



Guarantees to protect and promote human rights and public freedoms

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Abstract

In order to protect public rights and freedoms in the state, several legal guarantees have been established solid foundations and principles. Among these guarantees are the principle of the rule of law, the principle of equality, the principle of good legal writing that recognizes public rights and freedoms, the principle of legality, and the principle of separation of powers, considering these principles a good foundation for achieving protection, Actual human rights, which enable individuals, administrative institutions, and judicial bodies to contain concepts and apply them well to achieve their goal of protecting and promoting human rights and public freedoms.

legitimacy, equality, Justice, Rule of law, the authorities. Judiciary, the law

1. INTRODUCTION

International agreements and declarations universally mandate states to safeguard the fundamental freedoms of all individuals. These documents call upon nations to eliminate legal and non-legal barriers, whether by abolishing existing laws or enacting amendments, to ensure equality, advancement, and protection of human rights. The recognition of full rights for every individual under international law has significantly bridged the divide between domestic and international legal frameworks. This evolution traces back to pivotal milestones such as the United Nations Charter in 1945 and the Universal Declaration of Human Rights in 1948. These foundational documents have played a vital role in embedding principles of equality within national laws and driving tangible progress towards its realization. The Algerian state stands as an early adopter of these agreements, underscoring its commitment to upholding international law within its domestic legal system. Article 150 of the March 2016 Constitution explicitly enshrines the supremacy of ratified treaties over national legislation, reflecting Algeria's dedication to honoring international obligation

What are the actual guarantees for the protection of human rights and public freedoms?

To answer these questions, we divided the research paper into four axes, as follows:

The first axis: consecrating the principle of legal equality

The second axis : Devotion to the principle of legality to protect public rights and freedoms.

The third axis: The Rule of Law as a Basis for Enhancing the Protection of Human Rights and Freedoms

fourth Axis: The principle of separation of powers as a guarantee of good

governance.

2.The first axis: consecrating the principle of legal equality

In this regard, we believe that it is wise to apply this principle. It is necessary to promote legal equality in resorting to justice, equality in public costs and burdens, equality in political and social rights, equality before public facilities, equality in assuming public functions in the state, equality before the judiciary, and the principle of equality. . Before the law, we will study each principle as follows:

1- Legal equality in resorting to justice

Justice includes virtues, and it is the foundation upon which the state must be built to achieve its goal, which is the common good of all and the private good of each individual. This meaning is consistent with the idea of equality itself, as its ultimate goal does not exceed the same meaning or content of the idea of justice. Justice is the natural law on the basis of which laws issued by the will of the legislator must be drawn up, and justice is the basis from which laws derive their binding force on individuals. We find that justice, represented by the judiciary, tends to the written right that requires legal coercion to implement and respect it, while justice is based on the right that does not include any binding force, and is what only the mind and conscience know. . The law does not create justice, but rather includes the idea of justice, whether it is fair or not. The justice of the law stems from its ability to embody the will of the social majority and create a positive interaction between authority and citizens, which is summed up in respect for nature. Humanity and fundamental rights.(Joint Development Programme,1997,pp.37)

- Expanding the scope of benefit from judicial assistance to include people with insufficient resources that do not allow them to claim their rights before justice and defend their rights guaranteed to them by the Constitution.

- Expanding the scope of benefit from legal assistance, by force of law, to include

persons with disabilities, victims of human trafficking crimes, organ trafficking, and smuggling of illegal immigrants, due to the seriousness of these crimes that have been criminalized under the law. Algerian legislation.

- The state guarantees the fees of the lawyer, notary public, and judicial bailiff who are appointed within the framework of judicial assistance

- Providing legal aid offices with permanent writing to facilitate the process of directing legal aid seekers

- Facilitating the citizen's access to justice and reducing the financial burdens on the litigant,

- Further simplification of reporting, enforcement and litigation procedures

- Activating the positive role of the judge, taking into account the principle of impartiality.

- Adopting the electronic method in some procedures (filing a lawsuit, exchanging petitions and documents)

- Adopting a system of penal orders to reduce the volume of cases

- Activating and strengthening the role of the prosecution

- Using the remote visual experience system

- Simplifying appeal and cassation procedures (Jaber, 2010, pp. 24)

2- The principle of equality before the law

That all citizens be one sect, with no discrimination among them in the application of the law. What is meant by equality it refers to legal equality, which means treating individuals equally under the law when their legal position are similar. This equality leads to the elimination of the system of slavery and human dependency on

the land, which was known in the feudal era. And abolishing the privileges of the white race over colored people that existed in South Africa in the past

International agreements and charters have affirmed this right and stipulated that all people are equal before the law and enjoy, without any discrimination, an equal right to enjoy its protection.

Establishing and respecting the principle of legal equality does not mean changing the nature of talent differentiation between individuals. Respect for the principle of equality is only evident in the form of legal rules that provide equal opportunities for all members of society, and these legal rules can not achieve true and realistic equality, as individuals remain under these conditions. Legal rules vary greatly.(Joint Development Programme,1997,pp.33)

All citizens are one group, and there is no discrimination between one person and another in applying the law, as their situations and circumstances are similar and uniform due to origin, gender, or belief. By establishing this principle, it was possible to eliminate the privileges of the nobility and nobles in France in the wake of the revolution that embraced this principle, and what this class enjoyed was removed. With regard to exemptions and benefits, equality of law means that every rule based on arbitrary discrimination can be invalidated because it is unconstitutional. Therefore, constitutions often stipulate that equality of law must be guaranteed, so that even if the legislature enacts laws containing arbitrary discrimination, they can be struck down for unconstitutionality. Whether before the constitutional councils or the competent judicial authorities, especially if the judicial authority is independent of the legislative authority and the executive authority.(Hamdi,2014,pp.871)

3 -Equality before the judiciary

We believe that equality before the judiciary is exercised by all citizens of a state, granting them the right to litigation on an equal footing before the court without

discrimination or distinction based on origin, gender, color, language, belief, or personal opinions. Equality before the judiciary requires that everyone receives the same treatment. Courts should not differ depending on the individual who litigates before them, and the litigation procedure should be the same for everyone. The law applied to everyone should be the same, and it should not conflict with the essence of equality before the judiciary to give freedom to all. Judges must decide the appropriate punishment according to the different characteristics of each case or the different characteristics of the accused, even if it is the same crime(Jaber,2010,pp.26)

. The courts that decide crimes or civil disputes do not differ according to the social status of the litigants, and therefore it is not permissible to establish courts specific to a particular class. The basis of the French Revolutionary Court ruled against the courts of the nobility and the exceptional courts that were to adjudicate certain matters. The existence of different courts for different types of disputes or the different nature of crimes is not considered a departure from the principle of equality before the judiciary. What is important is that there is no discrimination because of the litigants, their characteristics, or their social status. An international judge must take into account the principle of equality of law in his actions. The judiciary holds primary authority, followed by the principle of equality before the law through judicial rulings. .(Khader,2011,pp.373)

When an international judge monitors the principle of equality before the law, he holds a higher rank than a national judge because he assesses how local laws are practiced and applied. When he monitors the principle of equality in the law, the international judge is in a higher position than the national judiciary. This is because he studies cases such as the Turkish instance where the relevant law was issued, and in such cases, priority in interpretation cannot be given to any other authority, including the primary judiciary, public order, or even the international order. Given the fundamental role that the judiciary plays in upholding human rights and fundamental freedoms, international agreements have devoted significant portions of their texts to

defining the legal rights that individuals must enjoy within a state or political community. Articles 5 and 6 of the European Convention on Human Rights and Article 14 of the 1966 International Covenant on Civil and Political Rights define the juridical rights of individuals as follows: all persons are equal before the judiciary, and every individual has the right to be presumed innocent unless proven guilty in accordance with the law. This principle embodies equality before the judiciary, meaning that persons should not be discriminated against in litigation procedures or in the courts that decide the dispute, regardless of the crime and the penalties imposed on its perpetrator. It is not right for certain groups to enjoy privileged judicial treatment, such as establishing their own courts. All individuals should be equal before multiple judicial authorities and subject to one law that is uniformly applied by the courts..(Hamdi,2014,pp.879)

4. Equality in assuming public positions in the state

. Equality before public jobs means that all citizens have an equal opportunity to assume public positions and that they are treated the same in terms of qualifications and legally required conditions for each job. This includes specific benefits, rights, duties, salaries, and rewards. The legal concept of the principle of equality in employment does not mean actual equality for all citizens in public employment, but rather for those who meet the legal conditions for occupying these positions. It is applied without class or social discrimination. Accordingly, it is permissible to establish special regulations for certain categories of employees consistent with the nature of their jobs and the work system, as is the case with the judiciary, the army, the police, and others. What matters is that there is equality between the employees within each of these categories in terms of rights and duties, so they are similar in status or position. Equality in holding public jobs depends on the availability of qualifications and conditions required by law for each specific job.(Khader,2011,pp.370)

5. Equality before public facilities.

Equality in the use of public facilities means that all individuals have the right to access services provided by public facilities, whether these facilities are managed directly by the state or by a public authority. This principle of equality is a fundamental aspect derived from the overall principle of equality. Equality before public facilities means that all individuals can obtain services if they meet the conditions for obtaining these services and after paying the prescribed fees.

Public facilities are projects established by the state to meet the general needs of citizens or to achieve a public interest. These facilities can be of an administrative nature or an economic nature. Equality in the use of public facilities means that all citizens have the right to access these services equally, provided they meet the legal conditions and pay the prescribed fees. It is not permissible to deprive certain groups of people from enrolling in some scientific institutes, nor is it permissible to limit schools or colleges to members of a certain class or discriminate against members of other classes. .(Hamdi,2014,pp.876)

The principle of equality is not violated if the service offered varies in quality and corresponding fees, such as different classes in transportation, as long as this variation is not based on class or individual distinctions. All those who request a service of a particular class should be treated equally. However, if the service is uniform, it is not permissible to differentiate between individuals or entities in the fees charged for obtaining this service.

6. Equality in political and social rights.

This entails individuals' participation in governance and administration, including the right to run for office, the right to vote, the right to participate in popular referendums, the right to seek membership in parliamentary bodies, and the right to aspire to the presidency of the state. It also includes the right to employment. This

equality is achieved by providing equal treatment to all citizens who meet the legally required conditions for each position, ensuring uniformity in advantages, rights, and duties. However, distinguishing between positions in terms of certain benefits or guarantees does not conflict with this principle. .(Ragheb,2009,pp.598)

Such thinking leads to another form of equality that secures and preserves political equality, allowing parties with fewer resources the ability to express themselves in choosing their representatives in parliamentary bodies without undue influence from wealthier parties. This means that laws and regulations should not favor individuals based on wealth or family background, and no restrictions should enable some individuals to appear superior to others. .(Khader,2011,pp.372)

In essence, achieving equality in political and social rights means ensuring an adequate level of protection for all members of society. Constitutions and laws should stipulate the realization of these rights, which the state must guarantee and provide opportunities for all individuals to obtain them without discrimination. This includes the right to work, social insurance, education, healthcare, and social care. Effective implementation of this equality by the state is essential to prevent one group from controlling another.

7. Equality in public costs and burdens.

Just as there is equality between women and men in rights, there should also be equality in shouldering varying duties and responsibilities, which is essential for good governance. This includes equality in facing public costs and burdens, such as equality before taxes where individuals are treated equally in paying taxes. In this context, equality is not about individuals determining the value of a tax but rather about similarity in legal position, so the tax value is based on individuals' financial positions. Therefore, differences in financial and social circumstances do not constitute a violation of equality. It is equality based on the ability to pay, not the value of the tax.

Moreover, there should be equality between individuals in similar legal positions regarding financial and social status. This equality does not contradict the establishment of progressive tax rules, where tax rates increase with wealth or income, as long as these rules apply uniformly to all individuals without discrimination based on sex or any other characteristic. .(Hamdi,2014,pp.880) Equality also does not preclude providing assistance to groups or individuals facing burdens or lacking resources, as long as it aligns with general principles and rules.

3.The Second Axis: Devotion to the principle of legality to protect public rights and freedoms.

The principle of legality prevails in all contemporary political systems in all their forms, stipulating that every legal action, whether public or private, must be based on abstract legal rules that precede the action. In other words, all individuals must be subject to legal norms in their relations with each other and with the state and its various bodies. Legality entails that all individuals and the state, with all its powers, are equally subject to the provisions of the law. This means that legality comprises two sides of the same coin: the first being the principle of the rule of law, and the second being the state's submission to the law.

By upholding the principle of legality, a distinction can be drawn between a legal state and a police or authoritarian state. A legal state is one where the state is subject to the law in all aspects of its activities, whether administrative, judicial, or legislative. Therefore, the legislative authority must exercise its power within the limits specified by the constitution, issuing legislation that conforms to the constitutional rules. Similarly, the executive authority, while implementing the law, must exercise its power through organizational or individual decisions within the boundaries set by legislation. The same principle applies to the judicial authority, whose role is to adjudicate disputes in accordance with the law, rendering judgments that have the force of *res judicata*.

1 - Strengthening the Principle of Legitimacy.

In the present era, it represents the pinnacle of essential guarantees for the rights and freedoms of peoples. This principle encapsulates all the achievements that people have attained through their struggles against ruling authorities, compelling them to relinquish absolute control over successive generations leading up to our current age. The principle of legality, encompassing both the rule of law and the state's subordination to the law, is regarded as a vital and fundamental safeguard for the rights and freedoms of individuals. It has become deeply ingrained in human consciousness, ascending to the realm of idealism. (Hamdi,2014,pp.930) The principle of legality serves as a crucial and foundational assurance for individual rights and freedoms, obligating the state to ensure that all its actions and decisions adhere to legal principles, thereby safeguarding against authoritarian rule and abuses of power. If the authority derives its legitimacy from the consent of citizens to the governing system it establishes, then it cannot compel citizens to respect laws unless they are fully convinced that these laws serve a societal interest and moral value they endorse, thereby reinforcing the authority of conscience, duty, and the rightful appreciation of rights and freedoms. On the other hand, the principle of legality safeguards the rights and freedoms of individuals. As legal rules are inherently general and abstract, the adherence of public authorities to the law ensures non-discrimination in the application of these general abstract legal rules, thereby guaranteeing equality among individuals in their subjection to the law. This fosters justice, ensures equitable distribution of resources, and prevents favoritism. When states disregard these rules and fail to implement them, or exceed their limits, it leads to chaos and undermines the principle of legitimacy. Conditional legislation in democratic countries emphasizes the necessity of basing the system on the principle of the state's subordination to the law, as a fundamental principle of political organization, to safeguard public rights and freedoms against state authority. Monitoring legitimacy is imperative for adopting the principle of legality and ensuring its implementation. Establishing oversight by an independent

body is crucial to scrutinize laws and administrative actions. (Wagdi,2011,pp.24)

2- The relationship between the principle of legitimacy and the principle of separation of powers

The principle of separation of powers is partly undermined by the inherent tendency of legal aspects to prioritize generality and abstraction over individual cases. Rights are prioritized without considering specific circumstances, applying uniformly to all who meet the criteria. This can only be achieved when legislative authority is distinct from executive authority. When these powers are combined, .(Khader,2011,pp.371-377)

without proper organization and implementation, the principle of legality loses its essence as a general standard, susceptible to manipulation or favoritism.

Legal and political scholars universally agree on the necessity of linking the law with the existence of a democratic state. Government cannot attain this characteristic without being subject to the law, which must prevail equally over rulers and the ruled. State law governs a significant portion of social relations, but some aspects remain outside its jurisdiction, determined by the subject matter and importance of these relationships. The aim is to ensure that all state authorities, legally qualified, are bound to protect human rights and freedoms against authoritarianism.

In this realm, the state wields extensive powers, ranging from coercion to tolerance. Coercion is necessary for issues posing significant threats to state or societal interests, while discretion allows the government to make decisions within specified limits. However, the law ensures that governmental authority respects the rights and freedoms of individuals, regardless of the regime type. The distinction between qualitative and discretionary authority lies in the former being subject to oversight and deriving power from the will of its owner, while the latter is appointed by law and operates within specified limits. (Hamdi,2014,pp.901-907)

A state governed by the rule of law upholds freedom and justice, avoiding legal transgressions and discrimination within society. It prioritizes rational governance over arbitrary exercise of power, thus minimizing the risk of tyranny and fostering societal harmony.

3.Activating the Principle of Legitimacy as an Embodiment of Achieving Social Justice in Algeria.

The roots of consecrating the principle of legitimacy in Algeria trace back to before its independence, specifically through the statement of November 1, 1954, which emphasized good governance. This statement outlined a set of political goals and strategic tactics with profound dimensions, aimed at establishing a legitimate, democratic, and social state governed by Islamic principles. It stipulated the following:

"In order to clearly demonstrate our goal, we outline the following broad outlines of our political program:

- The goal is national independence.
 - Establishing a sovereign, social democratic Algerian state within the framework of Islamic principles.
 - Respecting all fundamental freedoms without racial or religious discrimination.
- (Statement of the first of November,1954)

Since gaining independence, one of Algeria's priorities has been to achieve social justice by addressing the social, economic, and cultural needs of its people, and by promoting the advancement of women. These goals are reflected in its successive government policies and programs.

This commitment was confirmed in the preamble to the 1963 Constitution: "Algeria began to renew national political systems for itself after regaining its sovereignty, following one hundred and thirty-two years (132) of colonial control and

the feudal system. The People's Democratic Republic of Algeria directed its activities towards building the country, in fulfillment of the charter approved by the National Council of the Algerian Revolution in Tripoli. Adhering to socialist principles and the actual exercise of power by the people, led by peasants, the toiling masses, and revolutionary intellectuals, the Algerian people will continue their march on the path of a popular democratic revolution. This revolution, which achieved the goal of national independence targeted by the National Liberation Front on November 1, 1954, was embodied in:

- Initiating agricultural reform and establishing a national economy managed by workers.

- Adopting a social policy for the benefit of the masses to raise the standard of living of workers, promoting the advancement of women to enable their participation in managing public affairs, developing the country, eradicating illiteracy, fostering national culture, improving housing, and enhancing general health conditions."(Constitution of 1963).

The socialist-oriented 1976 Constitution emphasized the dedication to social justice, stating in its preamble: "The people, fortified by their deep-rooted spiritual values and preserving their traditions of solidarity and justice, are confident in their ability to contribute effectively to cultural, social, and economic progress in the world of today and tomorrow. Their sense of responsibility and their adherence to a long history of freedom and social justice represent the best guarantee of respect for the principles of this constitution, which it ratifies and transmits to future generations, the heirs of the pioneers of freedom and the builders of a free society." (Constitution of 1976)

The February 2016 amendment to the Constitution further enshrined the principle of social justice, stating in its preamble: "The Algerian people will continue to adhere to their choices in order to reduce social disparities and eliminate regional disparities"

The people shall choose for themselves institutions whose purpose is promoting social justice (Constitution of 2016)

4.The Third Axis: The Rule of Law as a Basis for Enhancing the Protection of Human Rights and Freedoms

Equal protection of persons, property, and other economic rights, along with equal punishment under the law, is essential. The rule of law takes precedence over government authority to protect citizens from arbitrary state actions. It also regulates relations between private interests in society. The rule of law ensures that everyone is treated equally and is subject to the law, not to the whims of the powerful. It is considered a basic prerequisite for achieving accountability, stability, and predictability in public and private affairs. This means that both rulers and citizens are subject to the law, and nothing transcends it. Legal provisions and texts must be applied fairly and without discrimination among members of society. These laws must also be consistent with human rights standards and ensure natural human freedoms.(Hamdi,2014,pp.985)

The extension and maintenance of the rule of law depend on the clear declaration of its rules, their application without discrimination, effective implementation, the existence of predictable methods to legally change the content of the laws, and citizens' awareness that the existing system of legal rules is fair and just. Legitimacy is achieved when citizens express their willingness to follow it.

1. Accountability

Holding officials accountable to stakeholders involves evaluating how they use their influence, perform their duties, consider criticism or requests directed at them, and bear responsibility for failures, incompetence, or fraud. Joint Development Programme, (Joint Development Programme,1997,pp.37)

All officials, rulers, and decision-makers in the state, private sector, or civil society institutions must be subject to the principle of accountability before public

opinion and its institutions without exception. The accountability mechanism is crucial for achieving sustainable development and takes three forms:

- Legislative accountability
- Executive accountability
- Judicial accountability

Accountability mechanisms can hold individuals in positions of responsibility accountable, questioning the nature of their decisions. Accountability requires ensuring freedom of access to information and necessitates stakeholders capable of organizing themselves, in addition to the rule of law.

2. Transparency

It is one of the most important characteristics of good governance and means making all information available and easy to exchange, that it be available to all institutions and all concerned parties, that public accounts be directly available, and that sufficient, comprehensive and organized information is available about the work and performance of institutions in order to facilitate their oversight and follow-up. So, transparency is the flow of information. .(Joint Development Programme,1997,pp.38)

Comprehensive economic, social, cultural and political in a timely and reliable manner, which is summarized in the following components:

- Obtaining information
- The causal relationship between the information and the subject to be monitored
- Accuracy in obtaining information

Sharing information and acting in an open manner. Transparency allows stakeholders to obtain information that may be decisive in exposing violations and

defending their interests. Transparent systems have clear procedures for making public decisions and open channels of communication between stakeholders and official officials. They provide a huge and diverse amount of information that everyone can access. View it.

3.Participation

It means the right of both men and women to express their opinions in elected councils locally and nationally. The element of participation requires freedom to form associations and parties, public freedoms, and voting. The goal of all of this is to allow citizens to express their opinions and interests to establish legitimacy. It guarantees all members of society effective participation in decision-making. Which guarantees freedom of opinion and expression and basic human rights standards. The principle of participation is also linked to the concept of transparency. Knowing information alone is not sufficient for the purpose. Rather, there must be mechanisms that the people are able to take to influence decision-making and place those responsible and accountable. (Joint Development Programme,1997,pp.35).

States must It gives members of society the right to participate in drafting laws, bylaws, and regulations, to consult them on matters of public life, and to give them the right of recognition and the right to conduct referendums on laws and other matters with all integrity, ease, and transparency. .(Hamdi,2014,pp.883) It also stated in the United Nations Development Program that participation literally means that one is a party to something. The basic issue in the eyes of those interested in governance issues is the effectiveness of participation. Participation is effective when group members have sufficient and equal opportunities to include their issues on the agenda and express their preferred options regarding the final outcome of the decision-making process. Participation is direct or through legitimate representatives.

4.Fourth axis: The principle of separation of powers as a guarantee of good governance

"The concept of the separation of powers has been associated with the name of Montesquieu, despite his significant influence from the ideas of Locke, who advocated for the same principle before him. However, Montesquieu is credited with highlighting, formulating, and presenting the principle in a novel and precise manner in his 1748 publication, "The Spirit of Laws." .(Hamdi,2014,pp.985)

1. The roots of the principle of separation of powers

Montesquieu advanced the idea of separation of powers as a remedy for political tyranny, viewing it as a sufficient safeguard against tyranny, its descent, and the disregard for established constitutional norms. He proposed the distribution of state power among three branches to prevent its concentration and subsequent tyranny. This concept gained traction in the political arena, evolving into a fundamental principle of constitutional organization seen in the American Constitution and subsequent Western constitutions. (Ragheb,2009,pp30)

2. Universal application of the principle of separation of powers

The principle of separation of powers is universally recognized in jurisprudence as one of the most crucial guarantees of public rights and freedoms. This is because it prevents tyranny and preserves freedoms by dispersing legislative, executive, and judicial powers. Concentrating these powers in one entity facilitates the enactment of laws to serve personal agendas, thereby violating individual rights and freedoms. Additionally, such concentration enables the manipulation of the judiciary, leading to unjust rulings and the erosion of public rights and freedoms. Therefore, the separation of powers serves as a vital mechanism for preventing authoritarianism, the monopolization of authority, and its corrupting influence. Absolute authority inevitably leads to absolute corruption.

3. Activating the principle of separation of powers as an embodiment of enhancing public freedoms

Activating the principle of separation of powers is essential for enhancing public freedoms, as there exists an inherent connection between the two. The assurance of freedom is contingent upon the separation of powers, as emphasized by the need for a governmental structure where no single entity possesses both legislative and executive authority. In such a system, citizens can feel secure in their liberties, knowing that unjust laws will not be enacted and enforced by the same governing body. Similarly, freedom is compromised when the judiciary is not independent from the legislative and executive branches. (Khader,2011, pp.377)

The separation of powers serves as a bulwark against tyranny and safeguards public freedoms, as articulated by Montesquieu. He asserts that freedom thrives in governments where power is restrained and its abuse prevented. Human nature, he argues, inclines individuals in power to misuse it unless checks and balances are in place. Hence, political virtue itself requires limitations to prevent the abuse of power. (Hamdi,2014, pp.1003)

In contemporary democratic nations, the principle of separation of powers is central to political and constitutional governance. This principle is notably evident in the United States and Britain, where each branch of government operates independently, equally, and cooperatively. The American system, for instance, delineates distinct roles for each authority, ensuring they remain autonomous and not subject to undue influence from one another. Furthermore, authorities are constrained from usurping powers allocated to other branches. For example, the legislature cannot fully delegate its powers to the executive, and the judiciary remains free from political interference, exercising its authority solely through judicial bodies.

In the American system, achieving a complete separation between legislative and executive powers has been challenging due to constitutional provisions that establish

certain connections between them. Additionally, historical and practical circumstances have further strengthened these links within the American system. Similarly, the English system does not entail a complete separation of powers but rather operates on a model of separation with functional cooperation. Each branch shares some responsibilities with the others, albeit to varying degrees. For instance, the executive branch engages in secondary legislation, while the legislative branch partakes in executive functions such as budget-setting. Moreover, there are areas of simultaneous involvement, such as treaty negotiation and foreign policy formulation, where the government proposes and negotiates while Parliament approves and decides. (Hamdi,2014,pp.996)

5. CONCLUSION

The safeguarding of public rights and freedoms hinges on fundamental principles such as the separation of powers, legality, and the supremacy of law. Central to this is the application of the principle of equality, which ensures that the law prevails impartially among all individuals. However, the state, with its authority, can potentially abuse its power to oppress individuals, thereby impeding their exercise of rights and freedoms. In Algeria, these guarantees are enshrined in internal legislation, which criminalizes discrimination and endeavors to uphold human rights by safeguarding access to education, healthcare, economic opportunities, and political empowerment. Consequently, these principles establish a framework that guides and constrains the actions of governments and other societal actors, facilitating accountability and oversight. Actualizing these principles necessitates an enabling environment comprising robust institutions, legal frameworks, and effective political processes committed to fulfilling citizens' rights and needs.

6. Recommendations:

To actualize the guarantees for protecting public rights and freedoms, several measures are imperative:

1. Ensuring inclusive decision-making processes at all levels of government, fostering equal opportunities for participation within legislative, judicial, and executive bodies.

2. Enhancing capacities for good governance to drive sustainable human development, leading to poverty eradication, job creation, and environmental protection.

3. Upholding these principles in governmental conduct by reinforcing the separation of powers, ensuring judicial fairness, and reducing state intervention through engagement with civil society, respect for freedom of expression, and opinion.

4. Striving for stability, security, development, and welfare for all members of society, recognizing these principles as essential for promoting human rights universally.

5. Addressing internal and external variables, studying risks, and devising solutions to foster development and societal harmony.

6. Promoting effective political participation and ensuring equitable representation in electoral processes and governmental institutions.

7. Engaging civil society as an active participant in the democratic process, fostering a robust and inclusive democratic culture.

By implementing these recommendations, societies can move closer to realizing the vision of equality, justice, and respect for human rights for all individuals.

7. List of references:**A-constitutions:**

1-Constitution of 1963

2 -Constitution of 1976

3 - Constitution of 2016

B-books:

1- Hamdi Attia: 2014 , Human rights in Islamic jurisprudence and positive law (comparative study) Dar Al-Wafa for the World of Printing and Publishing , Alexandria , First edition

2. Jaber Ibrahim: 2010, ****Al-Rawi: Human Rights and Fundamental Freedoms****, Dar Wael or Publishing and Distribution, Amman and Riyadh, 2nd edition..

3. Khader Khader: 2011, ****An Introduction to Public Liberties and Human Rights****, Modern Book Foundation, Lebanon, 4th edition .

4- Muhammad Gharbi : 2014, Arab integration between the drivers of sustainable development and the pressures of globalization ‘Ibn Al-Nadim for Publishing and Distribution, Al-Rawafed Cultural House, Publishers Algeria, First edition

5. Ragheb Jibril Khamis Ragheb sakran: 2009 , ****The Struggle Between Individual Freedom and State Authority****, Sotir Residences (in front of Ceramica Cleopatra Building 5, Entrance 2, Azarita, Alexandria, Egypt

6- Joint Development Programm:1997, New York