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Creativity and innovation in the constitution that meets international trends

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Abstract

It is well agreed-on that the constitution has long been considered an internal non-negotiable matter, and is considered one of the constants that do not keep pace with the developments of life and the changes of time and its phenomena. The emergence of the League of Nations, its demise, and the emergence of the United Nations as an international organization, participated in transferring the international law from classical to modern jurisprudence. Therefore, this study proceeds to clarify the international standards that countries must prepare for, anticipate and consider as an imposed and inextricable reality, so that the texts of the constitution are coined with those global trends as to match the text, in its formulation, with creativity and innovation for long periods without the need to amend it, and so that we are in front of a constitution with dimensional and international integration.

Keywords

Creativity and innovation, constitution, international trends

Introduction

Modern constitutions include principles, values, goals, rights, freedoms, and general directions that express the state's philosophy and system, and address the state's highlight externally and internally, and the content, essence and features of this nation. There is no doubt that the constitution differs according to the conditions of each country, affected by its internal situation in terms of society, politics, economy, culture and administration, as well as by its geographical location and historical accumulations.

Therefore, constitutions, since the year 1789, which witnessed the birth of the first

constitution to this day, come out varying between long, medium or short constitutions. Some come with short introductions and some with very extended ones, and the same is true in content; while there are texts full of various rights and freedoms, there are texts that do not go beyond generalities for child, woman or equality.

Most of the constitutions are still keen to reveal the goals and historical conditions that prevailed during the period of their preparation, and it cannot be hidden that most of the constitutions of the Arab world were following the latest constitutional systems as a requirement for the establishment of the state, and obtaining recognition in the United Nations.

This is considered as an attempt to reconcile the conditions of those countries in that prevailing period and their needs on the international scene, without a futuristic vision for the condition of those peoples and the needs and circumstances of those countries among these texts.

Therefore, whoever looks at the first constitutions of our Arab world will find it to be in 1923, in the royal land of Quiver, Egypt then, and then the 1952 revolution, and texts ranging from the right to stand against colonialism, feudalism and capitalism, and the establishment of the army, social justice and democratic life. Afterwards, in 1971, Egypt witnessed a new constitution that was in the orbit peace and freedom of peoples, Arab unity, the development of the country, and the dignity of the land and the individual. After that, Egypt and the Arab world witnessed a conspiracy in the year 2011, that everyone is still paying its price, which contributed to the backwardness of those countries for many ages. Anyway, the constitution of 2011, issued by Egypt, which was not widely accepted by the people, was far from reality, events succeeded on the land of Quiver, the last of which was the 2014 constitution. Despite the diversity and experience of those who contributed to its preparation, it dealt with many areas and was, as is the case of other Arab countries, trying to devote as much effort as possible to make the constitution the source of legislation and regulations.

Therefore, we find that the matter needs to be clarified, despite the public requirements and the constitutional legislator's attempt to appease them, especially in the need for them in the constitutional entitlement and the public referendum, but we are still in urgent need to reconsider the concept of the constitution and completely undermine the mainstream concept among the nations and re-plant a new spirit in the Arab's thought before the written text. When that culture prevails, our nation will be in an excellent position among the nations, and the Arab individual will have a prominent position among the members of the international community.

Therefore, we should not go far. This part of the earth went through difficult stages that the place and man witnessed, until it witnessed an end led by a person from this land and from that era. Everyone gathered around him, and despite the insistence and betting of the outside on failure, the will of men after God's success prevailed. And when darkness intensifies, the constitutional text is the way out, and although its formulation was temporary with a short period of time, it continued, and the only reason for its success

lies in the fact that the ideas of that society and its leader were rooted in those texts¹. And the success has continued to this day, and the reason for that is the constitutional texts express the situation of that nation that foresaw future visions, and formulated its steps with texts not exceeding 152 articles that would complete fifty years in a couple of years, and it would not have been expected to last fifty years had it not been stripped of the short-term horizon.

Whatever the situation is, how can we achieve such success, and how can the texts of the constitution be appropriate and innovative in line with global trends, so that we do not find ourselves one day tweeting outside the international flock or living with outdated texts that cannot be developed and do not achieve the desired goal. It is also a study that attempts, as much as possible, to express the need for modification, the necessary frameworks for it, and the methods to be followed to achieve it. This is what the next lines will try to answer.

The importance of the study

1. Drafting the constitution is a stage prior to all kinds of oversight and interpretation. We need strategic constitutional texts that instil confidence in countries and enhance their global position. The innovative treatment of the constitution's texts contributes to a huge leap in the state's relationship with its peers and international organizations.
2. The three authorities, legislative, executive, and judicial, are defined by the content of the constitutional text. They follow its trail and follow its path. They do not deviate from its goal. When the text of the constitution falls short, the authorities strive, strike, and deviate until one of them emerges or becomes arbitrary. When the constitutional text is drawn up in its place as desired to achieve and follow it, we will have no other option.
3. Rights and freedoms need flexible texts that are appropriate to the changing needs of society, according to emerging circumstances. Here emerges the importance of the text, its accuracy, its integrity, the extent to which it deals with the scope of the subject and its validity for implementation with those variables.
4. Knowing the intent of the constitutional legislator and the extent to which they found a text that has solutions to ambiguity, deficiency, conflict, or scope of application in time or place, or its validity against the people.
5. Since ancient times, the Arab countries have been the focus of the countries' attention and are still so far. A qualitative shift must be made in response to these predictions, which will not occur without full knowledge of concepts and variables, and the ability to deal with developments through constitutional texts characterized by creativity, innovation and pioneering for the Arab peoples.
6. Developing and activating the internal legislative systems in line with the international developments.

¹ Whoever looks at the reality of the situation will find that the most successful constitutions, that are successful and sustainable and adhere to by peoples, are those prepared before determining who will be ruling the administration or are formulated later in the presence of the authorities.

7. Does the international community have the ability to impose a constitution on states, and what are the means to avoid that in the first place?
8. No country can remain isolated from other countries or closed on itself or meet all the requirements of its people without cooperating with the international community.
9. Weighing the constitution's texts compared to its counterparts, their suitability for the future, and the spirit of creativity and innovation in line with international trends.

Research problem

1. Have the texts of the constitution kept on with international developments and changes?
2. Is the constitutional document considered futuristic, drawing the features of the group and the authority to an extended time range and coexisting with it without the need to say it is deficient, or afflicted by stubbornness, shortcomings, shame, or old age and the need to renew or change it?
3. Is there a futuristic need for the constitution in the countries?
4. Are the interpretations, in the future, able to clarify the purpose of the text and its interpretation, and point out its significance and meanings according to the will of its authors and the spirit that prevailed in that era without wasting its value?
5. Most of the world's constitutions are rigid. Therefore, the difficulty of amendment and modernization is evident, and it should be avoided in advance, through texts that consider the manifestations of the future without wasting the origin and emergence, and contribute to transfer the state to advanced ranks that transcend people and place.
6. This study will not be fruitful or trusted without analyzing the texts of comparative constitutions and clarifying the rank they reached, and the extent to which the keep pace with current and future developments.

Study Approach

This study adopted the descriptive and analytical approach, through five axes:

First: the preamble to the constitution

Second: Localization of international rules in the constitution

Third: The impact of the Charter of the United Nations on the constitution texts.

Fourth: The impact of human rights rules

Fifth: The impact of the constitution text, with an international dimension, on the authorities

First: the preamble to the constitution

The preamble, preface, or introduction may be included in the constitution or avoided being stipulated. According to an analysis of the constitutions of 50 democratic countries, it was found that 37 countries, which constitutes 74%, have included introduction in their constitutions, and most of the countries that have adopted constitutions in recent years, especially in Central and Eastern Europe, have included

introduction in their constitutions².

It should be noted that the preamble addresses several points, including:

7. The source of sovereignty, and it revolves around the words "we" or "the nation..." and in the federal states, the states that make up the federation and their peoples³.
8. Historical narratives and the tribulations, beliefs, heritage, traditions, language and personalities that the people or the state have gone through⁴.
9. The goals that the constitution aims to achieve, and they vary between political, economic, social, or cultural goals, in addition to rights, freedoms, peace or love⁵.
10. The religious reference of the state or the people and the extent of the implementation of religion or the separation of religion from the state⁶.
11. Rights, freedoms and states are of two types: the first puts it at the front of the constitution or paves the way for it to be issued with an independent document that is the same as the constitution or higher than it. The second does not deal with or care about rights and freedoms, but rather focuses on the form of the state, its system and objectives without mentioning or paying attention to rights and freedoms⁷.
12. Freedom of religion.

Therefore, we find that there are long preambles and others may be short or essentially avoided, hence it is a contrasted issue. However, here we must include some texts that are durable, considerate for international dimensions and following up on global developments, which is characterized by an innovative nature, including adherence to the

² Dr. Walid Mohamed El-Shinawy, *The Role of Constitutions' Prefaces in Constitutional Refutation*, Egypt: Dar al-Fikr and al-Qanoon, first edition, 2014, p. 10.

³ The UAE constitution (we are the rulers...), the Spanish (the Spanish nation...) and the Australian constitution (whereas the peoples of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the grace of God Almighty, agreed to unite into a single, indivisible, federal commonwealth, under the United Kingdom of Great Britain and Ireland...).

⁴ As in the South African Constitution, which states: (We, the people of South Africa, aware of the injustices to which we have been subjected in the past; in honour of those who suffered for the spread of justice and freedom in our land, and out of respect for those who worked to build and develop our country; believing that South Africa belongs to all who live there, united in their diversity...).

The Constitution of Egypt 2014 (Egypt is the gift of the Nile to the Egyptians, and the Egyptians' gift to humanity. Egypt is Arabic, with the genius of its location and history, the heart of the whole world. It is the meeting point of its civilizations and cultures, the crossroads of its sea and communications, and the head of Africa overlooking the Mediterranean, and the estuary of its greatest rivers: the Nile. This is Egypt, and immortal homeland to the Egyptians, and a message of peace and love to all peoples. In the early days of history, the dawning of the human conscience appeared and manifested itself in the hearts of our great ancestors, uniting their good will, they established the first central state, controlled and organized the life of the Egyptians on the banks of the Nile, and created the most wonderful chapters of civilization, and their hearts looked to the sky before the earth knew the three monotheistic religions. Egypt is the cradle of religion, and the banner of the glory of the heavenly religions. In its land, the converser of God grew, and the divine light was revealed to him, and the message was revealed to him in Seneen mountain, and on its land the Egyptians embraced the Holy Virgin and her child, then they offered thousands of martyrs in defense of the Church of the Christ...)

⁵ The Turkish Constitution states: (And that all Turkish citizens are united in national pride and honour, national sorrow and joy, and in their rights and duties related to national existence, in blessings and burdens, and in every manifestation of national life, they may demand a peaceful life based on full respect for the rights of one another, their freedoms, mutual love and affection, the desire and belief in peace in the homeland and in the world...)

And the German Constitution: (Inspired by the determination to promote peace as an equal partner in a united Europe...).

⁶ The Constitution of Indonesia: (And it is by the grace of God Almighty...), (It was decided to formulate the independence of the Republic of Indonesia in a constitution that makes it a sovereign state based on the belief in the One God...).

⁷ Dr. Walid Muhammad Al-Shennawi, previous reference, p. 22, sees that rights and freedoms, according to the first type, are related to human dignity and human existence and are not related to the ideology and thoughts of the individual. As for the second type, it prioritizes ideology over rights and freedoms, and the individual is restricted to the vision of the state, not rights.

principles of the United Nations and resolving Conflicts by peaceful means, supporting generations, following in the footsteps of modern nations, and observing the future in treaties, rights and freedoms.

Second: Localization of international rules in the constitution

There is a dialectical relationship between domestic law and international law, so jurisprudence had opinions on this issue⁸, but the moral in this is that it revolves around the consent of the state and its implementation of the international rule based on consent, which means that the issue is optional in implementation of the principle of state sovereignty, but that is capable of applying international law internally, and applying the national judiciary to those treaties.

Therefore, the texts of the constitutions divided their stances, towards international law, into four directions, namely:

13. The vague constitutional text, the state is subject to international law without stating its rank and hierarchy, which necessitate the existence of two legal systems, with the state accepting, adopting, or complying with the rules or principles of international law⁹, such as the Irish Constitution¹⁰ of 1937, and the preamble to the French constitution¹¹.
14. The neutral constitutional text. These countries explicitly or implicitly adopt some principles of international law and not others, such as Article (40) of the UAE Constitution: "Foreigners in the Union enjoy the rights and freedoms established in the international conventions in force, or in the treaties and agreements to which the Union is a party and they have the corresponding duties." And Article (13) of the Spanish Constitution: "Foreigners in Spain enjoy the same public freedoms guaranteed by this chapter in accordance with the provisions of treaties and the law." Article (10) of the Italian Constitution: "The legal status of foreigners is regulated in accordance with the law and in accordance with international rules and charters".
15. The conciliation constitutional text, these countries adopt a better stance than the previous two trends, as they obligate the internal legislature to reconcile the legislation they issue and the rules of international law such as the Italian Constitution in Article 10: "The Italian judicial system abides by generally recognized international laws". Article 9 of the Ukrainian Constitution:

⁸ For more,

⁹ Dr.. Muhammad Khaled Baraa, *International Treaties and the Mechanisms of Their Settlement in National Law*, Al-Halabi legal Publications, First Edition, 2017, p. 51.

¹⁰ Article 29:

3 Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States.

6 No international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas.

¹¹ The French people solemnly proclaim their adherence to human rights and the principles of national sovereignty as defined in the Declaration of 1789 and as affirmed and supplemented by the Preamble to the Constitution of 1946, as well as their adherence to the rights and duties established by the Environmental Charter in 2004. In accordance with these principles and the principle of self-determination of peoples, the Republic grants to the Overseas Territories which expressed their willingness to uphold those principles, new institutions based on the shared ideals of freedom, equality and fraternity that were devised for their democratic development:

"International treaties in force, which the Ukrainian Parliament has agreed to be bound by, are considered part of the national legislation of Ukraine. International treaties that contradict the Constitution of Ukraine can only be implemented after relevant amendments to the Ukrainian Constitution have been introduced". And Article (125) of the UAE Constitution: "The Emirates governments shall take the necessary measures to implement the laws issued by the Federation and the international treaties and agreements it concludes, including the issuance of local laws, regulations, decisions and orders necessary for this implementation. The federal authority has the authority to supervise the implementation by the governments of the Emirates of laws, decisions, treaties, international agreements and federal judicial rulings. The competent administrative and judicial authorities in the Emirates must provide all possible assistance to the Union authorities in this regard.

16. The constitutional text that is biased towards international law over its national law; such as Article (25) of the German Constitution which states: "The generally recognized rules of international law are an integral part of federal law. These provisions take precedence over federal laws, and they entail exercising the rights and duties of the inhabitants of the federal territory"¹². And Article 55 of the French Constitution: "Treaties or agreements duly ratified or approved, when published, shall have force over the laws of Parliament, provided that they are applied by the other party in relation to this agreement or treaty. ". Article (96) of the Spanish Constitution: "International treaties legally concluded become part of the internal legal system immediately after their official publication in Spain. Their provisions may not be repealed, amended or suspended except in line with the provisions of the treaties or in accordance with the general laws of international law". And Article (5) of the Brazilian Constitution, which states: "The rights and guarantees contained in this Constitution do not exclude other rights and guarantees derived from the system and principles it adopts, or from international treaties to which the Federative Republic of Brazil is a party".

From the above, we find that constitutions are different according to the four directions previously listed, and some may consider all of these approaches in one constitution, and therefore the constitutional legislator should look outside the borders of the region and fortify oneself, as there are some international applications that operate on the principle of transcendence of the rules of international law over the rules of national (internal) law. Among those applications:

17. Decisions of the International Court of Justice in the case of fisheries between

¹² Article 100 of the German constitution adds:

1. If any court finds that the law by which its provisions are to be enforced is unconstitutional, the proceedings shall be discontinued, and a judgment shall be obtained from the State Court of Constitutional Disputes in this respect, if the matter is in breach of the Constitution of this State, or from Federal Constitutional Court, if the matter concerns a breach of this Basic Law. This provision shall also apply when it is about a breach of this Basic Law by the legislation of any State, or about an incompatibility between a State law and a federal law.
2. If, during any proceedings, doubt arises as to whether a rule of international law forms an integral part of federal law, and whether such a rule creates rights and duties for individuals (Article 25), the Court shall obtain a ruling from the Federal Constitutional Court.
3. If, in interpreting this Basic Law, a Constitutional Court of a State proposes a motion to deviate from a judgment of the Federal Constitutional Court, or a constitutional court of another State, that Constitutional Court shall obtain a judgment of the Federal Constitutional Court.

Norway and Britain in 1951, the case of the Swedish and Dutch dispute in 1958 over the violation of the treaty between the two countries of the Swiss law on guardianship of minors.

18. Decisions of the International Court of Arbitration in the case of Alabama, Montego, George Besson and Warsaw Electricity.

An important issue arises in this regard, when the constitution specifies a certain period for the entry into force of the treaty in accordance with the internal procedures and the consequent procedures that may be long or short. However, whoever sets the texts of the constitution must observe the international treaty registration system, which is, as it is always mentioned in international law, a procedure through which the international treaty is registered with the United Nations Secretariat to be relied upon, which is a publicity procedure to avoid the existence of an agreement that violates the Charter or international law and a guarantee that states will not evade their obligations, as well as acts of transparency and disclosure and to avoid the defects prescribed for non-registration. Therefore, the authors of the texts of the Constitution should expressly implement this guarantee in the Constitution, and the United Nations should develop a model text to be included in the constitutional amendments of any member state to be automatic as soon as it comes into force, and there must be flexible constitutional texts in the areas of treaties so that the treaty applies internally as soon as it becomes internationally effective through the completion of the specified number of ratification or the lapse of the specified period. With a guarantee that allows the internal authorities to interpret the texts according to predetermined criteria and bases¹³.

Third: The impact of the Charter of the United Nations on the constitution texts

The Charter of the United Nations lays down a number of general principles dealing with several broad areas, and its texts are rightly considered to have a special lustre, so you see them going in all directions without scientific luxury, literary prose and resonant linguistic words, to stipulate several topics, including:

1. The right of peoples to self-determination.
2. The principle of maintaining international peace and security.
3. Human rights.
4. The right to self-defense in armed aggression and to inform the Security Council to take the necessary measures or actions.
5. Non-interference in the internal affairs of states.
6. Respect for the principle of sovereign equality.

It is no secret that the charter contributed to many changes in countries without paying attention to their constitutional texts, as the countries had no choice but to follow

¹³ The American judiciary is competent to interpret the texts of treaties, so is the situation in England. In France, there is a distinction between criminal and civil law, interpretation of treaties with penal and administrative law and ambiguous texts is carried out by the Ministry of Foreign Affairs, being a political process in the first place, and the judiciary is bound by that interpretation. As for the French civil judiciary, it is entrusted with the interpretation of treaties related to issues of private law. In Egypt, the interpretation of treaties is an act of sovereignty, as well as its implementation as a political matter. For more on that, see Dr. Muhammad Khaled Baraa, previous reference, p. 118 and thereafter.

its guide, despite not being convinced of its provisions and contents. Countries imbibed its contents and transferred them to the constitution, and specialized international organizations had a clear role in transforming the constitution, as the World Health Organization had many contributions, as well as UNESCO, International Labour Organization and World Trade Organization.

However, the legal sovereignty and supremacy of the state's constitutions are still respected rules and considered part of public international law, especially in the Charter of the United Nations and through Article 7, paragraph 2, which clearly states that countries have their national field of action. In this regard, it is necessary to recall in this regard the decision of the Permanent International Court on Nationality that the field of national actions is closely linked to the development of society. The state of the territory, on which it exercises its sovereignty, and persons who appeared recently are still unable to obtain these elements, and that the State in any case maintains freedom of signing of international treaties and that they can reduce the impact of these treaties by their internal procedures. And finally, this kind of Internationalization essentially needs states as an executing agency for these agreements. From the foregoing, it can be said that there are two types of applicable international laws¹⁴:

First: Traditional International Law: It is an organized structure with clear institutions and well-known sources, and it attempts, as much as possible, to stabilize reality as it is in order to avoid many international disturbances, as well as limiting the concept of internationalization within certain frameworks to ensure the existing relative international stability.

Second: Modern International Law: It attempts to fill the void that exist within the traditional legal system in a way in order to confront the legal void resulting from the phenomenon of modern globalization.

Most modern constitutions include the provisions of the United Nations Charter in their constitution, explicitly or implicitly, such as Article 129 of the UAE Constitution: "The Union's foreign policy aims to support Arab and Islamic causes and interests, and to strengthen the bonds of friendship and cooperation with all countries and peoples, on the basis of the principles of the United Nations Charter, and best international ethics. The matter does not stop there, but some countries have rushed to include the international criminal crimes that they stipulate in their constitution, as is the case in Article 95/5 of the German Constitution: In the following areas:

1. Genocide.

¹⁴ Dr Abdul Salam Ahmed Hammash, A Study of the Concept of Internationalization and Its Uses in Public International Law, Studies 38 Sharia Sciences and Law, Vol. 2, No. 2, 2011, p. 593. Internationalization is known as "taking out these legal issues from their national area and addressing them by international domain, as a result of non-appropriateness of national rules to resolve this issue or the inability of the state to address these issues on its own". An example of that is that today there are many issues exiting the national sovereignty to the international domain, which is currently called International specializations, and its examples are many: international arms control treaties, international treaties for nuclear waste treatment, protecting some species of wildlife, treaties for joint humanitarian heritage, treaties for drug control, currency fraud, and anti-poverty and diseases, all these aspects and human activities currently exit from national domain to public international law domain. One of the most important motives urging states to sign these treaties and strengthen the legal system is that globalization is not always beneficial, many global gangs have evolved and trying to use the freedom provided by these means for money laundering offenses to the crimes of legal immigration, the international drug gangs and the modern slave trade. Thus, states have found that international cooperation provides an opportunity to reduce these crimes.

2. Crimes that international criminal law considers crimes against humanity.
3. war crimes.
4. Any other acts aimed at disturbing the peaceful relations between peoples, committed with intent (Article 26 (1)).
5. State security.

And article 23 of the Moroccan constitution: "The crime of genocide and other crimes against humanity, war crimes, and all gross and systematic violations of human rights are punishable by law."

And Article (80) of the Ecuadorean Constitution: "Cases and penalties for genocide, crimes against humanity, war crimes, enforced disappearances, and crimes of aggression against any country are not subject to the statutes of limitations. None of these cases benefits from amnesty. Criminal responsibility lies upon subordinate who commits one of these crimes and his boss who ordered him to commit them."

Countries are keen to be open to the United Nations Charter and to include its texts in their modern constitution.

From the aforementioned, we find that the constitution revolves around the objective criterion based on political, social, economic and cultural principles and values, and the formal criterion, through the formula that established those texts.

The application scope of constitutional text does not retract for a period of time that has passed or for values that left the group and are gone. On the contrary, it coexists with the present, and looks forward to the future, as when the time has come for its application, and the necessity of extending it, and occasions for the application of its boundaries emerged, it becomes necessary for it to rise and transcend the event, those committed to its application, at that time, shall not invoke its shortcomings, vagueness or antiquity. If they did, their action would be an insult to its transcendence and provisions, a denial of the ability of the basic rules to provide the lowest legal rules with legitimacy, and showing weakness in the application of the Constitution and the watcher for its preservation from the continuation of constitutional solutions from its causes. and her wisdom¹⁵.

Fourth: The impact of human rights rules

The second war and the resulting painful atrocities contributed to the hastening to strengthen the bonds of international cooperation to protect human beings. The individual's relationship with the state and his legal status were no longer subject to internal law, but was rather considered from the past. International human rights law became directly related as a result of that time period and the tragedies that occurred. This was confirmed by its preamble: "As disregard and contempt for human rights have led to acts whose barbarity has provoked the human conscience, and human beings have called for the emergence of a world in which they enjoy freedom of speech and belief and freedom from fear, as the highest aspirations of their souls, and since it is essential that human rights enjoy the protection of the legal system if human beings are not to finally

¹⁵ Dr. Ali Hadi Attia Al-Hilali, *The Enlightened by the Interpretation of the Provisions of Constitutions*, Zain Legal Publications, first edition, 2016, p.7

have to take refuge in rebellion against tyranny and oppression". The rules of human rights have contributed to enriching and building modern constitutions to match the legal development of the international system, which contributed to the crystallization and lifting of the individual's position in the constitution, granting guarantees, legal status, and rights that did not exist, until the individual became central at the international level, until jurisprudence raised the extent to which it is considered a person of international law or not, and yet we see the supply of constitutional jurisprudence in explanations that enrich this issue and give it a distinct rank, as it has been divided into groups, namely:

- **Natural rights**, that include the right to life, security, welfare, property, and freedom, such as:

Freedom of thought and opinion - freedom of conscience - freedom of expression of opinion and knowledge - freedom of association - freedom of religion - freedom of movement - freedom of work - right to dignity - right to security - right to property - right to equality - fair legal procedures - right to privacy - right to Reputation - social rights - right to standard of living - right to housing - right to medical treatment - right to work - right to education.

- **Acquired rights**, that include the right to education - right to food - right to drink - right to clothing - right to work - right to movement - freedom of worship - religious freedom - freedom of the press - right to express opinion - public's right to knowledge - right to equality - Non-discrimination - right and freedom to vote and stand for election - freedom of conscience - the right from non-exploitation - right and freedom of dignity.

- **Personal freedoms**, that include food, drink, clothing, choice and others.

- Some divide the previous rights into social, intellectual, economic and political rights¹⁶.

Today, no constitution is devoid of principles derived from human rights charters, such as the principle of legality of crimes and penalties and their non-retroactivity. Rather, the Moroccan legislator added, in a constitutional text¹⁷, the right of foreigners to participate in local elections if the law permits or in case of existence of an international agreement or reciprocity, and these are international repercussions in the field of human rights, no matter how hard he tries, the constitutional legislator will not be able to keep pace with, especially in front of rigid constitutions, and to ensure their stability, which requires creative and innovative solutions that achieve the purpose of these global texts and keep pace with them so that the Arab countries are not left behind.

However, the one who deeply studies these rights finds them changing and renewed, starting with simple rights and continuing until rights appeared to protect individuals within the internal system of states. However, there are some rights and freedoms that do not go along with states. Therefore, these treaties should be dealt with professionally so as to avoid any conflict or harm to national sovereignty, as in the case

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¹⁷ Article 30: Every female and male citizen has the right to vote and to stand for elections, provided that they reach the legal age of maturity and enjoy civil and political rights. The law stipulates provisions that encourage equal opportunities for women and men to access electoral posts.

Voting is a personal right and a national duty.

Foreigners enjoy the basic liberties recognized to Moroccan citizens, in accordance with the law.

Foreigners residing in Morocco can participate in local elections, by law or in application of international agreements or practices of reciprocity.

The law determines the conditions for extradition of persons who have been prosecuted or convicted to foreign countries, as well as the conditions for granting asylum.

of abolition of the death penalty or the rights of homosexuals and so on, which affect the general internal system of states.

The party concerned with interpreting agreements has powers in accordance with the Vienna Convention on the Law of Treaties, pursuant to the rule that constitutions are subject to future interpretation¹⁸, which gave the courts wide authority to implement human rights that were not provided for in the constitution. In reality, there is no need to implement human rights in the constitution when the rights stipulated and the rights not stipulated are the same.

Among those practical applications to the judiciary's implementation of principles concerned with human rights without the constitution stipulating them is what the constitutional judiciary in Egypt has done by not penalizing a person twice for one act, and the right to non-retroactivity of the law that is best for the accused¹⁹.

The Vienna Convention, in Article 31, applies the general rules of interpretation according to the following:

- a. The treaty shall be interpreted in good faith and in accordance with the meaning given to its words within the context of its object and purpose.
2. In addition to the text of the treaty, including the preamble and the annexes, the context of the treaty for interpretation shall include:
 - (a) any agreement related to the treaty made between all the parties in connection with its conclusion.
 - (b) any document issued by one or more parties, in connection with the treaty, and accepted by the other parties as a document related to the treaty.
3. In addition to the context of the treaty, the following shall be considered:
 - (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the operation of its provisions.
 - (b) any subsequent transaction in the field of application of the treaty that involves the parties' agreement on its interpretation.
 - (c) any appropriate rule of international law applicable to the relations between the parties.
4. 4- A specific meaning is given to a specific term if it is proven that the parties intended to do so.

Article 32 of the Vienna Convention adds complementary means of interpretation so that complementary means of interpretation can be resorted to, including the preparations for a treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from implementing Article 31 or to specify the meaning of the text when, in accordance with that article, it is a matter of interpretation to:

- (a) leave the meaning ambiguous or unclear; or
- (b) lead to an illogical or unacceptable result.

Fifth: The impact of the constitution text, with an international dimension, on the authorities

The frequency with which the authorities are affected by international rules and

¹⁸ Dr.. Ahmed Fathi Sorour, *Constitutional Protection of Rights and Freedoms*, Dar Al-Shorouk, 2000, p. 81.

¹⁹ Sharihan Jamil Makhamra, *Dar Wael for Publishing and Distribution*, first edition, 2016, p. 124.

their settlement as a basis, and to play a major role, has increased. The legislative authority has been affected by international dimensions in its formulation of internal regulations. It has become obligated, due to technological and scientific development, speed of communication and ease of transportation, to give up part of its sovereignty, especially in the economic fields. Hence, states make comprehensive changes to their constitutional texts by abolishing barriers and customs, and the trend to unify directions with the countries of the world²⁰, as well as the case in the fields of labour, culture and social affairs.

That is what is evident in the field of Chapter VII of the Charter of the United Nations and the issued resolutions of the Security Council, that the legislative, judicial and executive authorities have become obligated to implement, even if it contradicts its constitutional system, including its numerous decisions in the field of terrorism such as the right of legitimate defense, stopping and preventing funding, not granting political asylum to persons accused of committing acts of terrorism, imposing sanctions on countries, freezing funds, stopping financial support for terrorist groups, not providing refuge or supporting them, bringing them to justice, cooperating with other governments and exchanging information about them²¹.

The texts of the constitution are often related to the future, which requires the authorities to be careful and serious and follow up on developments, which is undoubtedly a role entrusted to the executive authority, for example, when we find the texts of the constitution full of rights and freedoms, but only two words give the text a dimension and ambiguity that hides from the reader, and it has a future and realistic dimension that changes and renews according to the prevailing in society. Another example is the constitutional texts that end without disturbing the public order or so²². This term is an advantage in the constitutional text and is not a reason for its ambiguity as it gives the text a broader orbit in the inclusion of many meanings and its permanence of development through successive times of application in a way that ensures a continuous development and a broader space for the text²³.

Conclusion

There are constitutional differences from one country to another, and each country has a different constitutional philosophy according to its internal system or what is prevalent in that society, and this is due to the different legal systems prevailing in the countries of the world, which resulted in the contrast of those texts and their differences

²⁰ Dr.. Muhammad Khaled Bara, previous reference, p. 125.

²¹ For more, see Security Council Resolutions (1269) dated 19/10/1999, (1373) dated 12/09/2001 and (1386) dated 28/09/2001.

²² Article 16 of the Spanish Constitution: "Freedom of belief, freedom of religion and the practice of religious rites are guaranteed to individuals and societies without any restrictions on their activities except what is necessary to maintain public order protected by law".

Article (15) of the Jordanian Constitution: "The state guarantees freedom of scientific research and literary, artistic, cultural and sports creativity in a manner that does not contravene the provisions of the law or public order and morals."

Article (44) of the UAE Constitution: "Respect for the constitution, laws, and orders issued by public authorities in implementation thereof, observance of public order and respect for public morals, is a duty on all residents of the Federation."

²³ Dr Ali Hadi Attia Al-Hilali, previous reference, p. 14.

from one constitution to another, although everyone implements the principle of the supremacy of the rules of constitutional law and its supremacy in the legislative system, which requires reconciliation between these countries, especially when the international community decides to implement a legal rule that requires respect by all countries. Here, it is not permissible for any country, and it should not, be lagging behind and tweeting outside the flock, and it is not conceivable that its people are different from the rest of the nations, and it is unpalatable to invoke the principle of separation of powers and the competence of the executive authority to conclude, and Parliament to legislate, according to the mood of its legislator, its stance and its strength in the international system.

It is true that international law has been silent about the obligatory application of its rules and the mechanism of settling and implementing them. However, the different forms and images of states, their legal system, governance systems and authorities, will not be an acceptable argument, with the coming days, and it is certainly unpalatable and outdated.

And in view of the emergence of the Charter of the United Nations and the rules of human rights, as well as the emergence of the international law of the sea, international humanitarian law, environmental protection, sustainable development, peacekeeping operations, international criminal justice, international aid, education, money, trade, the World Bank, and the consequent international rules that require the constitutional legislator in any country to keep up with them and not to stay isolated from other countries, many developments have also emerged that have affected constitutions, and we did not find a model that can be relied upon so that these texts remain subject to the personal whims of the legislator, who decides to implement them as a common text for modern constitutions that implement democracy that keeps pace with emerging global trends without closing, but rather implementing integration and cooperation in the international community. It should be known that there is a term that has recently begun to appear, which is the internationalization of constitutions, which finds its source in the practices and decisions of the UN Security Council, international custom, treaties and international judiciary that go beyond the role of a pressure tool on the internal sovereignty of countries, and its lustre has faded to bypass it in stages so that its goal is to agree on many principles to have a common scope in the texts of the constitutions of countries to unite Worldwide constitutional principles and rules.

It is necessary that the texts of the constitution are able to absorb the developments and the circumstances of the future.

Results

1. The introduction of the constitution (the preamble) is considered a key to the constitution by which its authors begin the texts that will follow, that show the ideology that prevails in that nation, the extent to which it keeps pace with civilized nations, and the classification reached by that people and its texts compared to other constitutions.
2. The preamble to the constitution must be convincing, expressive, and encourage creativity and innovation in all its fields and spectrums, and transfer that nation to

- advancement, and striving forward to reach decent humanity at all levels and stages.
3. Most of the current constitutions is not concerned with future generations. Rather, these texts keep a single point of view, despite the ability of the constitutional text to include all of them to change what was prevalent and what would have been acceptable in the past.
 4. Constitutions require long periods of practice and culture change to produce texts that are compatible with sophisticated societies.
 5. There is no constitution that definitively takes the theory of dualism or the unity of international law. Rather, it may mix between them or take some provisions and leave the rest.
 6. Each constitution has created a special method to arrange treaties, some stipulated ratification, others signature, and some publicity.
 7. Human rights related to the individual were affected by the rules of international law, so the texts of the Constitution came full of them. Despite that, the constitutional courts, in their interpretations, do not stop at the literalness of the text, but rather extend the scope of rights to the furthest extent based on their inclusion in international treaties and covenants, without the need for a constitutional text.
 8. The constitutional judiciary has an active role in building a modern constitution that keeps pace with modern constitutions based on the latest legislative developments at all levels. It may even turn away from the internal rule and operate as an international rule without paying attention to the will of the internal legislator, which contributes to unifying the constitutional system with the international community.

Recommendations

1. It is necessary to find a preamble in modern constitutions with a real content that the United Nations sets its minimum, and to determine its purpose, and to indicate the values, ambitions, and position it aspires to achieve and the desired status for that nation among its peers, how society will view them, and the extent to which that state, through its constitution, keeps pace with the established status of humanity, preserves it, and maintains it.
2. In the future, the Arab nation will have common values, principles and beliefs, which will derive, from the success of the complex state in the Emirates, an example from which they lay the foundation constitutional stones for that awaited entity.
3. The drafters of the constitution's texts need to stay away from temporary ideas for a period of time, past or prevalent. Rather, ideas and plans must be developed through constitutional texts for future generations to ensure that they follow the steps of constructive development and live in prosperity.
4. The inclusion of international rules in internal regulations and legislation, which requires speed and flexibility in seizing these variables and keeping pace with the

- international developments so that they remain clear and prominent for the addressees and those covered by the provisions of the rule, internally.
5. Human rights should be stipulated in the constitution and the texts should not be listed successively, especially in view of the existence of emerging rights. It is sufficient to include those rights and fortify them with a constitutional text and leave them subject to renewal and change according to developments without the need for a constitutional amendment from time to time, and allowing for a disagreement between the constitutional legislature and the referendum, and attempt to persuade everyone with these new rights despite the ignorance of the majority, with the selection of those rights according to the personal whims of the person responsible for drafting the constitutional text, so that these rights remain a mandatory requirement for all.
 6. Reconstructing the legal thought of researchers by quoting modern terms that keep pace with international trends to build a legal ideology and culture capable of managing and understanding the legislative system of the modern constitution that is based on international standards that enhance the state's reputation among nations and build trust in its citizens without closing in on outdated ideas such as sovereignty and public order and etiquette.
 7. The necessity of starting regionally and then internationally to start spreading and adopting the idea of a unified world constitution with texts that have the ability to develop.

References

- Dr. Walid Mohamed El-Shinawy, *The Role of Constitutions' Prefaces in Constitutional Refutation*, Egypt: Dar al-Fikr and al-Qanoon, first edition, 2014.
- Dr. Muhammad Khaled Baraa, *International Treaties and the Mechanisms of Their Settlement in National Law*, Al-Halabi legal Publications, First Edition, 2017.
- Article 29: Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States.
- Article 100 of the German constitution adds:
1. If any court finds that the law by which its provisions are to be enforced is unconstitutional, the proceedings shall be discontinued, and a judgment shall be obtained from the State Court of Constitutional Disputes in this respect, if the matter is in breach of the Constitution of this State, or from Federal Constitutional Court, if the matter concerns a breach of this Basic Law. This provision shall also apply when it is about a breach of this Basic Law by the legislation of any State, or about an incompatibility between a State law and a federal law.
 2. If, during any proceedings, doubt arises as to whether a rule of international law forms an integral part of federal law, and whether such a rule creates rights and duties for individuals (Article 25), the Court shall obtain a ruling from the Federal Constitutional Court.
 3. If, in interpreting this Basic Law, a Constitutional Court of a State proposes a motion to deviate from a judgment of the Federal Constitutional Court, or a constitutional

court of another State, that Constitutional Court shall obtain a judgment of the Federal Constitutional Court.

Dr Abdul Salam Ahmed Hammash, A Study of the Concept of Internationalization and Its Uses in Public International Law, Studies 38 Sharia Sciences and Law, Vol. 2, No. 2, 2011, p. 593.

Dr. Ali Hadi Attia Al-Hilali, The Enlightened by the Interpretation of the Provisions of Constitutions, Zain Legal Publications, first edition, 2016.

Article 30: Every female and male citizen has the right to vote and to stand for elections, provided that they reach the legal age of maturity and enjoy civil and political rights. The law stipulates provisions that encourage equal opportunities for women and men to access electoral posts.

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