



THE CHALLENGES FACING CONSTITUTIONAL JUDICIARY AND THE PROSPECTS FOR THEIR RESOLUTION

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INTRODUCTION:

The constitutional judge today stands amidst evolving circumstances in which public interests converge with certain private interests. From governments' policies that attempt to respond to global political and economic challenges, in a way that preserves the security and stability of the societies they govern – though, such policies may, in one way or another, impinge upon the rights of individuals or certain subgroups within those societies. In addition, practical and cultural developments impose considerable pressure on the fabric of social cohesion, within the framework of constitutional and legal provisions that were not originally conceived to address such unprecedented challenges. All of these conditions give rise a profound and complicated dilemma for the constitutional judiciary, representing the core of the constitutional challenges in their various forms, as will be detailed below:

I. LEGISLATIVE CHALLENGES, WHICH ARE MANIFESTED IN THE FOLLOWING

- 1- The executive authority exceeding, in its executive regulations, the limits of the delegation prescribed in legislative texts.
- 2- Maintaining a balance between the stability of the political system and the safeguarding of individual rights and freedoms.

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- 3- The role of the constitutional judiciary in remedying legislative vacuums.

II. POLITICAL CHALLENGES

There is no doubt that the increasing complexity of global circumstances -along with the overlapping effects of international crises in the political, economic and public health fields -has been further combined with, the disarray that has afflicted international politics across numerous dossiers. All these factors have significantly expanded the range of challenges facing the states and their governments, at times compelling them to adopt policies which, directly or indirectly, encroach upon the rights and liberties of certain segments of the population, whether on an individual or collective scale.

The Most Prominent Political Challenges May Be Identified As Follows:

- The imperative to establish a balance between:
- Constitutional legitimacy and revolutionary legitimacy.
- The various manifestations of globalization in all its political forms vis-à-vis nationalist tendencies.
- The Legislative, Executive, and Judicial powers of the state.

III. SOCIAL, CULTURAL AND ECONOMIC CHALLENGES

Social, cultural, and economic transformations are frequently met with resistance from certain societal groups, typically under the pretext of safeguarding established values, traditions, or religious beliefs, thereby engendering a form of social tension between conservative and progressive groups, which is reflected in judicial confrontations between the two parties. In such context, the constitutional judges often finds

themselves contending with outdated legal constitutional provisions that diverge markedly from the present-day realities. Moreover, the handling of emerging developments is marked by uncertainty and inconsistency, due to the inherent difficulty in fully grasping their potential impact on the fundamental values of society.

Prominent social challenges include:

1. Epidemic-related legislation that restricts personal freedoms, and the implementation of driver testing on highways.
2. Positive discrimination in favor of socially vulnerable groups, such as "persons with disabilities and individuals of determination".
3. The mandatory appointment of women in judicial authorities.

Key cultural challenges include:

- The insistence on eradicating digital illiteracy and promoting digital transformation.

Principal economic challenges include:

- The transition from a command economy to a free market-based economy.

IV. CHALLENGES RELATED TO SCIENTIFIC AND TECHNOLOGICAL ADVANCEMENTS

There is no doubt that the rapid pace of scientific development has reached a level which the law struggles to keep pace. From extraordinary advances in communication technologies, to profound shifts in the concepts of freedoms and a revolution in artificial intelligence, all of these transformations pose significant challenges to the judiciary in general, and to constitutional judges in particular. Many legal texts have become outdated in the face of such advancements,

or at the very least, the interpretive and applicative legal thought has become incapable of keeping pace with modern scientific progress. A prime example is the issue of criminal liability arising from accidents involving self-driving vehicles, which may give rise to inconsistencies in application with fundamental legal principles -namely, the principle of penal enforcement and the inadmissibility of presumed criminal responsibility.

Opportunities Available to Constitutional Judiciary:

1. International Cooperation among constitutional courts, aimed at benefiting from the comparative experiences and strengthening legal integration through global constitutional judicial forums.
2. Adherence to universally recognized concepts of rights and freedoms, as enshrined in United Nations instruments and other international and regional organizations, with the aim of reinforcing the rule of law and mitigating potential societal disintegration arising from emerging cultural and scientific influences. This includes underscoring the importance of envisioning broader interpretations of constitutional provisions.
3. The utilization of modern technological advancements— particularly in the media sector— alongside the strengthening of the role of educational institutions, is crucial for enhancing societal awareness of the constitutional frameworks that govern both collective and individual activities. This ensures that all members of society comprehend the boundaries and principles established by the constitutional text.