermore, the Chief of the government of a non-presidential parliamentary majority government presents its program to the Council of Ministers before it is submitted to the National People's Assembly. Given that the President of the Republic leads this council, and

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*considering that the program encompasses critical matters, including domestic policy, it will inevitably have an impact on that program*⁵¹.

02 - Security, Defense, competencies in Exceptional Situations and Emergencies:

*According to Article 91/1, the President of the Republic is the Supreme Commander of the Armed Forces and assumes responsibility for defense*⁵². In this matter, the Algerian constitutional founder disagreed with the rules of the balance established by the French constitutional founder, who assigned responsibility for national defense to the Prime Minister.

Additionally, appointments to military positions including appointments of heads of security agencies fall under the President's jurisdiction according to Article 92/2, and Article 92/9.

*Appointments made by the Prime Minister or the Chief of government, according to Article 112/6 do not include appointments to military positions. The same applies to Presidential Decree No. 20-39, dated February 2, 2020*⁵³, which only covers appointments to civilian positions.

*Referring to the declaration of a state of emergency (Martial law) and a state of exception, these powers are exclusively held by the President of the Republic after consulting with the president of the Senats, the President of the National People's Assembly, and the Prime Minister or Chief of government. However, the final decision rests with the President of the Republic, and the role of the Prime Minister is purely consultative. This was explicitly mentioned in Articles 97 and 98 of the 2020 constitutional amendment. Therefore, the opinion of the Prime Minister or Chief of government is not binding on the President of the Republic*⁵⁴.. This underscores the President's dominance and authority to declare a state of emergency, granting him unilateral power to put an end to the period of coexistence, thereby avoiding power-sharing and political coexistence, as occurred in Algeria after the victory of an opposition party in 1991.

*In this matter, it is evident that the constitutional founder did not address the shortcomings that became apparent through the application and power abuse of the state of emergency without restrictions. This situation previously destabilized the regime, and the constitutional founder did not establish safeguards to prevent the recurrence of such events*⁵⁵.

Therefore, it can be concluded that the constitutional founder did not provide safeguards to create a balance between the two poles of executive power, which jeopardizes the continuity of coexistence and the stability of

the political system in the semi-presidential regime during the coexistence period.

03 - Foreign Policy:

Foreign policy in the Algerian constitutional regime, as stipulated in all previous constitutions and retained in the latest constitutional amendment of 2020K Article 91/3⁵⁶, grants the President of the Republic the authority to decide and direct foreign policy. Additionally, the President of the Republic holds the authority to appoint ambassadors and special envoys and receive the credentials of foreign diplomatic representatives and terminate their missions, as indicated in Article 92/11⁵⁷ which adopted by the French constitutional founder. However, this differs from the approach of the French constitutional founder, who assigned foreign policy to the President of the Republic and domestic policy to the Prime Minister.

But what distinguishes between what the French constitutional founder reached and what the Algerian constitutional founder reached is that the French constitutional founder established a balance by assigning foreign policy to the President of the Republic and internal policy to the Prime Minister. On the other hand, the Algerian constitutional founder assigned both policies to the President of the Republic, and the problem does not arise when a presidential majority government is formed. However, it arises when a parliamentary majority government is formed due to the lack of balance in the allocation of powers, which undermines one of the safeguards of stability in the semi-presidential regime during the coexistence period.

Conclusion:

Through this study, we find that the semi-presidential regime can enter into an exceptional situation that deviates from its fundamental principle of power-sharing, which grants significant authority to the President of the Republic. In such situations, the President is compelled to accept the circumstances and enter into a period of coexistence with a parliamentary majority opposition government. This necessitates the establishment of safeguards and rules to ensure the stability of the regime. Among these safeguards is the limitation of the President's authority to dismiss the government and the distribution and division of powers and competencies to ensure a balance of power. This approach is what the French constitutional founder adopted but was neglected by the Algerian constitutional founder.

The constitutional provisions that define the relationship between the President of the Republic and the Prime Minister or Chief of government in Algeria are nearly identical, leaving no room for guarantees that would enable a parliamentary majority opposition government to

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implement its program under stable conditions. This situation threatens the stability of the political regime when it enters a period of dual political coexistence.

Therefore, it is imperative for the constitutional founder to address the shortcomings as followed :

-Limiting the President's authority to dismiss the government.

-Sharing the jurisdiction in the domain of national defense between the Prime Minister or Chief of government and the President of the Republic to prevent the politicization of the military, as occurred in the past and played a role in the lack of power-sharing and entry into a period of coexistence.

-Restricting the President's authority to declare a state of emergency and making the Prime Minister's opinion binding to avoid past abuses of this power in Algeria for the purpose of blocking political coexistence.

-Leaving the domain of domestic policy to the non-presidential parliamentary majority government, while assigning foreign policy to the President of the Republic to ensure functional balance.

Additionally, there are political safeguards that have emerged through practice, such as bilateral meetings between the President of the Republic and the Prime Minister before Cabinet meetings to reach prior consensus. Moreover, the willingness to compromise and moderate positions between them serves as a guarantee of stability, as recognized by French politicians.

Bibliography:

1 - Markus bockenforde, A Practical guide to constitution building (The Design of the Executive Branch), International IDEA, Sweden, 2011, p21.

2 - Markus bockenforde, Ibid.p08.

3 - Saleh Jawad al-Kadhim, Ali Ghalib al-Ani, Political Systems, Without edition, Dar al-Hakma Press, Iraq, 1991, p. 85.

4 - Salah Djaouad al kadem, ali ghaleb al ani · Ibid. p89

5 - François Mitterand, President of the French Republic, 1981 to 1995, see the French Presidency's website, <https://www.elysee.fr/la-presidence/les-presidents-de-la-republique>, last visited on 24/01/2023 at 21:13.

6 - Jacques Chirac, President of the French Republic, from 1995 to 2007, see the French Presidency's website, <https://www.elysee.fr/la-presidence/les-presidents-de-la-republique>, last visited on 05/02/2023 at 13:23.

7 - Wikipedia, System _ Semi _ Presidential/<https://ar.wikipedia.org/wiki> last visited on 31/12/2022 at 18:47.

8 - Abdel Karim Hassan Abdel Karim Al-Masri, Requirements and Obstacles to the Formation of a Parliamentary Government in Jordan, Letter of Completion of Requirements for a Master's Degree in Political Science, Political Science Department, Faculty of Arts and Sciences, Middle East University, Jordan, 2017, pp. 06.

- 9- Maurice Duverger, , translation by George Saad, *political institutions and constitutional Law*, first edition, University Foundation for Studies and Publishing, Lebanon, 1992, p.257.
- 10- Maurice Duverger, translation by George Saad, *op. cit.*, p. 264.
- 11 - Numan Ahmed al-Khatib, *Mediator in Political Systems and Constitutional Law*, 7th Edition, Culture Publishing and Distribution House, Jordan, 2011, p. 379.
- 12 - Kamel Dread, *Amna Rice, problematic application of article 103 of the constitutional amendment of 2020*, *Journal of Humanities*, vol 33, n° 01, University of Montori, Constantine, Algeria, p. 160.
- 13 - Hafiz Alwan Hamadi al-Dalimi, *op. cit.*, p. 157.
- 14 - Hafiz Alwan Hamadi Al-Dalimi, *Western European and United States Political Systems*, First Edition, Wael Publishing and Printing House, Jordan, 2001, pp. 157.158.
- 15 - Bouafia med salah *Political Stability Reading in the Concept and Purposes*, *Journal of the Books of Politics and Law*, Volume 2016, Issue 15, Faculty of Law and Political Science, University of Qusedi Marbah, ouargla, Algeria, p 310.
- 16 - Marwa Mohamed Abdel-Monim, *Political Culture and Stability UAE Case Study*, *Journal of the Faculty of Politics and Economics*, Volume 12, n° 11, Faculty of Commerce, Assiut University, Egypt, 2021, p. 06.``
- 17 - Bouklikha Abd Samad, *Social Peace and Political Stability in the Arab World (Algeria as a Model)*, *Journal of Academia*, vol. 04, No. 05, Hasiba Ben Bouali University, Al-Shalaf, Algeria, 2016, p. 71.
- 18 - Bouklikha Abd Samad, *ibid .*, p. 70.
- 19 - Marwa Mohamed Abdel-Monim, *op. cit.*, p. 06.
- 20 - Arabi Boumeddine, *Arab Movement and the Question of Political Stability in Algeria after 2011*, *Society and Power Magazine*, Annual Journal Court, University of Oran 02 Mohamed bin Ahmed, Algeria, No. 05/2016, p. 130.
- 21 - Karima Bakdi, *Political Corruption and its Impact on Political Stability in North Africa*, *Memorandum of Master's Degree in Political Science Specializing in Ornetological Studies*, Faculty of Law and Political Science, Abubakar University, Balkaid, Tlemsan, 2011/12, Algeria, p. 51.
- 22 - Jamal Abdullah Ali Al-Jabal, *Impact of Minorities on Political Stability*, *Afaq Magazine for Political and Legal Research*, University of Ammar thleji Al-Ghawwat, vol. 4, No. 07, November 2019, p.190.
- 23 - lewis landry gakpa, *political instability and effects on economic growth in sub-Saharan African countries, a model with simultaneous dynamic equations, region and development*, *Institute National Superior of statistic and Economic* , n°50, Ivory Coast 2019, p92.
- 24 - Azumhamed Abdul Qader Naji, *political instability and factors influencing it*, without edition, Without Publisher, 2008, p. 09.
- 25 - Ben Doudou Makrem ,Rahali Faycel, *Democratie , Political Stability and Economic Growth: Estimating From a Dynamic Panel Model*, *Economic News, Economic Analysis Review*, University of Monastir, Tunisia, vol. 94, No. 1, P06.
- 26 - Tiyayba Saed, Zerrouki Marzaka, *President's Relationship with the First Minister through Constitutional Amendment 2020*, *Journal of the Research Professor of Legal and Political Studies*, vol. 07, No. 01, Mohamed Boudiaf University, Missila, Algeria, pp. 1837.
- 27 - Maurice Duverge, translation by George Saad, *op. cit.*, p. 270.

- 28 - Sujit Choudhry, *et al.*, *Semi-Presidentialism as Power Sharing Constitutional reform after the Arab Spring*, International IDEA, Sweden, 2014, p11.
- 29 - Sujit Choudhry, *et al.*, *op.cit.*, p65.
- 30 - Sujit Choudhry, *et al.*, *op.cit.*, pp .66 .67.
- 31 - On 26 December 1991, an Islamic party won a parliamentary majority of 82% with 188 seats out of 231, making it into a decision-making position, but she found a refusal from the political system to share power with her.
- 32 - Sujit Choudhry, *et al.*, *op.cit.*, pp, 87 .88.
- 33 - Sujit Choudhry, *et al.*, *op.cit.*, p88.
- 34 - René Kuti, *President of the French Republic, from 1954 to 1959*, see the French presidency website, <https://www.elysee.fr/la-presidence/les-presidents-de-la-republique> the last visit on 09/02/2023 at 22:20.
- 35 - Charles de Gaulle, *President of the French Republic, 1959-1969*, see the French presidency website, <https://www.elysee.fr/la-presidence/les-presidents-de-la-republique>, last visited on 10/02/2023 at 16:40.
- 36 - Hassan Mustafa al-Lakiri, *Political Systems, Without edition, Al-Sham Higher Institute for Shari'a Sciences, Arabic Language, Islamic Studies and Research, Ms. Raqiya Complex, Syria, Without a Year*
- 37 - Catherine Shkadam, *Maturity of the French Constitutional Process Incorporating Constitutional Traditions, Without Print, Al Bayan Center for Studies and Planning Series, Iraq, 2018, p. 18.*
- 38 - See article 08 of the French Constitution of 04 October 1958, amended on 23 July 2008.
- 39 - See article 16 of the amended Constitution of France of 1958.
- 40 - Sujit Choudhry and others, *op.cit.*, p86.
- 41 - Hassan Al-bahiri, *op. cit.*, p. 128.
- 42 - Ben Masoud Ahmed, *Relationship between the Prime Minister and the President of Algeria under the 2008 Constitution*, *Journal of Law and Humanities*, No. 24, Faculty of Law and Political Science, University of djelfa, Algeria, 2015, p. 466.
- 43 - See articles 13, 15, 20 and 21 of the 1958 French Constitution.
- 44 - See article 16 of the French Constitution of 1958.
- 45 - Hassan Al-bahiri, *op. cit.*, p. 128
- 46 - Hafiz Alwan Hamadi al-Dalimi, *op. cit.*, p. 157.158.466.
- 47 - Fattah Shabbah, *Head of Government's position in Algerian and Lebanese political systems*, *Journal of Scholar of Academic Studies*, vol. 08, No. 03, Batna 01 University of, Algeria, p. 576.755.
- 48 - Ben Samaeli Boulaim, *images of the dissolution of the National People's Assembly under the constitutional amendment of 2020*, *Journal Journal*, vol. 08, Special Edition, djilali Bounaama University, Khamis Milaina, Algeria, 2022, p. 474.
- 49 - Ben Samaeli Boualam, *ibid.*, p475.
- 50 - Tayayba Saad, *Zerrouki Marzaka*, *op. cit.*, 1844.
- 51 - See article 91/3 of the Constitutional Amendment of 2020.
- 52 - Dirif Kaddour, *Status of the Government in the new constitutional amendment of 2020*, *Journal of Legal and Political Research*, vol. 03, No. 01, Setif 02 University, Algeria, 2020, p. 226.
- 53 - See article 91/1 of the Constitutional Amendment of 2020,

54 - *Presidential Decree No. 20-39 of 02 February 2020, containing appointments to civil and military functions of the State, Official Journal No. 06 of 02 February 2020, p. 08.*

55 - *See articles 97 and 98 of the Constitutional Amendment of 2020.*

56 - *Tayayba Saad, Zerrouki Marzaka, op. cit., 1846.*

57 - *These events followed the suspension of the electoral route from which a majority Government exposed to the President of the Republic, the Government of the Islamic Salvation Front (FIS) party, was supposed to emerge. The National People's Assembly was dissolved and a state of emergency was declared.*