

LULJETA KODRA

Mediterranean University of Albania

luljeta.kodra@umsh.edu.al
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**GUARANTEE OF HUMAN RIGHTS
AND RESTRICTIONS UNDER THE
ALBANIAN CONSTITUTION**



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ABSTRACT

The issue of sanctioning and protecting fundamental human rights and freedoms gained special importance after World War II. In addition to the fundamental principles established in the Charter of the United Nations regarding the internationalization and promotion of human rights and freedoms, the international community adopted two important instruments in the field of human rights: the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on December 10, 1948, and the European Convention on Human Rights and Fundamental Freedoms, adopted by the Council of Europe, signed in Rome in 1950 and entered into force in 1953. While the Universal Declaration of Human Rights of 1948 was considered a shared ideal to be achieved by all peoples and all nations, since it was not legally binding for states to implement, the European Convention on Human Rights went beyond just proclaiming rights and freedoms. It also established a control mechanism to ensure mandatory respect for the rights it declared. The fundamental human rights provided in the 1998 Constitution of the Republic of Albania are based on the European Convention on Human Rights. Albania has given the Convention supra-legal authority, placing it in the hierarchy of legal sources above laws, but not above the Constitution. Only the restrictions of the Convention have been elevated to constitutional level. This means that the European Convention on Human Rights represents the minimum protection guaranteed by laws that set limits on human rights, but it does not prevent domestic law from advancing further in the protection of fundamental human rights.

Like all constitutions of democratic states, the Albanian Constitution includes a catalog of fundamental rights and freedoms, divided into: individual rights and freedoms, political rights and freedoms, economic, social, and cultural rights and freedoms. It considers these rights as indivisible, inalienable, and inviolable. However, absolute, unrestricted rights do not exist. The most important limitations on rights relate to the obligation to respect the fundamental constitutional principles. Human rights cannot be exercised to a point where they might harm the rule of law, democracy, the sovereignty of the people, human dignity, peace, etc.

The restriction of human rights can only be made by law. Restrictions may be imposed for the protection of the rights of others, as well as the protection of general interests. The Albanian Constitution also guarantees that if rights are restricted, it must be: proportional to the situation that made the restriction necessary, not harm the essence of the right, and not exceed the limitations provided in the European Convention on Human Rights.

KEYWORDS: *Guarantee of fundamental rights and freedoms, International instruments, Limitation of human rights, Hierarchy of sources of law, Control mechanism of the Convention*

INTRODUCTION

Human rights are the fundamental rights that belong to every person in the world, from birth until death. They apply regardless of a person's nationality or citizenship, regardless of what people believe or how they choose to live their lives. These rights cannot be taken away from anyone, although they may be restricted in different situations and for various reasons for example, if a person breaks the law or in the interest of national security. These fundamental human rights are based on values such as dignity, justice, equality, respect, and independence, values that are defined and protected by constitutions and laws.

Human rights provide people with protection in many areas of everyday life, including: the right to have and express opinions, the right to education, the right to private and family life, and the right not to be mistreated or unfairly punished by state authorities.

The atrocities committed against civilian populations during the Second World War made the protection of human rights an international priority. The United Nations was established in 1945, and the founding document of the organization, the United Nations Charter, was signed in June 1945. The Charter laid out the fundamental principles of human rights, and later, more than 50 Member States of the Organization contributed to the drafting of the Universal Declaration of Human Rights, which was adopted by the United Nations General Assembly in December 1948. This was the first effort to establish a global standard of fundamental rights and freedoms for all human beings.

The Declaration laid the foundation for the European Convention on Human Rights, which was adopted in 1950. British jurists played a fundamental role in drafting the Convention, and a prominent contribution came from the former Prime Minister of the United Kingdom, Winston Churchill,

through his commitment. The Convention protects the human rights of individuals in countries that are members of the Council of Europe and made the human rights it outlines part of the domestic law of many states that ratified the European Convention on Human Rights. In fact, the idea that human beings should have a set of fundamental rights and freedoms has deep roots in European countries, notably in Britain^[1], where key developments in this direction include: the Magna Carta of 1215, the Habeas Corpus Act of 1679, and the Bill of Rights of 1689.

The main international legal instruments in the field of human rights protection are considered to be: The Charter of the United Nations, adopted in June 1945, which laid out the fundamental principles for the internationalization and promotion of human rights and freedoms; The Universal Declaration of Human Rights, adopted by the United Nations General Assembly on December 10, 1948; The European Convention on the Protection of Human Rights and Fundamental Freedoms, adopted by the Council of Europe, which was signed in Rome in 1950 and entered into force in 1953.

While the 1948 Universal Declaration of Human Rights was regarded as a common ideal to be achieved by all peoples and nations, since it was not legally binding for states to implement, the European Convention on Human Rights went further than merely proclaiming rights and freedom. It established a control mechanism to ensure the compulsory observance of the rights it proclaimed^[2].

^[1] What are human rights? Equality and Human Rights Commission, 24 May 2018, <https://www.equalityhumanrights.com/en/human-rights/what-are-human-rights>

^[2] Arben Puto, Public International Law, Albin, Tirana, 2001

HUMAN RIGHTS AS PROVIDED IN THE ALBANIAN CONSTITUTION

The issue of human rights and freedoms received extensive attention in Europe starting from the end of the 20th century. All rights that enjoy constitutional or international protection have been considered fundamental rights, regardless of their content. In contrast, rights and freedoms that are not recognized by the constitution or international instruments are not deemed fundamental rights.

Like the constitutions of all democratic states, the Albanian Constitution of 1998 provides a comprehensive catalogue of fundamental human rights and freedoms in Chapters II, III, and IV. These rights are divided into three categories: Personal rights and freedoms, outlined in Chapter II of the Constitution; Political rights and freedoms, outlined in Chapter III; Economic, social, and cultural rights and freedoms, outlined in Chapter IV.

In its first part, the 1998 Constitution of the Republic of Albania enshrines the fundamental principles that form the basis of the Albanian state and its governance. Among these principles are: the sovereignty of the people, political pluralism, human dignity, the separation of powers, religious coexistence, and understanding with national minorities.

The 1998 Albanian Constitution is the first in the history of the Albanian state to recognize human dignity as a fundamental constitutional principle, affirming that: *Human dignity, rights, and freedoms... are the foundation of this state, which has the duty to respect and protect them.* In order to uphold human dignity, the Constitution imposes obligations on public institutions, including Parliament to contribute to the respect of human dignity and to refrain from enacting laws that contradict it. Human dignity as a principle is closely linked to the fundamental rights and freedoms outlined in the Constitution. Like human rights themselves, human dignity is indivisible, inviolable, and inalienable. A person cannot renounce their dignity, and public institutions, including the legislative body, cannot deprive a person of the right to human dignity.

The Albanian Constitution of 1998, in Article 3, enshrines human dignity and fundamental human rights and freedoms as the foundation upon which the entire legal order is built. Article 15/2 establishes the obligation of state bodies to protect and guarantee the exercise of these rights, while Article 18 sets forth the principle of equality and non-discrimination.

The Constitution guarantees formal equality, or equality before the law, for all citizens. Equally important, however, is substantive equality also known as material, economic, and social equality which ensures that all individuals have the same opportunities to exercise their rights. Article 57 of the Constitution recognizes the right to education as an equal right for all. However, in practice, the enjoyment of this right is affected by economic and social factors, which prevent it from being truly equal for everyone. To achieve formal (legal) equality as enshrined in the Constitution, there must also be social and economic guarantees. The absence of these guarantees can be an obstacle to enjoying formal legal equality. Understandably, the level of substantive equality cannot be the same in all countries, as some states are better equipped to support different social groups, while others are unable to actively ensure this type of equality among people.

When outlining limitations on rights and freedoms, the Albanian Constitution emphasizes that such limitations *must not infringe upon the essence of the freedoms and rights*. This reasoning was applied when the Albanian Constitutional Court concluded that the death penalty is not merely a limitation, but a denial of the right to life itself, thus violating the very essence of the right to live.

According to the philosophical concept of fundamental human rights and freedoms, which is based on the theory of natural law, a human being is born free and with certain natural rights. These rights are inseparably connected to the individual, as they derive from universal reason. The state cannot take away or violate these rights with which a person is born, but on the contrary, it is obliged to respect them. However, this does not mean that these rights are absolute or unlimited. Human rights may be restricted for the sake of the interests of others and for the general public interest, but only

by the representative body of the people, the legislative body through law. The Albanian Constitution stipulates that limitations on freedoms and rights can only be made by law, passed by the Assembly.

The freedoms recognized and guaranteed by the Constitution as inviolable are considered negative freedoms. These require that the individual's rights and freedoms be protected from the state's own interfering behavior, not only individually, but also within the social formations where the individual develops their personality. According to modern constitutional concepts, freedoms are guaranteed to individuals not only by the state, but also by various social formations in which individuals carry out their general activities, obliging these formations not to interfere in human rights. For example, personal freedom, the inviolability of the home, and freedom of movement foresee non-interference by the state, whereas freedom of belief, freedom of association, trade union freedom, etc., in addition to non-interference from the state, require that social formations also maintain a non-interventionist stance towards the rights of individuals who carry out their activities within these social formations.

In post-World War II constitutions, emphasis began to be placed, alongside traditional negative freedoms, on social rights. It was demanded that public bodies not only respect individuals' rights by not interfering in the private sphere, but also contribute directly to realizing the principle of substantive equality. Public authorities are obliged to help realize social rights by removing socio-economic barriers that prevent the enjoyment of individual rights. Positive freedoms can be considered the right to work, the right to healthcare, education, etc.

In Article 59, the Constitution of Albania enshrines social objectives, which differ from fundamental human rights and freedoms. These social objectives express the goals of the state in ensuring the fulfillment of people's social rights, but their realization cannot be demanded as a legal right through the courts. Fulfilling these social objectives depends on each country's internal capacities, and for this reason, a social objective is considered important regardless of the state's ability to achieve it. Constitutional institutions of the state constantly aim to fulfill the social objectives set out in Article 59 of the Constitution at the highest possible level.

In Article 16, the Constitution of Albania states that the fundamental rights and freedoms, as well as the duties provided in the Constitution for Albanian citizens, also apply equally to foreigners and stateless persons within the territory of the Republic of Albania, except in cases where the Constitution specifically links the exercise of certain rights and freedoms to Albanian citizenship. For example, foreign nationals who commit crimes within the territory of the Republic of Albania are held accountable under our criminal laws. Exceptions include foreigners such as members of the diplomatic corps, who enjoy the right of extraterritoriality and therefore are not subject to our laws^[3].

The requirement of national citizenship, which until 1992 in Europe was mandatory for the enjoyment of electoral rights, has now been given a legal, not constitutional, status. This postulate which linked the enjoyment of the right to vote with national citizenship was shaken in Europe in 1992, when the Treaty of Maastricht was ratified. This treaty stipulated that residents of an EU state who live in another EU state, under certain conditions, may enjoy the right to vote in local elections^[4].

The Albanian Constitution, in Article 45/1, does not tie the right to vote to Albanian citizenship. In Article 109 of the Albanian Constitution, the electoral right to be a member of local government councils is connected only to the fact of permanent residence of the citizen in the territory of the respective local unit; therefore, this right is not necessarily linked to Albanian citizenship. This provision represents a constitutional premise for aligning Albanian legislation with that of the European Union, in the context of the Albanian state's aspirations for EU integration.

Fundamental human rights and freedoms are enjoyed and exercised not only by natural persons, but also by legal persons. In the 1998 Albanian Constitution, the protection of the rights of Albanian citizens who reside temporarily or permanently outside the country's borders is guaranteed,

^[3] Luan Omari, *Principles and Institutions of Public Law*, Elena Gjika Publishing, Tirana, 2020, pg 338.

^[4] Luan Omari, Aurela Anastasi, *Constitutional Law*, Dajti 2000 Publishing House, Tirana, 2017, page 152.

as well as the obligation to support Albanian citizens who live and work abroad in maintaining ties with their national culture.

In Part XVI of the Albanian Constitution, titled *Extraordinary Measures*, cases that may lead to the temporary suspension of human rights are foreseen. This suspension may occur during severe crises, such as a state of emergency, state of war, or natural disaster. The Constitution also determines which bodies have the authority to declare such states of severe crisis and obliges these institutions to specify the rights and freedoms that will be limited in the respective act by which the crisis is declared but without exceeding the limitations set forth in the Constitution regarding human rights restrictions.

In the hierarchy of legal sources outlined in Article 116 of the Constitution, the European Convention on Human Rights (ECHR) is ranked just below the Constitution as an international agreement. When it comes to restricting human rights, it represents the maximum permissible limit. Like all international acts, the ECHR serves as an essential foundation of rights that cannot be violated, but it also constitutes the minimum guaranteed protection, which cannot be undermined by any law that restricts human rights and freedoms^[5]. This means the Convention does not prevent domestic law from advancing further in recognizing and guaranteeing human rights^[6].

A novelty of the 1998 Albanian Constitution was the creation of the institution of the People's Advocate (Ombudsman), provided for in Articles 60–63 an institution created to guarantee the rights, freedoms, and legitimate interests of individuals in the face of unlawful actions by public administration bodies. The People's Advocate, as a constitutional and legal body first provided for in Article 60 of the Constitution of the Republic of Albania, was later regulated by Law No. 8454, dated 04/02/1999 *On the People's Advocate*. The purpose of the People's Advocate is to resolve conflicts in defense of human rights and human dignity, from abuses committed by public administrative bodies.

^[5] Gerards, Janneke, *General principles of the European convention on human rights*. Cambridge University Press, 2023.

^[6] Delmas-Marty, Mireille, *The European Convention for the protection of human rights: international protection versus national restrictions*. Vol. 19. Brill, 2021.

The People's Advocate is an independent institution, equipped with means to exercise its powers and is required to submit an annual report to the Parliament.

The Ombudsman has been established as an independent institution that performs its functions without external or political influence. This institution operates based on international standards set forth in the Paris Principles of 1993 and the Venice Principles of 2019.

In fulfilling its responsibilities regarding complaints and investigations, the Ombudsman investigates complaints against the public administration and has the right to act on its own initiative. It ensures the observance of laws and human rights standards and provides recommendations for legal or administrative changes.

Regarding its competencies in raising awareness and educating about human rights, the Ombudsman organizes promotional activities for human rights, collaborates with civil society and international organizations, may propose legal reforms in accordance with international standards, and promotes a human rights culture in schools and institutions.

Human freedoms are divided into individual and collective freedoms. There is a postulate in Constitutional Law that there can be no collective freedom without individual freedom. Historically, individual rights and freedoms have been recognized by constitutional acts earlier than collective rights. One of the fundamental acts, the Declaration of the Rights of Man and of the Citizen in France in 1789, proclaimed only individual rights, whereas collective rights were foreseen after the proclamation of the Constitution of 1791 in France. Individual rights are those rights that directly belong to the individual and their body. These include the right to life, personal security, freedom of thought, and freedom of movement. Collective rights are those rights that can only be exercised in a group or community. These include the freedom of union, freedom of the press, the right to education, and the right to form a family. A special character is held by the right of conscience and religion, which can be considered both as an individual freedom of belief and conscience and as a collective freedom when it comes to the exercise of religious worship, which can only be practiced in community.

The Constitution guarantees human rights and freedoms not only for the individual as a unique person but also for the individual as a member of social formations. Regarding religious communities, the Constitution guarantees their right to self-organize and to manage their property according to internal rules, while respecting the interests of third parties and maintaining equality among religious communities^[7]. Citizens organized in political parties are obliged to compete democratically to determine national policy^[8]. As seen from these provisions, the Constitution plays an important role in the issue of limiting the autonomy of social formations. It obliges social formations to respect the general principles set out in the Constitution, such as the principle of equality, democratic functioning, and respect for the legal state order. The Constitution establishes specific limitations to ensure that social formations respect constitutional principles and the fundamental rights and freedoms of their members.

RESPECT FOR HUMAN RIGHTS AS A DRIVING FACTOR FOR HUMAN SECURITY AND THE PRESERVATION OF PEACE AND INTERNATIONAL SECURITY IN GENERAL

Human rights are the pillars upon which our shared humanity can be assessed. A fair balance between the powers of a state and the rights of its citizens is a symbol of democracy. Human rights have become increasingly important and sensitive in international relations and politics through the development of the concept of human security.

The concept of human security, from its inception, had clear strategic objectives and practical relevance, and it has increasingly become a regular feature of the United Nations agenda.

^[7] Kushtetuta e Republikës së Shqipërisë 1998, neni 10.

^[8] Kushtetuta e Republikës së Shqipërisë 1998, neni 9.

Some analysts treat human rights as closely linked to human security.

Human security has often been a key factor in national and international institutional agreements, frequently associated with the legal dimension of human rights. On the other hand, the evolution of human rights has had a significant impact on the development of international law. In this context, it can be observed that, just as international legal principles have evolved, security is increasingly shifting its focus from the state to the individual. The two concepts human security and human rights serve common goals and are, for that reason, mutually reinforcing.

If the primary focus in the development of international law becomes the individual rather than the state, then direct norms and principles can be applied in areas such as human rights, humanitarian intervention, international peace, and security.

In analyzing the relationship between human security and human rights, it is necessary to refer to the strategic importance of respecting human rights in maintaining peace and international security in general, as a primary objective of the Charter of the United Nations^[9]. Security, or the sense of security, is a prerequisite for being protected.

International human rights norms define the meaning of human security.

The development of international law and the concept of security, within the framework of the UN, would further strengthen the role of this organization in conflict prevention, peacekeeping, and peacebuilding, as well as in the protection of all civil, political, economic, social, and cultural rights of individuals. The relationship between human rights and state sovereignty is a hotly debated issue on the international stage.

Human security has several components, one of which is social or community security. Social security, unlike other components of human security, addresses the freedom and safety of an individual, or a group of people, to protect and develop their social identity. This concept gained momentum

^[9] Kretzmer, David, and Eckart Klein, *The concept of human dignity in human rights discourse*. Brill 2021.

especially after the end of the Cold War, when ethnic and nationalist threats and risks came to the forefront.

Social security is perhaps the most debated among the components of human security. It is difficult to separate it from political relations. Social threats, which are linked to social identity, can be found within any given state. Weak states are more vulnerable to problems of cultural identity and social insecurity^[10].

THE IMPACT OF SOCIAL SECURITY IN OUR COUNTRY ON THE GUARANTEE OF HUMAN RIGHTS

Social or community security is closely linked to the characteristics of the society and the community in which one lives. Members of a particular community share common values and identities, maintain special relationships among themselves, and cooperate closely for the benefit of their social group. These communities strive to identify themselves and preserve their long-established shared values in the face of any threat that may endanger them. The concept of social security is being increasingly utilized today by various states, often aligning it with the concept of national security. Frequently, ethnic issues become a primary concern in a state's national security.

Populations separated from the national core, national minorities, and ethnic minorities have always been very delicate and debated issues in international relations. The way national minorities are treated has demonstrated and continues to reflect the level of civilization and democratic advancement of a country.

There is specific international legislation dedicated to national minorities, aimed at defining legal principles to ensure their rights. A key document for the protection of minorities is the Framework Convention for the Protection

^[10] Barry Buzan, *People, States and Fear*, 1983, page.120.

of National Minorities of 1998, signed by member states of the Council of Europe and other signatory states.

The Framework Convention recognizes that historical changes in Europe have shown that the protection of national minorities is essential for the stability, democratic security, and peace on the continent. In general, the Convention aims to define legal principles that states commit to in order to ensure the protection of national minorities. The Convention does not provide a specific definition of the term *national minority*. However, this has not prevented the member states of the Council of Europe, without compromising the constitution or territorial integrity of any state, from agreeing that:

The protection of national minorities and the rights and freedoms of persons belonging to such minorities forms an integral part of the international protection of human rights, and as such, falls within the framework of international cooperation^[11].

In Albania, serious efforts have been made to align national legislation on minority rights with the international legal framework. Furthermore, concrete and transparent measures have been undertaken to implement this legislation.

One of the fundamental principles of the 1998 Constitution of the Republic of Albania is that it *protects the national rights of the Albanian people living outside its borders*. (Article 8)

Furthermore, the Constitution states: *Persons belonging to national minorities exercise their rights and freedoms in full equality before the law. They have the right to freely, without being prohibited or forced, express their ethnic, cultural, religious, and linguistic identity. They have the right to preserve and develop these identities, to learn and be taught in their mother tongue, and to form organizations and associations for the protection of their interests and identity*. (Article 20)

According to the Constitution, restrictions on human rights and freedoms can never exceed those provided by the European Convention on Human Rights,

^[11] Framework Convention for the Protection of National Minorities, 1998, [www.mfa.gov.al/dokumenta/konventa_minoriteteve.pdf](http://www.mfa.gov.al/dokumenta/konventa_minoriteteve.pdf)

whose appendix is the Framework Convention for the Protection of National Minorities, ratified by the Albanian Parliament in June 1999.

Due to both objective and subjective reasons, there are many difficulties not only in implementing minority legislation but also in defining such legislation.

...the issue of minorities has attracted great attention, but legal difficulties have been encountered regarding the definition of the minority concept. It is difficult to provide a definition that includes all categories of minorities, due to the great diversity of minority groups and the objective difficulty of classifying them in a homogeneous way^[12].

The diversity and heterogeneous nature of national minorities considered from demographic, historical, cultural, economic perspectives, and their relations with the mother nation makes it hard to find a common denominator among them. This complicates their legal treatment based on consistent legal principles. Legal regulation and effective protection of national minorities are even more challenging in the Balkan region due to numerous historical, cultural, and economic reasons.

Albania is surrounded along its borders by ethnic Albanians in Greece, North Macedonia, Kosovo, and Montenegro. The condition of the national rights of the Albanian people living outside the borders of the Republic of Albania varies, and therefore the treatment of these rights must be aligned with international law, but addressed through different approaches.

Greece does not recognize minorities within its territory and therefore does not recognize *collective minority rights*. The Chameria issue still exists. A Treaty of Friendship, Cooperation, Good Neighborliness, and Security has been signed between the Republic of Albania and the Republic of Greece. This treaty addresses the Greek minority in Albania and the Albanian emigrants in Greece as a bridge for the continuous development of bilateral relations^[13].

^[12] Arben Puto, *Public International Law*, Albin, Tirana, 2001, page 233.

^[13] Parliament of Albania, Law No.8127, dated 22.7.1996, On the Ratification of the *Treaty of Friendship, Cooperation, Good Neighborliness and Security between the Republic of Albania and the Hellenic Republic*.

The basis of relations between the two states is the principle of reciprocity, but its practical implementation has often faced difficulties during Albania's transition years. During that period, Greece became the primary destination for Albanian emigration^[14]. Greece is a member of NATO and the European Union, and its vote was required for Albania's accession to these organizations. For Albania's entry into NATO, Greece was the last to vote, using its position to exert pressure in exchange for two agreements:

1. The establishment of cemeteries for Greek soldiers in Albania
2. The delimitation of maritime borders

Relations with North Macedonia also present challenges in enforcing the constitutional principle of *protecting the national rights of the Albanian people living outside its borders*^[15].

Although many years have passed since the signing of the Ohrid Agreement (2001), issues remain in its implementation especially concerning the Albanian flag, language rights, and political representation. For North Macedonia to survive as a state, it must effectively manage its relationship with ethnic Albanians, who are the second-largest ethnic group after Macedonians. Albanians are a compact and indigenous population in Western Macedonia territories that are an inseparable part of the Albanian geopolitical space in the region^[16].

“National minorities are those that both connect and divide states the most, especially those between which they exist. With our neighbors whom we cannot change we have coexisted for centuries, through both good and bad times. Europe has wonderful examples where age-old enemies have turned into trustworthy friends, relying even on the role of national minorities. What matters is solving problems through dialogue and mutual trust.

^[14] Dr. Mimoza Kasimati, Albanian Migration after the 1990s and its Impact on the Economic and Social Life of Left-Behind Children, UNICEF, Institute for Urban Research

^[15] Macedonian Census, Archived from the original, on 22 September 2010.

^[16] Xhavit Shala, The Albanian Question and Regional Security, acnss.com/html/studime/ceshtja_shqiptare.pdf

It is important that Albanians speak with one voice regarding national interests, in accordance with universally accepted international principles.

In our approach to the treatment of national minorities, it is preferable that they always be seen as bridges of cooperation not only national minorities, but also ordinary people, events, and different historical dates.

What matters is the treatment of issues that unite us, not those that divide us. Under this philosophy, we and the Greeks are united by a rich, prominent, and proud shared history, important for both Albanians and Greeks. We are united by thousands of years of history and good neighborly relations. We are united by 500 years of history under one empire.

On a positive note, Albanians wherever they are have significantly gained in geopolitical awareness and consciousness, and this is a wonderful foundation for achieving everything good that is internationally accepted. The creation of a shared cultural, academic, economic space, etc., and the overall growth of cooperation not only supports integration but also our national interests.

THE CONCEPT OF POLITICAL SECURITY

Another very important concept related to the protection of human rights, and which is also an element of the broader concept of human security alongside social security is the concept of political security.

The concept of political security is based on democratic governance and the protection of human rights^[17]. According to two fundamental principles of democracy, all citizens are equal before the law and enjoy internationally recognized rights and freedoms. Liberal democracy, among other things, includes political pluralism, equality before the law, civil and political human rights, due process, as well as the elements of civil society. The realization

^[17] Oleksandr Vysotskyi, Political security of the state in the conditions of instability of the international political environment, February 2021.

of free and competitive elections is enabled by guaranteeing freedom of political expression, freedom of speech, and freedom of the media.

A particularly interesting case regarding the relationship between human rights and issues of state or national security was the debate in our country over the acceptance of Syrian chemical weapons for destruction in Albania.

After the first signs in foreign and domestic media about the possibility of destroying Syrian chemical weapons in Albania, there was a strong reaction from civil society, in defense of human rights, opposing the acceptance of these chemical weapons in our country. For the first time, mass protests openly highlighted a division between the interests of a large portion of civil society and the interests of the state.

The main negative factor was the risk of environmental pollution in a specific area of our country, with consequences both immediate and long-term. Another negative factor could have been the issue of permanent management of the waste resulting from the destruction process. Environmental pollution problems already present in our country were a strong argument against accepting Syrian toxic substances.

Furthermore, another reason why these weapons should not have been destroyed in Albania was the limited capacity of our country to carry out such a difficult operation even for countries with much greater resources, capabilities, and experience than ours. Therefore, the core reason for rejecting their acceptance was the risk of environmental damage, health problems, and potentially even threats to human life.

CONCLUSIONS

A fair balance between the powers of a state and the rights of its citizens is a symbol of democracy. Human rights, based on their philosophical concept, belong to every individual from birth until death. These are rights with which a person is born and are not granted by the state or lawmakers.

People enjoy their fundamental rights in all circumstances, regardless of nationality or citizenship, faith, or the way they choose to live their lives. These fundamental human rights are based on values such as dignity, justice, equality, respect, and independence values that are defined and protected by constitutions and laws.

Human rights cannot be taken away from anyone; however, absolute and unlimited rights do not exist. Human rights can be restricted in various situations and for different purposes. The main restrictions on rights relate to the obligation to respect fundamental constitutional principles. Limitations may also be imposed to protect the rights of others and to safeguard public interests. The Albanian Constitution specifies that restrictions on freedoms and rights may only be made by law, passed by the Parliament.

The European Convention on Human Rights provides a necessary foundation of human rights that cannot be violated, while also representing the minimum guaranteed protection that cannot be overridden by domestic laws imposing restrictions on freedoms and rights. This implies that the European Convention on Human Rights does not prevent states from advancing further in the protection of fundamental human rights.

Human rights in international relations and politics have become more important and sensitive through the development of the concept of human security. The relationship between human rights and state sovereignty is a hot topic of debate in the international sphere. The development of international law and the concept of security within the framework of the United Nations would further strengthen the role of this organization in conflict prevention, peacekeeping, and peacebuilding, as well as in the protection of all civil, political, economic, social, and cultural rights.

A very important element of human security is social or communal security, which is closely linked to the characteristics of the society and community in which one lives. Members of a given community, who share common values and identities, seek to identify with and preserve those shared values against any threat that may endanger them.

Another very important concept related to the protection of human rights, and which is also an element of the human security concept besides social security, is the concept of political security. The concept of political security is based on democratic governance and the protection of human rights. According to two fundamental principles of democracy, all citizens are equal before the law and enjoy internationally recognized rights and freedoms.

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