A Reading of the Modern Trends in Law

قراءة في التوجهات الحديثة للقانون

Dr. Benrejdal Amel
a.benrejdal@univ-alger.dz
Mechanism for global development in Algeria

Dr. Baadji Ahmed
a.baadji@univ-alger.dz

Date of submission:21/02/2023, Date of final acceptance:26/02/2023,Date of publication: February 2023

Abstract:

The law is the most appropriate means to control society and modernizing the law in itself is a state project that can only be done through amendments and periodic revisions imposed by the new requirements to keep pace with the economic, social and cultural transformations that society is witnessing. Modern laws carry ambitious and new goals aimed at embodying the rule of law to achieve true equality between citizens; hence the Arab countries sought, after their independence, to modernize their Arab laws by codifying them in order to reach a clear and applicable text while maintaining the authenticity that is subject to disagreement and decline. Nowadays, the lesson has become in the interests of the group, where a social approach has appeared in the legal arena in regulating contractual relations, in addition to the emergence of a participatory approach in preparing the legal rule, as a result of the economic openness that led to the adoption of a set of economic reforms that were behind a profound transformation in the function of the state in the economic field.

Keywords: Modern Trends, The Rule of Law, Economic regulation, Public Associations, Financial Law.

ملخص:

يعدُّ القانون أنسب وسيلة لضبط المجتمع، وتحديث القانون في حدّ ذاته يعدُّ مشروع دولة لا يمكن أن يتمّ إلاّ عن طريق التعديلات والمراجعات الدورية التي تفرضها المتطّلبات الجديدة لمواكبة التحوّلات الاقتصادية والاجتماعية والثقافية التي يعرفها المجتمع.تحمل القوانين الحديثة أهدافا طموحة وجديدة تهدف إلى تجسيد دولة القانون لتحقيق مساواة حقيقية بين المواطنين، ومن أجل ذلك سعت الدول العربية غداة استقلالها إلى تحديث قوانينها العربية بتقنينها للوصول إلى نص واضح صالح للتطبيق، مع الاحتفاظ بالأصالة التي هي محل اختلاف وتراجع. لقد أصبحت العبرة في الوقت الحاضر بمصالح الجماعة فظهرت في الساحة القانونية مقاربة اجتماعية في تنظيم العلاقات التعاقدية، بالإضافة الى ظهور مقاربة تشاركية في إعداد القاعدة القانونية، بعدما أدّى الانفتاح الاقتصادي إلى تبنّي مجموعة من الإصلاحات الاقتصادية كانت من وراء تحوّل عميق في وظيفة الدولة في المجال الاقتصادي.

الكلمات المفتاحية: توجهات حديثة، دولة القانون، ضبط اقتصادي، جمعيات عامة، قانون مالية.

Auteur correspondant : Benrejdal Amel

Introduction:

The sixtieth anniversary of independence is an appropriate station to stop at the significant advances in Algerian law during sixty years of restoring national sovereignty and an opportunity to raise issues and problems, as well as the different points of view to chart new horizons for the Algerian legal system.

The law is the most appropriate means to control society, and modernizing the law in itself is a state project that can only be done through periodic amendments and revisions imposed by the new requirements to keep pace with the economic, social, and cultural transformations that society is witnessing.

Modern laws carry ambitious and new goals, aiming at embodying the rule of law to achieve true equality between citizens taking into account the legal positions of individuals - after equality was of abstract nature - as well as achieving democracy, welfare, consumer protection, and environmental protection, and others.

After their independence, the Arab countries sought to modernize their Arab laws by codifying them in the Western way (Codification) to reach a clear text that is valid for application while maintaining the authenticity that is subject to disagreement and decline. The law has always been linked to the sovereignty of the state and the exercise of its power at the internal and external levels, where the law was monopolized and produced by the state alone, and since the law is the product of society, it must keep pace with the social, cultural and economic developments that taking place in it.

One of the major principles that prevailed and were behind the modernization of the law (Principes de modernisation de droit) is the exclusion of religion - the laicity of law - where the law became rational - logical - (Droit rationnel) issued in the form of general, abstract, clear and harmonious rules, and an existing law - natural and religious law - (Droit donné) was abandoned in favor of positive law - existing - (Droit construit) produced by the society based on theories, in which the rules are general and abstract, fixed and valid for application in terms of place and time. Also, returning to the rules of Islamic law - Islamic banking, for example - is regarded as a manifestation of modernity, but the return this time came in a new form that touched on the aspect of transactions and not worships.

Lately, the lesson has become in the interests of the group, similar to the social law and the law of consumption, in which the social law has adopted a collective approach when imposing the idea of collective bargaining in the internal field, which has become one of the basic rights of the worker after it was previously contrary to the public order. Social legislations also have imposed the idea of collective action - collective defense –as collective labor agreements have become a product of collective bargaining.

The consumption law also has adopted a collective approach, as it is a law that provides a collective protection for consumers, i.e. a group of people, because consumer protection is not a consumer issue, but rather a duty of society, and this duty has been placed on the shoulders of the administration and its various institutions, such as the customs

administration, taxes, agriculture, health, trade... etc.. As well as, the role of consumer protection associations in sensitizing, directing and representing consumers before the courts.

In the legal arena as well, a social approach has appeared in the regulation of relations between individuals through the contract, in which the contract becomes effective if it is in the service of the community, such as its role in controlling the market in order to maintain a balance between the rights and duties of dealers to achieve competitiveness within the market, as stated in Ordinance No. 03/03 amended and supplemented, which banned any obligation, agreement or contractual condition that violates the market, thus, the contract has become directed and regulated, not free and absolute.

The issue of protecting the weak contracting party was also a motivation to reconsider many principles in the contract. Instead of the supposed equality, the search for true equality has become necessary, through the consumption law, for example, the legislator has become involved in regulating the contract with imperative rules imposed by the force of the law that cannot be violated, and approved a set of rights and new obligations to achieve equality (such as the obligation to inform, the obligation to conform, the obligation to safety, the right to retract, the period to consider the consumer loan contract...), in order to provide protection to consumers as a whole, thus, contractual relations have become more directive and less unilateral and voluntary.

Furthermore, a participatory approach has emerged in preparing the legal rule. After economic openness led to the adoption of a set of economic reforms that were behind a profound transformation in the state's function in the economic field, the concept of the controlling state appeared instead of the interfering state, which involves those concerned with the legal rule in preparing, issuing and ensuring its implementation. The state is no longer interfering with controlling social and economic relations by traditional methods; but rather involving dealers and market actors in regulation and control.

Today, we are witnessing a clear superiority of the effectiveness of the legal rule at the expense of its actual classification in its three dimensions, where there is no longer much interest in the nature of the legal rule; whether it is imperative or supplementary, the unclear distinction between public law and private law, as well as the disappearance of the absolute sovereignty in the formation of the legal rule; does it come from national rules or foreign rules?

The rule of law is based on a set of legal principles, the most important of which is the principle of separation of powers and the principles of equality and freedom. For a considerable period, legal patriotism prevailed, the principle of separation of powers was consecrated, legislation was within the jurisdiction of the legislative power that derives its authority from the will of the people, and the law was a manifestation of the absolute sovereignty of states.

Under modern constitutions, the state's powers are divided into three powers; namely, the executive, the legislative, and the judicial. The relationship between the executive and

the legislative has witnessed several developments, in which the idea of an absolute separation of powers based on functional specialization and organic separation has turned into the idea of cooperation between powers due to the overlap of jurisdiction between the two powers, but the large number of regulations issued by the executive has led to the emergence of the so-called "removal of codification" as a result of the decline in the role of the legislative and the superiority of the executive in the process of legislative initiative.

In addition to the principle of separation of powers, the principle of freedom and the principle of equality are among the most important principles on which the modern state is based, where equality between citizens and gender equality (Egalite des citoyens et des sexes) have been consecrated and laws based on regionalism, sectarianism, and custom have been excluded, thus, it is the man who decides his fate.

The system of gender equality has passed through various stages. International and regional conventions on human rights, in general, and women's rights, in particular, have consecrated the principle of equality between men and women, especially in political rights. The Algerian constitutions have affirmed this principle through embodying it in national legislation, the latest of which is the Election Law 21-01, which has put an end to the "quota" era and imposed the application of the "principle of parity" between men and women in candidacy.

The concept of sovereignty has known a decline due to the pressure of the international community. International treaties have become a reference for the constitutional judge in Algeria due to the extension of the constitutional bloc to international treaties on the one hand, on the other hand, the international community has imposed respect for human rights, so the issue of spreading international humanitarian law has become a legal obligation and a preventive measure, and a mechanism to achieve humanity in times of armed conflict as well, where the state is committed to spreading the law in all civil and military circles, as well as applying it at the internal level. Thus, states are no longer able to invoke their internal laws in order to evade their international obligations in line with the provisions of the Vienna Conventions on the Law of Treaties that consecrated the principle of supremacy of international treaties.

The state has also sought to keep pace with the principles of liberal economy in order to integrate into the international economic system; by reconsidering intellectual property legislation to be compatible with international treaties and agreements that established international legal foundations for the protection of intellectual property rights, which has given the sources of intellectual property law an international character that affects the sovereignty of the state in terms of its freedom to enact legal rules. The internationalization and spread of trade under the pressure of the international community have also led to the standardization of international trade rules, whether in the form of general conditions, model contracts, or international agreements, and the adoption of alternative methods for resolving disputes such as international commercial arbitration to resolve disputes related to international trade.

Criminal law as well was a sovereign law par excellence, as legislation and punishment were the domain of Parliament. However, the globalization of criminalization texts and the subsequent localization of international treaties have resulted in major transformations that have caused the transformation or decline of the principle of criminal legality, especially after the emergence of some new crimes that depend on the means of information and communication that have had a prominent role in the engineering of the social landscape. This has led the legislator to develop special texts to confront information crime, as well as cross-border organized crime, necessitating the creation of model legislation to fill the legislative deficiency and the conclusion of agreements of a penal nature, leading to the existence of criminal texts of international origin.Nevertheless, with the emergence of special legislation regulating new crimes that the Penal Code was unable to contain, it has become difficult for the codification of penalties and the codification of criminal procedures to retain their place.

Based on this idea, "the Algerian journal of legal and political sciences" planned to provide a space for reflection and analysis, within the framework of a special issue, to researchers in the various legal and political fields, to contribute to the debate, open in all countries of the world, on modern trends in law.

Accordingly, this special issue targeted research papers that focus on the following axes:

First: The collective spirit rather than the individual in regulating the legal rule

Second: The priority of the human rights issue in the legal system

Third: The law as being affected by international influences

Fourth: The prosperity of Islamic law (Sharia) in the field of transactions

The review committee received 62 research papers in the various fields of legal and political sciences, 09 of which were accepted after the double-blind evaluation procedure, which explains the possible imbalance in the number of research papers for each axis.

Section I: Algerian Law Relating to Freedom of Association

In her paper, Professor Souad GHAOUTI presents an overall observation on the freedom of association in Algeria, the founding freedom of all other freedoms, where Tocqueville placed it as the first of all freedoms. Indeed, among all public freedoms, the freedom of association is perhaps the freedom that arouses the greatest interest among Algerian citizens, as it is one of the most important, even before the political parties and trade union freedoms.

Professor Souad GHAOUTI analyzes the legal texts regulating the freedom of association in parallel with reading the numbers that reveal the quantitative and categorical state of the Algerian associations, either national or local, and authorizes reflection on the transformation of the associative movement, on its causes, its aspects, as well as its role and impact.

In her contribution**,** she shows the gradual valorization of freedom of association in the constitutional text, as well as the valorization through the organic integration of associations within certain national public institutions and, on the other hand, the maintenance of a drastic legislative and regulatory legal framework.

1- In the first part, the author deals with the constitutional and institutional recognition that promotes the freedom of association.

The Algerian constituent will gradually, through the successive constitutions from 1963 to 2020, grant freedom of association, among all other freedoms, very particular attention, which represents a clear evolutionary apprehension that was confirmed by the constitutional revision of 01st November 2020, together with an insistence on the sustained and densified preferential treatment offered to freedom of association by extending its scope to include all civil society, as included throughout the constitutional text: in the preamble, through Articles 10, 16 paragraph 3, 53, 77, 210, 211, 212 and 213.

Through the constitutional revision of 01st November 2020, there is a significant increase in the number of advisory bodies, whose number rises to eight.

Civil society is now entitled to be a National Observatory affiliated with the President of the Republic, being responsible for issuing opinions and recommendations, promoting national values and democratic citizenship practice, and participating with other institutions in achieving the national development objectives.

2- In the second part, Professor Souad GHAOUTI deals with the legal framework of associations.

The freedom of association was organized through four (04) laws in addition to an internal department at the Ministry of the Interior, established in 1964:

- Ordinance No.71-79 of December, 03, 1971, the Official Gazette of the Republic of Algeria No.105;
- Law No.87-15 of July, 21, 1987, the Official Gazette of the Republic of Algeria No.31;
- Law No.91-31 of December, 4, 1990, the Official Gazette of the Republic of Algeria No.53, and the last law in force No.12-06 of January, 12,2012, the Official Gazette of the Republic of Algeria No.02;
- Law No.12-06 of January, 12, 2012, relating to associations, Official Gazette of the Republic of Algeria No.02 of 15th January 2012.

In her conclusion, Professor Souad GHAOUTI realizes that we are witnessing a profound transformation in the associative world from a simple and initially charitable one to a role of driving social change, a transformation by a categorical qualitative dynamism due to the fact that some associations will frankly penetrate the public sphere, particularly in some heavy sectors, such as health, assuming a real complementarity to the State's action.

Moreover, the new constitutional treatment of civil society and thus associations can only predict a new drafting of the future organic law in line with the supreme norm.

Section II: The Decorative Functions of the Principle of Legal Certainty in the Economic Field

The Algerian Constitution, revised in 2020, consecrates in its preamble the principle of legal certainty, being a major requirement of the rule of law.

However, according to Professor Rachid ZOUAÏMIA, the analysis of the legal product evolution, governing the economic field and, more particularly, investments, with regards to the principle of legal certainty, raises three types of dysfunctions, namely: the entanglement of legal texts, the phenomenon of the ineffectiveness of the legal rule, and finally, the proliferation of rules resulting from the partial repeal of legal texts.

1- The author of the paper emphasizes that the entanglement of legal texts is manifested through an exaggerated or even disordered multiplication of legal rules, which raises the question of the determination of the judge competent to hear disputes over the cancellation of the unilateral acts of regulatory authorities qualified by the legislator as independent administrative authorities.

2- Regarding the ineffectiveness of the legal rule, the law is adopted only to be applied, otherwise, it would only serve a decorative function. However, this phenomenon is observed in many legislative and regulatory texts, particularly those establishing regulatory authorities or relating to the exercise of some economic activities, where the absence of texts to apply the law leads to its ineffectiveness.

3- Finally, Professor Rachid ZOUAÏMIA stresses that the proliferation of rules resulting from the partial repeal of legal texts represents a generous source of inflation that flagrantly undermines the principle of legal certainty.

Unfortunately, during the promulgation of a new law governing a particular area, the legislator, instead of repealing the previous legislative text, he repeats the provisions that he wishes to maintain in the new law, thus, we often see the promulgation of new laws and the maintenance of certain provisions of the old text, which results in the coexistence of two or even three legislative texts governing the same matter.

In fact, this is a recurring remark regarding the legal arsenal governing public enterprises, the oil sector and, more seriously, investments.

Consequently, both the legislator and the executive power should abandon the promulgation of "show laws" of decorative role, and undertake the modernization of legislation and regulation relating to the economic field.

Section III: The Law of Economic Regulation: an Essay on Definition

According to Dr. Kamel MOUHOUBI the *régulation*, being a new form of a public action backed by a function of public power exercised outside of any interventionist logic, can be defined based on a negative approach distinguishing it from la *règlementation*, and a positive one, devoting it as a palliative to the shortcomings of market self-regulation (*l'autorégulation marchande*).

Definitely, *régulation* is a legal phenomenon that subsequently intervenes in relation to *règlementation* and represents its corollary, as stressed by the author.

In fact, each of them is considered a legal product that actually replaces the other and focuses its full attention on showing its separate and distinct character, which ends with the conclusion that *régulation* is not *règlementation and* le *droit de la régulation* is not an extension of a classical law.

1- In his Paper, Dr. Kamel MOUHOUBI confirms that a society in which the market is the basis of social organization, the regulatory system is formed according to the logic of interdependence between two interacting elements.

The first refers to self-regulation **(***l'autorégulation***),** which represents a natural and spontaneous regulation secreted by the laws of the market, and it is as necessary as insufficient because of the limits inherent in the market forces alone.

The second is called state or legal regulation **(***régulation étatique ou juridique)* because it is carried out legally and comes to remedy the shortcomings of market self-regulation **(***l'autorégulation marchande)***.**

2- This whole, formed by the Market-State binomial **(***binôme Marché–État***),** is part of a desire to establish social and economic balance, subject, of course, to the public interest that preserves the autonomy of the law and its content, which constitutes its raison d'être.

Section IV: "Collective Spirit" or Hymn to the "Individual Spirit": the Example of Algerian Postal Law

The postal law represents a law dedicated to governing the delivery of public service to citizens, which has witnessed a transformation making it a defender of liberal and individualistic competition.

The postal service is a monopoly of the postal administration and can be defined as a public service that naturally adheres to the main principles that characterize it.

However, Professor M'hamedToufik BESSAI emphasizes that the reform of the sector introduced by law No.2000-03 on August 05, 2000, which repeals the ordinance of 1975, pleads for the introduction of competition in the postal and telecommunications sectors, thus creating an inflected monopoly and residual competition.

1- Also, the new successive laws defining the rules relating to the post and telecommunications of 2000 and 2018, work on operating a monopoly circle by setting limits beyond which competition is possible.

Accordingly, it was clearly stated that the State ensures that the post remains an area under surveillance and a territory where the State will continue to exercise postal activity by maintaining its monopoly on issuing postage stamps and any other postage mark and announcing an exclusive system for posting letters, for which it will also fix the postage rates.

Thus, it is a public service concession, and the term " *concédées* " used in the texts does not seem fortuitous in this respect, which is granted to this public institution in order to deliver to the public the services included in this system.

2- It is also important to note the consequence to be drawn from the status granted by law to the institution delivering such services under a monopoly because it qualifies it as an"EPIC" Public Institution of an Industrial and Commercial Nature, which clearly indicates that it acts in the sphere of private law in its relationship with the third parties, including the users receiving these services.

According to Professor M'hamed Toufik BESSAI, postal services are thus distributed among those for which the postal monopoly is maintained, but mediated in their delivery by a postal operator constituted according to the model of the public institution of an industrial and commercial nature, this is on the one hand, and on the other hand, for the delivery of which, persons governed by private law are authorized to operate.

Section V: Constitutional Genesis of Economic Rights in Algeria or the "Liberalization" of the Legal Norm

The concept of the economic constitution has gradually taken its place alongside the political or even social constitution, being a "social contract" to accompany and promote the choices of economic governance.

The Algerian constitution, for its part, was the text guaranteeing the rights and freedoms which are constantly expanding, to finally become imbued with a demand for freedom of enterprise and even the right to evolve sustainably in a prosperous and harmonious environment.

With regard to the successive constitutional reforms, they have contributed positively to guaranteeing the transition to a market economy that respects the country's social particularities and protects its interests, admitting the state's withdrawal from its original role in favour of new institutional entities that would exercise a regulatory role.

1- Dr. Habiba NAILI stresses that this imposed economic openness necessarily had to be complemented by a "legal and normative openness" on the concept of regulation, entrusted to the state's autonomous entities, which held the monopoly of normative production.

The state's role in the economy is no longer debatable, and it is now manifested clearly in the transition phases following crises, in order to allow the emergence of actors capable of achieving take-off and ensure support to them.

This still guarantees the State an important role of arbitration between the wealth–creating investors, and also the protection of vulnerable but economically dominant categories, such as consumers, in order to express themselves in the best conditions thanks to new legal techniques that the constitution had to consecrate, as highlighted by Dr. Habiba NAILI.

2- The history of the emergence of economic rights in the constitutional text in Algeria raises the difficulty of liberalizing the legal norm, clearly adopting regulations and creating the authorities that exercise them freely.

These authorities should benefit from the constitutional recognition and state support to earn the respect of economic actors.This depends on the freedom of action of these authorities and the fullness of their powers and competences, particularly the normative ones.

It is also a matter of being part of a spirit of inclusive economic governance and sustainable development involving unusual but sometimes more effective stakeholders.

Thus, the perspectives offered by the new concept of inclusive governance place it as a modern palliative against the citizen's abstinence and even the investor's reluctance towards public action, according to the author of this paper.

Section VI: The Formulation Mode of Law in the Public Finances Domain

Professor Mohamed Tahar BOUARA traces in his Paper "the formulation mode of law in the public finances domain" the evolution that has characterized budgetary and financial matters in Algerian public law.

The purpose of his study is to identify and analyze the main traits or characteristics that have characterized and still influence Algerian public finances, being of sovereignty by nature.

In general, public finances are subject to the parliamentary powers and were particularly distinguished by the representative system in its various modes of political expression.

1- In the first part, Professor Mohamed Tahar BOUARA deals with the uncertainties of the formulation mode of law in budgetary and financial matters.

The first features that characterized the formulation mode of law in budgetary and financial matters appeared from the independence of the country, these features restored an incomplete process of breaking with the previous law.

The method of the legal formulation will reveal the uncertain approaches to budgetary and financial matters, and the functional meaning will emerge around the prevalence of the Plan, a normative act.

Subsequently, and despite the significant and laborious normative production, the adopted formulation mode will not dissipate the uncertainties resulting from a system in crisis.

The specificity of the formulation mode of law resulting from the revision of the special text relating to financial laws will experience the development of normative acts in the area of public accounting and public control.

2- In the second part, Professor Mohamed Tahar BOUARA discusses the prospects resulting from the formulation mode of budgetary and financial reforms.

In light of this, he wonders if the adoption of the organic law relating to the financial law of 2018 will open up prospects for the prevalence of law in the field of financial laws**.**

If we look at the current mode of drafting, it appears coherent and opens up prospects that lead us to think that the financial system of the state will gradually become more independent.

The rehabilitation of the budget regulation laws constituted an interesting start and deserves to be briefly reported, and the contributions of the new organic law relating to financial laws describe the outline of the reform of the State budget code.

As a whole, the subject of the LOLF (*loi organique relative aux lois de finances*) determines or defines "the general framework" in which the financial laws fall, in particular, this subject concerns the procedures relating to the preparation, adoption and execution of the financial laws.

The subject of LOLF is broad and thus opens up an interesting field for financial and fiscal reform.

Professor BOUARA examines the general provisions of the organic text, which enabled him to draw some useful lessons on the main elements of the envisioned reform. Furthermore, he constantly draws the attention of jurists and analysts to the new meaning of some budgetary and financial concepts resulting from the provisions of the 2018 LOLF.

Section VII: About two Dead Angles in the Legal System of Independent Algeria

Some subjects seem to be marginal and not sufficiently studied. For Cherif BENNADJI, the sixtieth anniversary of the restoration of national sovereignty represented an occasion to deal with two points that have not caught the attention of legal scholars:

1- The first point refers to an important instruction of July 13, 1962, issued by the President of the Provisional Executive and totally ignored by jurists.

According to Cherif BENNADJI, the text which established the continuity of the application of French legislation in Algeria is the instruction issued by the President of the Provisional Executive Power on July 13, 1962, before the promulgation of Law No. 62- 157 of December 31, 1962, aiming at extending the renewal of the legislation in force. Even though he could not access the instruction, he provides evidence that it was the first text that established the maintenance of French legislation during the independence era.

2- The second point refers to the vitivinicole code promulgated by Ordinance No. 76-6 of February 20, 1976, a code ignored by the vast majority of Algerian jurists, which intervenes in the process of Algerianization of legislation (the year that witnessed the promulgation of 114 ordinances and laws.)

Cherif BENNADJI highlights that the formal analysis of the code reveals that its visas are seven in number and its content consists of fifty articles divided into three titles:

* a preliminary title specifying the subject of the text and the numerous definitions and other denominations (Articles 1 to 30);

* a first title dedicated to the vine (Articles 31 to 44)

* a second title entitled “wine, alcohol and other products (Articles 45 to 55).

Section VIII: Where is Constitutional Law Going? Reflections on the Transformations of Actors, Field and Textual Structure

The paper prepared by Dr Lakhdar Alliane and Dr Karima Douaissia is an observational reading of the transformations experienced by constitutional law, either from the point of view of the production of constitutional legal texts or the doctrinal analyses accompanying it.

The authors of this paper point out the factors in which transformation in constitutional law differs specifically from the natural transformation experienced by other legal disciplines: firstly, in the temporal rhythm at which changes occur as a result of the depth of constitutional transformation in the state's legal system, secondly, in the nature of the events that led to the constitutional transformations.

The authors have divided their study into three main axes, the first axis is related to the transformation at the level of the constitutional actors, the second axis is related to the transformation at the level of the constitutional field, and the third axis is related to the transformation at the level of the textual structure defined by the constitutional texts or related texts.

1- The first axis begins by highlighting the factors that destabilize the idea of people as the source of power, which was an almost sacred trick in classical constitutional doctrine.

Furthermore, This axis deals with the circumvention indicators of the representative democracy, which was the exclusive constitutional mechanism in classical constitutional doctrine, and then the disappearance of the constitutional systems modelling, especially the parliamentary and presidential models.

The first axis ends with an analysis of the role of the constitutional judge as a new constitutional actor unable to ignore the fundamental questions of his existence, particularly the question of legitimacy, in addition to the fears of the result produced by the constitutional judiciary.

2- The second axis of the paper is an approach to understanding the change at the level of the constitutional sphere. It starts from an attempt to understand the spirit of the constitution and the change that accompanies it, which is the transition from the constitutions of values to the constitutions of separation of powers and the growth of rights and freedoms in the constitutional field within the text and doctrine.

Moreover, the paper monitors the openness of the constitutional sphere to the administrative field, where the constitutionalization of the rules of administrative law has considerably increased, in addition to the constitutional interest in doctrine and text with an economic aspect, which has widened the presence of economic freedoms and rights, as well as the rules of economic public law.

3- The third axis is an analysis of the most significant transformations at the level of textual engineering in terms of the structure of the text and its basic divisions, as well as at the level of the inflation of constitutional texts, which distinguishes the modern constitutional texts in terms of structure compared to classical abbreviated texts.

Section IX: Public Procurement Law in Algeria: Development and Challenges

Professors Akrour Myriam and Drifi Nadia, based on their specialized university research and teaching the subject of public procurement and the delegation of public utility, deal with " public procurement law in Algeria: development and challenges.

1- The study begins by showing the most important developments known by the Public Procurement Law, as it arose during the French colonization of Algeria and remained in force until 1967, which is the year that witnessed the promulgation of the first text regulating

public procurement, in addition to other texts that came in succession; they are six, the last of which was in 2015; it is a text that combines public procurement and the delegation of public utility.

Following the promulgation of the constitution on the first of November 2020, the will of the constitutional founder was directed towards upgrading the regulation of public procurement in the field of legislation with all its long and complex procedures. This amendment is considered a significant upgrade from a normative point of view, which will be reflected in the procedures for preparing the text of Public Procurement Law and upgrading it in light of the principle of the hierarchy of laws.

2- In the second part of the paper, the challenges of public procurement law are explained, which are numerous in light of the multiplicity of objectives of public demand, including the consecration of the principles of economic freedom, mainly the principles of equality and free competition, the prevention and fight against corruption, the consecration of the principle of legal security, and the protection of the environment.

Finally, the article includes several ideas about the future of public procurement law.

Conclusion:

There is no longer any doubt about the desire of the Algerian legislator to keep pace with the modern trends of law on more than one level. However, the seriousness of change and the effectiveness of keeping pace within his legal system is the real decisive factor in this matter, in which the disparity is clear in presenting the legal rules away from the exact scientific insights and from the methodological discipline in taking from the comparative legal systems. The issue of competition liberalization and controlling the market will not be in isolation from the state's capabilities and policy, socially and economically, and what is directed to the public interest and what is directed to the private interest is also up to the state's policy, not only scientific theories, and the same applies to the promotion of freedoms and rights, which will not be formulated except by taking into account the sovereignty of the state and its relations with the countries of the world. Therefore, this endeavour remains just a relative endeavour with the disparity of the state's legal rules.

1- Bibliography:

1. ZOUAÏMIA Rachid, Les instruments juridiques de la régulation économique en Algérie, Editions Belkeise, Alger, 2012.
2. BELHIMER Ammar, « L'exigence de sécurité juridique et les obstacles à sa mise en œuvre », Revue Algérienne des Sciences Juridiques, Economiques et Politiques, Université d'Alger 1, vol. 50, n° 4, 2013
3. ZOUAÏMIA Rachid, « A la recherche de la sécurité juridique de l'investissement étranger », Revue Académique de la Recherche Juridique, Université de Bejaia, vol. 12, n° 01 (spécial), 2021.
4. ZOUAÏMIA Rachid, « Le déclin des autorités de régulation indépendantes », Revue des études sur l'effectivité de la norme juridique, Université de Bejaia, vol. 5, n° 1, 2021, pp. 197-226.
5. ZOUAÏMIA Rachid, « Le traitement dirigiste de l'investissement étranger dans le secteur bancaire », Revue de Droit Public Algérien et Comparé, Université Djillali Liabès de Sidi-Bel-Abbès, vol. 7, n° 1, 2021.
6. Mohamed Bousoumah : la parenthèse des pouvoir publics constitutionnels de 1992 à 1998 – Edition OPU – 2005 et de Mohamed Brahimi : le pouvoir en Algérie et ses formes d'expression institutionnelles - O.P.U- 2005.
7. F. Mefti : « Les réformes des libertés publiques » mémoire de magister soutenu en langue arabe à la Faculté de Droit de Ben Aknoun en 2013.
8. M'hamed Toufik Bessai« De quelques aspects juridiques saillants de la réforme des télécommunications » Revue algérienne des sciences juridiques et politiques Volume 45, Numéro 3, 2008-09-15.
9. Ahmed Mahiou, « rupture ou continuité du droit en Algérie », RASJPE, 1982, numéro spécial 20ème anniversaire de l'indépendance.
10. DE MARAIS, Bertrand, droit public de la régulation économique, presses de sciences politiques et Dalloz, Paris 2004.
11. P, BOULANGER, Régulation ou règlementation, in observatoire du discours financier en traduction, CDFI.nt2.ca/blog//régulation ou règlementation
12. Kamel, MOUHOUBI, Droit public économique.
13. Abdellatif BENACHENHOU, l'expérience algérienne de planification et développement, OPU, 1982
14. Alain SAMUELSON, Les Grands Courants de la Pensée Économique, OPU, Alger ; 2001
15. Jacques CHEVALLIER, L'État post-moderne, 3eme ed, coll droit et société, LGDJ, Paris ; 2010
16. Rachid BENDIB, l'État Rentier en Crise, Éléments pour une économie politique de la transition en Algérie, OPU, Alger ; 2006

17. Sophie NICINSKI, Droit Public des Affaires, Ed Montchrestien, Paris ; 2009
18. Mohamed Tahar BOUARA, La Loi de Finances en Algérie, thèse de doctorat, faculté de Droit, université Alger 1, Algérie ; 2006
19. Mohamed Amine BOUSSOUMAH, La Notion d'Entreprise Publique en Droit Algérien, In RASJEP, No 02 ; 1989
20. Rachid ZOUAIMIA, Les fonctions répressives des autorités administratives indépendantes statuant en matière économique, In revue IDARA, No 28 (Spécial) ; 2004
21. Rachid ZOUAIMIA, Les autorités administratives indépendantes et la régulation économique, In revue IDARA, No 28 (Spécial) ; 2004.