



Freedoms and Personal Rights of Women as Part of the Fundamental Rights Recognized by the Constitution

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Abstract

The personal freedoms and rights of women are indispensable and integral to the individual freedoms and rights in a democratic society. National and international legislation safeguards these rights and freedoms, which establish the status, autonomy, and function of women in society. Women's personal freedoms and rights are essential components of individual freedoms and rights as a whole. Ensuring and advocating for these rights enhances the establishment of a fair, impartial, and comprehensive society that encompasses everyone. The Constitution of the Republic of Albania establishes and safeguards the basic rights and liberties of individuals, encompassing the rights of women. The examination of these factors establishes the extent to which women's individual rights and liberties impact their autonomy, worth, and societal position, fostering an environment where women are seen as equals and held in high regard. Essential to achieving these objectives is the implementation and adherence to laws and policies that safeguard and advance these rights. The manifesto addresses several aspects of economic, political, social, and cultural liberties and entitlements.

Keywords: The Constitution of the Republic of Albania, Women's rights, Implementation, International legislation

1. Introduction

In the Albanian Constitution, pronouns such as "anyone", "everyone", "everybody", "nobody", "everyone", etc. are used to indicate that the human community to which the provision is addressed does not provide for any exception, any discrimination, since fundamental rights and freedoms are guaranteed to everyone, women and men, minors and adults, Albanian citizens and foreign citizens and stateless persons (with the exception of cases in which the Constitution expressly links the exercise of rights with the Albanian citizenship of certain freedoms), national minorities, etc.

The second part of the Constitution of the Republic of Albania is dedicated to "Human rights and fundamental freedoms". This part is divided into four chapters. "Fundamental human rights and freedoms are indivisible, inalienable and inviolable and constitute the foundation of the entire legal system."

The first chapter of this part deals with General Principles. The Constitution itself underlines that fundamental human rights and freedoms are indivisible, inalienable and inviolable and constitute the foundation of the entire legal system. Limitations of constitutional rights and freedoms can be imposed by law only for the public interest or for the protection of the rights of others. Restrictions can never violate the essence of freedoms and rights.

Article 15/2 of the Constitution provides for the obligation of public authorities, in fulfilling their tasks, to respect fundamental human rights and freedoms, as well as to contribute to their realization.

In the context of women's rights, a special place occupies Article 18 of the Constitution, otherwise known as the anti-discrimination article.

The second chapter deals with personal freedoms and rights, among which we remember: the right to life, the right to information, freedom of expression, conscience and religion, the prohibition of torture, punishment or cruel, inhuman or degrading, the prohibition of forced labor, protection of personal data, freedom and confidentiality of correspondence, inviolability of residence, right to free movement and choice of residence, right to private property, right of appeal.

In this part the Constitution summarizes the fundamental principles of criminal justice and the procedural guarantees of the accused.

The third chapter of the Constitution deals with political rights and freedoms. This includes: right to vote actively and passively, right to collective organisation, right to address requests, complaints or observations to public bodies.

The fourth chapter deals with economic, social and cultural freedoms and rights. Some of them are: the right to work and social protection at work, the right to strike, the right to social security in old age and in case of incapacity for work, the right to assistance under the conditions established by law, the right to marriage and family, right to health care from the State, right to education.

One of the main issues seems to remain the gap between *de jure* (what the law declares) and *de facto* (the concrete reality) equality. From the point of view of legal instruments, it must be admitted that our country does not suffer from a legislative deficiency. But, while the constitution and law are increasingly a tool to guarantee equality from a gender perspective, in practice we note that there is still an inconsistency between what the constitution and law declare and reality. In this way, there is a clear difference between the concept of equality between men and women according to legal provisions and what actually happens and is implemented. However, there is a tendency to bridge this gap with positive practices.

A valuable contribution in this direction has been given and continues to be given by NGOs involved in raising awareness and protecting women's rights. Women often do not recognize the rights that the law gives them, as they are unable to protect them due to economic, social, cultural difficulties, etc. Under these conditions, NGO activity has brought positive effects in different directions and influenced the creation of anti-discrimination legislation, the adoption of positive policies or actions, the provision of direct services for women, etc.

2. Protection of Personal Data

A distinct legislation is in place to safeguard personal data. The term "personal data" refers to any information that pertains to an individual who may be recognized, either directly or indirectly, by such information. The legislation also addresses "sensitive" personal information, encompassing factors such as racial and ethnic background, political ideologies and associations, religious and other philosophical convictions, physical condition, sexual activities, and criminal record. Data processing in the medical field is a critical stage that carries the highest risk to the fundamental rights and freedoms of individuals. This is because the information being processed involves the most personal aspects of a person, such as health and sexual behavior data. The patient and the doctor share the commonality that the doctor, by the execution of their duties, becomes cognizant of the information pertaining to the patient's health condition. The "Code of Medical Ethics and Deontology" was authorized in accordance with Law no. 8615 of 1.6.2000, which governs the Medical Association in the Republic of Albania. According to the "Code of Medical Ethics and Deontology", specifically in chapter 2 titled "Doctor's duties towards the patient", article 21 outlines the doctor's responsibility to provide information regarding the patient's health condition.

Maintain confidentiality. The information acquired by the doctor while carrying out his professional responsibilities is regarded as confidential medical knowledge.

Due to the very private nature of this data, contact is further restricted to exclude immediate family members. As per the patient's wishes, the doctor is obligated to keep confidentiality, even from the relatives of other individuals, even after the patient has passed away, unless it poses a risk to the well-being and lives of others. Engaging in actions that potentially jeopardize the common good, even if it goes against personal interests, does not qualify as an infringement upon one's private life.

There is a singular exemption to this duty, which pertains to a collective benefit, such as the peril posed to the lives of others. When a doctor utilizes a patient's health data for publication purposes, it is imperative for the doctor to guarantee the preservation of the patient's anonymity. Disclose the confidential information. In situations where the patient's life is at risk or when legally required by a recognized authority, the doctor is authorized to disclose the patient's confidential medical information.

3. The Right to Private Property

The right to property is a fundamental and crucial entitlement in a democratic democracy. Various international and regional legal mechanisms explicitly guarantee the right to property. Regarding this issue, the current legislative regulations do not include any form of financial discrimination. The concept of property rights is an essential and integral part of the fundamental rights of all individuals and societies, regardless of gender. The Civil Code of the Republic of Albania, Law n.9235\29.7.2004 "On the restitution and compensation of assets" and the most recent authorized Law n. 133/2015 "On the treatment of assets and the completion of the patrimonial compensation process" address all legal issues in a uniform manner. Article 41 of the Constitution guarantees the right to private property and outlines the various means of acquiring things, such as gift, inheritance, and purchase, as specified in the civil code. The idea mentioned is likewise codified in article 153 of the civil code, which prohibits the whole or partial deprivation of assets gained by legal means (except in situations of public necessity or expropriations). According to the Civil Code, property can be lost if it is acquired by someone else or if it is sold (in which case a notarial deed is required) (art. 191). Moreover, it is necessary to register real estate in accordance with Article 192 of the Civil Code. Every co-owner possesses rights and responsibilities associated with the property, but is prohibited from selling their portion without initially offering the other owners the chance to buy it.

4. The Right to Access and Receive Information

The right to information, which is included in constitutional rights, is governed by many legislation. The primary legislation pertaining to this entitlement is law number 119/2014 about the right to information. This legislation governs the entitlement to access information generated or possessed by governmental entities. Article 3 guarantees individuals the freedom to freely access public information without the need to provide any justification. Every individual possesses the entitlement to access public information, either by directly accessing the original document or by obtaining a copy in a manner that enables complete access to the document's content (Article 4). In accordance with article 7 of Law no. 119/2014, which pertains to the right to information, a transparency program has been formulated for the Commissioner responsible for safeguarding the right to information and the protection of personal data. This program establishes the legal structure for the operations of the authority in accordance with Law No. 119/2014, which pertains to the right to information. This law properly embodies the idea of equality with respect to the right to knowledge. The Commissioner for the right to information and protection of personal data oversees the enforcement of the law on the right to information, with a focus on promoting transparency in the operations of public authorities. This is achieved through activities such as raising awareness and providing information on matters related to the right to information. The Commissioner provides guidance to public authorities on how to develop and execute institutional transparency initiatives.

5. The Right to Vote Actively and Passively and the Right to Organize Collectively

The right to actively participate in elections and hold public office (the right to vote and be elected). These rights are ensured by the Constitution and the Electoral Code for all inhabitants of Albania, regardless of gender. The Albanian Electoral Code ensures that all Albanian citizens, irrespective of their color, ethnicity, gender, language, political ideology, religious beliefs, or economic standing, possess the right to participate in elections as voters and candidates, in accordance with the regulations outlined in this Code. According to Article 3\2 of the Electoral Code, voters have equal rights to vote and be elected. The political rights of women in our nation have been ensured via the ratification of a number of agreements. However, despite the existence of law that strongly opposes discrimination and international agreements, it is evident that women's involvement in public affairs is severely restricted (Representation and quality of democracy in Albania, a gender perspective, 2006:14).

5.1 Economic, social and cultural freedoms and rights

The cluster of economic, social, and cultural entitlements encompasses the entitlement to social security, employment rights, safeguards against unemployment, and the principle of equal remuneration for equal labor. It also encompasses the entitlement to a standard of living that ensures the health and welfare of individuals and their families, as well as insurance coverage in the event of unemployment, illness, disability, or old age. Additionally, it encompasses the entitlement to education and the right to engage in the cultural activities of the community.

5.2 *The right to health and the protection of women's health*

Within this framework, an extensive array of legislation is encompassed, with the objective of upholding and safeguarding the societal and healthcare entitlements of women. Thus, we recall the following laws: Law number. 8876 of 4.04.2002 "On reproductive health", Law n. 8045 of 7.12.1995 "On the termination of pregnancy", Law n. 7870 of 10.13.1994 "On health insurance in RS", Law n. 7703 of 05.11.1993 "On Social Security", and Law no. 8045 of 7.12.1995 "On the termination of pregnancy". These laws ensure the protection of the dignity of all individuals from the moment of conception, a woman's entitlement to receive comprehensive information and counseling prior to undergoing an abortion, regulations and protocols governing the termination of pregnancy, and the availability of healthcare services for abortion operations. and the management of potential problems following abortion. Abortion is only allowed under this legislation if unpleasant conditions are demonstrated and always with the woman's agreement. In this scenario, the law grants the right exclusively to the woman as the primary and alone entity responsible for providing consent for the termination of the pregnancy.

The law numbered 8876, enacted on April 4, 2002 The concept of "reproductive health" ensures the safeguarding of the reproductive rights of both individuals and couples, ensuring that these rights are upheld in line with national laws, policies, and international norms. Women are frequently explicitly addressed as a distinct group in the law within this particular situation. Consequently, each woman, without any restrictions or bias, possesses the entitlement to have her actions regarding her sexuality and sexual and reproductive health observed and to make autonomous decisions in this regard, devoid of any force or harm. The law prioritizes the idea of gender equality. Promotes the importance of mutual respect and equality between women and men in the context of sexual intercourse and reproduction. This entails upholding and valuing the autonomy of all individuals, allowing each person to use their reproductive rights based on their own will and preferences, without facing any kind of prejudice, manipulation, or harm. Both males and females possess the entitlement to retain their gametes. The legislation places significant emphasis on safeguarding the well-being of mothers and regulates the use of medical interventions in reproductive processes.

It is imperative that no woman be compelled to conceive. Women possess the entitlement to secure maternity and the ability to prevent undesired pregnancies, which may jeopardize their lives. Women's lives should not be subjected to the hazards connected with pregnancy, childbirth, and other challenges stemming from gender inequity. Every woman is entitled to receive healthcare services and support during her pregnancy, including during childbirth. She should also have access to treatments and practices that aim to reduce any potential dangers to her own health, as well as the health of the fetus, infant, and kid. Maternal and pediatric populations possess the entitlement to get healthcare services and specialized assistance. Pregnant women have great advantages from receiving complimentary regular medical examinations throughout the course of their pregnancy, delivery, and postpartum period, with a particular emphasis on prenatal and postnatal assessments, which are obligatory. Pregnant women are entitled to undergo compulsory medical testing at no cost and to obtain a complimentary personal pregnancy notebook for monitoring purposes.

5.3 *Labor rights and employment*

As previously emphasized, the prohibition of discrimination is a basic entitlement that applies to employment relationships and the workplace. The Labor Code explicitly prohibits all forms of employment and professional discrimination. It provides a precise definition of discrimination, which includes distinctions, exclusions, or preferences based on gender that infringe upon an individual's right to equal treatment and employment. The Code also specifies situations where such distinctions, exceptions, or preferences should not be considered discriminatory. The Labor Code encompasses significant concepts of equality that are manifested in labor and employment relationships. These include the following: ensuring equal pay for equal work between men and women, as mandated by article 115, which aligns our legislation with international standards and NPO Conventions; prohibiting forced labor for everyone, without any exceptions; obligating employers to protect and prevent violations of workers' dignity and personal rights, including sexual harassment; and restricting employers from collecting information about employees during their employment, unless it pertains to their professional skills or is necessary for contract execution, as stated in article 33. This entails the absence of disclosure pertaining to sexual orientation, marriage and family status, etc. It encompasses the freedom to organize associations, the requirement for the worker to be registered with social security, and the entitlement to get training and acquire qualifications.

legislation number. 152 of 30.5.2013, which pertains to public employees, was modified by legislation no. 178/2014 on 18.12.2014. Article 5 of this law outlines the idea of equality, which is also addressed in other articles. According to

this principle, the management of public administration is regulated by law and guided by the principles of equal opportunities, non-discrimination, merit, transparency, professionalism, and political impartiality. It also aims to ensure the stability and continuity of public employment. This legislation establishes uniform regulations regarding the criteria and procedures for entering public employment, as well as the initiation and termination of employment contracts, career advancement, and the protection of rights and delineation of responsibilities for public employees. Its objective is to establish a reliable, skilled, and effective civil service. Public workers refer to those employed by public administration agencies, either at the national or local level, who carry out responsibilities involving the exercise of public power, such as management, organization, supervision, or execution. The public function is established and functions according to the ideals of professionalism, independence, honesty, political neutrality, transparency, public service, career stability, and adherence to current legislation. The legislation does not include any discriminatory clauses pertaining to the criteria for entry into the civil service, and the selection process is conducted through a transparent public competition, with emphasis on individual merit. The rights of public employees include: secure employment within the public administration, in accordance with legal regulations, opportunities for advancement and lateral career movement, as stipulated by the law, protection by the State, the right to take time off and regulate working hours. Employees are allowed to engage in employment as long as it does not create a conflict of interest with their official responsibilities and does not hinder their ability to exercise those responsibilities. Their freedom to associate with others is governed by a specific statute (Gerxhi 2009:27-38).

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