

**People's Democratic Republic of Algeria  
Constitutional Court**

**Speech of Mr Omar Belhadj, President of the  
Constitutional Court,**

Titled on:

**"The Role of the Constitutional Court in Promoting  
Democratic Principles: Past, Present and Future"**

On the occasion of the international conference on:

**"Strengthening democracy through constitutional  
jurisdictions: past, present and future"**

The twentieth anniversary of the Constitutional Court of the  
Republic of Indonesia

**Jakarta-10 August 2023**

In the Name of Allah, the Most Merciful, the Most Beneficent, Prayers and peace be upon the most honorable prophets and messengers, our master Muhammad,

Your Excellency, **M. Anwar Osman**, President of the Constitutional Court of Indonesia

My colleagues, Presidents and justices of the Constitutional Courts and Councils of the Equivalent Institutions,

**Ladies and Gentlemen,**

It is a pleasure to be with you today to participate in the works of the International Conference of Chiefs of Courts on this occasion of the twentieth anniversary of the establishment of the Constitutional Court of the Republic of Indonesia, At the outset I would like to extend my sincere thanks and gratitude to my brother Mr. Anwar Osman, President of the Constitutional Court of the Republic of Indonesia for the generous invitation i have received to attend and participate in the work of this international conference on **“Strengthening Democracy through Constitutional Jurisdictions: Past, present and future”**, which undoubtedly reflects the relations of friendship and cooperation that bind the two institutions of Constitutional justice in our two countries, and the concern we share and Indonesia to promote constitutional justice in the interest of building a state of right and law and devoting principles of democracy that we all aspire to.

**Ladies and Gentlemen,**

The Algerian Constitutional Court had organized an International symposium on December, 5th and 6th, 2022 entitled: **"the right of citizens to access to constitutional justice in the light of comparative systems"**, on the occasion of the first anniversary of its inauguration“, when we were honored the attendance and participation of the Constitutional Court of the Republic of Indonesia. This meeting was really an opportunity for us to meet different constitutional experiences as well to build and consolidate friendship ties with many courts and constitutional councils of different traditions, cultures and judicial constitutional models.

**Ladies and gentlemen,**

The constitutional justice in Algeria knew two main stages during developments and political transformations in the country, the phase of the Constitutional Council which extended from 1989 until the constitutional

amendment of November 1<sup>th</sup>, 2020, the date of transition to the second phase of the establishment of the Constitutional Court.

The establishment of the Algerian Constitutional Council for the first time in accordance with the Constitution of February 23, 1989, constitutes a new political phase based on party pluralism and the principles of democratic organization in charge of two main missions, one is ensuring the supremacy of the constitution and respect through overseeing the constitutionality of laws and the conformity of the rules of procedures of the People National Assembly with the Constitution as well as monitoring the proper conduct of referendum processes ,the election of the President of the Republic and of legislative elections, and announcing the final results of these processes.

These were the main tasks that the Council has maintained according to the Constitution of November 28, 1996, with the introduction of legislation through organic laws in fields and areas defined by the Constitution, which they are subject, in addition to the Rules of procedure of each of the two Chamber of Parliament to a prior mandatory control over its conformity with the constitution, by notification of the President of the Republic . Those also are jurisdictions preserved by the constitutional amendment of March 2016 with approval for the first time in the history of constitutional justice in Algeria the mechanism of the exception of unconstitutionality and the parliamentary notification system.

### **Ladies and Gentlemen,**

The constitutional justice in Algeria has contributed to the establishment and consolidation of the Principles of separation of powers particularly through ruling on the conformity of the organic laws and the Rules of procedure of each of the two Chamber of Parliament with the Constitution which is considered , due to the nature of the legal provisions , an opportunity to deliver a very important constitutional jurisprudence for the respect of the constitutional distribution of jurisdictions, the hierarchy of laws, the supremacy of the constitution, and regulating the legislative processes for the maintenance of legal security.

The Constitutional Council also played a significant role in protecting the people's will and respect for the rules of democratic competition and a regular transfer of power through ensuring validity of the electoral process, examining appeals in relation and announcing its final results.

## **Ladies and Gentlemen,**

The transition from the Constitutional Council to the Constitutional Court is a result of a variety of circumstances and political experiences. The decision to establish the Constitutional Court in an integrated context of deep and comprehensive constitutional, political and institutional reforms initiated by President of the Republic, **Mr. Abdelmadjid Tebboune**, immediately after his election in December 2019, when was its first step the constitutional amendment which was endorsed by the Algerian people in the referendum of 1 November 2020, a new way based on rule of law and resilient and legitimate institutions and real separation of powers and balance between them, the respect for fundamental rights and freedoms and reflecting the principles of genuine democratic governance.

Constitutional justice in the context of these reforms has taken an important position, being the highest oversight institution in charge of ensuring the observance of the Constitution, and its interpretation, regulating the conduct of institutions and the work of public authorities, ruling on disputes that may arise among the constitutional powers with its wide jurisdictions in the field of oversight the constitutionality of laws and regulations and their conformity with the Constitution, what qualifies it to take a high position in the State's institutional map that are designated to play a key role on the functioning of constitutional institutions and authorities to move toward a modern State -building in which rights and freedoms are protected and institutions are preserved.

## **Ladies and Gentlemen,**

The Constitutional Court performs for the oversight of the constitutionality of laws many and wide jurisdictions that reflect an important role in safeguarding rights and freedoms and strengthen democratic practice, in addition to the prior mandatory control over the constitutionality of organic laws and Rules of procedure of each of the two Chamber of Parliament, the Constitutional Court rules on the conformity of treaties, laws, and regulations of laws and regulations and conformity of laws, and regulations with international treaties that were ratified by Algeria as well as the President of the Republic shall notify it obligatory on the constitutionality of orders initiated in emergency matters during a vacancy of the People's National Assembly or during the parliamentary recess. The Constitutional Court also pronounces on the decisions taken by the President of the Republic within the period of the case exceptional.

The 2020 constitutional amendments has also introduced the mechanism of the exception of unconstitutionality and expanded its scope to include regulatory provisions after it was limited to legislative provisions, when any litigant claims that legislative or regulatory provision upon which the issue of litigation before any jurisdiction relies may adversely affect his rights and freedoms granted by the Constitution.

**Ladies and Gentlemen,**

The 2020 constitutional amendment has also granted Constitutional Court precise and decisive jurisdictions in the field of elections to be distinguished to those of the National Independent Authority of Elections, which is in charge of preparing ,organizing, conducting and supervising electoral processes, whereas Constitutional Court reviews the appeals it receives on the provisional results of presidential and legislative elections and referendum and announces the final results of all these processes as well as it rules on appeals received against decisions of the National Independent Authority of Elections about the validity of candidates for the election of the President of the Republic and appeals against decisions on financing and monitoring electoral campaign of the National Independent Authority of Elections and declares an opinion on them.

**Ladies and Gentlemen,**

As an independent oversight institution and due to its constitutional position, the Constitutional Court is the only institution that may be invoked by the constitutional powers when a dispute or inter-institutional clogging occurs whatever nature. This is the case when the member of Parliament refuses to expressly waive his immunity to be the subject of litigation for any actions unrelated to their parliamentary duties. In this case, the Constitution granted that it is possible for any of the notification authorities to notify the Constitutional Court for decision on lifting immunity or not.

**Ladies and Gentlemen,**

There is no doubt that Constitutional Court exercises this large amount of jurisdictions whatever its differences and its importance, so which it requires two fundamental criteria to the constitutional judge namely; independence criteria and efficiency, that is why constitutional founder has been very careful to ensure its availability under the constitutional amendment of 2020 by a rich and distinguished composition.

In this context, it is clear that the constitutional Court's composition mostly meets criteria of competence, experience, election and impartiality, it is two-thirds of its members are elected, it consists of four (4) members appointed by the President of the Republic, of six professors of constitutional law elected by their counterparts in the Algerian universities, and two judges elected by their counterparts in the Court Supreme and Council of State. The Constitutional founder seeks to grant the Constitutional Court guarantees of impartiality and independence in order to put it out of the political debate without any link between its elected and appointed members with political parties, and no less than twenty (20) years of legal experience.

**Ladies and Gentlemen,**

In spite of the short time of the Constitutional Court, which I have the honor of serving as the first Chairman of it, however, its jurisprudence has achieved a major step particularly in the area of enhancing the practices of democracy area. In addition to dozens of decisions on the control over the Constitutionality of laws by notification and the exception of unconstitutionality, The Constitutional Court ruled on sixty appeals against Decisions of the Committee on controlling electoral campaign accounts of the National Independent Authority of Elections, which undoubtedly considered as a contribution of the Constitutional Court to ensure transparency and integrity on founding electoral processes.

Constitutional Court has also received for the first time in the history of Constitutional justice in Algeria three parliamentary notifications regarding laws voted by Parliament, which it heralds a promising future for the Constitutional Court's position in democratic practice in my country.

Finally, once again I express my deepest gratitude to Mr. Anwar Osman, President of the Constitutional Court of the Republic of Indonesia for having honored us by inviting us to attend this conference wishing you success in the service and development of constitutional justice for the best of our countries and peoples.

**Thank you for listening, May peace be upon you.**