



Implementation of Human Rights

Sonila Guzina

Edvana Tiri

Faculty of Political and Legal Sciences,
Aleksandër Moisiu University,
Durrës

Received: 05 May 2022 / Accepted: 17 May 2023 / Published: 20 May 2023
© 2023 Sonila Guzina and Edvana Tiri

Doi: 10.56345/ijrdv10n1s127

Abstract

Human rights are understood as rights that belong to every individual as a consequence of being human, regardless of legal acts. By affirming the existence of human rights, we say that every human being, by the very fact that he or she is such, is entitled to something. The modern concept of human rights is rooted in experiences of "legal illegality" when crimes were committed under the authority of the law and when some human beings were denied such status. These rights are defined as those rights that are inherent in our nature and without which we cannot live as human beings. Basic human rights and freedoms give us the opportunity to fully develop and use our human qualities, our intelligence, our consciousness, and fulfill our demands. The issue of human rights has received a great deal of attention. Today, the violation of human rights is taken seriously by international bodies and most countries have their own legislation to guarantee the protection and implementation of human rights. Human rights are closely related to the state's obligation to protect and promote them. Putting the state in their focus refers to the governing model, the state is the main actor, the responsible and responsible entity for the promotion of human rights and freedoms. In fact, the obligation and role of the state does not consist only in a passive position to promote them, but at the same time, it also has as a duty and as a primary obligation the undertaking of actions to guarantee and protect human rights and freedoms through policies active. The issue of human rights has attracted the attention of many people. As a legal category, human rights are presented in the creation of the first legal rules, where these give us the opportunity to develop and fully use our qualities and fulfill our requirements. The most effective protection of human rights is through state public institutions, where the state has the most powerful monopoly of force through which it can realize political goals and ideas. The aspiration to protect human dignity represents the essence of the concept of human rights. This aspiration puts the human being at the center of interest, where it is based on the common universal system of values committed to the right to life, as an inviolable right, and provides a framework for building the system of human rights. to man.

Keywords: human rights; protection of human rights; legislation; local bodies

1. Constitutional, International and Legal Norms that Provide for the Implementation of Human Rights

1.1 The Universal Declaration of Human Rights^[1]

Human rights are defined as "basic moral guarantees that all people, in all countries and cultures, should enjoy, just and precisely because they are human beings". Calling these guarantees "fair" they are attached to each particular individual

¹ Universal Declaration of Human Rights, UN General Assembly - December 10, 1948

in order to be able to refer to and invoke them. They are of a high priority and that their obedience and respect are mandatory, inviolable and cannot be chosen at will. In the Universal Declaration of Human Rights [2], we find enshrined in some of its articles the freedom of expression, opinion, organization, etc., rights that gave life to the freedom of assembly in trade union organizations to groups of employees, precisely to protect violated rights.

International Human Rights Covenants are treaties, the implementation and observance of which are undertaken by the states party to them. Two acts are important, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights [3]

Article 19 of the UDNJ provides that "Everyone has the right to freedom of thought and expression; this right includes freedom of opinion without interference, as well as freedom to seek, receive and impart information and ideas by any means, regardless of frontiers."

As we can clearly see, freedom of thought and expression has been sanctioned as basic and universal human rights. So Article 19 gives us the freedom and the right to express what we think, to reach conclusions without being influenced by anyone, to think what we want and to share our thoughts and ideas with the world. Also, Article 19 emphasizes important aspects of this freedom such as the freedom to seek, receive information and to be informed by others [4]. This freedom guaranteed by Article 19 of this Convention, led to the creation of an international organization, in 1987, called ARTICLE 19, which had the task of observing and inspecting how much this article was respected and guaranteed in many countries of the world. As the motto of this organization, it was the fact that the full enjoyment of this freedom is the greatest force to prevent repression, conflicts and wars, and is essential to achieve individual freedoms and develop democracy [5]. Article 20 of this declaration also provides for the freedom of organization and peaceful association, this association which paves the way for the creation of trade unions or civil societies. More specifically, Article 20 provides that:

"Everyone has the right to freedom of peaceful assembly and association. No one should be forced to join any union."

The freedom to assemble and unite peacefully with others is one of the most important freedoms for the individual. The individual certainly does not live alone, but as part of society. He creates common thoughts, attitudes, interests and reactions with others with whom he naturally wants to be close and supports and supports them in creating, forming, displaying, protecting these common thoughts, attitudes, interests or reactions. Thus, it is very important for individuals to be free to be able to join and gather with other individuals to realize this equally important aspect of life, which is being part of a group of individuals. For this reason, it has been considered that the right of individuals to create groups, to organize, to unite should be a human right which should be guaranteed and protected for individuals.

Of course, this freedom should not only be seen as important for individuals, but also for society as a whole and the state, because individuals, by gathering and organizing, have the opportunity to influence the way of governance, the selection of the country's policies, the best possible implementation of these policies and so on. Thus, we remember the massive protests organized by Albanians, we remember that different groups gather and openly demand the protection of their interests in the streets, or that people have created many associations, or that unions have been created to protect the interests of employees, or that individuals are allowed to form political parties to express, develop, defend their political beliefs and run the country by implementing them, or that students in schools can gather in student governments to discuss and influence the improvement of the quality of teaching and school management, and so on.

Article 21 of the UDNJ provides that:

"Everyone has the right to participate in the governance of his country, directly or through freely elected representatives.

Everyone has an equal right to access public services in their country.

The will of the people is the basis of state power; this will must be expressed in periodic and free elections which must be general and equal voting, as well as by secret ballot or according to the relevant free voting procedure."

Article 21 is an article that at the same time guarantees a right of the individual but also conditions the way a state will be created. This is because determining that everyone has the right to participate in the governance of the country, Article 21 requires states to be created based on the wishes of its individuals. Article 21 requires that countries be

2 Human rights are usually considered universal rights in the sense that everyone has and should enjoy them without distinction and independent in the sense that they exist equally for all and are available as standards of justification and criticism, however they may or may not be recognized and implemented by the legal systems or officials of particular countries.

3 Adopted and proclaimed by the UN General Assembly with its resolution 217 A(III) - 10 December 1948

4 Opened for signature by the General Assembly in December 1966 and entered into force in 1976.

5 Organizata ndërkombëtare në mbrojtje të të lirisë së mendimit e shprehjes – ARTICLE 19

governed in a democratic way, even though such a thing may not yet be guaranteed in different countries of the world. This article is very ancient as a concept, and this dates back to the reign of Ancient Greece, where the right of people to assemble and vote on the rules that would guide their lives was recognized and guaranteed, even though the concept of democracy, that is, of majority rule, it was perhaps not completely democratic because it left out women or even slaves.

This article in our country has received maximum attention and respect, since in our fundamental law, the Constitution, it is foreseen that this country will be governed only if it is based on a system of free, equal, general and periodic elections [6] that sovereignty belongs to the people and that it is exercised by its representatives or directly by the people [7] and that every Albanian citizen 18 years of age or older has the right to be elected and choose [7].

The essence of Article 21 lies in the proclamation of the inviolable equality of the individual in relation to the state, as well as sets forth the minimum requirements for the democratic system of the state where everyone expresses his opinion, through participation in periodic and free elections.

1.2 International Covenant on Civil and Political Rights

The UN General Assembly met on December 16, 1966 and through its resolution 2200 A (XXI) which entered into force on March 23, 1976, in accordance with the Universal Declaration of Human Rights, approved the International Covenant on civil and political rights.

The approval of this pact is done bearing in mind that, in accordance with the principles announced in the Charter of the United Nations, the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, recognizing that these rights originate from the innate dignity of man, as well as understanding the fact that the individual has duties to others and to the collectivity to which he belongs and that he is responsible for promoting and respect these rights [8].

Article 19 of this pact provides that:

1) *No one can worry about their opinions.*

2) *Everyone has the right to freedom of expression; this right includes the freedom to seek, receive and impart information and ideas of any kind, regardless of frontiers, in oral, written, printed or artistic form, or by any other means of his choice.*

3) *The exercise of the freedoms provided for in the second paragraph of this article means special duties and special responsibilities, therefore it may be subject to some limitations which, however, must be expressly determined by the law and be necessary. To respect the rights or reputation of others.*

For the preservation of national security, public order, health or public morals.

In its article 21 it is provided:

The right to peaceful assembly is recognized by law. The exercise of this right can only be subject to restrictions that are dictated by law and that are necessary in a democratic society, in the interest of national security, peace and public order, or to protect public health or morals, or the rights and the freedoms of others.

It is Article 22 that more clearly provides for the right to join trade unions and guarantees its freedom, and more precisely:

1) *Every person has the right to freely associate with others, including the right to form trade unions and participate in them for the protection of their interests.*

2) *The exercise of this right may only be subject to restrictions that are provided by law and that are necessary in a democratic society, in the interest of national security, peace and public order, or to protect public health or morals, or the rights and freedoms of others. This article does not prohibit the imposition by law of restrictions on the exercise of this right by members of the armed forces and the police.*

3) *Nothing in this Article shall permit States Parties to the 1948 Convention of the International Labor Organization on Freedom of Association, Protection of the Right to Organize, to take legislative measures which may affect or implement the law so that affect the guarantees provided by the mentioned Convention*

6 Article 1 of the Constitution of Albania

7 Article 2 of the Constitution of Albania

8 Ekstrakt i Paktit ndërkombëtar për të drejtat civile dhe politike, miratuar nga Asambleja e përgjithshme e OKB – 16 Dhjetor 1966

1.3 European Convention on Human Rights [9]

The construction of doctrine in the form of international regulatory documents and instruments, which often have binding power, means that Human Rights are not only a philosophical framework or an ideology of today's democratic societies, but in today's perspective, to have rather a juridical approximation to the Universal Declaration of Human Rights. This Declaration constitutes the first secular international agreement on human rights and, as we mentioned above, originates from the desire of nations, peoples and their governments to prevent the barbarities and atrocities of the Second World War from happening again by deciding "common standards to be achieved by all peoples and all nations". The text of the Declaration was and remains today non-binding, but it also still retains strength as the primary authority on human rights and is constantly supported by the UN's activity to encourage this document to be incorporated into the legislation of member countries.

In 1949, a Council was established in Europe, as a necessity for playing a role and institutional mechanism, with the aim of encouraging EU member countries to guarantee and respect human rights, the implementation of a pluralistic democracy and the formation of a the rule of law. To reach this goal, the Council used as a tool the European Convention on Human Rights, which was adopted in 1950, and which was a restatement and re-announcement within the European reality of the Universal Declaration on Human Rights, but that unlike the latter, the European Convention has a binding nature for all states, while the Universal Declaration does not have this obligation.

This Declaration has sanctioned the right of collective organizations in its articles 10 and 11, these organizations also guarantee in some way the Freedom of Trade Union.

Article 10 of it, being also adapted by the UDNJ, has sanctioned the Freedom of Expression, and more precisely it provides that:

1) *Everyone has the right to freedom of expression. This right includes freedom of opinion and freedom to receive or impart information and ideas without interference by public authorities and regardless of frontiers. This Article does not prohibit States from requiring the licensing of cinematographic or television broadcasting undertakings.*

2) *The exercise of these freedoms, which contains obligations and responsibilities, may be subject to those formalities, conditions, restrictions or sanctions provided by law and which are necessary in a democratic society, in the interest of national security, territorial integrity or public safety, for the protection of order and the prevention of crime, for the protection of health or morals, for the protection of the dignity or rights of others, to prevent the dissemination of confidential data or to guarantee the authority and impartiality of the judicial power.*

Article 11, on the other hand, more precisely affects the freedom of trade unions: It provides for the Freedom of assembly and organization:

1) *Everyone has the right to freedom of peaceful assembly and to organize with others, including the right to establish with others trade unions and to participate in them for the protection of his interests.*

2) *The exercise of these rights cannot be subject to restrictions other than those provided by law and which are necessary in a democratic society, in the interest of national security or public safety, for the protection of order and the prevention of crime, for the preservation of health or morals, or for the protection of the rights and freedoms of others. This article does not prohibit legal restrictions on the exercise of these rights by members of the armed forces, the police or the state administration.*

1.4 European Social Charter (Revised 1996)

Another very important document that was approved by the Council of Europe and then revised again, is the European Social Charter, which defines some of the human rights and freedoms such as the right to housing, the right to education, for employment, for social and legal protection, the right to free movement as well as protection from discrimination. The Revised Charter entered into force in 1999 and is gradually replacing the original treaty [10].

The Revised Charter has listed in its first part many points and principles of a social nature, with the main obligation for all states that sign it, to use any means to respect and ensure the guarantee and realization of these rights within their government. Some of these very important principles are: the right of workers to fair, safe and healthy working conditions; the right to a fair wage, sufficient for an adequate standard of living; the right to organize; the right to social security; the right to information, etc.

9 European Convention on Human Rights
10 In 1961

One of the key points of this Charter is the provision and special protection that this Charter gives to the elderly, young people and pregnant women, who should receive special attention from the state and labor legislation. The Charter requires the commitment of its parties to ensure that legal immigrant workers within their territory, as long as labor matters are regulated by law or regulation or subject to the control of administrative authorities, have treatment no less favorable than that of its citizens regarding the following issues [11]:

- a) *Salary and other employment and working conditions;*
- b) *Membership in trade unions and enjoyment of benefits from collective negotiations;*
- c) *Housing;*

Also, this treatment should be the same with regard to taxes, fees or employment contributions related to employed persons [12]. This Charter has paid special attention to equal treatment in matters of employment and work without discrimination due to sex [13]

Therefore, the Parties must commit to recognize that right and take appropriate measures to ensure or encourage its implementation in the areas of:

- a) *Access to employment, protection against dismissal and re-integration into work;*
- b) *Professional orientation, training, re-training and rehabilitation;*
- c) *Terms of employment and working conditions, including salary;*
- d) *Career development, including increasing responsibility.*

It is Article 22 of this Charter that most affects the issue of freedom of assembly in trade union organizations and the recognition of their role to participate in determining and improving working conditions and the working environment in the enterprise.

For this, the Parties undertake to take and encourage measures that enable workers or their representatives, in accordance with national legislation and practice, to contribute:

- a) *In determining and improving working conditions, work organization and work environment;*
- b) *In the protection of health and insurance within the enterprise;*
- c) *In the organization of social and socio-cultural services and facilities within the enterprise;*
- d) *Supervision of compliance with regulations on these issues.*

Also, in article 24 of this Charter, we find sanctioned the rights and freedoms of workers in relation to employment, after its termination.

The parties undertake to recognize:

- a) The right of all workers not to have their employment terminated without valid reasons for that termination related to their ability or behavior or based on the operational requirements of the enterprise, organization or service;
- b) The right of workers whose employment is terminated without valid reason to adequate compensation or other appropriate relief.

For this purpose, the parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason, will have the right to appeal to an independent body. Workers are also recognized the right to raise and defend their claims in the event of the bankruptcy of their owner, these claims arising from the employment contract or employment relationship, to be guaranteed by a guarantee institution or by any other effective form of protection

With the aim of ensuring the effective exercise of the right of workers to protect their dignity at work, the Parties undertake, in consultation with workers' and employers' organizations [14]:

- 1) Promote awareness of, information about, and prevention of sexual harassment in the workplace or in connection with work and take all appropriate measures to protect workers from such behavior;
- 2) Promote awareness of, information about, and prevention of reprehensible or clearly negative actions and attacks directed repeatedly against individual workers in the workplace or in connection with work and take all necessary measures to protect workers from such behavior.

Article 28 also recognizes the right of workers' representatives (unions) for protection in the enterprise and the facilities that will be granted to them, and for this, the Parties undertake to ensure that in the enterprise:

- a) They enjoy effective protection against prejudicial actions against them, including dismissal, based on their status or activities as workers' representatives within the enterprise;

11 In 1966

12 Point 5 of Article 19. *European Social Charter (Revised 1996)*

13 *European Social Charter, Turin, 18/10/1961*

14 Article 26. *European Social Charter (Revised 1996)*

b) To make available to them such facilities as may be suitable, in order to carry out their functions in a prompt and effective manner, taking into consideration the system of industrial relations of the country and the needs, dimensions and possibilities of the company in question.

References

Doctrine of human rights - Arqile Kosta;
European Social Charter (revised 1996);
.International Covenant on Civil and Political Rights, approved by the UN General Assembly - December 16, 1966;
The Universal Declaration of Human Rights, adopted by the UN General Assembly - December 10, 1948;
European Convention on Human Rights;
Human rights at the center of the focus of the Council of Europe - EC Bulletin, February 2011;
Commentary on the Universal Declaration of Human Rights - Publication by UNESCO 2008;
International organization in defense of freedom of thought and expression - ARTICLE 19;
Constitution of the Republic of Albania.