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	The Rule of Law in Algeria: Between the Guarantee of Rights and Their Institutionalization within the National Legal System	
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Abstract <p>The principle of the rule of law is widely recognized as the cornerstone of democratic governance and modern constitutional states. It ensures the supremacy of law over all institutions, rulers, and citizens, while simultaneously embedding mechanisms for the protection of rights and freedoms. In the Algerian context, this principle has acquired increasing constitutional and legal significance since independence, as reflected in successive constitutions that emphasize civil, political, social, and economic rights.</p> <p>This study critically examines the dual role of the rule of law in Algeria: first, as a guarantor of rights through constitutional texts and legislative instruments; and second, as a framework for their institutionalization via judiciary independence, oversight bodies, and newly established regulatory mechanisms. The research highlights that while Algeria has made significant progress in codifying rights, challenges remain in transforming constitutional guarantees into effective social and legal realities. Through a qualitative and doctrinal analysis of constitutional provisions, legal reforms, and institutional practices, the study argues that the rule of law in Algeria cannot be limited to the recognition of rights in texts but must extend to effective enforcement through functional institutions. The findings demonstrate that genuine constitutionalism requires continuous reform, judicial independence, and participatory governance that bridges the gap between legal theory and societal practice.</p>		
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Introduction

Human rights and freedoms represent the fundamental objective that all of humanity strives to protect. Individuals, whether acting collectively or individually, have long fought for the recognition of their rights be they civil, political, economic, social, or cultural. International treaties have consistently safeguarded these rights and freedoms, as has the constitution, which stands as the supreme law of the state. Successive Algerian constitutions have likewise placed significant emphasis on human rights, reflecting the growing attention to their protection and fulfillment.

Accordingly, the concept of safeguarding rights and freedoms is intrinsically linked to a core principle: the rule of law. This highlights the critical importance of these rights and freedoms, as a state that prioritizes them is rightly described as a state governed by rights and law. This study will explore this dynamic through the lens of the Algerian experience, examining how rights and freedoms are structured within legal texts and the mechanisms established to reinforce them under the rule of law. The research is divided into two sections:

- Section One: The Organizational Framework of Rights and Freedoms from a Constitutional Perspective.
- Section Two: Newly Established Legal Mechanisms for Strengthening the Rule of Law as a Foundation for Enhancing Rights and Freedoms.

Chapter One: Regulatory Frameworks for Rights and Freedoms from a Constitutional Perspective

Since its independence, Algeria has actively recognized, enshrined, and protected human rights in accordance with international conventions. Various constitutions have incorporated provisions safeguarding these rights, constituting a constitutional limitation on any actions or amendments that might affect these provisions. This framework ensures that constitutional amendments touching upon the rules and principles governing rights and public freedoms are carefully scrutinized for compliance.

The constitution dedicates a section within the general principles governing Algerian society to rights and freedoms. The constitutional founder established what are known as guarantees of rights, which are embedded at the core of the constitution. Rights and freedoms are not confined to the specific articles that explicitly address them; they are also found directly or indirectly in other constitutional provisions. Accordingly, we will outline the legal texts that secure these rights.

Section One: The Status of Rights and Freedoms Regulation in Algeria

Human rights constitute a system of values that affect individuals across political, civil, economic, social, and cultural dimensions. These are among the most significant issues addressed in practice, as reflected in domestic laws and international human rights instruments (Barzouq, 2012, p. 113). From a doctrinal and philosophical standpoint, the state's obligation to respect rights and freedoms is well-established. The evolution of this obligation is rooted in various philosophical theories regarding its foundations.

One prominent theory is that of natural individual rights, which posits that an individual's rights are inherent and precede the state, with individuals uniting under groups to protect these rights. Conversely, proponents of the social contract theory, including Hobbes, Rousseau, and John Locke, argue that the law of nature governs human relations in a state of nature and serves to confer a set of rights and freedoms to citizens against their rulers, thereby limiting sovereign power over the governed.

Another doctrinal perspective, advanced by German legal scholars, supports the theory of self-limitation of state will. This view holds that the state must be constrained by law and attempts to balance the concept of sovereignty, which is inalienable, with the idea that the state voluntarily subjects itself to the law and limits its powers in certain areas, particularly in protecting individual rights. Such self-restraint does not imply a relinquishment of sovereignty.

Together, these theories have contributed directly or indirectly to establishing the foundational principles governing the organization of rights and freedoms within states.

The principles underpinning the state's obligation to regulate rights and freedoms are derived from the foundations inspired by international human rights declarations and the conventions established to protect those rights. Foremost among these are the Universal Declaration of Human Rights of 1948 and the two International Covenants on Civil and Political Rights, and on Economic, Social, and Cultural Rights of 1966. Additionally, there exists a range of specialized treaties addressing specific groups, such as women, children, persons with disabilities, as well as labor conventions. This situation has raised several legal questions regarding the binding force of these treaties, particularly whether they should carry the same obligatory weight as national legislation or whether human rights declarations should hold equivalent authority to that of the constitution. However, prioritizing the legal force of rights declarations over constitutional law and granting the constituent authority wide latitude in organizing individual rights and freedoms when drafting a new constitution is tempered by fixed principles and standards. These standards have been shaped by the historical struggles of peoples (Mabrouk Abdelnour, 2020, p. 194).

Mazen Lailo argues that incorporating rights and freedoms explicitly within the body of the constitution confers upon them a status of sanctity and respect, thereby elevating their legal value above other legal norms (Barzouq, 2012, p. 113).

In this regard, the preambles of successive Algerian constitutions have explicitly addressed the issue of rights and freedoms in clear terms, affirming the guarantee of individual rights and freedoms. For example, it is stated that “the constitution is supreme and represents the fundamental law that guarantees individual and collective rights and freedoms, protects the principle of peoples’ freedom of choice, legitimizes the exercise of authority, and ensures legal protection and oversight of public authorities’ actions in a society governed by legality (Djabourbi, 2021, p. 114).”

The constitutional legislator’s reference to human rights and public freedoms through the preamble reflects a firm belief in their importance and embodies the people’s desire and determination to safeguard their rights and freedoms. This obliges all authorities to respect and adhere to them. Furthermore, these rights and freedoms are enshrined in the second chapter, titled “Fundamental Rights, Public Freedoms, and Duties,” which mandates that all public authorities and institutions comply with the constitutional provisions related to fundamental rights, public freedoms, and their guarantees (See Article 34 of the 2020 Constitutional Amendment, issued by Presidential Decree No. 20/442 dated 30/12/2020, Official Gazette of the People’s Democratic Republic of Algeria, No. 82, 30/12/2020).

Since the constitutional founder is responsible for defining the jurisdictional rules within the state, they have designated the regulation of rights and freedoms, along with related matters, as the primary domain exclusively reserved for the parliament. This is referred to as absolute legislative exclusivity. (Bdeir & Ben Mechiah, Dhiya Doniazad., 2018, p. 267) Article 139 (Article 139 in the 2020 Constitutional Amendment) of the current constitution explicitly outlines the issues related to the organization of rights and freedoms, which include: national rights and fundamental guarantees granted to citizens, the essential rights and duties of individuals particularly the framework of public liberties, the protection of individual freedoms, and the obligations of citizens, among others.

Section Two: The Expansion of Rights and Freedoms in Algeria under Algerian Constitutions

Fundamental rights and freedoms in Algeria have long been subject to political and economic orientations. Initially shaped by a socialist perspective after independence, this outlook evolved following 1989, aligning somewhat with the rapid social development within Algerian society, profound global transformations, and efforts to comply with international human rights standards. Algeria has made significant progress in expanding the scope of rights and freedoms regulation, from the adoption of the 1996 Constitution through to the current 2020 Constitution.

First: Civil and Political Rights

Known as first-generation rights, these are commonly referred to as public freedoms and can be categorized into three groups: rights and freedoms related to personal status, rights and freedoms concerning human thought, and political rights and freedoms. (Karnech, 2015 , p. 174)

– Rights and Freedoms Inherent to the Individual: This category represents the most fundamental rights and freedoms among others, serving as a necessary condition for the existence of other rights and a guarantee for their

exercise. Their close connection to the individual's essence and identity makes them the foundation upon which other rights depend (Karnech, 2015 , p. 174).

– **Rights and Freedoms Related to Human Thought:** This category centers on the intellectual and mental nature of the human being, corresponding to various non-economic human activities. Despite their diverse manifestations, these rights share a common core: ensuring an individual's freedom to form opinions without coercion and to express those opinions through available means of communication without compulsion. For instance, Algerian legislation introduced the concept of academic freedoms and freedom of scientific research under Article 44 of the 2016 constitutional amendment. Moreover, Article 44's third and final paragraph mandates the state to promote scientific research and develop it in service of the nation's sustainable development a commitment reaffirmed in Article 75 (Article 75 of the 2020 Constitution, which states: "Academic freedoms and freedom of scientific research and its promotion shall serve the sustainable development of the Nation) of the 2020 Constitution. In addition, the right to education, whether public or private, and freedom of belief are protected in accordance with existing laws.

Article 49 of the recent amendment also protects the right to peaceful assembly and demonstration. This is a big step forward because it formally recognizes the right to peaceful protest, which was not in any of the previous constitutions. This recognition in the Constitution shows that there is a path to more freedoms that weren't recognized before.

The press has also been explicitly protected as the fourth estate, which is another way of saying that freedom of the press is important. The constitution makes it clear that journalists cannot be put in jail for anything related to their work, which is the best protection for journalistic work. This protection prevents authorities from imposing any form of prior censorship, which is typically characteristic of authoritarian regimes. The legislation further seeks to regulate the profession by obliging all entities, within the limits of the law, to provide journalists with information, documents, and statistics to ensure accurate public dissemination. At the same time, it prevents abuse of this access to infringe on privacy, personal interests, or national security (Article 51 of the 2016 Constitutional Amendment, Official Gazette of the People's Democratic Republic of Algeria).

– **Political Rights and Freedoms:** People have fought for political rights for a long time, and freedom of opinion is probably the most important of these rights. Without this freedom, all other freedoms are useless. Since Algeria's first constitution was adopted in 1963, the constitutional legislator has made sure that all rights are protected so that citizens can participate in politics, in line with international standards. The most recent change to the Constitution added a number of new rights, such as the right to form political parties and the right to participate in political life. This made sure that political parties had a real role in politics, not just a formal or symbolic one.

Furthermore, the constitutional founder also emphasized women's political participation, enhancing it by expanding their opportunities for representation in elected councils (Article 59 of the 2020 Constitution: "The State shall work to promote the political rights of women by expanding their chances of representation in elected assemblies. An organic law shall determine the conditions for the implementation of this provision). Additionally, freedom of association was guaranteed, encouraging the establishment of public-interest organizations (Article 53 of the 2020 Constitutional Amendment) within the framework defined by law.

Second: Economic and Social Rights and Freedoms

The primary objective behind recognizing economic and social rights is to achieve social justice, provide protection against illness, poverty, and disability, eliminate unemployment, and create decent job opportunities for individuals. This objective has prompted many developed and developing countries alike to incorporate these rights into their constitutions and to provide them with robust protection.

Despite the importance of economic and social rights, legal and practical attention to these rights has historically lagged behind the focus on political and civil rights. This is notable given that economic and social rights fundamentally underpin the content and substance of political and civil rights. Recognizing individuals' economic and social rights liberates them from material dependence on any party and enables them to live with dignity and fulfill their societal roles more effectively. It is evident that an individual's political will is genuinely freer when freed

from fears of unemployment, ignorance, and illness. Moreover, securing economic and social rights naturally fosters genuine equality not merely theoretical equality that political and civil rights alone cannot guarantee.

Regarding the constitutional framework in Algeria, all social rights have been explicitly recognized and expanded under Article 72 of the constitution. These include the protection of the family, society, and the state's obligations toward children's rights. The state guarantees care for abandoned or legally unidentified children, and the law prohibits violence against minors. Furthermore, the constitution strengthens protections against child exploitation by criminalizing the employment of minors.

In addition, the rights of youth have been extended; for the first time, the constitution specifically addresses this demographic. The commitment to youth is exemplified by the establishment of the Supreme Youth Council, in accordance with the provisions of Article 200.

Concerning the advancement of women, Article 36 mandates that the state promotes gender parity in the labor market. The same article also obliges the encouragement of women's participation in leadership positions, public institutions, administrations, and workplaces. This provision serves to enshrine women's rights and freedoms across various levels and sectors.

Regarding economic rights, the constitutional legislator has acknowledged several key economic freedoms, such as the freedom to invest, and has granted constitutional protection to consumers. This is reflected in consumer rights and market regulation aimed at improving the business environment and fostering the development of national enterprises. Article 43 of the 2016 constitution prohibits monopolistic practices and unfair competition, while Article 61 guarantees the freedom of trade, investment, and entrepreneurship in accordance with the law (Article 61).

The current constitution also recognizes environmental rights as a novel aspect of human rights, emphasizing the international community's responsibility to promote and protect the right to a clean environment. Article 68 affirms citizens' right to a healthy environment and mandates that the state preserve it, with the law defining the duties of both natural and legal persons in environmental protection.

The legislator has not neglected any internationally recognized rights or freedoms. Instead, the constitutional framework aligns with the constitutions of major democratic states, grounded in the principle that rights and freedoms are fundamental to achieving the rule of law. These provisions predominantly safeguard human rights and dignity to their fullest extent.

Chapter Two: New Legal Mechanisms to Strengthen the Rule of Law as a Pillar for Enhancing Rights and Freedoms

The principle of the rule of law occupies a central position among constitutional principles in democratic and developed states. Since the existence of a state based on law and rights depends fundamentally on upholding this principle, adherence to it has become a mandatory public duty essential for the survival and continuity of the state, as it constitutes the cornerstone of the governing system.

It is well understood that there are two types of protection mechanisms: procedural mechanisms, which include various forms of reporting, complaints, notifications, recommendations, oversight, and diplomatic protection; and institutional mechanisms, referring to bodies dedicated to safeguarding human rights at the international, regional, and local levels, whether governmental or non-governmental. Consequently, there is a complementary relationship between guarantees and protection mechanisms, as guarantees provide the foundation for implementing both procedural and institutional mechanisms, whether formal or informal. Given the importance of this principle and its embodiment of a fundamental human and civilizational value, the state seeks to reinforce and entrench it through a series of legal mechanisms and safeguards aimed at protecting citizens' rights and freedoms. This will be addressed through the following two sections, which focus on the two most significant official institutions operating in this field.

Section One: The Role of the National Human Rights Council in Establishing the Foundations of the Rule of Law

There is no doubt that, like its counterparts worldwide, the Algerian state has undertaken continuous and evolving efforts to engage with and integrate into the global system for the protection of human rights and freedoms. This recognition is meant to make the government responsible for any violations or abuses that may happen when it uses its power in an arbitrary or excessive way while pretending to enforce the law or serve the public good. This means that a human rights body needs to be set up in institutions to keep an eye on and evaluate how well people are able to exercise their legally recognized rights. This body should also help come up with ways to stop arbitrary and intrusive actions by the government. So, this section will talk about some of the most important specialized protection institutions in this area and look at ways to make them stronger and more active.

First: Establishment of the National Human Rights Council

The institutional framework for human rights in Algeria has undergone significant changes and development. Initially, the primary national body responsible for human rights was the National Advisory Commission for the Promotion and Protection of Human Rights, established in 2001. However, this commission faced substantial criticism both domestically and internationally since its inception. As a result, it was dissolved and replaced by the National Human Rights Council under the 2016 constitutional amendment, as stipulated in Articles 198 and 199. Subsequently, Law No. 16-13, dated November 3, 2016, was enacted to define the composition of the National Human Rights Council, the procedures for appointing its members, and the rules governing its organization and operations. The 2020 constitutional amendment maintained and reinforced this framework within Articles 211 and 212.

In addition to being a constitutional institution, Article 211 of the Constitution establishes the Council as an advisory body to the President of the Republic, enjoying administrative and financial independence. Article 3 of Organic Law 16-13 further stipulates that the Council possesses legal personality and full administrative and financial autonomy. Headquartered in the capital, it functions as a central national governmental body, which implies relative freedom to conduct its work independently and without restriction, considering its existence, organization, and mandate.

The Council is composed of 38 members, proposed in accordance with Article 10 of Law 16-13. These nominations are reviewed for compliance with principles of social and institutional pluralism, gender representation, and standards of competence and integrity by a specially designated committee (Article 9 of Law No. 16-13, 06/11/2016). The final list of members is submitted to the President of the Republic, who appoints them for a renewable term of four years. The Council's president is elected by its members (Article 13).

Second: The Role of the National Human Rights Council as an Institution for Upholding the Rule of Law

Article 212 of the Constitution outlines the broad scope of the powers and responsibilities of the National Human Rights Council. The Council is tasked with:

- Monitoring, early warning, and evaluation in the field of human rights compliance.
- Investigating all cases of human rights violations that come to its attention or are observed within its jurisdiction, taking appropriate measures, and submitting the results of its investigations to the relevant administrative authorities and judicial authorities if necessary.
- Initiating awareness, information, and communication activities to promote human rights.
- Providing opinions, proposals, and recommendations related to the protection and advancement of human rights.
- Preparing and submitting a comprehensive report on the human rights situation to the President of the Republic, who is responsible for its publication. However, the absence of this publication represents a regression and setback for an institution entrusted with upholding human rights and the rule of law, as it violates a fundamental principle of transparency in a rule-of-law state. This contrasts with Article 199 of the 2016 Constitution prior to its amendment by Article 212 in the current Constitution. Furthermore, Article 8 of Law

16/13 remains inconsistent with the Constitution as it still refers to provisions concerning the submission and publication of the report.

The Council is composed of six permanent committees that play a significant role in monitoring the human rights situation (These committees include: Legal Affairs; Civil and Political Rights; Economic, Social, Cultural, and Environmental Rights; Women, Children, and Vulnerable Groups; Civil Society; and Mediation according to Article 24 of Law No. 16-13, defining the composition of the National Council for Human Rights, the procedures for appointing its members, and the rules governing its organization and functioning). According to Article 212 and the provisions of Law 16/13 (Articles 4, 5, 6, and 7), the Council is authorized to submit opinions, recommendations, and reports to the government and parliament on human rights matters both nationally and internationally. It reviews draft laws and regulations, evaluates existing legislation, and contributes to spreading human rights culture through organizing forums, training programs, and conducting scientific studies.

The Council's primary role also includes monitoring and investigating human rights violations, reporting them to the competent authorities, receiving and examining complaints, and referring them accordingly. Additionally, the Council inspects and assesses the human rights situation through visits to detention facilities, centers for child protection, and any other locations relevant to individual rights and freedoms.

Therefore, this council was established to protect and promote human rights. In the exercise of its duties, it is authorized to communicate with relevant administrative bodies, regardless of their nature, subject to Algerian law, and to request any information necessary for monitoring, observing, and documenting violations related to individual freedoms. The council also works to advance human rights in cooperation with United Nations institutions, specialized regional bodies, national human rights institutions in other countries, as well as non-governmental organizations.

The National Human Rights Council can be regarded as a fundamental pillar in consolidating the rule of law in Algeria. Its effectiveness will largely depend on its future performance (Atab, 2020, p. 57), particularly its capacity to confront human rights violations openly, expose them, and address their consequences freely rather than functioning merely as a symbolic entity or a response to international pressures. To realize the true concept of protection and its effectiveness, the council must be equipped with full organizational and functional independence.

Tab.1 Comparison of specialized human rights protection bodies and their development

Distinction between the Advisory Committee and the National Human Rights Council			
	Advisory Committee	National Human Rights Council	
Legal Basis	Presidential Decree No. 01-71 issued in 2001	Constitutional Amendment of 2016	Constitutional Amendment of 2020 Articles 211 and 212
Method of Member Appointment	Its 45 members are appointed by the President of the Republic.	A nominations committee receives and reviews candidates, then submits them to the President of the Republic	
Method of Electing the Head	The Chairperson of the Committee is appointed by the President of the Republic.	The members of the Council elect their Chairperson	

Reporting	The Advisory Committee submits its annual report to the President of the Republic	The National Human Rights Council submits its annual report to the President of the Republic, the Parliament, and the Prime Minister, and is responsible for publishing it	The Advisory Committee's annual report is submitted to the President of the Republic, who undertakes its publication
Relationship with Official Bodies	State official bodies and judicial authorities rarely respond to complaints or judicial matters	Governmental and other official bodies are required to respond within 60 days to the Council's requests, according to Article 6 of Law 16/13 related to the Council	

Section Two: The Ombudsman as a Newly Established Mechanism to Support the Reinforcement of the Rule of Law

The subordination of the state to the law implies that its legislation must not violate human rights and dignity. Similarly, the administration, when enforcing the law, is also bound by it and obligated to respect it. This principle does not mean that the authority protects the rights and freedoms of individuals by subjecting only the individuals themselves to the law. (Abdel Dayem, p. 02) To realize this principle in practice, it is necessary to establish mechanisms that embody this reality on the ground and to work gradually toward continuous progress in consolidating and disseminating a culture of human rights. The achievement of a state governed by law and justice is not an instantaneous leap but a gradual, step-by-step construction.

First: Establishment of the Institution of the Ombudsman

The Ombudsman was first set up in Algeria in 1996, but it was shut down in 1999. (The Institution of the Mediator of the Republic was established by Presidential Decree No. 96-113 dated 23/03/1996, concerning the creation of the Mediator of the Republic, Official Gazette of the People's Democratic Republic of Algeria, No. 20, dated 31/03/1996. -It was later abolished by Presidential Decree No. 99-170 dated 02/08/1999, concerning the abolition of the Institution of the Mediator of the Republic, Official Gazette of the People's Democratic Republic of Algeria, No. 52, dated 04/08/1999) At the time, its goal was probably to bring back attention to human rights, personal freedoms, and government abuses in a country that was under a lot of security pressure. During that time, the international community and domestic stakeholders were both worried about the widespread administrative excesses and disorder. This made Algeria bring back formal institutional frameworks and deal with the effects of the crisis in order to lessen its severity in all areas of rights.

The Ombudsman's main job was to listen to complaints from the public about administrative decisions or actions and to protect people from having their rights violated by people who abuse their power. It also wanted to make sure that the government and its officials were accountable to the people. Ombudsman (Takla, 1971, p. 04) institutions are an important way to protect people from violations of their legal rights and abuses of power. In Islam, this job is called the Diwan al-Mazalim, which means "Office of Grievances."

Within the framework of reforms initiated by the President elected on December 12, 2019, and as part of reinforcing democratic principles and actualizing the concept of a state governed by law, (Chelali, Ben Salem, & Hashi, Mohamed El-Amin, 2020, p. 19) the Ombudsman institution was reinstated by Presidential Decree 20/45. (Presidential Decree No. 20-45 dated 15/02/2020, concerning the establishment of the Mediator of the Republic, Official Gazette of the People's Democratic Republic of Algeria, No. 09, 19/02/2020) This institution is placed under the authority of the President (According to the preamble of the Presidential Decree establishing the Mediator of the Republic, reference was made to Articles 84, 91(6), and 143 of the 2016 Constitutional Amendment prior to the amendment of the latter, which now appears as Article 141 in the current Constitution. Accordingly, the decree was based on: Article 84, which affirms the President's role as guardian of the Constitution; Article 91(6), concerning his authority to sign presidential decrees; and Article 143, which relates to his regulatory authority over matters not reserved for legislation), from whom it derives its powers due to the previous lack of a clear legal foundation. It is considered a non-judicial body that contributes to protecting citizens'

rights and freedoms, monitoring the legality of public institutions and administration, and acting as an oversight entity involved in human rights and the enforcement of the rule of law. This is reflected in its tasks, which include assessing the legality of the management of state institutions.

Second: Appointment of the Mediator of the Republic

The Mediator of the Republic is appointed by the President of the Republic through a presidential decree, holding an honorary rank equivalent to that of a Minister of State, as stipulated in Article 12 of the presidential decree establishing the office of the Mediator of the Republic. The mandate of the Mediator is terminated by the same procedure, i.e., a presidential decree. As an institution affiliated with the Presidency, the Mediator forms part of the executive branch, deriving its existence from the President of the People's National Assembly and exercising its oversight functions under their authority. Consequently, the Mediator is organically, functionally (Chelali, Ben Salem, & Hashi, Mohamed El-Amin, 2020, p. 23), and formally linked to this authority and cannot be regarded as an independent entity, despite possessing legal administrative and financial independence.

Third: The Departments of the Mediator of the Republic

The organizational structure of the Mediator's departments and their operations are regulated by Executive Decree No. 20/103 dated April 29, 2020. (Executive Decree No. 20-103 dated 29/04/2020, concerning the organization and functioning of the services of the Mediator of the Republic, Official Gazette of the People's Democratic Republic of Algeria, No. 25, 29/04/2020) These departments serve to assist the Mediator in performing their duties and include a central office, a technical secretariat at the central level, and local representatives of the Mediator at the provincial level. These departments hold significant functional importance given their role in facilitating the management and administration of the institution under the Mediator's leadership.

At the central level, there is the Office Department, managed by the Chief of Staff, and the Technical Secretariat, headed by the Secretary-General. Both officials are appointed by presidential decree, and their terms end under the same procedure. Their positions are classified as senior state functions (Articles 2, 3, 4, and 5).

At the local level, the local representative acts as the Mediator's assistant within the administrative jurisdiction of their province, in accordance with the administrative structure. The local representative's office is organized into two sections. This position is also classified as a senior state function and the appointment is made by presidential decree upon the recommendation of the Mediator. The termination of the mandate follows the same presidential decree procedure (Articles 8 and 9).

Fourth: The Powers of the Ombudsman in Consolidating the Rule of Law

One of the most important things about Algeria's current political transition is the effort to restore people's trust and encourage active citizenship based on the values of participation and openness. To reach this goal, we need to stop using old ways of governing that were full of corruption at all levels and in all sectors. This kind of legacy has made it necessary to use clear and precise technical interventions to get rid of the bad effects that have built up over a long time.

In this situation, the Ombudsman institution is very important because it goes beyond past management practices, upholds the rule of law, and protects the public interest, as long as it uses the resources it has effectively and has all the support it needs to succeed. If you don't do this, corruption will continue and people's rights and freedoms will continue to be violated. So, the Ombudsman's success depends on how well its administration is run and how much it helps the rule of law.

The Ombudsman's main job is to make sure that public institutions and administrations are following the law and protecting people's rights and freedoms. It has wide-ranging powers to monitor and oversee the administration's interactions with citizens and judge their fairness. Anyone, including individuals (but not businesses) (Because such legal entities may suffer harm on the one hand, and on the other hand, based on the principle of equality before the law.

See also: Hahha, Abdelali, & Ben Ziane, Ahmed. (2020). The Legal Status of the Mediator of the Republic in Algeria. *Mauritanian Journal of Law and Economics*, (27), Mauritania, p. 57), who has used up all of their legal options and still thinks they have been wronged because a public service was not run properly can file a complaint with the Ombudsman. However, this intervention is conditional and limited, which limits the Ombudsman's power and, by extension, the protection it is supposed to offer.

The Ombudsman also can't settle disagreements between public authorities and their agents, get involved in court cases, or review court decisions. (Presidential Decree No. 20-45) (Article 4) These limits come from the fact that the institution is not a court and are in line with the principle of separation of powers, which is a key part of the rule of law.

However, Article 5 of Executive Decree 20/45 gives the Ombudsman the power to work with public administrations and institutions to do his job through investigations that help him do so. He can tell any government or organization that can help him and has the right to look at any files or documents that are relevant to his work. But this power doesn't cover things like state security, national defense, or foreign policy.

The Ombudsman also gives advice to the President of the Republic by sending him yearly reports that summarize all of his work. These reports include suggestions and decisions about what should be done to the administration and/or its careless workers. The Ombudsman's report also includes evaluations of the quality and efficiency of services offered by public facilities, along with suggestions and recommendations for how to make them work better. This shows his role as an advisor to the President. (Articles 6 and 7)

Additionally, any problems that the Ombudsman tells the relevant administrations about, whether through recommendations or proposals to make public services work better or be better organized, must be answered in a reasonable amount of time. If an administration doesn't respond or gives bad answers, the Ombudsman can tell the President of the Republic (Articles 8, 9, and 10).

Conclusion

Public rights and freedoms have become among the most significant challenges facing the human rights framework at both national and international levels. They are also key indicators of development and progress in modern societies. The rule of law, which contemporary states strive to establish, requires essential elements that ensure subordination to the law foremost among them the establishment of rights and freedoms and mechanisms to guarantee their protection. A strong commitment to safeguarding these rights and freedoms has evolved progressively through successive constitutions, which have improved in tandem with the enhancement of mechanisms safeguarding them. Consequently, it can be affirmed that the Algerian constitutional framework has been keen to achieve legal security.

In conclusion, we arrive at a series of findings and recommendations as follows:

- The mere inclusion of public rights and freedoms in constitutional documents is insufficient to guarantee their practical implementation, as these provisions often serve as formal constitutional conditions and guarantees that, in most cases, are not accompanied by the necessary substantive conditions to ensure their application in reality.
- The primary objective of subjecting the state to the law is to protect the rights and freedoms of individuals from arbitrary authority.
- Empowering the Council with broad autonomy in exercising its functions, by granting it true independence and enabling it to exercise its freedoms in confronting and addressing violations, thereby reinforcing the rule of law and consolidating the concept of a state governed by law.
- Working to remove obstacles stemming from ambiguity regarding the status of human rights by ensuring transparency, including the ability to publish its reports and investigation outcomes to the public.

Elevating the institution of the Ombudsman within the constitutional institutional framework to strengthen the protection of citizens' rights, uphold the rule of law, reduce corruption, and contribute to dispute resolution through the mediation role of this institution.

Actuality of the Study

The rule of law has become a decisive criterion for assessing the legitimacy of political systems and their compliance with international human rights standards. In Algeria, the post-independence constitutional trajectory reflects an evolving attempt to reconcile the principle of legality with the demands of democratic governance and societal transformation. At a time when North African states face growing challenges of institutional fragility, social demands, and governance reforms, the Algerian case offers a critical lens to analyze how rights are guaranteed, protected, and institutionalized.

The relevance of this study lies in its contribution to ongoing debates on the modernization of legal systems in emerging democracies, especially in contexts where constitutional texts are progressive but their enforcement remains limited.

Method and Methodology

This study adopts a qualitative, doctrinal, and comparative legal methodology.

1. Doctrinal Analysis: Examination of constitutional texts, legal codes, and amendments since Algeria's independence, with a focus on provisions related to rights and freedoms.
2. Comparative Dimension: Benchmarking Algeria's legal evolution against international treaties (e.g., ICCPR, ICESCR) and selected constitutional systems in the Maghreb.
3. Institutional Approach: Assessment of the role of the judiciary, oversight bodies, and regulatory agencies in enforcing constitutional rights.
4. Critical Evaluation: Identifying gaps between formal guarantees (texts) and practical enforcement (implementation).

This multi-layered methodology allows for a holistic understanding of how the rule of law operates both as a normative principle and as an institutional practice in Algeria.

Findings

- Constitutional Codification: Algerian constitutions since 1963 have progressively expanded rights guarantees, especially in the domains of civil and political liberties, social rights, and economic freedoms.
- Institutional Weaknesses: Despite legal provisions, enforcement often suffers from institutional inefficiency, executive dominance, and weak judicial independence.
- Legal Reforms: Recent constitutional reforms (notably 2016 and 2020) introduced new oversight bodies and anti-corruption mechanisms, reflecting attempts to enhance the institutionalization of rights.
- Gap Between Theory and Practice: A persistent disjunction exists between constitutional recognition of rights and their practical exercise by citizens. This underscores the need for stronger institutions, civic participation, and judicial safeguards.
- Transformative Potential: The rule of law in Algeria is not static; rather, it is in a process of gradual institutionalization, with the potential to evolve further in alignment with democratic and international standards.

Ethical Considerations

This research is based on secondary sources (constitutional texts, laws, academic commentaries, and international treaties) and does not involve human or animal subjects. Ethical compliance has been ensured through:

- Respecting intellectual property and proper referencing of all sources.
- Maintaining objectivity and neutrality in legal analysis.
- Avoiding political or ideological bias in interpreting constitutional provisions.

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Conflict of Interest

The authors declare no conflict of interest. This study is an independent academic work conducted without financial or institutional bias.

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