

The Role of Civil Society in Environmental Protection in Algeria



Samir BAHI

University of Biskra, Algeria, s.bahi@univ-biskra.dz

Mouna ZANOUDA

University of Biskra, Algeria, m.zanouda@univ-biskra.dz

Received date: 24/03/2024 Accepted date: 05/05/2024 Publication date: 01/07/2024

Abstract:

This study aims to identify the constitutional framework in Algeria regarding the role of civil society in environmental protection, primarily focusing on the currently effective 2020 constitution which embodies the highest legal framework regulating the work of civil society and directing the activities of its various institutions concerned with environmental affairs. The study concluded that environmental protection is a shared responsibility between the state and society, according to the Algerian Constitution of 2020. Therefore, the Constitution recognizes civil society institutions as active partners of the state in achieving environmental protection goals and promoting environmental awareness, especially given their proximity to citizens. Accordingly, the Constitution approved the establishment of Consultative institutions that promote the work of civil society institutions in various fields, particularly in environmental affairs.

Keywords: Constitution 2020; civil society; environment; environmental protection.

* Corresponding author: Samir BAHI, s.bahi@univ-biskra.dz

Introduction:

Civil society is regarded as a fundamental partner in protecting both local and national environments due to its advantages, especially its proximity to citizens, enabling it to impact their behaviors and attitudes, thus motivating them to adopt practices conducive to environmental preservation. On one hand, civil society serves as the legitimate representative of citizens, acting as a link between them and state institutions at different levels, whether locally or nationally. Therefore, it becomes an active partner alongside the state in fulfilling the goal of environmental protection and conservation.

Algeria has prioritized the implementation of civil society's functions through the legal frameworks governing the nation, with the most notable being the 2020 Constitution. In this context, this research paper focuses on describing and analyzing the effect of the constitutional dedication to the role of civil society in environmental protection through the 2020 Constitution, primarily centers on the following problem statement ***how does the 2020 Constitution dedicate the role of civil society in environmental protection in Algeria. What are the effects of this dedication?***

First Axis: Defining Civil Society and Its Roles :

a. Civil Society Definition:

Civil society was initially defined as a representation of the combination that brings together society and the state within the framework of social contract theories, meaning that human society transitioned from a natural state to an organized civil state governed by a political entity based on a contractual agreement.(Rabahi, 2017, p. 205) John Locke defined *civil society* as the society individuals enter to guarantee their equal rights enjoyed under natural law. However, the absence of an authority capable of regulation in the natural society threatened their exercise of these rights. Hence, these individuals agreed to form civil society as a guarantee for these rights, making civil society the organized and legitimate representative of individuals.(Ben Mahrez, 2016, p. 100).

However, the precise meaning of civil society does not include official institutions (political authority),but rather consistsof non-official ones, meaning they are not directly linked to the political process and political decisions. Instead, they are regarded asactive participants in the system. This includes non-governmental organizations such as political parties, labor unions, pressure groups(Huntington, 1993, p. 10). etc. The most distinguishing features of these institutions include:

1. **Organization:** Civil society refers to organizations based on institutional concepts and organized collective action.
2. **Voluntaryism and free will** to participate in public affairs without expecting payment or return.

3. Independence from the state and its official institutions, relative independence rather than complete independence, allows for cooperation, coordination, and integration to fulfill the common interest of society and the state.

4. **Relationships of trust, solidarity**, tolerance, dialogue, acceptance of others, and civilized behavior ultimately provide effectiveness in the performance of civil society with its different organizations

Second: Roles of Civil Society Institutions:

Civil society institutions hold significant importance within community activities, particularly regarding that the primary objective of different institutions is to represent various segments of society in terms of realizing their interests and ensuring their participation in decision-making and policies. They are considered one of the most effective mechanisms for activating democratic work by strengthening the bonds between individuals as well as between individuals and state institutions. The main roles of civil society are:

1. Aggregating Interests:

According to the functional structuralist approach of Gabriel Almond, civil society institutions crystallize collective positions on issues and challenges facing their members (Haouasse, 2015, p27) such as different environmental crises. They help frame their movements, decisions, and positions to solve these problems and fulfill their interests within the collective positions and common interests framework. Civil society exercises this function mainly through labor unions, professional associations, chambers of commerce and industry, business groups.

2. Conflict Resolution:

Civil society institutions resolve all internal conflicts among their members through friendly means without resorting to the state. Therefore, civil society institutions spare their members the trouble, effort, and many problems arising from the failure to resolve disputes amicably. They also contribute to strengthening the foundations of collective solidarity among them.

3. Increasing Wealth and Improving Conditions:

This refers to the ability to offer opportunities for activities leading to increased income through these institutions themselves, such as projects implemented by cooperative associations, consumer cooperative activities, small income-generating projects conducted by civil associations, and vocational training provided by labor and professional unions to improve the skills of their members.

4. Recruiting New Leaders:

Civil society institutions are regarded as a renewable source for supplying society with new, experienced, and competent leaders. They attract citizens to become members and allow them to discover their capabilities through collective activity. They provide avenues for leadership practice by entrusting them with responsibilities and offering them the necessary experience to achieve these roles.

Therefore, they help them emerge as new leaders to take on further responsibilities (Felouse, 2019, p244).

5. Promoting Democratic Civil Culture:

One of the most significant functions of civil society institutions is to promote a civil culture that instills in society respect for values such as voluntary work, collective action, acceptance of diversity, and managing differences peacefully in light of values of respect, tolerance, cooperation, competition, and peaceful conflict resolution, along with a commitment to public accountability and transparency. All values are the essence of democracy.

Consequently, promoting civil culture, including environmental culture, within the framework of fulfilling the social responsibility of civil society institutions towards environmental issues, particularly amid the exacerbating crises witnessed by the national and international environment, through awareness campaigns and education about environmental conditions and the significance of social solidarity in these issues.

In addition, civil society institutions work towards establishing effective participation that allows different segments of society to participate in decision-making processes related to the environment at the local, national, and even international levels. All measures seek to fulfill two fundamental gains in dealing with environmental risks in the long term:

The first gain concerns risk aversion by avoiding decisions that could harm the environment, achieved by actively involving various stakeholders in decision-making processes, ensuring that decisions are made with environmental preservation in mind.

The second gain involves avoiding the unfair distribution of environmental risks. Through the participation of different official and non-official parties in decision-making processes, they bear the consequences of their decisions fairly. Robin Eckersley refers to this concept as the "double challenge" of ecological democracy (Eckersley, 2004, p:112).

Second Axis: Civil Society and Environmental Protection in the 2020 Constitution:

First, an overview of the content of the 2020 Constitution:

The 2020 Constitution is the first Algerian constitution in the post-Arab Spring era, following widespread protests and subsequent political and constitutional reforms. It was approved by a popular referendum held on November 1, 2020, and is currently in effect. The new constitution includes several articles reflecting the state's concern for civil society and environmental protection.

Upon carefully examining the constitution's articles, many provisions indicate the state's interest in this area. The constitution's preamble highlights the shared responsibility between the state and citizens for environmental protection. It acknowledges the people's concern about environmental degradation and

climate change, highlighting their task of ensuring environmental protection against different risks for future generations. For example, it states: "**The people remain concerned about environmental degradation and the negative consequences of climate change, and are keen to ensure the protection of the natural environment and the rational use of natural resources, as well as their preservation for the benefit of future generations.**"

In this context, Article 64 of the constitution grants citizens the right to a healthy environment within the framework of sustainable development, asserting that every person has the right to live in a clean environment, free from all environmental risks, as recognized in international agreements, with the responsibility for its preservation lying with everyone.

However, the constitution also highlights the responsibility for environmental protection is not solely that of the people but also that of the state. Article 21 stipulates that one of the state's tasks is "**the mission of environmental protection, ensuring a healthy environment to protect individuals and achieve their well-being, continuous awareness of environmental risks, rational use of water, fossil fuels, and other natural resources, protection of the environment in its terrestrial, marine, and atmospheric dimensions, and taking all appropriate measures to punish polluters.**" All of these tasks are essential responsibilities of the Algerian state.

To effectively protect both local and national environments, the Algerian government included in the 2020 constitution a set of legal and institutional mechanisms to fulfill this purpose. Among the most important are:

1. Recognizing civil society as the actual representative of the people enables popular participation in making different decisions, particularly environmental-related ones. This is apparent from the content and purposes of Article 16, which considers civil society one of the most effective mechanisms for fulfilling participatory democracy, especially at the local level.

2. Establishing a group of institutions working to promote environmental affairs and engaging civil society in this context, such as:

a) **The National Economic, Social, and Environmental Council:** As an advisory body within the executive authority, aiming for **dialogue, consultation, proposal, foresight, and analysis in the economic, social, and environmental fields, placed under the President of the Republic**" according to Article 209. Article 210 specifies the council's tasks, including:

- Providing a framework for civil society participation in national consultations on economic, social, and environmental development policies within the context of sustainable development.
- Ensuring the continuity of dialogue and consultation among national economic and social partners.
- Assessing national interest issues in the economic, social, environmental, educational, and higher education sectors and studying them.

- Presenting proposals and recommendations to the government.

b) **The National Observatory for Civil Society:** It is also an advisory body concerned with the status of civil society, conveying its concerns and activating its role nationally. We will discuss this further in the following element.

Second, the National Observatory for Civil Society has one of the mechanisms to entrench the roles of civil society in Algeria since 2020:

The establishment of the National Observatory for Civil Society came within the context of a series of reforms initiated by the Algerian state following the approval of the constitutional amendment in 2020. Under Article 213, this amendment stipulated the creation of **"the National Observatory for Civil Society as an advisory body to the President of the Republic.**

Therefore, the Observatory was granted advisory status, working alongside different other advisory institutions such as the High Council for Security and the National Human Rights Council. The term "Observatory" was chosen to reflect its role as a supervisory body over all civil society affairs. The strength of this institution stems from numerous considerations, including:

1. Firstly, it is an institution affiliated with the executive branch, as Article 213 stipulated that the authority to establish the Observatory and define its tasks lies with the President of the Republic. It was effectively carried out through the issuance of Presidential Decree No. 139/21 dated April 12, 2021, concerning the National Observatory for Civil Society, published in Official Gazette No. 29.

2. It is endowed with powers and political influence by virtue of its direct connection with the President of the Republic. As an advisory body, it directly or indirectly provides "opinions and recommendations related to the concerns of civil society to the President.

3. The Observatory enjoys legal personality and financial independence, which is an independent institution with legal representation and financial autonomy, granting it freedom and flexibility in its operations.

The primary purpose of the Observatory is to contribute to promoting national values, democratic practices, and citizenship. It collaborates with other institutions to achieve national development goals. It provides opinions, recommendations, and proposals regarding the status and concerns of civil society and mechanisms to enhance its role in public life.

Linguistically, "observatory" refers to a place of observation and monitoring, such as a domed structure equipped with specific astronomical instruments for observing celestial bodies and phenomena. However, terminologically, "observatory" refers to activity, observation, data collection, indexing, analysis, and reporting on events. Undoubtedly, the constitutional dedication of the National Observatory for Civil Society as an advisory body reflects the institution's significance as a mechanism contributing to proposing appropriate solutions and alternatives to address problems, shaping decisions, and providing guidance in the field related to civil society concerns. The observatory aims to narrow the gap between political authority and society, fulfill participatory

democracy, and cement the principle of popular oversight to contribute to comprehensive national development.(Guezlane, 2021. p. 489).

Purposes of the National Observatory for Civil Society:

The second article of Presidential Decree No. 21/139, dated April 12, 2021 (concerning the National Observatory for Civil Society), defined the primary mission of the National Observatory for Civil Society as a framework for dialogue, consultation, proposal, analysis, and foresight on all issues related to civil society and enhancing its performance. The decree further elaborated on the tasks of the Observatory as follows:

- Assessing and developing the performance of civil society based on societal needs and available resources, suggesting a general concept for its role in sustainable national development, monitoring imbalances hindering its effective participation in public life, notifying relevant authorities, and taking actions to promote its activity.
- Providing opinions, recommendations, and proposals to enhance civil society participation in formulating and applying public policies at all levels, adopting a participatory democratic approach, and advising different civil society entities to support their self-capacity in fieldwork.
- Contributing to establishing a framework for dialogue between all civil society actors and public authorities to make civil society an active contributor to sustainable national development, participating in all activities initiated by relevant public bodies and institutions related to civil society activities.
- Studying ways to involve and develop the contribution of the national community abroad in different programs and activities related to civil society at the national level, integrating it into the national development path, and developing communication and information exchange with it.
- Promoting national values and principles, proposing necessary mechanisms to encourage volunteer work and work for the public good in civil society activities, consolidating a sense of belonging, and enhancing individuals' capacities to communicate with each other.
- Initiating or contributing to any study to promote and activate the role of various civil society entities in all areas.
- Organizing conferences, study days, training courses, seminars, national and local sessions for civil society, and any media or awareness campaigns related to its tasks.
- Providing opinions on legislative and regulatory texts related to its tasks and request consultation.
- Promoting consultation and cooperation with similar foreign entities in coordination with the Ministry of Foreign Affairs.

Through these tasks, we can infer the defined responsibilities of this observatory:

Evaluative Oversight Mission: Includes evaluating the activities of civil society institutions and identifying different obstacles that hinder them from achieving their duties effectively.

1. **Activation of Various Spectrums of Civil Society:** Involves engaging various segments of civil society, whether domestically or internationally, by involving the national diaspora.

2. **Organizational Task:** This relates to contributing to the enactment of legislation concerning different aspects of civil society by providing opinions on relevant legislation.

All these tasks fundamentally align with the proper purposes of this observatory and coincide with the nature of its designation as an entity tasked with monitoring different imbalances and obstacles faced by civil society institutions in Algeria. Hence, we can highlight the high aspirations placed on this youthful institution as an active partner in fulfilling the requirements of good governance in Algeria, mainly through its privileges, enabling it to operate independently.

Third axis: Civil Society and the Environment in Algeria: Challenges and Difficulties.

First: The Reality of Civil Society and Its Roles in Environmental Affairs in Algeria:

Civil society plays a significant role in Algeria, particularly in the environmental domain closely linked to citizens. This is due to individuals' direct connection with different segments of civil society as their representatives and the relationship of civil society institutions with the political system. Civil society institutions are closely tied to citizens, especially in their local branches and presence in cities and neighborhoods, such as environmental associations which play a crucial role alongside public authorities in spreading environmental awareness. They develop environmental knowledge among various segments of society and contribute to educating citizens on all environmental issues through publications, advertisements, and awareness campaigns they initiate. (Sabah, 2020. p. 157).

The number of active environmental associations in Algeria has been increasing daily, reaching 2505 associations according to statistics from the Ministry of Interior and Local Authorities, accounting for 2.30% (Zaouche, 2018. p. 306) of the total nationally active associations in different economic and cultural fields. Although this percentage may seem low compared to other fields, it must acknowledge these associations' important role nationally and locally. According to Algerian legislation and the powers granted by different environmental regulations which participate in consultation, advisory roles, and membership in some bodies or institutions, influencing them to make environmentally appropriate decisions. Particularly if environmental associations cannot fulfill their objectives through amicable means, the law grants them the authority to resort to the judiciary to

compel compliance with environmental regulations by administrations and anyone violating these rules. Hence, the role of environmental associations is defined by three main functions (Hamiaz, 2021. p. 180):

1. **Preventive Role:** By predicting risks that may harm the environment.
2. **Awareness and Educational Role:** Ensuring environmental awareness and culture dissemination enhances environmentally friendly behavioral patterns.
3. **Participatory Role:** Contribute to shaping environmental policies and participate directly or indirectly in making environmental decisions, particularly under Law 03/10, considering civil society organizations and environmental associations as essential partners to the government in environmental protection.
4. **Oversight and Judicial Role:** Where civil society is regarded as a watchdog to uncover violations that impact environmental security. Law 03/10 grants associations the right to resort to the judiciary as a primary partner alongside the state in environmental protection within the framework known as "compensation for damage." Articles 37 and 38 of the Environmental Law stipulate that associations have the right to claim environmental compensation by establishing themselves as a civil party in all matters related to the environment, whether for themselves, their members, or any individual who has delegated authority to them.

Second, Challenges facing civil society in the environmental field in Algeria:

Despite the important role that different civil society institutions should play in spreading environmental awareness and protecting the environment, mainly through the work of active associations in this field, their actual role still needs to be revised, due to numerous challenges hindering collective and community work, including:

1/ Organizational obstacles: These relate to the organization of the associations themselves, including (Marzouki, <https://2u.pw/5vKqFY9e,12/05/2023>):

- Absence of self-financing sources: Self-financing sources for Algerian associations are very weak, limiting their ability to perform their necessary effective and positive roles and forcing them to depend entirely on state support, making them subservient to the state rather than being able to exert influence.
- Lack of transparency and democracy in management: Most civil society institutions suffer from managerial problems that often lead to divisions, resulting in either their dissolution or the freezing of their activities.
- Lack of clarity in the programs and objectives of civil society associations in Algeria due to their inconsistent origins.

- Individualism in decision-making is due to the dominance of leadership figures and the lack of openness to participation, a prominent feature of Algerian civil society institutions.

2/ Legal obstacles: Relate to the Algerian legal framework governing the work of these institutions, which ultimately hinders their operation. This is determined by:

Difficulty in achieving organizational independence: Despite the state's assistance to support "civil society" institutions through financial aid, grants for premises provided by ministerial sectors according to their specialization, and organizing informational and training sessions for association executives, this assistance is merely a method of control and containment. It is fulfilled through preferential financial support based on the equation of proximity to and distance from power, which keeps associations in a state of permanent subordination to the state. This results in the politicization of most civil society institutions and turns them into channels for fulfilling partisan projects. Hence, associations confuse the concept of partisan work with the concept of collective work, perhaps due to the novelty of the experience and its immaturity.

Marginalization of civil society: Despite strong encouragement in the official rhetoric of civil society institutions as significant social regulators and necessary infrastructural foundations for democratic construction, reality proves otherwise. Governmental institutions deliberately exclude "civil society" institutions from many of their discussions and important decisions related to policy-making.

Lack of environmental concern within the agenda of political parties: We scarcely find a political party introducing the green movement in political representation in Algeria, similar to many other countries. Even for existing political parties, there is a noticeable absence of environmental considerations from the political formations perspectives that have yet to address this aspect. Despite the fact that Algeria has become one of the countries most vulnerable to the effects of climate change, threatening natural resources and other environmental risks.

3/ Environmental obstacles: Related to the surrounding environment in which these associations and institutions operate:

Lack of environmental awareness: Algerian society, in general, witnesses a lack of awareness and culture of individual and collective participation in solving environmental problems, as well as a lack of a culture of volunteer work, a sense of responsibility, and individual discipline.

Lack of seriousness and interest in environmental work: Environmental organizations in Algeria experience a lack of willingness to volunteer and engage in civil activism, leading to weak participation and a noticeable shortage of environmental activism among civil society organizations. The lack of expertise

required by these organizations hindered their development in a manner that could enhance their performance and ability to fulfill their goals(Djamal,2014. p. 262).

Lack of transparency: Civil society organizations struggle to access environmental information, facing barriers of professional secrecy that prevent them from delving into different public administrations to obtain documents and information related to the environment.

Conclusion and Recommendations:

In conclusion, Algeria must highlight the necessity of everyone's participation in efforts to protect and preserve the environment, as it is a national and international imperative, particularly amidst the multiple crises encountered by both the national and international environment, such as pollution, desertification, and global warming. Therefore, it has become essential to seek effective frameworks for environmental protection, as it is a common right for all and entails collective responsibility for its preservation. The 2020 Constitution has underscored these goals, recognizing the right of individuals to a healthy and safe environment while also highlighting the need for everyone's participation in its protection and preservation through civil society institutions as partners to the state in this regard. The Constitution has also established a group of institutions endowed with advisory status to regulate this organized community work within the framework of associations and different spectra of civil society. However, the present reality in Algeria does not meet the desired expectations, both in terms of environmental conditions and the roles of civil society within them, as discussed in this study, due to numerous obstacles, including legal hurdles that hinder the adequate performance of environmental associations, prompting us, in the end, to offer a series of recommendations, including:

- Exploring more effective means of financing community work, away from state grants, to provide these associations with flexibility and a sense of responsibility.
- Activating the role of environmental associations in spreading environmental awareness, particularly by linking it with Islamic ethical teachings, which have a close connection with the behavior of the Algerian Muslim individual and highlight the demand for environmental protection through the principles of benevolence, moderation, economical living, avoidance of excess, protection of natural resources, compassion for living creatures, and the concept of stewardship on Earth.
- Training competent individuals engaged in community work in the domain of environment and its crises, ways to confront them, and most importantly, the responsibilities of associations in this regard through organizing seminars and practical workshops including qualified scientific personnel, particularly within universities and research centers concerned with this matter.

• Similarly, attention must be paid to training the necessary administrative competencies for managing central and local environmental institutions, as mentioned earlier.

References and bibliography:

1. Algerian People's Democratic Republic, (2021) *Presidential Decree No. 21-139 dated Sha'ban 29, 1442 AH - corresponding to April 12, 2021, concerning the National Observatory for Civil Society*".
2. Algerian People's Democratic Republic,(2020)*Constitution of the Algerian People's Democratic Republic*2020.
3. Ben Mahrez, L.(2016).*The Problematic Concept of Civil Society: A Sociohistorical Reading*. Cairo: Dar Al-Kutub Al-Hadith.
4. Djamal ,A(2014).*Civil Society Participation in Solving Environmental Problems: A Study in Algerian Law, Algerian Journal of Maritime Law and Transport*. Issue 01.
5. Eckersley, R. (2004).*The Green State: Rethinking Democracy and Sovereignty*. London: The MIT Press.
6. Felouse, M.(2019). *Role of Civil Society Institutions in Disseminating Environmental Culture, Journal of Human Resource Development*. Issue 05.
7. Guezlane, S. (2021), *Constitutionalization of the National Observatory for Civil Society in Light of the 2020 Amendment as a Mechanism to Enhance the Role and Status of Civil Society*, International Policy Journal. Volume 05, Issue: 02.
8. Hamiaz, S. (2021). *The Role of Civil Society in Engineering and Disseminating Environmental Awareness in Algeria*, Volume 18, Issue 02
9. Haouasse , S.(2015), *Civil Society and Environmental Protection in Algeria: Reality and Prospects*, Master's Thesis, University of Setif, Faculty of Law and Political Science, Department of Law.
10. Huntington,S.(1993). *The Third Wave: Democratization in the Late Twentieth Century*. Kuwait: Dar Saad Al-Sabah
11. Merzouki,O, (2017)*Society and Democratic Transition in Algeria: The Problem of Role*: <https://2u.pw/PGW07sqj 06/08/2023>.
12. Rabhi,L, Baalache,K(2017), *The Role of Civil Society Institutions at the National and International Levels in Promoting and Protecting Human Rights in Light of the Principles of Good Governance*, Journal of Human Rights and Public Liberties. Volume: 02, Issue: 01.
13. Sabah, A, (2020), *Partnership of Environmental Associations in Algerian Legislation: Effectiveness and Challenges*, Volume: 15, Issue 02, 2020.
14. Zaouche, H, (2018) *Participatory Democracy and Environmental Protection: The Case of Algeria*, Journal of Policy and Law Records. Issue 18.