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The Role of the Constitutional Amendment in the Development of Citizenship Values

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Abstract :

Citizenship occupies an important place and integral part of the Algerian's concerns. Citizenship appeared in the latest constitutional amendment of 2020, which touched on several issues related to human rights, especially political participation and civil society. Undoubtedly, this will lead to achieving compatibility between the texts of the Constitution and the development of the economic, political, social and cultural conditions. As a result, a promising contribution to activating and renewing the values of citizenship will lead to the cohesion and stability of the nation.

Keywords : Constitutional Amendment ; Citizenship Values ; Renewal ; Strengthening.

Résumé :

La citoyenneté occupe une place importante et prépondérante dans les préoccupations de l'État algérien, et cet intérêt est apparu dans le dernier amendement constitutionnel de 2020, Qui a abordé plusieurs problèmes liées aux droits de l'homme, en particulier la participation politique et la société civile. Ce qui conduira sans aucun doute à réaliser la compatibilité entre les textes de la constitution et l'évolution des conditions économiques, politiques, sociales et culturelles. Ainsi, une contribution prometteuse à l'activation et au renouvellement des valeurs de citoyenneté, d'une manière qui sert la cohésion et la stabilité des membres de la nation.

Mots Clés : Amendement Constitutionnel ; Valeurs De Citoyenneté ; Renouvellement ; Renforcement.

Introduction:

The vast majority of countries have tended to lay the general foundations in the organizational structure of the state, and its various orientations in a high minded document. The latter is a beacon and a reference for all laws in the state. This document is called "the Constitution". It is a legal term that is found only in the dictionary of the state of law because its reading and application as a legal concept is a historical occasion in the lives of peoples that embodies the realization of the popularity of power, and the establishment of the legal state (Al-Hindawi, 2010, p. 39).

The Constitution is the supreme document in the existing system in the state. It defines the state system, and recognizes the rights and duties of the citizen. If the state recognizes rights and freedoms, and seeks to empower citizens with them by various means and capabilities, whether economic, social, institutional or others, then it develops a sense of belonging among citizens to their state. Therefore, it generates a spirit of citizenship and embodies the individuals' will and aspirations. Thus, it appears that citizenship has a very close relationship with human rights, given that the Constitution is the first law in the state that enshrines and guarantees the actual exercise of all rights.

The movement of peoples' development towards the consolidation of democracy led to the emergence and popularization of the idea of the constitutional amendment. This, in turn, preserves the principle of the legal state in accordance with peoples' will and in line with the political, social and economic changes of society.

In this situation, the constitutional amendment leads to reformation of the state. It also ensures its adaptation to all other changes, development of its systems, and methods and policies according to the development of needs and requirements. This amendment focuses on the so-called upper branches of the state tree, which is mainly related to the form of the state and the pursuit of rights and freedoms and their guarantees. (Abdel Moneim, NO year, p. 4).

As long as the true meaning of citizenship has been linked to the movement of peoples and nations in order to achieve their rights and freedoms and depends on the individual's affiliation and loyalty to his homeland, then it is considered a constitutional issue related to rights and freedoms. Hence, the state must watch out for rights and freedoms' development and strengthening in the light of constitutional amendments.

Based on the foregoing, this study aims to investigate the relationship between the constitutional amendment and the strengthening of the values of citizenship. In addition, the present study searches for the limits of impact of this relationship in light of the changes facing the state.

Given the importance of the role of the state in promoting the values of citizenship through constitutional amendments, the researchers addresses the following question:

What is the contribution of the constitutional amendment to the consolidation of citizenship values?

First: The conceptual framework of the study.

1- Definition of citizenship:

The importance of defining the concept of citizenship appears not only as the main focus of the study, but also as one of the politically, socially, culturally and economically intertwined concepts. Citizenship is one of the ever-evolving concepts according to local, regional and international conditions (Abdel Moneim, NO year, p. 79). Citizenship has gone through historical stages that greatly affected the development of its concept and the determination of its meaning.

The concept of citizenship by definition has taken on multiple meanings. It's meaning has changed from one culture to another and from one linguistic context to another. However, the socio-political context remains the most convergent context in the various connotations of the concept of citizenship (Qusair, 2016, p. 37). Hence, this permits us to discuss about the linguistic meaning of citizenship and the idiomatic meaning, in addition to its historical development.

A- Defining citizenship in terms of language: The word citizenship is derived from the Latin word (civitas). Its equivalent translation in English is citizenship and in French is 'citoyenneté'. In Arabic the term citizenship was not defined precisely in accordance with the meaning of the term citizenship by itself. It is derived from the verb 'Waatana' 'وطن' meaning coexistence, sharing or interaction between two persons or more in one homeland (Al-Sayed, 2008, p. 10).

Citizenship: Is derived from the verb 'Watana' 'وطن' meaning to reside in the place, settle in the country: to take it as a homeland (Ibn Manzur, 1994, p. 120). Citizenship is taken in Arabic from the word 'El watan' which is equivalent

to homeland in English , i.e. the house in which you reside, which is the human's home and place: the house of human residence, whether he was born in or not (2019, Political Encyclopedia).

B- The terminological definition of citizenship: Today, several connotations of citizenship are used, sometimes referring to active affiliation to a religious sect, interest group, social class or membership in any independent political community. However, the idea of citizenship refers in its precise meaning to the idea of political participation and the right to participate in the formation of the general will, which constitutes the legal characteristic of the individual who has rights and a set of duties for which he performs in return.

These privileges, including the right to vote and hold public office, have in common the idea that their use represents an inseparable element from the functioning of the entire political system. In its general connotation, citizenship whether is (national related to the rights and duties of the individual within the state to which he belongs, or international in Arabic or European countries), it is a set of material and moral, individual and collective rights. The state maintains citizens' rights and empowers them in exchange for a range of duties, some of which are provided to citizens in the form of services (Belkheir, 2017, p. 15).

Citizenship sometimes also means "the state in which the individual is considered a citizen because he lives within a specific state to which he belongs and is loyal to and then enjoys its protection and membership, whether by birth or by acquiring nationality" (Ladmi, 2019, p. 05). It is also defined as "the individual's enjoyment of a set of values, in terms of feeling and practice. These values are the essence in the effectiveness of citizenship, such as freedom, equality and justice. Law guarantees the embodiment of these values in addition to the individual's enjoyment of various political, social and economic rights, in return for his commitment to duties that enable him to coexist within a sovereign state" (Khalidi, 2015, p. 15).

Jamal al-Din Ibrahim Mahmoud defined "citizenship as a set of values, principles, and trends that affect the personality of the individual, making him positively aware of his rights and duties in the country in which he lives, and enabling him to think soundly in different situations" (Ladmi, 2019, p. 82).

The Encyclopedia Britannica also defines citizenship as: "the relationship between an individual and a state to which the individual owes allegiance and in turn is entitled to its protection. Citizenship implies the status of freedom with accompanying responsibilities." The Encyclopedia Britannica confirms that "In

general, full political rights, including the right to vote and to hold public office, are predicated upon citizenship”(Al-Kuwari, 2001, p. 118).

Professor Daniel Fobal emphasized in his book “Citizenship and its Discontents” that the modern concept of citizenship reveals an infinite number of ways in which citizenship is viewed and understood through it. Citizenship starts from non-discrimination on any grounds, to the right to lunch, education, and health, to imitating responsibilities and enjoying the available experiences. In this book, Professor Fobal emphasizes three dimensions of citizenship:

1) citizenship as a legal status, in which the individual appears as a citizen in official terms only.

2) citizenship as a bundle of rights and entitlements.

3) citizenship as a meaning of identity and belonging.

Fobal concludes that the concept of good citizenship is: “The expression of the normative preference of citizens who possess and demonstrate civic virtue, over those who do not possess it. Good citizenship is characterized not only by efficacy but also by a combination of rights and duties, or individual entitlements and the performance of civic obligations” (Khelfa, 2019, p. 82).

Reaching this stage of development in the content of citizenship did not happen overnight, but came through a long history. It started during the Greek civilization, passing through the French Revolution, up to the contemporary concept of democracy, and this is what will be explained below .

C- The historical development of the concept of citizenship: the principle of citizenship went through different historical stages until it reached its contemporary significance. Historically, citizenship did not extend to all people. For example, only men or property owners were qualified to be citizens. Over time, a gradual movement emerged towards a more comprehensive understanding of citizenship. It was influenced by the development of civil, political and social rights. The idea of citizenship has developed since the seventeenth century BC among the Greeks and the Romans. The Greek political thought, and later the Roman legal thought in particular, created the foundations of the concept in the ancient era, based on the view of the individual as a citizen with rights such as the right to property and participation in the government. The individual was viewed as a person who has duties that include voting, attending meetings, holding jobs and the right to sue (Zureik, 2017, p. 253).

The emergence of modernity indicators and the fundamental changes that took place in Europe during the 18th and 19th centuries contributed in shaping the definition of citizenship. Its definition was based on the philosophical and intellectual rooting of many Western thinkers and transformed as a social, political, economic and legal practice (Khalidi, 2015, p. 7). In this regard, the French Revolution claimed that, in principle, it came to establish a new nation that had nothing to do with biological or religious reference.

The French Revolution claimed that its only reference was based on the free decision of citizens. This view was proclaimed by the French philosopher Jean Jacques Rousseau who introduced the concept of the social contract, the independence of the individual and his rights in the face of the state. His view also called for living in solidarity through which citizens belong to a nation-state and a general society and not to local communities under laws that they enact without restrictions (Atiya, 2018, p. 15).

This new view of citizenship was complemented by another dimension when the state transformed “humans” from subjects with duties to citizens with rights, just as they have duties. Hence, the focus of this view is on legitimacy of participation in issues that affect the nation, the state, and society (Idris, 2018, p. 16).

2- Definition of the constitutional amendment:

The development of the principle of citizenship was associated with the movement of peoples and nations for justice, equality and freedom. This movement took on a character through the issuance of laws regulating this relationship and the special duties and rights it contains in this contemporary time. The development of citizen rights included four aspects:

The legislative aspect related to codifying the rights and duties of citizens and the political aspect, such as establishing mechanisms that regulate the participation of citizens in formulating the public policy of their countries, as well as the educational aspect. This aspect includes teaching the foundations that emphasise the concept of citizenship and national awareness to the collective and media aspect (Schweeder, 2021).

The legislative aspect related to codifying the rights and duties of citizens is one of the priorities of the democratic state. Consequently, the constitutional rules, like all other laws, should follow the norms of development. Accordingly, it is necessary to recognize the permissibility of amending these rules.

It is not correct to give permanence or eternity to legislative texts, especially the constitutional document in this regard, as long as the political needs that seek to regulate them are constantly evolving. Otherwise, it is necessary to accept the absolute stagnation of their provisions, which people reject as a whole. The reasons behind such rejection could be because of the collision of these legislative texts with the political reality, economic and social and what might be leading to revolutions, coups and violence.

A- Defining the constitutional amendment in terms of language:

God Almighty says: “It is He Who created you, proportioned you, and balanced you” (Surat Al-Inftar, verse 7). It is stated that it is correct to read the word ‘Faadelaka’ ‘فَعَدَّلَكَ’ in two ways. The first one (فَعَدَّلَكَ) ‘Faadelaka’ without stressing the Arabic sound /د/ /d/, which means that Allah adjusted you the first time in the beginning of human creation. The second one with a stress on the Arabic sound /د//d/ (فَعَدَّلَكَ), which means that Allah adjusts a person in word and deed whenever there is a distortion in his speech or action so that the person returns to the correct path.

The literal meaning of “taadeel” “تعديل” also means modification or rectification. If something is deviated, it needs to be modified or rectified. For example, to modify and recommend witnesses as being far from inclination in favor of the litigants in the lawsuit (Ikram, 2009, p. 4).

B- The terminological definition of citizenship: by amending the constitution, it is intended to partially change a set of its provisions, whether by canceling it, adding a part to it, or modifying its content according to new requirements (Koussa, 2018, pg. 48). It is also defined as a partial change in the provisions of the constitution, whether by canceling some of them, adding new provisions, or modifying their content (charit, 2005, p. 28). Amending the constitution, then, means introducing changes or amendments to the texts of the articles that make up the constitution, i.e. a partial change of its rules and provisions, whether by deletion or by changing or adding new provisions. Therefore, the amendment requires the survival of the Constitution itself, which indicates that the amendment differs from the creation of a new constitution. This differs from the abolition or total termination of the Constitution in general.

In the modern era, all constitutions permit amendment. The aim of this is to adapt to the developments of society, and to add new articles related to new rights of the citizens.

Accordingly, the overwhelming majority of states tend to amend their constitutions. In Algeria, the constitutions referred to this starting with the 1963 Constitution (see articles 71/72/73), and the 1976 Constitution (see articles 191/192/193), as well as the 1989 Constitution in Articles (163/167). The same for the 1996 Constitution (see articles 174 /178) (Bodiar, 2003, p. 90), articles 208/212 of the constitutional amendment according to the Law 01/16 of 06/03/2016, as well as articles 219/223 of the 2020 constitutional amendment (Presidential Decree, 2020, 20/442).

Second: Strengthening the values of citizenship is one of the priorities of the constitutional amendment.

The Constitution is a symbol of legitimacy because it establishes the legal system in the state and shows the rules for regulating the exercise of power and the relationships between them and individuals. It also establishes the limits in which public bodies exercise their functions, which makes the authority in general exercise according to the provisions of the Constitution (Ghribi , 2016, p. 248). Therefore, the Constitution guarantees the non deviation of legislative, executive and judicial authorities from the political, social , economic principles, values, and rules that the people see as embodying legitimacy.” Legislation is considered a source of rights and freedoms. The Constitution holds the highest degree, including general provisions and principles characterized by transcendence, legitimacy and constitutionality. Dr. Numan Ahmed Al-Khatib defined the transcendence of the Constitution as follows: “The constitution’s transcendence means that the Constitution is considered the supreme law in the state, and no other law is superior over it.” (Al-Khatib, 2012, p.253). It is also intended to be the special status of the constitution, which allows it to transcend over the rest of the other legal rules. Therefore, the other legal rules are subject to Constitution formally and objectively. (Bodiar, 2003, p. 83).

In view of the value and importance of citizenship as one of the subjects of the Constitution, it had a place in the Algerian Constitutions by including its components and elements. Ladmi (2019) defined Values as “a set of standards that make an individual or a group issues judgment on a particular subject or thing as desirable and undesirable. The individual and the group’s appreciation and the judgment of these things or subjects go according to what these persons receive. They can receive knowledge, experiences, principles and values they believe in according to the context in which they live (p. 87) .These elements represented in: civic, political and social values. So, what is the status of these values in the last constitutional amendment?

1- Citizenship values in the contemporary state: citizenship is based on several important and lofty values, upon which citizenship is built in the light of the modern democratic state, perhaps the most important of which are:

-Civil value (the necessary conditions for individual freedom): Equality represents the essence of citizenship. Equality is a value which is considered the origin of democracy. It is proclaimed by all monotheistic religions, as affirmed and demanded by all international covenants established for human rights, and man-made provisions and constitutions calling for democracy. The value of equality is the cornerstone of citizenship because it regulates the relationship among citizens in the political and social group, as well as between the ruler and the governed in the state. This value touches several aspects in the individual and the group's life. These aspects include: equality before the law, equality in rights and duties, and equality in holding public office (Ladmi, 2019, p. 87).

-Political value: (the right to participate and exercise political power): This value is concerned with citizenship that is established through political participation by enabling every member of society to participate politically through voting, candidacy, and demonstration. That is, they have the right to make decisions, even if it is just to influence the political decision. Political participation is defined as the set of activities through which the individual comes into contact with the existing political authority to establish the concept of democracy (Taghlit, 2017, p. 148).

-Social value: It is the total field that ranges from a few quantitative rights of economic and security welfare to the right of sharing extensively for the social inheritance. Social value gives importance to the right to housing and legal aid, including but not limited to public and quality education and health care (Khelfa, 2016, p. 94).

2- The constitutional amendment and the consolidation of the values of citizenship:

In the 2020 amendment, the Algerian constitutional legislator adopted the idea of citizenship. The preamble to the Constitution stated: Algerian people are determined to make Algeria free from turbulence and violence, from all extremism, from all hate speech and all forms of discrimination by consolidating its spiritual and civilized values. These values are based on dialogue, reconciliation and brotherhood in the light of respect for the Constitution and the laws of the Republic" (Presidential Decree, 2020, No. 20/442).

The Constitution also stated the intention to build institutions based on the participation of every Algerian in the conduct of public affairs and the ability to achieve social justice and equality. It also aims to guarantee freedom for every individual within the framework of a democratic and republican state. In addition, the Constitution aspires to strengthen the national ties and guarantee democratic freedoms for the citizen. (Schweeder, 2021).

The constitutional amendment of 2020 sets the aim of public institutions in ensuring the equality of all male and female citizens in rights and duties. It also aims at removing all obstacles that hinder the opening of the human personality and prevents the effective participation of all in political, economic, social and cultural life (Constitutional Amendment, 2020, Article 35).

This confirms that the constitutional legislator considers citizenship to be the highest degree of justice when dealing with citizens. He also considers citizens equal by origin in rights and duties, and that there is no difference between one citizen and another not on the basis of religion, gender or origin. In fact this means a complete upholding of the citizen's value, and a comprehensive application of the most important principles of human rights stipulated in heavenly laws and international covenants (Abdel Moneim, BS, p. 178). He also stressed that all citizens are equal before the law, which is a consolidation of the basic principles on which citizenship is based (Constitutional Amendment, 2020, Article 37). This statement comes in light of the broadening of the concept of citizenship to include many social and cultural rights .

The constitutional legislator also adopted the amendment of Article 16, which stated that: The state is based on the principles of democratic representation, the separation of powers, and the guarantee of rights, freedoms and social justice. The elected council is the framework in which the people express their will and monitors the work of public authorities. The state encourages participatory democracy at the level of local communities, especially through civil society (Constitutional Amendment, 2020, Article 16). As for Article 19 of the Constitution, it states that: "The elected assembly, as it represents the basis of decentralization, is the place in which the representative and participatory democratic process is practiced, and the collective management of public affairs is achieved." This is what makes it clear that citizenship is the foundation upon which democracy is based, by describing that citizenship is the expression and embodiment of the participation of members of the people alike in the formation of the political will of the people as the source of powers.

The content of the aforementioned articles confirm what most thinkers have said about the principle of citizenship. They regard it more in line with participatory democracy and less with ideal democracy. One of the jurists considered citizenship as the backbone of democracy and a right and duty through which civilizational and cultural peculiarities coexist. He also affirms that there is no citizenship without the elements of a sound democratic system that is based mainly on the authority of institutions emanating from the people (Khelfa, 2016, p. 94).

Through the foregoing, it is clear that the constitutional legislator, through the constitutional amendment, has expressed participatory democracy as a new gain for civil society. This is possible when constitutionalizing the participatory role of civil society in the conduct of public affairs and laying more foundations to deepen democratic practice and enhance the values of citizenship (Zaarouri, 2021).

The constitutional amendment also stated explicitly that the state ensures the activation of the role of civil society to participate in the conduct of public affairs (constitutional amendment, 2020, Article 10). This shows that the recent constitutional review of 2020 formed a real will to translate the aspirations of the people, by bringing about deep social and political transformations in order to achieve democratic transition in light of building new Algeria. This was reflected in fundamental constitutional reforms which recognise the role of civil society as an essential partner for the integrity of the state. Upgrading its constitutional and organizational position is a prominent axis that has not been witnessed under the previous constitutional reforms. This position was further strengthened following the constitutional dedication for the first time to an advisory body called the “National Observatory for Civil Society” in accordance with the Article 213. Its aim was to take care of civil society concerns, and effectively contribute in promoting national values, democratic practice ,citizenship, and participating alongside other institutions in achieving national development (Qazlan, 2021).

Conclusion:

To conclude, the most important results of the study can be listed as follows:

-Difficulty of agreeing on a specific, fixed and integrated concept of citizenship. This concept is constantly evolving, given its connection to the process of social and political development in every society.

-Citizenship is an attribute that is established for the individual as a result of the relationship between him and the state, whereby a set of rights and duties are established for him.

-Democratic regimes resort to constitutional amendment to purify their constitutions from the impurities and loopholes that may be inflicted on them for one reason or another. The aim is to ensure their continuity with national and international developments.

-The constitutional amendment is the change and the constitutional procedure stemming from the popular will. It seeks to bring about a partial change to the texts of the Constitution in accordance with specific rules included in the competent authorities.

-The constitutional amendment ensures compatibility between the provisions of the Constitution and the economic, political, social and cultural conditions, in order to serve the development process in the state.

-The constitutional amendment aims to strengthen the principle of citizenship, given that all citizens are equal before the law in rights and duties.

-The constitutional legislator expressed the view that participatory democracy is a new gain for civil society by constitutionalizing the participatory role of civil society in the conduct of public affairs. participatory democracy serves to deepen democratic practice and enhance the values of citizenship.

-Recently, citizenship occupies a prominent position in the interests of the state and its institutions, and has emerged in several issues related to human rights, especially political participation and civil society.

-The constitutional legislator recognises the role of civil society as a key partner for the integrity of the state, and the constitutional dedication of the advisory body related to the "National Civil Society Observatory" .

Through the obtained results, it is clear that the constitutional amendment under the democratic state will undoubtedly activate and renew the values of citizenship. It will also lead to the re-establishment of a new soul for the exercise of rights and freedoms, given that citizenship as an organic affiliation with the state does not live without a democratic incubator endowed with belonging and

recognition. It is also important to recognize the role of constitutional amendment as a key factor leading to the support of national identity, cohesion and stability of the members of the nation.

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