



The commitment of Algerian state which ensure Economic and Social Rights and preserve its Social rôle

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Abstract

This study aims to show the rôle of Algerian state in the Field of the réalisation of economic and social rights as right of second génération such as the right to house, a job, Food, Health protection and education ,where is the rôle of the state in achieving these rights positive. while the right of first génération such as politic and civil Rights, The rights of first génération must not be broken by the state or its autorités

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1. **Introduction :**

Several criterium classify the human rights according to the declaration concerning human rights that classify human rights in civil and economic rights, the economic and social rights are cited in the international declaration of economic, social and cultural rights, the state must take measures to ensure those last rights.¹.

Among the rights cited the international declaration of economic, social and cultural rights which constitute basic rights and ensure the obtaining of goods and services and economic oportunities for this raison these rights are called positive rights.²

Such as the right to standard of living, the right to job and social assurance, the right to education and health protection and the right to house and food³.

These rights impose on the member state three types of commitments:

- The respect: the state must not intervене on their enjoyment
- The protection: to ensure that the enjoyment of this right must not embarrassed
- Application: taking positive measure to apply them

For thise raisons, the Algerian state has integrated them in its international laws Algerian efforts concerning the enjoyment of this right had started and used politics and measures that we must show in this study.

Hence, the problematic of this study is:

How Algerian state ensure economic and social rights through its commitment in order to preserve its social character?

In other words, to what extent Algeria must respect its commitments with regard social and economic rights in order to preserve the social character of its role taking into account current economic and social transformation?

The answer to this problematic is as follow:

2. **First - Both Social and Economic Rights are International commitments :**

2-1- **Economic and Social Rights in the Universal Declaration of Human Rights:**

This Declaration had confirmed the right of every body to enjoy all the rights and liberties without discrimination on the grounds of religion, race or politic opinion, and others.⁴

The United Nations treaty had confirmed in 1945 the necessity of the

respect of the commitments resulting from this treaty.

According to the universal declaration of human rights, everybody must have the right to enjoy social and international system that realizes the rights and liberties contained in this declaration⁵.

And every person in the society must have the right of social assurance⁶.

Among the economic and social rights appeared in this declaration we can cite:

a- The Right to Laboor:

Universal Declaration of human rights had confirmed the right of every body to work and the right protection against unemployment.

According to This right, the individual must win a salary that ensures for him and his family a life with dignity⁷.

b-The Right to an appropriate standard of living:

According to The universal declaration of human rights in its article 25 chapter 01 states that every person has a right to a healthy alimentation. This right imposes medical services, food, habit (housing) and clothing.

The second chapter of This same article had confirmed That maternity and Childhood has a right to a special assistance and childrens must enjoy the same protection.⁸

c- The right to Education:

The universal declaration of human rights had confirmed in its article 26 The right of every person to a free education.⁹

According to the introduction of this declaration, the state member must cooperate with United Nations in order to ensure the respect of human rights and the basic liberties through education.

In the framework of these rights, this declaration had stated that the state member must use measures in order to realise those rights.

2-2- The Economic and Social Rights appeared in the International declaration of 1966:

The Algerian state had recognized all the economic social and cultural rights appeared in this declaration

Among the social and economic right announced in This declaration we can find :

A- The Right to a sufficient standard of living:

The article 11 of This declaration ensure the right of every Person to a sufficient standard of living, This right ensure for the individual and his family Food and habit.

According to This article, the state member must take measures to protect this right through the amelioration of the

production and conservation and distribution methods in the Field of Food production (alimentary Product)

- The creation of system of distribution in the Field of agricultural estates in order to améliorer the Natural resources.
- Ensuring the distribution of mondial alimentary goods¹⁰.

B-The Right to Laboor:

The article 06 chapter one of the international declaration of economic, social and cultural rights has confirmed that:

the state member has to recognize for every person the right to choose a job that allow him and his family to earn a salary that allow him to achieve a suitable standard of living.

The member state must take measures in order to protect this right.

This article had confirmed the commitment of the states member.

The second chapter of this article oblige the state member to take measures in order to obtain this right.

The states members in this declaration according to article 07 must recognize the right of every personne to enjoy fair conditions of labour such as a fair salary without any discrimination between mans and womens.¹¹

C - The Right to Health Protection:

According to article 12 of the international declaration concerning the economic social and cultural rights, the states members must recognize for everybody his right to good health¹².

Among the measures appeared in this agreement:

- reducing the death rate.
- The amelioration of indistrial and environmental aspects.
- The protection against professionnel illness.
- providing medical declaration services.
- providing a healthy water and basic medicines.

D- The Right to Social Assurance:

According to the article 09 of this declaration the states member must ensure for everybody his right to social assurance and the article 10 imposes that every mother must have a social protection and the state member must forbid the employment of childrens¹³.

E- The Right to Education:

The article 13 of this covenant imposes the right everybody to education:

- The primary enseignement must be compulsory and free

- The technical and professionnel education must be generalized.¹⁴

3. Second: The integration of those commitments in the Algerian constitution:

According to the International declaration on Economic, Social and Cultural Rights, the state must approve the measures which led to recognize the rights appeared in this covenant.¹⁵

For This reason, it will address this part, how does Algeria integrate its international commitments into its legal texts:

3.1- The International Convention in Algeria is Superior to laws:

Algeria had integrated the contents of these conventions in its constitution rules. Which oblige all public authorities in the state to ensure the exercise of all rights¹⁶.

According to the constitutional amendment of 2020, the article 154 and the constitutional conventions are super than laws.

The legal principle or value of treaties in internal system must be understood to determine the issue of their enforcement and application by judicial authorities, and the citizens invocation of it.¹⁷

3.2-Rocognition of Economic and Social Rights in the Constitution

The Algeria state had confirmed the social and economic in its constitution

according both internal legislation and international treaties of human rights, especially the international treaty on economic, social and cultural rights.

Algerian state had realized those rights in its constitution such as:

A- The right to health protection and habit:

The article 63 of Algerian constitution obliges Algerian authorities to allow the individual to:

- Obtain drinking water
- The poor must enjoy the rights to health protection.
- Prevention of infections and contagious illness.
- The right of poors to habit¹⁸.

In Administrative law, public health is considered an element of public order and the Administration exercises the authority of Administrative regulation to protect public order¹⁹.

B- The Right to Education:

According to The article 65 of Algerian constitution (2020) confirmed the right to education is free. And the state had guarantees the continued enjoyment of this right and ensures equal access to education and vocational training²⁰.

C- The Right to Work and Social Assurance:

According to international declaration of economic, social and cultural rights. The constitutional amendment of Algeria 2020 in its article 66 had confirmed that the work is right and duty.

The Algerian legislations ensure the right of worker to a salary and social assurance and Security and the Law sanctions paid employment of childrens.

Algerian state develops policies to create work positions²¹

4. Third- Algerian state use support policies that reinforce economic and social rights:

This section explains the various policies applied in Algeria to ensure the enjoyment of economic and social rights, we mention among them:

4.1-The Application of social support policies by Algeria state:

The Algerian citizen suffers from several problems such as housing crisis and poverty and unemployment and other social problems. In order to avoid the destabilization of Algerian town, Algerian state and its government use social support such as providing goods lower prices through national fond.

The aim of these policies is to realize social peace and justice, because there are those who consider its goal to be political in undemocratic regimes, because with this policy, it buys social peace.²²

This social support has negatively affected the state budget since its costs have increased. In the health and housing sectors these costs had increased by 23% in 2016-2017.

The absence of reliable statistics has caused the failure of the social support politic because those statistics allows to determine the classes that must benefit from this aid according to the level of their salaries.²³

Only 7% of aid goes to those who deserve it and the rich have benfited from this aid more than the poor.

Algeria made significant efforts through national center for the fight against illiteracy²⁴.

The problem is that the support allocations go to the social groups that need them the least.

As well as, the administrative procedures that determine the categories and sectors benefit from social support it is permeated with the risks of financial corruption, bribery and abuse of power

4.2- the application Policy of bonus and free education and unemployment Grant:

The right to education is necessary an essential social right and Algerian state had granteeded this right for all since independence.

The rates of schooling had reached higher levels. These rates had been higher than the rates existing in other towns.

The Algerian legislator had organized the right to work according to civil service code and labor code.

Algerian stated an unemployment benefit for these with university degree in order to ensure peace and security in the country, and used an executive decree number 22-170 of 10-2- 2022 determining the conditions for benefiting from this bonus, and its amount, and the obligations of its beneficiaries. The national employment agency was granted the powers to manege it through its digital platforms and local offices.

Since the 1996, As a result of rising unemployment rates, the Algeria state has established many mechanisms or programs, including:

- Professional integration for certificate holders.
- Establishment of the National Agency for Young Employment.
- Establishment Small and Medium entreprise
- Encouraging investment projects.

Nevertheless, the programs are considered temporary, as the problem is structural, which has led to the lack of adaptation of these programs.²⁵

4.3- The application of housing programs in indifferent forms:

The Algerian state has helped the poor citizens to obtain their right to habitation according to constitution but Algerian had to respect the realization of results according to international covenants and conventions and declarations in this field.

In spite of the great number of distributed houses and the state efforts realyzed in this field the need to housing remain because of the continued augmentation of the population.

The Social changes in Algerian society have kept the need for housing at the forefront of social requirements for the Algerian citizen.

Finally, the application of different housing formulas in Algeria, especially the public social housing and public rental housing formulas for low- income residents, helps to ensure the right to housing for as many citizens as possible. The method of benefiting from these is defined by legale texts²⁶.

4.4- The application of public health policy for poors:

According Bothe constitution and the international treaties the state must provide health services for the citizen and ensure healthy conditions of work the state must fight against the pollution of environment the and contagious illness and the authorities of the state must take measures to protect the citizens health.²⁷.

There are a several laws in the field health such as the law nubmer 81- 11 dated 2-7-2018 this law in its article 12 states that: « the state must ensure the right to health as a fundamental human right in each level ...»²⁸. The amended and supplemented text by executive order No 29/02 dated August 30, 2020.²⁹

This new law that concerne the health gives a special importance to the prevention in its different aspects, in particulary in the field of transmittable illness, this same law has gives a significant importance to the mother and child and old person, with the promotion of nutritional health and physical activity.

This law considers a new health card in order to contrôle the wide spread illness and created fund in order to fight against them.

Allocating the necessary funds to combat diseases and prioritizing the pharmaceutical sector, in light of the increasing private sector investment in local drug production.

The state provides health establishment in order to provide a healthy environment all individuals the society without discrimination for any reason and offering them health education to control communicable diseases.

The state must provide psychic and mental services and precocious diagnostic of diseases and ensuring the availability of proper treatment.

Using the latest equipment and devices to assist in this, providing highly skilled medical staff capable of dealing with various medical condition.

As for the right to social assurance, the constitutional legislator has confirmed this right but he does not state each person must enjoy it:

The workers benefit from the national social fund (cnas) and the traders and artisans and professionals benefit from the national fund for non-salaried workers (casnos).

There are many other classes in the society that have a right to benefit from this right according to the international declaration of economic, social and cultural rights.

For this raison we can say that each person in Algeria enjoy his right to social assurance in spite of the creation of a fund concerning divorced women according executive decree number 22-23 dated in 19-3-2022 and the bonus for women

staying at home whose age lower than 60 years and has not a salary.

The responsible of family who can not physically work and handicapped persons benefit from this same bonus.

Those whom have specific needs can benefit from this bonus according to the executive decree dated in 9/10/2024 and the official newspaper number 68 which determines the conditions in enjoying this bonus.

5. Conclusion:

The Economic, Social and Cultural Rights are considered as rights of the second generation that Algerian guaranteed them for the citizens according the Universal Declaration of Human Rights and the International covenant of economic, social and cultural rights so that Algerian legislator recognize those rights.

Those rights oblige Algerian state to make continued efforts to ensure to realize them. .

Therefore they are rights based on constitutional international law.

Finally we can say that in spite of measures taken by Algerian state in the field of social and economic reforms, Algeria can not allows all the citizens to benefit from these rights because of the social and economic crises.

For this reason the Algerian state must take necessary measures in order to control the enjoyment of these rights.

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