

The principle of legal security in the 2020 constitutional amendment

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Abstract:

The constitutional amendment of 2020 explicitly enshrined the principle of legal security under Article 34. The constitutional framer linked this principle to fundamental rights and public freedoms, establishing it as one of the multiple safeguards protecting these rights and freedoms. Such rights and freedoms may only be restricted in cases of necessity and under the guarantees specified in Article 34 of the aforementioned constitutional amendment.

Additionally, through the same article, the Algerian constitutional framer outlined the key components of legal security, which include:

- Accessibility to the law,
- Clarity of the law, and
- Stability of the law.

Keywords: Legal security, constitutional amendment (2020), fundamental rights, public freedoms, legitimate expectation, freedom of access, stability.

INTRODUCTION

The constitutional framer, through the 2020 constitutional amendment, enshrined the principle of recognizing all rights and freedoms set forth in the Universal Declaration of Human Rights (1948) and other international conventions ratified by Algeria, such as those concerning children's rights and women's rights. This is reflected in Paragraph 16 of the preamble to the constitutional amendment, which states:

"The Algerian people reaffirm their commitment to the human rights enshrined in the Universal Declaration of Human Rights (1948) and the international conventions ratified by Algeria".

To give effect to this commitment, the constitutional framer dedicated Chapter I of Title II to fundamental rights and public freedoms, incorporating most of the rights and freedoms recognized internationally in declarations and treaties. Additionally, numerous other rights and freedoms are scattered across various constitutional provisions outside this chapter.

Moreover, the constitutional framer did not merely recognize these rights and freedoms but also established constitutional protections by introducing multiple safeguards, most of which impose obligations on the state. Among the most significant safeguards is the principle of legal security for fundamental rights and public freedoms, which was explicitly constitutionalized for the first time in the 2020 amendment, after having been implicitly recognized in previous constitutional provisions related to its elements or associated principles.

The principle of legal security serves as a key guarantee for protecting fundamental rights and public freedoms, restraining the legislative authority when legislating in areas affecting these rights and freedoms. This restriction is codified in Article 34 of the 2020 constitutional amendment, which obliges state authorities to:

- Respect the rules pertaining to rights, freedoms, and their safeguards,
- Preserve the essence of rights and freedoms even when restricting them for necessity.

Furthermore, the legislative authority (or its equivalent) must adhere to several components ensuring legal security in legal norms related to rights and freedoms. These components include:

- Accessibility to legal norms,
- Clarity of legal norms,
- Stability of legal norms.

All these elements ensure the quality and precision of legal rules. Article 34 explicitly states:

"Constitutional provisions related to fundamental rights, public freedoms, and their safeguards bind all public authorities and institutions.

Restrictions on rights, freedoms, and safeguards may only be imposed by law and for reasons related to public order, national security, the protection of national constants, or the necessity to protect other rights and freedoms enshrined in the Constitution.

In all cases, such restrictions must not undermine the essence of rights and freedoms.

To ensure legal security, the state, when enacting legislation concerning rights and freedoms, shall guarantee their accessibility, clarity, and stability".

Given this framework, the following research problem arises:

What are the rules and regulations governing the principle of legal security for fundamental rights and public freedoms under the 2020 constitutional amendment?

To address this problem, we adopt a descriptive and analytical approach by:

1. Defining the concept and scope of the principle of legal security and its constitutionalized elements in the 2020 amendment,
2. Analyzing constitutional provisions that enshrine this principle, particularly Article 34 of the latest amendment.

To systematically explore this issue, the paper is structured into three main sections:

.1The Concept of the Principle of Legal Security

.2Legal Security as a Constitutional Guarantee for Fundamental Rights and Public Freedoms

3.The Constitutional Framing of the Core Elements of Legal Security (Its Components)

1. The Concept of the Principle of Legal Security

We will examine the concept of the principle of legal security by defining it from both doctrinal and judicial perspectives, then highlight its main characteristics and features. We will also explain the principle's importance from social, legal, and economic aspects, and finally address its primary objectives.

1.1 Definition of Legal Security

There are numerous definitions of legal security from both linguistic and terminological perspectives, as well as various doctrinal and judicial definitions. However, we cannot cover all these definitions here, so we will limit ourselves to some doctrinal and judicial definitions only.

1.1.1 The Doctrinal Definition of Legal Security

Some scholars define legal security as: "the quality of a legal system that ensures citizens' understanding and confidence in the law at a given time, which will most likely be an independent law".

Others define it as: "a legal protection system aimed at securing—without surprises—the proper fulfillment of obligations and avoiding, or at least minimizing, distrust in the application of the law".

From another perspective, legal security is understood as: "the necessity for public authorities to maintain a degree of relative stability in legal relations and a minimum level of stability for various legal positions, with the goal of spreading security and reassurance among the parties to legal relations. This enables individuals to act confidently in accordance with existing legal rules and regulations at the time of their actions and to arrange their affairs accordingly, without being subjected to surprises or abrupt measures by public authorities that could undermine this reassurance or destabilize this security".

It is also defined as: "the existence of a degree of relative stability in legal relations and the stability of legal positions for the purpose of spreading security and reassurance among the parties to legal relations, whether they are private or public legal persons. These parties should be able to arrange their affairs according to the legal rules in force at the time of their actions, without being exposed to

surprises or unforeseen actions by any of the three branches of government that could undermine the pillars of stability, trust, and confidence in the state and its laws."

1.1.2 Judicial Definition of Legal Security

The French Council of State defined legal security as: "The principle of legal security requires that citizens - without having to make unreasonable efforts - should be able to determine what is permitted and what is prohibited under applicable law. To achieve this result, enacted laws must be clear and understandable, and should not be subject to excessive changes over time, particularly unexpected ones".

From this definition by the French Council of State, we can identify two key dimensions of legal security:

1.The Formal Dimension: Concerns the quality of legislation. Law exists to command, prohibit, prevent and punish...

2.The Temporal Dimension: Relates to the predictability of law. The principle of legal security requires that laws be predictable and that legal positions remain relatively stable...

1.1.3 Characteristics and Features of the Principle of Legal Security

The principle of legal security possesses numerous characteristics and features that make it unique and distinctive. This principle is characterized by its general and imperative nature, as well as by its flexibility and universality, along with its stability and permanence. Legal rules address everyone collectively rather than targeting specific individuals or particular groups. These rules bind both authorities and individuals, making legal security an essential necessity that extends to international legal norms governing international relations, aimed at protecting various human rights. It has thus evolved from being merely a local and national requirement to becoming an international and global demand par excellence.

The key features of legal security can be summarized as follows:

- Fundamental Requirement for the Rule of Law: The principle of legal security is a fundamental pillar of the rule of law and the supremacy of law. It is one of the defining characteristics of a state governed by law, as the rule of law necessitates respect for legal security. Disregarding this principle undermines the foundations of the rule of law and justice.*
- Essential Condition for Guaranteeing Fundamental Rights and Public Freedoms: Legal security is a prerequisite for ensuring the exercise of fundamental rights and public freedoms, such as the right to vote, the right to run for office, investment, trade, and industry.*
- Imperative Nature in Certain Legal Systems: In some legal frameworks, such as that of the European Union, the principle of legal security carries a mandatory character.*
- Common Foundation for Constitutional Rights and Principles: This principle serves as a shared basis for a range of constitutional rights and principles, including non-retroactivity, equality, and others.*
- International Demand, Particularly for Encouraging Investments: The principle has become an international requirement, especially for promoting investments and attracting foreign investors, as it ensures the stability of legislative frameworks regulating investments.*

•*Subject to Evolution and Adaptation: The principle of legal security evolves and adapts in response to emerging phenomena, keeping pace with societal progress. It is influenced by all societal factors and considerations to create a secure and stable regulatory environment within a fair, effective, and evolving legal system.*

•*A Shared Human Right: Legal security is a universal right, as human rights are inherent to all individuals. International human rights law imposes obligations on states and governments to respect these rights, including the right to legal security, which is a demand shared by all humans without exception or discrimination. Everyone is entitled to benefit from a legal system that provides stability, security, reassurance, and the protection of individuals' legal positions within society. Thus, this principle is considered a shared right among all people and a fundamental demand for everyone without distinction.*

1.2 The Importance of the Principle of Legal Security

The importance of the principle of legal security lies in its connection to various aspects of individuals' lives, particularly the social, economic, and legal aspects.

1.2.1 The Social Importance of the Principle of Legal Security

The issue of social control represents one of the fundamental subjects in sociology, examining the societal and political mechanisms that regulate individual and group behavior to maintain socially accepted order. Law is classified among the most powerful means of social control. Hence, the importance of legal security stems from its essential connection to social regulation.

1.2.2 The Legal Importance of the Principle of Legal Security

This stems from the fact that human rights are inherent to all human beings regardless of their nationality, race, gender, birth, residence or any other status. These are rights that every person enjoys by virtue of being human, meaning all people are equal in their entitlement to these rights and in the guarantee of their protection. This principle has been enshrined in most of the world's constitutions, including the Algerian Constitution in Article 3.

1.2.3 The Economic Importance of the Principle of Legal Security

The principle serves as a guarantee for protecting individuals and their interests, representing a fundamental requirement for economic activity. When legislating in economic domains, lawmakers must maintain the stability of legal positions and foster confidence in legal relations, enabling predictability - particularly in investment and commercial environments.

The relative stability of legal relations ensures:

1.Stability of legal positions

2.Promotion of social tranquility and human security in its broad dimensions

Conversely, legal instability leads to:

1.Creation of disorder

2.Spread of conflicts

3.Disruption of normal civilian life

1.3 The Objectives of Legal Security

Legal security aims to make legal rules sound and easily understandable by those subject to them. This in turn achieves objectives that serve as safeguards against arbitrary legislation, namely: protecting rights on one hand, and ensuring transactional stability on the other - shielding them from the negative and secondary effects of legislation.

Regarding the protection of rights and freedoms as an objective of legal security:

Legal rules are purposive by nature, meaning they aim to fulfill their intended function in line with the social, economic and political requirements of society. They evolve according to changing circumstances and are influenced by temporal, spatial and prevailing systemic factors.

Concerning transactional stability as a manifestation of legal security:

This represents both an objective and ultimate goal that legislators seek to guarantee within society. Consequently, unstable legal provisions undermine legal positions and erode trust in legislation.

The scholar Bernard summarized the primary objectives of legal security as follows:

"Stability, guarantee, protection and certainty; the desired confidence in law. Security simultaneously means protection against retroactive effect, clarity, precision and coherence, and knowledge."

The principle of legal security is sometimes expressed through a set of constitutional and legal principles/elements, including:

- The principle of non-retroactivity of legal rules (with some exceptions)*
- The principle of respecting acquired rights or stability of legal positions*
- The principle of legitimate expectation (protecting individuals from unexpected laws/decisions contrary to citizens' reasonable expectations)*
- The principle of limiting the retroactive effect of unconstitutionality rulings*

2. Legal Security as a Constitutional Guarantee for Fundamental Rights and Public Freedoms

The first paragraph of Article 34 of the 2020 constitutional amendment states:

"Constitutional provisions relating to fundamental rights, public freedoms, and their safeguards shall bind all public authorities and institutions."

The principle of legal security, as enshrined in Article 34 of the Constitution, serves as a constitutional guarantee for:

- 1. Fundamental rights and public freedoms recognized by the Constitution.*
- 2. Constitutional safeguards protecting these rights and freedoms, as outlined in various constitutional provisions.*

To analyze this, we will:

- 1. Examine the constitutional recognition of fundamental rights and public freedoms.*
- 2. Outline the legal safeguards constitutionally established to protect and ensure these rights and freedoms.*
- 3. Explore the relationship between rights, freedoms, their safeguards, and the principle of legal security, noting that the constitutional framer explicitly linked legal security to legislation concerning rights, freedoms, and their protections.*

2.1 Constitutional Recognition of Fundamental Rights and Public Freedoms

The Algerian constitutional framer dedicated an entire chapter in the 2020 constitutional amendment to fundamental rights and public freedoms under Title II of the Constitution, titled "Fundamental Rights, Public Freedoms, and Duties." Chapter I, titled "Fundamental Rights and Public Freedoms and Their Guarantees," comprises 44 articles, in addition to other provisions outside this chapter.

These articles enumerate numerous individual and collective rights and freedoms, covering:

- Civil and political rights (e.g., equality before the law, right to life, protection of private life, freedom of movement, political participation).
- Economic, social, and cultural rights (e.g., health, education, work, strike rights, freedom of trade, intellectual freedom, cultural rights).

Examples of Constitutional Rights and Freedoms (Non-Exhaustive List):

- Right to nationality (Article 36)
- Principle of equality before the law (Article 37)
- Right to life (Article 38)
- Protection of private life, honor, and confidentiality of correspondence (Article 47)
- Inviolability of the home (Article 48)
- Freedom of movement (Article 49)
- Political freedoms (voting, candidacy, political parties, promotion of women's political rights) (Articles 56, 57, 58, 59)
- Freedom of trade, investment, and entrepreneurship (Article 61)
- Right to health, education, work, and strike (Articles 63, 65, 66, 67, 68, 70)
- Freedom of intellectual creation, academic freedom, and scientific research (Articles 74, 75)
- Right to culture (Article 76)

Legal Security as a Constitutional Safeguard

These rights and freedoms, whether listed in Chapter I of Title II, other constitutional provisions, or the preamble, must be protected under the principle of legal security (Article 34). The first paragraph of Article 34 states:

"Constitutional provisions relating to fundamental rights, public freedoms, and their safeguards shall bind all public authorities and institutions."

When legislative or executive authorities enact laws concerning constitutionally guaranteed rights and freedoms, they must respect legal security in accordance with the last paragraph of Article 34, which provides:

"To ensure legal security, the state shall, when enacting legislation on rights and freedoms, guarantee their accessibility, clarity, and stability."

Thus, fundamental rights and public freedoms are the core of legal security, which aims to protect them during the legislative process. The Algerian constitutional framer not only recognized these rights but also imposed safeguards during their legislative enactment through legal security and judicial oversight during their exercise.

2.2 Constitutional Legal Guarantees for the Protection of Rights and Freedoms

The rights and freedoms enshrined in the Constitution serve as a constraint on all constitutional authorities, including the legislative, executive, and judicial branches, as well as all administrative bodies. This is explicitly stated in Article 34, Paragraph 1 of the Constitution:

"Constitutional provisions relating to fundamental rights, public freedoms, and their safeguards shall bind all public authorities and institutions."

However, this guarantee must be reinforced by constitutional mechanisms and safeguards to ensure its effectiveness. The 2020 constitutional amendment introduced several such guarantees to protect fundamental rights and public freedoms, all of which are governed by the principle of legal security, as outlined in the final paragraph of Article 34.

Key Constitutional Guarantees for Rights and Freedoms (Alongside Legal Security):

1. Legislative Authority Over Rights and Freedoms Reserved for Parliament

Under Articles 139 and 140, which define legislative domains, the Constitution grants exclusive legislative power to Parliament (not the executive) in matters concerning:

- ✓ *Fundamental rights and duties of individuals,*
- ✓ *Public freedoms and the protection of individual liberties,*
- ✓ *Citizens' obligations.*
- *Article 140 further specifies organic laws, many of which pertain to fundamental rights and public freedoms.*

2. Judicial Oversight as a Safeguard for Rights and Freedoms

Articles 164, 165, and 168 establish the judiciary as the protector of society and citizens' freedoms and rights in accordance with the Constitution.

Article 164 states: "The judiciary safeguards society and the freedoms and rights of citizens in accordance with the Constitution."

3. Constitutional Review of Laws to Ensure Compliance with Fundamental Rights

The Constitution provides for:

- ✓ *A priori constitutional review (before enactment),*
- ✓ *A posteriori constitutional review (after enactment),*
- ✓ *Exception of unconstitutionality (allowing courts to challenge laws that violate rights and freedoms).*

Governed by Articles 190, 193, 195, and 198, these mechanisms ensure that no law infringes upon constitutionally protected rights.

4. National Human Rights Council (NHRC) for Monitoring and Early Warning

Articles 211 and 212 establish the NHRC, tasked with:

- ✓ *Monitoring human rights compliance,*
- ✓ *Issuing early warnings on violations,*
- ✓ *Evaluating human rights conditions in Algeria.*

2.3 The Constitutional Link Between Legal Security and Legislation on Fundamental Rights and Public Freedoms

By examining Article 34 of the Constitution, we observe that the Algerian constitutional framer explicitly connected the principle of legal security with:

1. Public freedoms and fundamental rights
2. The safeguards protecting these rights and freedoms

This connection is evident in three key aspects of Article 34:

1. Structural Placement in the Constitution

- The principle appears in Chapter I ("Fundamental Rights and Public Freedoms and Their Guarantees") as the first article (Article 34), preceding the enumeration of specific rights.
- This sequencing shows the framer prioritized legal safeguards before listing the rights themselves.

3. Binding Nature on All Authorities

The first paragraph establishes that:

"Constitutional provisions relating to fundamental rights, public freedoms, and their safeguards shall bind all public authorities and institutions."

This creates a hierarchical obligation:

- Legislative authority must align laws with constitutional rights.
- Executive authority cannot restrict rights without legislative basis.
- Judicial authority must enforce these protections.

3. Permissible Restrictions and Their Limits

The second paragraph allows restrictions only if:

- Authorized by law (not regulatory decrees)
- Justified by:

o Public order/security

o National constants

o Protection of others' constitutional rights

- Non-derogable: Restrictions cannot violate the core essence of rights and freedoms.

4. Legal Security as the Final Safeguard

The third paragraph mandates:

"To ensure legal security, the state shall, when enacting legislation on rights and freedoms, guarantee their accessibility, clarity, and stability."

This requires laws to meet three criteria:

Element Requirement

Accessibility Laws must be published and knowable to the public.

Clarity Legal language must be unambiguous and precise.

Stability Frequent or unpredictable changes to laws are prohibited.

Conclusion: A Graded Protection System

Article 34 establishes a three-tiered protection:

- 1. General binding force on all state entities*
- 2. Strict conditions for restrictions*
- 3. Quality control through legal security*

This structure ensures that:

- *Rights cannot be abolished (only regulated under strict conditions).*
- *Laws regulating rights must comply with legal security standards.*
- *The core of each right remains inviolable even when regulated.*

3. The Constitutional Embodiment of Key Elements of Legal Security

For legal rules to ensure legal security, they must meet the following essential requirements:

Core Requirements for Legal Rules:

- 1. Equality in application*
- 2. Clarity and absence of ambiguity*
- 3. Incorporation of fundamental values*
- 4. Consistency (avoidance of contradictions)*
- 5. Stability, ensuring:*
 - o Predictability of legal consequences*
 - o Security of contractual relations*
- 6. Accessibility and transparency*
- 7. Fair trial and defense rights*
- 8. Non-retroactivity*
- 9. Prohibition of impossible requirements*
- 10. Binding nature of legal provisions*
- 11. Compliance with legality principle*

Constitutional Basis (Article 34):

The Constitution mandates that legislation concerning rights and freedoms must ensure:

- *Accessibility*
- *Clarity*
- *Stability*

These elements form the constitutional foundation for legal security in Algeria's legal system

3.1 Accessibility of Legal Rules

Also referred to as the perceptibility of legal rules, this element enables the anticipation of legal situations. It helps legislators avoid unconstitutional provisions and allows individuals to assess constitutionality when considering constitutional challenges.

Clarity and perceptibility mean citizens shouldn't forgo exercising constitutional rights due to incomprehensible legal texts. Accessibility requires more than mere publication - legal rules must feature guarantees enabling:

- *Clear understanding of legislative intent*
- *Easy readability*
- *Precise external formulation*

Twofold accessibility requirement:

1. Physical access

- o *Mandatory official publication (Algerian Official Gazette)*
- o *Legal binding effect upon publication (per Article 78 of Constitution)*
- o *Constructive knowledge presumption (ignorance no defense)*

2. Intellectual access

- o *Comprehensible language and structure*
- o *Avoidance of ambiguous terminology*
- o *Elimination of need for judicial interpretation*
- o *Prevention of transactional uncertainty*

Key consequences of inaccessibility:

- *Judicial overreach (courts effectively legislating)*
- *Legal uncertainty*
- *Erosion of acquired rights*

3.2 Stability of Law or Legislative Consistency

The stability of legal rules constitutes one of the most important guarantees of the legal security principle, as it directly impacts individuals' legal positions. Legal provisions should maintain durability and consistency to enable citizens to reliably reference them when conducting their affairs.

However, contemporary societal developments across various fields make absolute legislative permanence impractical. Frequent modifications create:

- *Legislative inflation*
- *Citizen confusion*
- *Threats to legal security regarding individual rights*

Illustrative Example (Electoral Law):

The organic law on elections demonstrates problematic instability:

2012: Organic Law 01-12 enacted

2016: Replaced by Organic Law 10-16

2019: Amended by Organic Law 08-19

2021: Repealed by Executive Order 01-21

2021: Subsequently amended twice

This represents six legislative changes within nine years - a pattern similarly affecting investment laws and other economic rights regulations.

Stability Requirements:

1. Formal Stability

o Reasonable duration between legislative changes

o Measured pace of legal reforms

2. Substantive Stability

o Preservation of core legal principles

o Gradual evolution rather than abrupt overhauls

3. First Branch: Stability in the Form of Legal Rules

4. A fundamental characteristic of legal rules is their stability, meaning their primary source should remain unmodified. Sudden changes can undermine the rule and jeopardize individuals' acquired legal positions that require protection.

5. To preserve the stability of legal rules, legislators often prioritize quantity over quality by formulating rules in quantitative terms that clearly define their content. However, excessive rigidity in the form of legal rules can compromise both their clarity and stability.

3.2.1 Stability in the Substance of Legal Rules

The principle of non-retroactivity of laws is indispensable for achieving legal stability, as the supreme purpose of legal rules lies in fostering public confidence. However, legal stability does not imply absolute permanence or immunity from modification.

When drafting legislation, lawmakers must:

1. Provide clear standards for judicial application

2. Incorporate flexibility in legal formulation

3. Balance stability with necessary legal evolution

The stability of legal rules and positions remains compatible with progressive development when properly implemented.

3.3 Legitimate Expectation of Legal Rules (Legal Predictability)

The principle of legitimate expectation means:

1. Avoiding excessive modifications to legal rules

2. Preventing surprise legislative changes that affect established practices

This principle manifests when individuals are unexpectedly confronted with:

• *New legal provisions they couldn't anticipate*

• *Amendments to familiar rules governing daily transactions*

Key supporting principles include:

3.3.1 Principle of Non-Retroactivity of Legal Rules

This principle prohibits applying new laws to facts occurring before their enactment, limiting their application to present and future situations. Recognized as fundamental to the rule of law and justice,

it applies whether expressly or implicitly constitutionalized, though subject to limited exceptions permitting retroactive application in specific cases.

Constitutional Foundations in Algeria:

1. Taxation (Article 82(4)):

"No tax, levy, duty, or charge of any kind may be imposed retroactively."

2. Criminal Law (Article 43)):

"No conviction shall be ordered except by virtue of a law existing prior to the commission of the prohibited act."

Civil Law Extension (Article 2 of Civil Code)):

While the constitutional framer didn't broadly codify the principle, it receives comprehensive recognition in civil legislation.

3.3.2 Principle of Legitimate Trust

This principle prohibits the state from surprising individuals with laws, decisions, or regulations that violate their reasonable expectations. Closely tied to legal security, it represents one of its key manifestations.

European Court of Human Rights Precedent:

The Court condemned France for implementing unclear legal provisions authorizing telephone surveillance that failed to meet standards allowing citizens to reasonably anticipate such measures.

3.3.3 Principle of Limiting the Retroactive Effect of Unconstitutionality Rulings

A declaration of unconstitutionality concerning an existing law may undermine legal security by:

1. Harming rights acquired under the repealed law

2. Invalidating legal positions established pursuant to the unconstitutional statute

Given these significant consequences, legal scholars advocate establishing controls to restrict the retroactive effect of such rulings as a safeguard for rights and freedoms, thereby reinforcing legal security.

Dual Protection Under the Legitimate Expectation Principle

1. Procedural Protection

o Safeguards based on individuals' reasonable expectations of established administrative procedures (e.g., consultation, appeals, right to be heard)

2. Substantive Protection

o Ensures individuals may reasonably expect to retain benefits from prior lawful acts

o Extends beyond procedural safeguards to substantive outcomes

Scholarly Perspective (Fawzia Qasi)

The researcher posits that legal predictability reveals the true essence of legal security more fundamentally than either accessibility or stability of laws. This predictive element allows for:

- *Systematic analysis of legal security's conceptual framework*
- *Clear delineation of its application to fundamental rights and public freedoms*

CONCLUSION

This study has yielded several key findings:

1. Definitional Aspects

- a. No comprehensive definition of legal security for rights and freedoms exists in doctrine or administrative jurisprudence
- b. Scholarly and judicial efforts focus primarily on enumerating its elements or explaining its importance

2. Constitutional Evolution

- a. The 2020 constitutional amendment explicitly codified legal security in Article 34, marking a transition from implicit to explicit constitutional recognition
- b. The article specifies core components of legal security for rights and freedoms

3. Structural Linkages

- a. The constitutional framer connected:
 - i. Legal security with rights/freedoms
 - ii. Legal security with constitutional safeguards
- b. This dual linkage makes the principle indispensable for legislative protection of constitutional rights

4. Binding Scope

- a. Constitutional provisions on rights/freedoms bind all state authorities
- b. Legal security applies beyond legislation to executive actions (decrees/decisions affecting rights)

Recommendations for Strengthening Implementation:

1. Expanding Article 34

- a. Explicitly extend legal security requirements to governmental decrees implementing parliamentary laws on rights/freedoms

2. Procedural Reforms

- a. Reclassify legislation on fundamental rights as organic laws to enable mandatory constitutional review
- b. Ensure constitutional court oversight of parliamentary compliance with legal security principles

3. Constitutional Enhancements

- a. Constitutionalize supplementary principles through express provisions:

4. Generalized non-retroactivity (beyond current tax/criminal provisions)

5. Legitimate expectations doctrine

6. Acquired rights protection

7. Limits on retroactive effects of unconstitutionality rulings

- **References**

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