

Abstract

This study aims, by using descriptive analytical and comparative methodology, at examining the role of the censorship on the constitutionality of laws and judicial administration (controlled legitimacy) in the protection of public rights and liberties through the three chapters of the study. The first chapter has clarified the sources of the public rights and liberties, as well as the relationship between the international human rights rules and the national judicial decisions and the extrapolation of the historical background of the public rights and liberties in the Palestinian constitutional system.

The second chapter intends to indicate the role of the constitutional judiciary in the protection of public rights and liberties by emphasizing the significance of the constitutional censorship on laws as well as its conception, legitimacy, scope of implementation and historical development in the comparative constitutional regimes and the surrounding controversial conflict. This comes in parallel with examining the nature of the censorship on the constitutionality of laws in Palestine, through reviewing the applications of the Palestinian constitutional judiciary and the comparative judiciary, especially the American Supreme Court, the Constitutional Court of South Africa, the Supreme Constitutional Court of Egypt, and a number of courts in the European countries.

The third chapter reviews the role of the administrative judiciary in the protection of public rights and liberties through reviewing the theoretical framework, studying the organizational and substantive nature of the Palestinian administrative judiciary in light of the experience of the comparative judiciary systems, analyzing the applications of the administrative judiciary as well as studying the decisions of the Palestinian Court of Justice and reading them with the role of the comparative administrative judiciary, especially the French Council of State and the Egyptian and Jordanian administrative judiciary, in the protection of public rights and liberties.

The study concluded that the Palestinian constitutional judiciary is still a newfangled experience with regards to conferring the desired judicial protection of the public rights and liberties since the High Court, as a constitutional court, intends to dismiss most of the constitutional appeals which are associated with the public rights and liberties for formalism reasons related to the concept of interest and standing to sue in its decisions from closer perspective to civil suit than the constitutional lawsuit that targets primarily the protection of constitutional legitimacy rather than seeking the judicial satisfaction.

The Palestinian administrative judiciary has played a crucial role in protecting the public rights and liberties through accessing the roots of the constitutional provisions and dropping them in its decisions towards largely imposing a serious judicial censorship; though it is not enough, which required substantial modifications on the organizational and structural objective of the Palestinian administration.