

Fair trial guarantees between international and national guarantees

ضمانات المحاكمة العادلة بين الضمانات الدولية والوطنية



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Abstract:

Fair trial guarantees at the international level include several key elements, such as the right to defense, the right to a public trial, the right to an independent and impartial court, and the right of the accused to know the charges against them. The emphasize the importance of following proper legal procedures and providing transparency, which contributes to achieving justice. The seguarantees are also considered effective tools to combat torture and cruel treatment, and to provide protection for civil and political rights.

At the national level, fair trial guarantees in Algeria include a set of similar rights, such as the right to defense, the right to a fair and public trial, and the right to appeal judgments. These guarantees are essential to ensure justice, but there are issues related to their implementation, such as delays in judicial proceedings and insufficient legal resources.

key words: Fair trial, International law, Algerian legislation. Guarantees.

الملخص:

تشمل ضمانات المحاكمة العادلة على المستوى الدولي عدة عناصر رئيسية، مثل حق الدفاع، وحق المحاكمة العلنية، وحق محكمة مستقلة ومحيدة، وحق المتهم في معرفة التهم الموجهة إليه. تؤكد هذه الضمانات على أهمية اتباع الإجراءات القانونية السليمة وتوفير الشفافية، مما يساهم في تحقيق العدالة. كما تعتبر هذه الضمانات أدوات فعالة لمكافحة التعذيب والمعاملة القاسية، وتوفير الحماية للحقوق المدنية والسياسية. على المستوى الوطني، تشمل ضمانات المحاكمة العادلة في الجزائر مجموعة من الحقوق المماثلة، مثل حق الدفاع، وحق المحاكمة العادلة والعلنية، وحق استئناف الأحكام. تُعتبر هذه الضمانات ضرورية لضمان العدالة، ولكن هناك مشاكل تتعلق بتنفيذها، مثل التأخيرات في الإجراءات القضائية ونقص الموارد القانونية.

الكلمات المفتاحية: المحاكمة العادلة، القانون الدولي، التشريعات الجزائرية، ضمانات.

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Introduction:

Fair trial guarantees are considered fundamental pillars of the rule of law and human rights, aiming to provide a legal environment that protects individuals' rights and ensures justice in judicial proceedings. These guarantees are not just legal texts; they represent essential human values that reflect the international community's commitment to achieving social justice and protecting individual rights.

At the international level, these principles are reinforced through a set of important legal documents, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. These documents affirm that every individual has the right to a fair trial that meets the necessary conditions for achieving justice, such as the right to defense and the right to appeal judgments.

The importance of fair trial in enhancing public trust in the judicial system is highlighted, as a fair judicial system contributes to social and economic stability. These guarantees play a vital role in protecting the fundamental rights of every individual, regardless of their background or social status. Justice is not just a legal concept; it is a human value that ensures the dignity of individuals and protects them from arbitrariness and discrimination.

Problem Statement:

What are the legitimate guarantees for fair trials at both international and national levels, and how do international legal frameworks influence the implementation of these guarantees in domestic legal systems?

Hypotheses:

1. Primary Hypothesis:

Strong international legal frameworks, such as the *Universal Declaration of Human Rights (UDHR)* and the *International Covenant on Civil and Political Rights (ICCPR)*, establish foundational fair trial principles that enhance the legitimacy and enforcement of fair trial guarantees in national legal systems.

2. Secondary Hypotheses:

- The incorporation of international fair trial standards into domestic law leads to greater judicial accountability and reduced arbitrariness in court proceedings.
- Countries with robust mechanisms for enforcing international human rights treaties demonstrate higher compliance with fair trial guarantees compared to those without such mechanisms.

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- The effectiveness of fair trial guarantees at the national level depends on the degree of judicial independence and the rule of law within a given country.

Refined Methodology:

1. Literature Review:

- Analyze key international instruments (UDHR, ICCPR, regional human rights treaties) and their fair trial provisions.
- Examine scholarly articles and case law on the enforcement of fair trial rights in domestic jurisdictions.

2. Comparative Legal Analysis:

- Compare national constitutions and criminal procedure codes to assess how they integrate international fair trial standards.
- Study landmark cases from international bodies (e.g., ECtHR, IACtHR, UN Human Rights Committee) and their influence on national courts.

3. Case Studies:

- Select countries with varying levels of compliance (e.g., strong vs. weak adherence to ICCPR) to evaluate the impact of international norms.

Tools for Research:

- **Reference Management:** Zotero, Mendeley, Google Scholar
- **Legal Databases:** Westlaw, LexisNexis, HeinOnline, UN Treaty Body Database
- **Case Law Repositories:** HUDOC (ECTHR), WorldCourts (international tribunals)

Guarantees of Fair Trial at the International Level

Fair trial guarantees at the international level encompass several key elements that are essential for ensuring justice and protecting individual rights.

The first requirement: The Concept of Fair Trial Internationally

The right to a fair trial is widely recognized as a cornerstone of international human rights law, serving as a fundamental pillar that underpins the legal systems of democratic societies. This principle reflects the commitment of states to uphold individual rights throughout legal processes, ensuring that every person, regardless of their circumstances, has access to justice. The importance of this right cannot be overstated, as it not only safeguards the rights of the accused but also serves to maintain public confidence in the integrity and efficacy of the legal system. A fair trial is essential for upholding the rule of law,

protecting against arbitrary detention, and ensuring that justice is administered without bias or discrimination.

Evaluating the fairness of criminal justice systems is a complex endeavor that relies on various international treaties and standards. These frameworks establish the essential criteria for ensuring that justice is delivered equitably and transparently. For instance, documents like the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights outline fundamental rights related to due process, the presumption of innocence, and the right to legal representation. Such treaties not only articulate the standards that states are expected to meet but also provide a basis for accountability when those standards are not upheld.

For a criminal trial to be fair according to international standards, two fundamental conditions must be met:¹

- **Adherence to International Standards:** Legal procedures must comply with international norms, which may arise from treaties, customary practices, or overarching principles of international law. This requirement ensures that all legal processes are consistent with the rights and protections outlined in international agreements.
- **Judicial Independence and Impartiality:** Criminal trials should be conducted by a judiciary that is both independent and impartial, as mandated by law. This principle is crucial to prevent any external influences from affecting the outcomes of the trial.
- **Article 10 of the Universal Declaration of Human Rights** emphasizes the fundamental right of every individual to have their legal matters addressed in a fair and just manner. It asserts that individuals have the right to have their cases heard by an independent and impartial court, which is crucial for ensuring that judges are free from external influences and biases. This independence is vital for maintaining the integrity of the judicial process. The principle of fairness encompasses the right to a proper defense, ensuring that all individuals are treated equally under the law, regardless of their background or circumstances. Additionally, the requirement for a public trial promotes transparency, allowing the public to observe the judicial proceedings, thereby fostering trust in the legal system and ensuring accountability.²

¹ Abdullah Al-Habib Ammar, *International Standards for Fair Criminal Trials*, p. 2.

²Article 10 of the International Covenant on Civil and Political Rights, 1966.

The second requirement: International Standards for Fair Trial

First section: Investigation Stage

This analysis examines the International Covenant on Civil and Political Rights (ICCPR) and its role in ensuring fair trial standards, particularly during the investigation phase of legal proceedings. A central theme is the emphasis on pre-trial safeguards, indicating that the right to a fair trial begins prior to formal court proceedings. This focus underscores the necessity for protective measures to prevent potential abuses during initial detentions, thereby ensuring that individuals are treated fairly from the outset.

Article 9 of the ICCPR is significant as it addresses rights related to personal liberty and security. It explicitly prohibits arbitrary arrest, serving as a fundamental legal safeguard against wrongful detention. The ICCPR mandates that any arrest must be justified by lawful grounds, reinforcing a commitment to ensuring that law enforcement actions are legally sound and appropriate, which is essential for protecting individual freedoms.

Transparency and accountability are further enhanced by the requirement for law enforcement to inform individuals of the reasons for their arrest. This stipulation fosters an environment conducive to scrutiny of law enforcement actions, thereby preventing potential misuse of power. By ensuring that individuals are aware of the charges against them, the ICCPR promotes a legal culture characterized by openness and fairness.

Judicial oversight is another crucial element highlighted by the ICCPR, particularly the provision that detainees must be presented before a judge without undue delay. This requirement serves as a mechanism to prevent prolonged detention without trial, reinforcing the principle that justice should be timely and efficient. Such oversight is essential for maintaining public trust in the judicial system, ensuring that individuals are not held indefinitely without legitimate legal justification.

The ability for individuals to challenge the legality of their detention is also emphasized. This provision allows for judicial review, which helps prevent abuses of power by authorities and reflects a commitment to protecting individual rights within the legal framework. By facilitating this process, the ICCPR ensures that detentions are lawful and justified, contributing to a more equitable legal system.

Additionally, the covenant's stipulation that victims of unlawful detention are entitled to compensation serves multiple purposes. It provides a remedy for individuals whose rights have been violated and acts as a deterrent against

arbitrary detentions by holding authorities accountable for their actions. This provision reinforces the principle that justice should be restorative, allowing individuals to seek redress when their rights are infringed. Overall, the ICCPR establishes essential protections that contribute to the integrity of the judicial process and uphold human rights.

Article 10 concerns the treatment of detained individuals, emphasizing the need to respect their dignity and treat them humanely¹. Suspects must be separated from convicts except in exceptional circumstances, and events must be segregated from adults. Prison policies focus on the rehabilitation and reintegration of inmates.

The guarantees can be divided into several key points, including the right to protection from arbitrary arrest, where arrests must be based on legal reasons, and any unjustified arrest is considered arbitrary. The right to compensation allows victims to seek redress through the courts for damages resulting from unlawful detention. The right to humane treatment prohibits individuals from being subjected to torture or cruel treatment, emphasizing treating them as innocent until proven guilty.

The Second section : During the Trial

The guarantees and international standards outlined in Article 14 of the International Covenant on Civil and Political Rights (ICCPR) are fundamental to ensuring a fair trial, safeguarding the rights of individuals in both criminal and civil proceedings. This article asserts that all individuals are equal under the law and have the right to have their cases adjudicated by an independent and impartial court established in accordance with legal provisions.

Article 14 highlights the importance of public trials, with exceptions made only in specific circumstances where justice or the protection of individuals' private lives necessitates confidentiality. Additionally, it reinforces the principle that every accused individual is presumed innocent until proven guilty, embodying a key tenet of any equitable legal system.

These guarantees establish a framework for various rights essential to the pursuit of justice. Accused persons have the right to be informed promptly and clearly of the charges brought against them, using a language they comprehend. They must also be afforded adequate time and resources to prepare their defense. Furthermore, the article stipulates that trials should occur without

¹ Article 10 of the International Covenant on Civil and Political Rights, 1966 (Humane treatment of persons deprived of liberty) - University of Minnesota Human Rights Library.

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undue delay, and individuals have the right to represent themselves or to be defended by a lawyer of their choosing.¹

The article further empowers individuals by granting them the right to call and examine prosecution witnesses, which reinforces the principle of adversarial justice. This right is fundamental in ensuring that both sides of a case are heard, allowing for a balanced and fair trial process. The ability to challenge the evidence presented by the prosecution not only enhances the defense's position but also serves as a critical check on the power of the state. By allowing individuals to confront their accusers, the judicial system fosters a more equitable environment where the truth can emerge through scrutiny and rigorous examination. This adversarial approach is essential for maintaining the integrity of the legal process, as it ensures that the evidence is thoroughly vetted and that the rights of the accused are protected.

In addition to the right to examine witnesses, the provision for oral translators or written translation is crucial for ensuring that individuals who do not understand the court's language can fully participate in the proceedings. This inclusivity is essential for upholding the dignity and rights of all participants in the legal process, as it ensures that language barriers do not hinder access to justice. When individuals are able to understand the proceedings, they are better equipped to defend themselves, present their cases, and engage meaningfully with the legal process. This commitment to accessibility demonstrates the legal system's dedication to fairness and justice, ensuring that all voices are heard, regardless of linguistic background.

the article explicitly prohibits the coercion of the accused to confess or testify against themselves, which is a fundamental safeguard of individual rights. This protection upholds the principle that individuals should not be compelled to incriminate themselves, thereby promoting a fairer legal process. The prohibition of self-incrimination is a cornerstone of democratic legal systems, as it recognizes the inherent power imbalance between the state and the individual. By safeguarding against coercive practices, the legal system reinforces the idea that justice should be pursued through voluntary and truthful testimony rather than through intimidation or force. This principle not only protects the rights of the accused but also enhances the overall reliability of the judicial process.

convicted individuals have the right to appeal their judgments to a higher court, allowing for a thorough review of judicial decisions. This right to appeal is a critical component of the legal system, as it enhances accountability and

¹ Ibid.

serves as a mechanism for correcting potential errors made in lower courts. The appellate process ensures that judicial decisions are subject to scrutiny, thereby reinforcing the notion that justice is not only about the outcome of a case but also about the fairness of the process that led to that outcome. This multi-tiered approach to justice promotes a system where individuals can seek remedies for perceived injustices, thereby contributing to the overall integrity of the legal framework.

These guarantees function as a protective shield for individual rights while enhancing the overall integrity of the judicial process. By establishing clear standards for the treatment of individuals within the legal system, these provisions help to prevent abuses and ensure that justice is served. Compliance with these standards not only facilitates the attainment of justice but also fosters public trust in the legal system. This trust is vital for a healthy democracy, as it encourages citizens to engage with and uphold the law, thereby promoting social justice and the right to self-defense. When individuals believe in the fairness of the legal process, they are more likely to participate in it, whether as jurors, witnesses, or advocates for their rights.

Emphasizing the protection of individual rights during the investigation phase is vital for enhancing the overall justice system and safeguarding human rights. Protecting these rights early in the process is essential for preventing abuses and ensuring that every individual is treated with fairness and respect. By addressing potential violations at the outset, the legal system can mitigate the risk of wrongful convictions and ensure that justice is not only done but is also seen to be done. This proactive approach to safeguarding rights reflects a commitment to human dignity and the rule of law, which are foundational to any democratic society.

These principles establish a foundational framework for a fair trial, ultimately contributing to society's confidence in the judicial system. A robust legal framework not only ensures justice for individuals but also strengthens the moral fabric of society, promoting a culture where rights are respected and upheld for all. When individuals feel that their rights are protected, they are more likely to have faith in the institutions.¹

The Third section: Post-Trial

International law provides essential guarantees to uphold trial fairness, aligning with established frameworks for the protection of human rights. While there are no explicit provisions addressing the post-trial phase, the concept of

¹Article 14 of the International Covenant on Civil and Political Rights, 1966.

"post-trial guarantees" encompasses the rights and protections that must be observed once a defendant's guilt has been established and sentencing has commenced. Central to these guarantees is the principle of dignity, which international law staunchly defends. Consequently, any punishment must be administered in a manner that respects this dignity, ensuring that it is only executed following a conviction from a fair and just court. Furthermore, punishments must adhere to the principle of proportionality in accordance with international standards.

The fundamental post-trial standards that reflect international norms are critical in ensuring that the rights of individuals are upheld even after they have been convicted and sentenced. These standards emphasize the necessity of maintaining human dignity and preventing further injustices within the penal system.

1. Release After Serving the Sentence

One of the cornerstone principles is the requirement that individuals must be released after serving their sentence. It is deemed impermissible to detain individuals beyond the completion of their prescribed punishment. This standard underscores the importance of upholding individual rights and preventing unlawful extensions of punishment. Ensuring that individuals are released as scheduled not only respects their dignity but also reinforces the integrity of the justice system. It serves as a safeguard against arbitrary detention and fosters a legal environment where individuals can reintegrate into society after serving their time.

2. Prohibition of Torture and Cruel Treatment

Another fundamental standard is the absolute prohibition of torture and cruel treatment. This principle is non-negotiable and ensures that any form of inhumane treatment is strictly outlawed. By mandating that the execution of punishment remains humane and respectful of human dignity, this standard reflects a commitment to ethical treatment within the penal system. The prohibition against torture is essential for upholding international human rights standards and serves as a critical deterrent against abuses that can occur within correctional facilities. It reinforces the notion that punishment should not degrade or dehumanize individuals, but rather should aim to rehabilitate and reintegrate them into society.

3. Prison Monitoring

Regular inspections of prisons are another vital aspect of post-trial standards. Establishing systematic oversight is essential to ensure that prisons

adhere to humane practices and provide adequate healthcare for inmates. These inspections help to identify and rectify any violations of rights or standards, thereby promoting a culture of accountability within correctional institutions. By maintaining regular checks, authorities can ensure that inmates are treated fairly and that their living conditions meet established human rights benchmarks. This monitoring is crucial for preventing neglect and abuse, ultimately fostering a safer and more humane environment for those incarcerated.

4. Communications and Visits

The right of inmates to communicate with the outside world and receive visitors is a fundamental component of post-trial standards. This right enhances the human rights of individuals in detention and mitigates the psychological isolation that can often accompany incarceration. Allowing communication with family, friends, and legal representatives not only supports the mental well-being of inmates but also facilitates their reintegration into society. It ensures that they maintain connections with their support networks, which is vital for their rehabilitation. Furthermore, enabling visits can help to uphold the dignity of individuals by acknowledging their humanity and right to maintain personal relationships, even while serving their sentences.

these fundamental post-trial standards reflect a commitment to upholding human rights within the justice system. They ensure that individuals are treated with dignity and respect, even after conviction, while fostering an environment conducive to rehabilitation and reintegration. By adhering to these principles, societies can work towards a more humane and just penal system that aligns with international human rights norms.

To effectively implement these post-trial guarantees, clear legislation and robust monitoring mechanisms must be established by relevant authorities. This requires collaboration among judicial and administrative bodies, as well as civil society organizations, to uphold human rights throughout all stages of the punishment process.

By ensuring that these standards are met, international law can foster a legal environment that respects individual dignity and promotes justice, even after the trial has concluded. This commitment to humane treatment and fairness is essential for building a just society where the rights of all individuals are upheld.¹

¹ Sharif Amina – Objective Standards for Fair Trials in International Law and Algerian Law, Doctoral Thesis in Public Law, Abou Bakr Belkaid University, Tlemcen, 2015/2014, p. 87.

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Achieving justice does not end with the issuance of a judgment but continues into the punishment execution phase. Strict adherence to international guarantees is essential to prevent violations of individuals' rights, contributing to strengthening the legal system and reflecting society's commitment to human rights.

Guarantees of Fair Trial at the Algerian Legislative Level

The provisions of fair trial at the legislative level in Algeria show a dedication to preserve justice and safeguarding of personal liberties. However, addressing implementation challenges is crucial for ensuring that these rights are effectively realized in practice, thereby enhancing public confidence in the legal system.

The first requirement : Sources of Fair Trial in Algerian Legislation

First section: The Constitution

The constitution is the cornerstone of the legal hierarchy in the Algerian Republic, serving as the primary source for the concept of a fair trial. It establishes a foundational framework that ensures the application of related procedures through a set of rights and duties granted to individuals by the constitutional authority. This legal structure is designed to uphold justice and protect individual freedoms, which are essential components of a fair judicial process.

The evolution of this legal framework can be significantly attributed to the contributions of jurist Hans Kelsen, who articulated the general theory of the state. Kelsen's work laid the groundwork for understanding the relationship between the constitution and the legal system, emphasizing the importance of a hierarchy of norms. His ideas have influenced the development of constitutional law and the principles that govern fair trials, ensuring that individual rights are safeguarded within the legal framework.

On March 6, 2016, amendments to the constitution were made, enhancing the legislative and regulatory framework to incorporate guarantees for individual rights and fair trial standards. These amendments reflect a commitment to improving the legal system and strengthening protections for citizens. The constitutional provisions serve as broad directives for the enactment of other laws, guiding the legislative process and ensuring that new laws align with the principles enshrined in the constitution.

In the preliminary draft for the 2020 constitutional amendment,¹ the committee proposed a total of 66 amendments, with 25 specifically addressing

¹DraftConstitutionalAmendment May 2020.

legal matters, individual rights, freedoms, and the judiciary. These proposals are aimed at reinforcing legal security and ensuring that fundamental rights may only be constrained by law. This approach underscores the importance of legal certainty and predictability in the application of justice.

One of the key proposals includes guaranteeing compensation for unlawful detention, which serves as an essential safeguard for individuals wrongfully deprived of their liberty. This provision not only provides a remedy for victims but also acts as a deterrent against potential abuses by authorities. By establishing clear mechanisms for compensation, the amendments strengthen the accountability of the state and reinforce the principle that individuals must be protected from arbitrary actions.

the proposed amendments seek to enhance judicial independence, recognizing the critical role that an impartial judiciary plays in upholding the rule of law. By empowering the judiciary and ensuring its independence from political influence, the amendments aim to foster a legal environment where justice can be administered fairly and without bias. This independence is vital for maintaining public confidence in the legal system and ensuring that individuals have access to justice.

Furthermore, the amendments empower the highest authorities to combat corruption, addressing a significant challenge within the legal and political landscape. By equipping authorities with the necessary tools to combat corruption, the constitutional changes aim to promote transparency and accountability. This commitment to fighting corruption is essential for building a legal system that reflects the principles of fairness and equity.

the constitution of the Algerian Republic serves as a vital instrument for ensuring the protection of individual rights and the establishment of fair trial standards. The amendments made in 2016 and the proposed changes in 2020 reflect a proactive approach to enhancing the legal framework and addressing contemporary challenges. By reinforcing legal security, guaranteeing compensation for unlawful detention, enhancing judicial independence, and empowering authorities to combat corruption, these constitutional developments contribute to a more robust and equitable legal system in Algeria.

Overall, these proposals represent additional safeguards for the protection of rights and freedoms, indicating a political shift towards a semi-presidential system in Algeria. Such amendments fortify the constitution's position as the paramount legal authority within the country.¹

¹ Sharif Amina, op. cit., p. 91.

The second section: Ordinary Laws

First: Penal law

The Penal Code is recognized as the third tier within the hierarchy of laws, following the Constitution and the Code of Criminal Procedure. It serves as a critical safeguard for individuals against violations that threaten their rights, prescribing penalties for various offenses. The principle of legality enshrined in its first article establishes that "there is no crime or punishment except by legal provision," thereby ensuring that individuals are only held accountable under laws that are clearly defined.

Additionally, the Penal Code underscores the principle of non-retroactivity, meaning that laws cannot be applied to actions that occurred prior to their enactment. It also specifically prohibits torture, reinforcing the commitment to protecting individual rights.

Second: law of Criminal Procedure

The Code of Criminal Procedure provides the legal framework governing criminal proceedings and is a vital component of criminal legislation. It outlines the various stages of legal processes, from initial investigation through to trial, while ensuring the rights of defense and the right to a fair trial. Recent amendments to this code have reinforced the principles of legality and respect for human dignity, including the right to not be tried twice for the same offense. Furthermore, special procedures for certain events and the establishment of an appellate criminal court have been introduced to enhance judicial efficiency and fairness.

Third: Basic Law for Judges

The Basic Law for Judges serves as a constitutional framework that regulates the rights and responsibilities of judges. It aims to safeguard the interests of judges, establish disciplinary measures for misconduct, and emphasize the importance of impartiality and integrity within the judiciary. This law is crucial for maintaining public confidence in the judicial system.¹

Fourth: Basic Law for Advocates

The Basic Law for Advocates plays a crucial role in the legal system by recognizing the profession of advocacy as a fundamental pillar of justice. This foundational framework is essential for ensuring that the rights of the defense are protected, thereby contributing to the overall fairness and integrity of the judicial process. By affirming the importance of advocates, the law emphasizes

¹ - BoukraIdriss – Public Freedoms in Exceptional Circumstances in Algeria – Master's Thesis – University of Algiers, p. 153

that a robust defense is vital for the administration of justice, allowing individuals to effectively challenge accusations and present their cases.

Within this regulatory framework, the rights and duties of lawyers are clearly defined. This clarity is essential for guiding legal practitioners in their roles and responsibilities, ensuring that they operate within established ethical boundaries while advocating for their clients. By delineating these rights and duties, the Basic Law provides a structured environment in which lawyers can perform their functions confidently and competently.

Moreover, the law grants lawyers special protections that facilitate effective and unbiased defense. These protections are critical for allowing advocates to operate without fear of reprisal or undue influence, ensuring that they can represent their clients to the best of their abilities. By safeguarding these rights, the law reinforces the principle that every individual is entitled to a competent defense, which is a cornerstone of a just legal system.

Promoting these principles not only enhances the integrity of the justice system but also upholds the rule of law. When advocates are able to perform their duties without interference, the legal process as a whole is strengthened. This leads to fairer trial outcomes, as the voices of the defense are heard and considered in judicial proceedings. The law thus serves to balance the scales of justice, ensuring that both sides are adequately represented.

Additionally, the recognition of advocacy within this framework fosters public confidence in the legal system. When individuals see that their rights are protected and that they have access to competent legal representation, their trust in the judicial process is bolstered. This trust is vital for the legitimacy of the legal system, as it encourages citizens to engage with the law and seek justice when needed.

The second requirement: Guarantees of Fair Trial within Algerian Legislation

The guarantees related to pre-trial detention raise many concerns among observers and human rights advocates, as this measure is considered a blatant violation of rights and freedoms, especially in Arab societies, particularly during the Black Decade in Algeria. Individuals often suffer from excessive detention without compensation for judicial errors.

Pre-trial detention was amended under Law No. 08-01, allowing for an extension of detention for up to four months upon a prosecutor's order, with the possibility of two extensions, totaling up to eight months. One of the most important guarantees is the oversight by the Chamber of Accusations for this

detention, where the reasons, duration, and conditions for extension are specified as an exceptional procedure.

Regarding the right to defense and the assistance of a lawyer, these are considered fundamental rights for the accused. The accused can seek legal counsel during both the investigation and trial stages, enhancing their chances of a fair trial by providing necessary legal support.

According to the Code of Criminal Procedure, the accused has the right to choose a lawyer, and if not chosen, a judge-lawyer is automatically assigned. The law also mandates the presence of a lawyer in event-related cases, highlighting the importance of legal representation in protecting the rights of the accused.

The Algerian Constitution affirms the right to defense in Article 169, ensuring the rights of the accused and reinforcing the principle of a fair trial.¹ The Algerian legislature, like other global legislations, has leaned towards guaranteeing the right to appeal, stating that "everyone has the right to have their case heard by a high judicial authority." This commitment underscores the importance of ensuring that individuals have access to a higher level of judicial review, promoting fairness and justice in the legal system.

To facilitate appeals to the Court of Cassation, the method of preparing appeal files has been amended to ensure they are ready for adjudication in the Supreme Court. This change aims to reduce the burden of travel and streamline the appeal process, making it more accessible for litigants.

Provisions have also been put in place to limit appeals related to judgments in misdemeanors and offenses. Specifically, appeals are restricted for penalties not exceeding 50,000 DZD for natural persons and 200,000 DZD for legal persons. This measure aims to balance the right to appeal with the need to prevent excessive litigation over minor offenses.

In summary, Algerian legislation reflects a commitment to upholding the right to appeal, with structured procedures and provisions designed to enhance access to justice while maintaining the integrity of the judicial system. These developments are crucial for fostering trust in the legal process and ensuring that all individuals can seek redress through higher judicial authorities.²

Conclusion :

¹ See Article 169 of the Constitution dated March 6, 2016.

² Abdul Rahman Barbari – Limits of the Exceptional Nature of Algerian Military Justice. Doctoral Thesis. University of Algiers. Faculty of Law. 2006/2005. p. 192

In essence, attaining justice and safeguarding individual rights at both national and international levels depend on the assurances of a fair trial. This research highlights that international treaties and agreements, such as the International Covenant on Civil and Political Rights, establish clear standards for ensuring the right to a fair trial. These standards include essential elements such as the right to defense, public trials, and the right to appeal.

At the national level, Algeria has enshrined these guarantees within its constitution and laws, explicitly outlining the rights of litigants and demonstrating the state's commitment to upholding fair trial standards. The evolution of Algerian legislation towards enhancing judicial independence and ensuring defense rights reflects an ongoing effort to build trust in the judicial system.

This research highlights that international treaties and agreements, such as the International Covenant on Civil and Political Rights, establish clear standards for ensuring the right to a fair trial. These standards include essential elements such as the right to defense, public trials, and the right to appeal.

At the national level, Algeria has enshrined these guarantees within its constitution and laws, explicitly outlining the rights of litigants and demonstrating the state's commitment to upholding fair trial standards.

Recommendations

1. Strengthening Judicial Procedures

Continuous evaluation and reform of judicial procedures are necessary to minimize delays and enhance efficiency in the legal process.

2. Enhancing Legal Resources

Increasing access to legal aid and resources for individuals, particularly those from marginalized communities, is essential for ensuring effective defense.

3. Promoting Awareness Campaigns

Implementing educational programs to inform citizens about their rights and the legal process can empower individuals to advocate for themselves and seek justice.

4. Fostering Collaboration

Encouraging cooperation between legal institutions, civil society organizations, and other stakeholders will enhance the protection of litigants' rights and promote a culture of accountability.

By addressing these challenges and implementing the recommendations, Algeria can further its commitment to the principles of justice and human rights,

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ensuring that the guarantees of a fair trial are fully realized both domestically and internationally.

Bibliography:

1. Abdullah Al-Habib Ammar, International Standards for Fair Criminal Trials.
2. Article 10 of the International Covenant on Civil and Political Rights, 1966 (Humane treatment of persons deprived of liberty) - University of Minnesota Human Rights Library.
3. Article 14 of the International Covenant on Civil and Political Rights, 1966.
4. Sharif Amina – Objective Standards for Fair Trials in International Law and Algerian Law, Doctoral Thesis in Public Law, Abou Bakr Belkaid University, Tlemcen, 2015/2014.
5. Draft Constitutional Amendment May 2020.
6. BoukraIdriss – Public Freedoms in Exceptional Circumstances in Algeria – Master's Thesis – University of Algiers.
7. Article 169 of the Constitution dated March 6, 2016.
8. Abdul Rahman Barbari – Limits of the Exceptional Nature of Algerian Military Justice. Doctoral Thesis. University of Algiers. Faculty of Law, 2006/2005.