

## **The Role of the Constitutional Judiciary is to Serve as a Guarantee for the Protection of Basic Rights and Freedoms**

**Dr. Hassan Nema Karim**

Researcher, Mathematics department, Instructor in College of education for pure sciences, University  
of Thi-Qar, 64001, Iraq

**Abstract:** The subject of the study deals with the role of the constitutional judiciary as a guarantee for the protection of basic rights and freedoms. The research was divided into two sections. In the first section, we reviewed the function of the constitutional judiciary through monitoring the constitutionality of laws, interpreting the constitution, the legitimacy of the constitutional judiciary, and the foundations of the constitutional judiciary. In the second section, the researcher referred to the constitutional mechanisms that guarantee rights and freedoms by reviewing the oversight of the constitutionality of laws that were entrusted to a judicial body that stands in the way of any violation or transgression of limits issued by public authorities during the exercise of their work. The study concluded that the constitutional texts establish the principles of rights and freedoms, and determine them based on a way that guarantees individuals' enjoyment of it in the state of law and gives it a constitutional character.

### **The introduction:**

Determining the basic rights and freedoms of individuals is considered an essential condition for a proper constitutional system. The constitution cannot exist without respect for the rights and freedoms of individuals, as it is the pinnacle of the legislative structure within the state. The law derives its rules from the principles and provisions contained in the constitution, and together, they establish a set of general principles that preserve the stability of the state and protect the rights and freedoms of individuals.

The rule law, by virtue of its function, must ensure the full protection of legal interests, not limited to the rights of the state alone, but also including the rights and basic interests of individuals. It must include in its constitution the fundamental principle that governs all, which is the principle of equality of rights and duties among individuals. These principles are typically stipulated at the core of most constitutions, giving them the prestige of being an integral part of the constitution. The constitutional legislator is obligated to protect them by overseeing the enactment of laws within constitutional controls and guarantees, through the role assigned to a judicial body that supervises the constitutionality of laws as a guarantee of protecting the rights and freedoms of citizens. Rights and freedoms take precedence in the legal system, and are considered the focal point of every legal activity, as the function of the law is to ensure the rights and freedoms of individuals. providing constitutional protection represents one of the most important pillars of the law when it regulates the relationship between members of society and balances these rights and freedoms with the public interest.

### **Importance of the Topic:**

The significance of the issue of rights and freedoms lies in their connection with members of society, which is why most of the world's constitutions are entrusted with ensuring and respecting the rights and freedoms of individuals.

## **Study Objective:**

Due to the urgent need to determine the constitutional protection of rights and freedoms in the context of the rule of law, on which the legal state is based, the study aims to ensure the effectiveness of constitutional protection through monitoring the constitutionality of laws.

## **Curriculum Study:**

The researcher utilized an analytical approach to analyze and interpret legal texts, as well as adopting a descriptive approach to explain the concepts underlying the research in order to determine the success of judicial oversight in ensuring respect for rights and freedoms.

The study is divided into two sections. The first section discusses the general framework for the development of the constitutional judiciary, focusing on the function of the constitutional judiciary and its foundations. The second section reviews the constitutional mechanisms that guarantee the protection of rights and freedoms.

## **The First Topic**

### **The general framework for the development of the constitutional judiciary**

The government pays close attention to protecting rights and freedoms as they are the foundation of the democratic system. Rights and freedoms are seen as integral to the individual and cannot be surrendered. This has led many legal systems to categorize these rights and freedoms as part of the broader spectrum of human rights.

In this study, we examine the role of the constitutional judiciary by assessing its functions in monitoring the constitutionality of laws, interpreting the constitution, and ensuring the legitimacy of the judiciary. The first part of our analysis focuses on the first requirement, while the second part delves into the underlying principles of the constitutional judiciary.

### **The first requirement**

#### **The function of the constitutional judiciary**

The constitutional judiciary is the competent supervisory body responsible for ensuring justice in society. It has the authority to address disputes brought before it during judicial oversight, applying the law's provisions and legitimacy to safeguard public rights and freedoms.

The primary role of the constitutional judiciary is to uphold the principle of legality within a rule of law state, protecting democracy and the constitution's sovereignty. This serves as the fundamental guarantee for safeguarding individuals rights and freedoms and preventing encroachments by governing authorities. These are among the most crucial functions of the constitutional judiciary.

#### **First: Oversight of the constitutionality of laws**

The Constitution is considered the foundation for the legitimacy of the State, and all actions carried out by public authorities are subject to its provisions. Every legal activity carried out by them is based on the Constitution. It serves as the fundamental rule on which the entire legal system is built. The Constitution establishes the authorities in the state and regulates their competencies. Therefore, all actions issued by public authorities must adhere to the constitutional framework that governs them. Conversely, any action without a legal basis must be avoided.

The primary objective of constitutional oversight is to prevent legislation from violating the Constitution. In cases where state authorities breach the law, they are subject to punishment. This punishment can only be imposed by a judicial body with guaranteed independence. Without this guarantee, any punishment is ineffective and lacks substance <sup>(i)</sup>.

Compliance with public authorities can only be achieved with the presence of a constitutional judiciary. This judiciary ensures the protection of the legal rules that restrict and define their activities. If authorities deviate the restrictions outlined in the Constitution, they can be guided back to the constitutional path. This ensures that the legal system in the state remains on the correct course <sup>(ii)</sup>.

## **Second: Interpretation of the Constitution**

Constitutional texts were established to protect public order and preserve legal transactions. When ambiguity arises in a constitutional text, the constitutional judge takes on the task of removing the ambiguity and indicating the extent of its completeness without straying from the constitutional text and adhering to its stated provisions. Interpreting constitutional texts holds great importance as it reveals the true intention of the legislator and the primary goal of establishing the legal rule, leading to the quest for optimal solutions to any shortcomings, ambiguities, and vagueness in those texts that contain ambiguity <sup>(iii)</sup>.

The significance of interpretation also lies in the fact that constitutions set the rules for the form of the state, organize its public authorities, establish the rules of governance, and provide the fundamental guarantees for the rights of individuals. Since social life is constantly evolving, situations may arise that are not in line with the texts in terms of application. This underscores the necessity of turning to interpretation to address any gaps in legislation and ensure the adaptability of legal texts, including constitutional texts, to emerging circumstances in accordance with applicable interpretative principles <sup>(iv)</sup>.

### **Constitutional legitimacy of the judiciary:**

Protecting the Constitution is considered one of the tasks of the constitutional judiciary, as it is the supreme law in the state and the expression of popular will and state sovereignty. Ensuring the protection of rights and freedoms is seen as a top priority for the constitutional judiciary, as it aims to prevent violations by ruling authorities and ensure respect for the Constitution <sup>(v)</sup>. The oversight of the constitutional judge is recognized as a duty entrusted to them by the Constitution. The Constitution specifies that the constitutional judiciary is an essential body, like other state bodies, deriving its legitimacy from the Constitution. Its mission is to enforce respect for the Constitution's provisions during the legislative process <sup>(vi)</sup>. A legal state is one that upholds legitimacy, where all members are subject to the law and respect rights and freedoms. Any ruling system that does not respect these rights is deemed illegal. The constitutional judiciary acts as a safety valve for protecting human rights and basic freedoms, providing individuals with the means to enjoy their rights.

The constitution serves as the fundamental law of the state and a reference point for all laws. It not only outlines the relationship between the governed and rulers, but also serves as a legal charter for human rights. To ensure the application of constitutional justice, the constitutional judiciary is established to oversee the legislative process and prevent abuses or violations, particularly by those in position of authority <sup>(vii)</sup>.

### **The second requirement**

#### **Foundations of constitutional judiciary to protect rights and freedoms**

##### **The principle of the supremacy of the constitution:**

The supremacy of the constitution is a fundamental principle on which the legal state is built. The constitution serves as a set of legal rules that outline the structure of the state, organize its various authorities, define their jurisdictions, explain the relationships between them, and duties of individuals. The rules outlined in the constitution are the primary source of legitimacy and hold the highest legal authority in the state, ranking above all other laws in terms of importance. This means that the entire legal system in the state must abide by constitutional rules, and no state authority can exceed its powers as granted by the constitution <sup>(viii)</sup>.

The focus of constitutional rules is to determine the form of government and the public rights and freedoms of citizens. Therefore, it is crucial to use an objective standard to address these matters. While oversight of law's constitutionality stems from the formal supremacy of constitutional rules, objective supremacy is essential for carrying out this oversight effectively. By clearly defining the nature of governance within the state <sup>(ix)</sup>.

Objective supremacy ensures that public authorities adhere to the constitution and align their actions with its rules, or else risk losing their legitimacy. The constitution holds significance as a source for distributing powers among public authorities in the state. It also establishes necessary safeguards to protect the rights and freedoms of individuals and grants legitimacy to authorities subject to its provisions. It is imperative for these authorities to uphold constitutional rules and ensure that their actions align with them, as failure to do so would undermine their Justification for existence<sup>(x)</sup>.

The Constitution is not merely a formal framework or procedural organization of rules for exercising power and distributing forms, but rather includes valuable assets and rights with substantive contents. The Constitution guarantees the protection of these rights and is keen to repel any assault on them through oversight exercised by a judicial body. Accordingly, rights and freedoms have gained constitutional protection. The rules specified for them are considered constitutional rules, and the ordinary legislator may not deviate from or violate them. These constitutional texts address the issue of public rights and freedoms of individuals and are considered texts of binding legal value, like the rest of the Constitution, because the Constitution is their guarantor and the supreme law that establishes the rules and principles on which the system of government is based. It defines public authorities, delineates their functions, sets regulating limits and restrictions for their activities, determines rights and freedoms, and arranges basic guarantees for their protection.

The constitution is characterized by a special nature that gives it the quality of transcendence. Its constitutional rules are at the top of the legal system in the state, and occupy the forefront among other rules because of their transcendence. They are the highest commanding rules that the state must abide by and submit to, deriving its existence from the Constitution. The Constitution is the basic reference in determining its functions.

The Constitution responds to two concepts. The objective concept goes beyond the legal rules contained in a written and official document and including all legal rules whose content is Constitutional, whether found in the constitution or in one of its sources, even if related to custom <sup>(xi)</sup>. Formal concept is a set of legal rules contained in one or several official written documents specifying special and complex procedures for preparation, amendment, or change <sup>(xii)</sup>.

Constitutional rules have the highest rank among the rules of public order within the state, and the state is subject in all its legislative, executive and judicial activities to the provisions of the Constitution. The supremacy of constitutional rules extends beyond the written constitution to customary rules, ensuring their supremacy over other legal rules and the subordination of the state with all its powers. The Constitution is now the basic pillar of the legal state.

## **The second topic**

### **The foundations of constitutional protection guaranteeing basic rights and freedoms**

The constitutional rules take precedence as they serve as the cornerstone of the legal structure of the state. The constitution is one of the initial legal components that public authorities adhere to in all their activities. The progression of legal rules leads to the subordination of lower rules to those above them.

We break down the topic into two main requirements. The first requirement focuses on constitutional principles that ensure rights and freedoms. The second requirement examines legislative and judicial guarantees that protect fundamental rights and freedoms.

#### **The first requirement**

##### **Constitutional principles guaranteeing rights and freedoms**

##### **First: The principle of gradation of legal rules**

The constitution is considered one of the legal components of the state, which governs all its actions and behavior according to legal rules. These rules serve as a control over its various activities, with constitutional rules at the top of the legal pyramid. The constitution establishes the hierarchy between legal rules that make up the legal structure of the state. A legal rule is only valid if it is consistent in

letter and spirit with the higher rule<sup>(xiii)</sup>. The state pays close attention to protecting rights and freedoms as they are the foundation of the democratic system.

Constitutional jurisprudence asserts that the existence of the constitution is the primary way to implement basic guarantees to ensure rights and freedoms are protected from abuse and injustice. Rights and freedoms being at the the core of the constitution act as a restriction on public authorities . prohibiting them from violating them <sup>(xiv)</sup>.

Any violation of these rights and freedoms will be subject to constitutional review. The principle of the hierarchy of laws dictates that lower legal rules must adhere to the provisions of higher rule, to ensure the effective exercise of rights and freedoms. This hierarchy starts with the constitution, followed by ordinary law regulations and decision.

## **Second: The principle of legality and its role in consolidating basic rights and freedoms**

The principle of legality is considered one of the basic guarantees of the rights and freedoms of individuals in the face of the whims of public authority. It is one of the important pillars on which the legal state is based, as all rulers and ruled are subject to the law. Every legal action or activity issued by public authorities is based on an abstract legal rule that precedes the action. In other words, all individuals are subject to the rule of law in their legal relations with each other and with the state and its bodies<sup>(xv)</sup>.

Although the state's mission is to establish laws through the legislative authority represented by Parliament, its authority is not absolutely free in issuing laws. It is subject to restrictions, the most important of which is not violating the provisions of the Constitution and respecting public rights and freedoms. All actions of public authorities and individuals must be within the framework of the Constitution. The principle of legality is a general principle whose rule applies in every society and in the face of any authority. It has become one of the axioms on which all political systems in the contemporary world are based <sup>(xvi)</sup>.

The rule of law may be meaningless and does not constitute any guarantee for the protection of rights and freedoms if the law is unjust and inhumane.

The rule of law does not only mean adherence to its provisions it means the supremacy of the law over the state. This requires that this sovereignty be demonstrated in its content. The law aims to protect the rights and freedoms of individuals against abuse of authority. The legal state is one in which the primary guarantee is available to protect the rights and freedoms of its individuals, and authority is organized and exercised within a framework of legitimacy <sup>(xvii)</sup>.

The principle of legality calls for the necessity of respecting existing legal rules by all authorities, whether legislative, executive, or judicial. All actions must be consistent with the provisions of the Constitution, as it is considered the basis of legitimacy in the state. The principle of legality does not produce its effect except in the presence of a constitutional judiciary, through oversight. This ensures that legal rules are spared from attempts to tamper with their provisions and the entire legal system in the state is upright . Adequate protection of the rights and freedoms of individuals is achieved through oversight of the constitutionality of laws, which is the true manifestation of the protection of rights and freedoms and ensures that public authorities adhere to the rules of the Constitution<sup>(xviii)</sup>.

## **Third: The principle of judicial independence as a guarantee for the protection of rights and freedoms**

The judiciary is one of the most important pillars in preserving constitutional rights and freedoms. It serves as a fortress that protects these rights in the event of infringement or violation by legislation or actions of the executive authority. This is especially crucial in cases where the government may need to suspend citizens' rights, as only the judiciary can address this matter and ensure the protection of rights and freedoms <sup>(xix)</sup>.

Most constitutions around the world , including the Iraqi Constitution, emphasize the importance of an independent judiciary separate from the legislative and executive branches. The judiciary plays a vital



role in guaranteeing rights and achieving justice, with <sup>(xx)</sup>judges enjoying independence in their decisions. This principle is fundamental in safeguarding rights and freedoms from violation by public authorities<sup>(xxi)</sup>. The oversight provided by an independent judiciary ensures the proper application of the law and Constitution resolving disputes between individuals and government <sup>(xxii)</sup>.The constitutional judiciary is a key component of the judicial authority, exercising oversight as part of its inherent jurisdiction. An impartial and independent judicial system surrounded by safeguards, is essential to maintaining this independence. While constitutions may establish judicial independence, it must be supported by guarantees to protect it from interference by other branches of government<sup>(xxiii)</sup>. Ultimately, the protection of right and freedoms relies on a legal state with an independent judiciary. This independence serves as a crucial safeguard in upholding the rights and freedoms of individuals, ensuring that the rule of law is respected and that laws are applied constitutionally.

## **The second requirement**

### **Judicial oversight of the constitutionality of laws as a guarantee for the protection of rights and freedoms**

#### **First: The concept of judicial oversight over the constitutionality of laws**

Oversight of the constitutionality of laws aims to ensure that the rules outlined in the constitutional document are not violated. It is one of the most important legal mechanisms that guarantee respect for and enforcement of the rules within the core of the constitution. This oversight also aims to prevent public authorities from misapplying the letter and spirit of the constitution, as well as to protect and uphold basic human rights obligations guaranteed by the Constitution. It ensures that appropriate and logical punishment is applied to any activity or action that violates the provisions of the Constitution<sup>(xxiv)</sup>.

Most countries around the world have adopted judicial oversight of the constitutionality of laws. The majority of jurists agree that this oversight, carried out by the judiciary, is one of the most important, effective, and impactful methods of constitutional oversight. Oversight of the constitutionality of laws is a consequence of the principle of the supremacy of the constitution over other legal rules, placing it at the top of the legal pyramid. Therefore, there is no control over the constitutionality of laws except in rigid constitutions, as it is not feasible under flexible constitutions where the texts in the constitutional document are treated as ordinary laws <sup>(xxv)</sup>.

Assigning oversight of the constitutionality of laws to a judicial body is more effective in confronting the legislative authority due to the impartiality and independence that the judiciary possesses through the principle of separation of powers. Judicial oversight is impartial in constitutional lawsuits involving citizens or public authorities and aims to correct violations of legislation issued in conflict with the Constitution by either repealing or refraining from applying it as stipulated in the Constitution.

In countries with judicial oversight, the right to challenge the constitutionality of laws is not limited to public authorities but also rather extends to individuals. This inclusion provides a basic guarantee for individuals to defend their rights and freedoms outlined in the constitution, thereby solidifying the principle of the rule of law through the submission of both rulers and the ruled to the law <sup>(xxvi)</sup>.

Constitutional oversight is crucial in ensuring that basic rights and freedoms upheld. It involves oversight of laws that contradict the principles of the Constitution issued by the legislative authority, to ensure compliance with constitutional provisions and alignment with the principles of the Constitution.

#### **Second: Methods of judicial oversight**

To initiate a constitutional lawsuit, there are several methods available. This can be done through the original lawsuit or through the judge's abstention. The original lawsuit involves a request to cancel a law that violates the provisions of the Constitution. The cancellation is based on a constitutional text that authorizes such actions. This process ensures oversight before the law is issued by referring it to a competent court to determine its constitutionality.

Subsequent oversight, on the other hand, occurs after the law has been issued. In this case, a lawsuit is filed before the Constitutional Court to declare the law unconstitutional. Individuals can argue that a law is unconstitutional while the case is being heard, and the judge may refrain from applying the law. This is not an annulment, and it only applies to the parties involved in the lawsuit.

The protection of rights and freedoms can only be achieved through a judicial body that is completely independent. This body oversees the actions of public authorities, ensures the proper application of the Constitution, and resolves disputes between individuals or between legislative and executive authorities. This oversight is essential in a legal state that upholds the rule of law and respects the rights and freedoms of individuals without discrimination.

The fundamental guarantee for protecting rights and freedoms lies in the presence of a legal state with an independent judiciary. This judiciary serves as a safeguard for consolidating the rights and freedoms of individuals.

Judicial oversight of the constitutionality of laws varies among countries with this type of oversight in their constitutions. Despite the different methods used, the outcome remains consistent. It can result in either repealing a violating law, known as repeal oversight, or refraining from implementing an unconstitutional law known as abstention censorship.

### **First: Cancellation control**

This censorship is intended as an offensive means, as it is a direct lawsuit brought by the concerned party or the appellant in an original manner and independently of any other dispute, aiming to abolish the law proven to be in violation of the Constitution. It is considered an offensive means that the individual takes the initiative to use to eliminate the law before it is implemented<sup>(xxvii)</sup>.

The basis of the abolition lawsuit is to preserve the Constitution, ensure its respect, and repeal any legislation that conflicts with its provisions. The reason is that the Constitution enjoys a higher rank, higher than that of ordinary legislation, because the constitutional rule is the source of the legitimacy of other rules, and the constitutional rule takes this high value from the nature of the subjects that treat it<sup>(xxviii)</sup>.

Censorship is raised to consider the unconstitutionality of a law, before a special court determined by the constitution is competent to consider lawsuits challenging the constitutionality of laws. The ruling issued for repeal has absolute authority against all, and is binding on all state authorities. The right to file a lawsuit challenging the unconstitutionality is given to public authorities, and it is decided for individuals. Also<sup>(xxix)</sup>, the legal effect resulting from the ruling that the law is unconstitutional due to its violation of the provisions of the Constitution, is the repeal of the law and the disappearance of its material and legal effects<sup>(xxx)</sup>.

### **Second: Censorship through abstention**

This oversight occurs during the consideration of a case filed before the court, where the individual pleads that the law is unconstitutional while the case is being heard. In response to this defense, the court examines the constitutionality of the law in question. If, after examining the claim, it is proven that the law is indeed unconstitutional, the court refrains from applying that law in the lawsuit before it. The court does not have the authority to abolish the law, but simply abstains from applying it.

When a judge refrains from applying a law that they believe to be unconstitutional, they are fulfilling their judicial duty and staying true to their role. Therefore, the judge's decision is to refrain from applying the law to the specific dispute at hand. This decision does not bind other courts, whether they are of the highest or lowest degree. The same court is not restricted in future cases brought before it, and has the ability to change its initial opinion. The ruling issued by the court holds relative authority and is limited to the parties involved in the specific dispute<sup>(xxxi)</sup>.

### **The importance of judicial oversight to guarantee basic rights and freedoms:**

Oversight of the constitutionality of laws is a fundamental guarantee of the rights and freedoms of individuals, against transgressions or abuses committed by public authorities in contravention of legal

rules. Individuals resort to a judicial body that enjoys strong guarantees through which public authorities are required to respect the limits stipulated in the Constitution and take into account the guarantees of individuals' rights and freedoms. This protection comes through implementing the provisions of the Constitution, which is evident in the absence of violations by public authorities. The judicial authority derives its powers from the Constitution, and has the right to reject any attack on its provisions by anybody in the state. Therefore, the Constitution has no value unless there is effective oversight over the constitutionality of the laws that make the supremacy of the Constitution a true one. ( xxxii).

The role of the constitutional judge in controlling the course of laws, within constitutional controls and guarantees is to repeal any law that contradicts these guarantees. The constitution has become a cornerstone in building the edifice of rights and freedoms, emanating from the principle of the supremacy of the constitution over all other laws and regulations in the state. The constitution was originally established to organize the structure of the state, distribute powers among its institutions, and guarantee the rights and freedoms of individuals ( xxxiii).

Oversight of the constitutionality of laws is the best means of determining the extent of legislation's consistency with the constitution. It has a role in achieving political and legislative stability in modern democratic systems, as the arbiter between the ruler and the opposition, aiming to protect the legitimacy and supremacy of the constitution. The highest value of the constitution cannot be achieved without oversight capable of monitoring violation or prosecuting their perpetrators( xxxiv).

Oversight of the constitutionality of laws has played a fundamental role in developing the meaning and scope of rights and freedoms that must be guaranteed by the state. The rule of law cannot be elevated except by consolidating the values of rights and freedoms in the democratic legal system. The constitution is the reference in defining rights and freedoms, and legislation regulates their practice. In order to be a source of guarantees it strikes the necessary balance between respecting rights and freedoms, and protecting public order or the public interest, without which the exercise of these rights and freedoms cannot be guaranteed ( xxxv). The Constitution is not merely a regulatory text that defines the relations of authorities but guarantees, through its texts, a mechanism to nullify everything that conflicts with the freedoms of individuals, serving as a legal charter of human rights( xxxvi).

## **Conclusion:**

The legal rules related to the basic rights and freedoms of individuals are important guarantees of those rights. The force of binding and legitimacy is derived from the constitutional text on which they are based. The legal state guarantees the protection of the rights and freedoms of its citizens with respect for the principle of the supremacy of the constitution.

The basic guarantee for the protection of rights and freedoms lies in the extent of submission to the provisions of the Constitution and the proper application of it. Additionally, the rule of law does not simply mean the obligation to respect its provisions. It requires that the law guarantees the rights and freedoms of individuals, as this is the basis of the rule of law.

Through this study, I have identified several key findings and recommendations to help achieve the desired outcome:

## **Results:**

- 1- The concern for rights and freedoms is that they are fundamental issues that impact the lives of individuals and are among the concepts that countries focus on when seeking to strengthen democratic principles, including the protection of individuals basic rights and freedoms.
- 2- The constitutional judiciary plays a crucial role in ensuring and protecting rights and freedoms through constitutional oversight . This oversight is carried out by a judicial body that is tasked with preventing any attacks or violations of rights and freedoms by any party.
- 3- The Constitution is the supreme document in the state, representing the highest legal authority. Therefore, no other legal rule may contradict it.



4- The rule of law may be meaningless and does not guarantee the protection of rights and freedom if the law is unjust and inhumane.

5- Ensuring the protection of rights and freedoms is considered one of the priorities of the constitutional judiciary . This involves stopping violations by ruling authorities to ensure respect for the Constitution and conformity of their actions with its provisions.

6- The Constitution gains importance and prestige as it is the source for the distribution of powers among public authorities in the state. Additionally, it establishes necessary guarantees to protect the rights and freedoms of individuals, and grants legitimacy to authorities subject to its provisions .

7-The Constitution gains importance and prestige as it is the source for distributing powers among public authorities in the state, as well as establishing the necessary guarantees to protect the rights and freedoms of individuals.

8- Protecting the Constitution is considered one of the tasks of the constitutional judiciary, as it is the supreme law of the state and represents the will of the people and state sovereignty.

9- The Constitution is considered the foundation for the legitimacy of the State, and all actions carried out by public authorities are subject to its provisions. Every legal activity they undertake is based on the Constitution, as it serves as fundamental rule on which the entire legal system is built.

### **Recommendations:**

1- The state and its institutions have a responsibility to protect and guarantee the exercise of rights by implementing international agreements on human rights b and enacting laws that uphold them.

2- It is necessary to ensure rights and freedoms without violating them, in accordance with the law in order to preserve human dignity.

3- It is the responsibility of the legislative authority to establish genuine and objective guarantees by enacting laws that aim to protect rights and freedoms.

4- The legislator must not undermine the organization of rights and freedoms through their action or negligence, as these are closely tied to the inherent value of each individual. These rights are not only recognized in constitutional texts, but also in international charters and declarations of rights.

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