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GUARANTEE OF BASIC HUMAN RIGHTS

A COMPARATIVE STUDY BETWEEN ISLAMIC LAW, INTERNATIONAL CHARTERS AND ALGERIAN CONSTITUTION

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**DEPARTMENT OF SYARIAH AND LAW
ACADEMY OF ISLAMIC STUDIES
UNIVERSITY OF MALAYA
KUALA LUMPUR
2001**

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Dedication

This work is dedicated to

My parents,

My Brothers and my Sister

ABSTRACT

This study deals with the issue of a comparative analysis of the guarantee of basic human rights in Islamic law, International Charter and Algerian constitution. This study finds its merit in the significance of the issue of human rights and its relevancy to our *status quo*. Notwithstanding, the multidimensionality of the topic of human rights, the researcher opts to focus on one of its important dimensions that is the guarantee of human rights. Historically speaking this issue was not extensively studied in depth by our classical scholars and jurists. Therefore, there is a need for in depth studies on this issue of vital interest. The researcher is of the view that the issue of guaranties is considered as the backbone of practical dimension of human rights enforcement.

In order to analyze the issue of guaranties from a constitutional law stand point, the researcher follows the historical, analytical and comparative approach. Books, articles, constitutions and documents are widely examined. On the other hand, the thesis is divided into five chapters. The first chapter deals with the introduction, which includes the background of the study, statement of the problem, importance and objectives of the study, method of the study and literature review. The second chapter examines the issue of rights in Islamic law and international charter. Whereas, in the third chapter the researcher analyzes the natural guarantee of human rights including; the separation of powers, parliaments commission, control of the constitutionality of law and its implementation. In the forth chapter, the researcher discusses the application of the guarantee in protecting some basic rights; such as right to life, right to security, right

to equality and right to work. Finally, the fifth chapter is for the conclusion which includes the findings and proposals.

The present thesis concludes that there is an integral relation between the constitutionality of the state and the guarantee of the basic human rights. The constitutionality of the state protects the human right and the guarantee of human rights reflects the constitutionality of the state. Additionally, the research underscores the importance of the prophetic model of treating the guarantee of human rights. His model fulfils the main requirements of guarantee human rights theoretically and practically.

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Above all, I wish to express my humble gratitude to the Almighty Allah who blessed me with sufficient energy and good health to undertake this huge task.

My sincere thanks to all the people in this acknowledgement are a reflection of the Prophet saying to the effect,

***"He who does not thank people, does not thank Allah."*¹**

¹ *Sunan Abu Da'wud, Sunan Al-Tirmidhi and Musnad Ibn Hanbal*

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TRANSLITERATION SYSTEM

Arabic alphabet	Romanization	Arabic alphabet	Romanization
ا	a	ط	t
ب	b	ظ	z
ت	t	ع	(')
ث	th	غ	gh
ج	j	ف	f
ح	h	ق	q
خ	kh	ك	k
د	d	ل	l
ذ	dh	م	m
ر	r	ن	n
ز	z	و	w
س	s	ه	h
ش	sh	ء	(')
ص	s	ي	y
ض	d		

Short vowels	Long vowels	Diphthongs	Construct state
ا = a	آ = ā	او = aw	أ = ah
إ = i	إي = ī	اي = ay	أل = al
و = u	و = ū	وي = iyy	
		وو = aww	

ABREVIATION

UN	: United Nations.
UDHR	: Universal Declaration of Human Rights.
UIDHR	: Universal Islamic Declaration of Human Rights.
EDHR	: European Declaration of Human Rights.
UNESCO	: United Nations Educational, Scientific and Cultural Organization.
ICESCR	: International Covenant on Economic, Social and Cultural Rights.
HRC	: United Nations Human Rights Committee.
CHR	: United Nations Commission on Human Rights.
ESC	: European Social Charters.
USA	: United States of America.
RSSR	: Recommendation of the Status of Scientific Researchers.
r.a.a.	: Radhiyyah Allahu 'Alayhi. (Allah pleased him)
p.b.u.h.	: Peace be upon him.
A.S.	: 'Alayhi Assalam.