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Social Rights in the European Context

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Abstract

> *On the basis of a state there is a complex society. But the society to be able to last, maintain itself and establish itself as peaceful, it is necessary that there are rights, guarantees and their respect to support it. In particular in our case, civil rights must be the basis of a just and equitable society. For this reason, state, society and rights create an inseparable bond. Social rights are not static but alive, and during human history they have undergone a real metamorphosis. This is because they need to adapt to the evolving context of the rule of law and the welfare state. They need to adapt to economic, cultural, political, technological and environmental transformations. Throughout history, social rights have been progressively recognized and guaranteed to promote well-being and social justice. However, despite their deep roots in human history, social rights are not included in the catalogue of human rights. Hence a strict needs to ensure social rights not only within the constitutional charters of national systems, but above all within the legal framework of the European Union. What is proposed is precisely an analysis of the European panorama in terms of civil rights. A path that exclusively crosses the twenty principles contained in the European Pillar of Civil Rights.*

Keywords: Civil rights, European Union, European Pillar of Civil Rights

1. Introduction

In the 4th century B.C., Aristotle in his "Politics" defined man as a social animal, capable of building a society understood as an organization of individuals.

It turns out that every society is made up of people, consequently the State can be defined as a people organized on a specific territory. People, territory and authority are fundamental elements of the State.

Indisputably, evolution is evident from ancient to modern society, but despite the transformation, some traits remain distinctive. Such as, for example, the assumption that every society needs rules, rights and freedom so that everyone can feel part of it.

Centuries after Aristotle, in 1917, with the Russian revolution, the idea of an active state emerges which should intervene to make the principle of equality real, understood as economic equality too. This is the socialist state. (Cf. Marx, Engels, 1848).

Although one of the presuppositions of this state model was, and is, to guarantee economic and social equality, there is a certain inclination to repress fundamental rights and freedoms, such as the right to private property, freedom of religion, etc. In doing so, communist states channeled totalitarian and dictatorial states, such as the one undermined in Albania during the communist period.

As can be seen, social rights have been established over the centuries. Their complexity also involves and touches on the various principles contained in the fundamental Charters, such as the principle of equality and solidarity. Likewise, social rights are closely linked to citizenship and undoubtedly to the State, in particular social and well-being rights.

Even social rights, in order to be recognized, as for all freedoms and rights, needed to be conquered through struggles, revolutions and movements, which is why their roots are particularly rooted in the last centuries of human history.

In particular, we note that the 19th and 20th centuries brought, together with the industrial revolution, a new extreme form of exploitation of modern workers. It was the latter who gave rise to trade union movements and fought for safety in the workplace, the right to organize themselves into trade unions, etc. Particularly in the 20th century when unions became stronger and their struggle more energetic.

Likewise, after the end of the First World War, many states addressed the issue of social rights by adopting social measures to counteract the great post-war economic uncertainty.

In particular, the United Kingdom was the first to introduce the so-called Welfare State, understood as a system of social welfare through the guarantee of social assistance, unemployment benefits, healthcare, etc. In fact, a part of the doctrine believes that the key to achieving the state of well-being is the realization of social rights. (Ritter, 1996)

A few years later, in 1948 the Universal Declaration of Human Rights established at an international level the right to social protection, healthcare and an adequate standard of living.

Subsequently, there were various movements, starting with the feminist one which promoted equality and social rights. In fact, the years 1960-1970 gave a valuable contribution from a legislative point of view in terms of equality and civil rights.

Nowadays, the challenges that globalization and the evolution of technology have brought must be faced again in a different way.

It appears from human history that although social rights have been emancipated over the centuries, they will continue to evolve, which is why we must continue and fight for a more just and equitable society, a more inclusive society with more guarantees for workers and for a equal access to social services.

2. Literature Review

To examine properly the topic of social rights it was essential to create a "braid" of elements between philosophy, political and legal sciences.

Starting precisely from this link, we considered the literature of those authors who believe that the basis of social rights and their realization passes precisely from the principle of equality and solidarity. (On this trail of thought, Zanetti, 1999, 2001; Luciani 1995; Schiavello 2000)

We have also observed the authors (Ritter, 1996) who believe that the centrality of the realization of social rights and the key to implementation lies in the state of well-being, the so-called Welfare State. There are authors who link social rights to citizenship (Marshall 1950; Zolo, 1994) and others who criticize this thesis. (La Torre, 2004)

The idea of Thomas Paine (father of the guaranteed minimum income, so-called basic income) has influenced the writing of this article in various aspects.

For one part of the doctrine, social rights are of a second level, for others compared to the rights of freedom. But the individual is a single whole, linked to the social and economic environment that surrounds him. (Maritain, 1946)

3. Research Method

Social rights have been established over the centuries, their complexity also involves and affects the various principles contained in the fundamental charters of a country, such as the principle of equality and solidarity. Likewise, social rights are closely linked to the principle of citizenship and undoubtedly to the State, in particular the social and well-being one. It appears that to analyse the topic elements of political science, law and philosophy have created a trinomial within which to examine social rights.

Although the reflection on social rights has had different perspectives: philosophical, legal and political, the systematic legal approach has been the most used, central to analyzing the topic of social rights.

The interpretation of the topic required a rigorous logical analysis of the legal principles linked to social rights. The legal method also required an objective analysis of these principles so that they can be made applicable, even if it is essential to descend from the subjective interpretation that the social and economic context influences.

Critical reflection, together with consideration of interests, as a method was essential to reflect and balance the interests involved. Since it is evident, not only from a historical but also a current perspective that the hermeneutics of civil rights does not capture their abstractness, but their concreteness.

4. Social Rights and Principle of Equality

As is known, freedom has three forms: civil, political and social. Unlike social freedoms (the latter understood as the state's objective of removing obstacles that may hinder the full enjoyment of rights) freedoms are also protected by international law. Instead, social rights are guaranteed by constitutional documents. Despite the constitutional provisions, social rights also require a certain economic level and resources from the state to have effective protection.

Social rights are understood as a network of protection that the state must "weave" through the provision of services and protection mechanisms. These are the right to work, to fair pay, to insurance and other forms of assistance and social security, freedom of association, the right to strike, etc.

The emancipation of man also derives from the emancipation of society, of the family, of work.

But our reflection will not focus on citizenship or the welfare state, but rather on social rights, as rights deeply linked to the principles of equality and solidarity, even if there are indissoluble links between the welfare state, principles of equality and solidarity, and democracy and citizenship.

The same United Nations Pact (1966), which contemplates not only social rights, but also economic and cultural ones, is devoid of effectiveness as no bodies are provided to monitor their observance by the contracting states.

Also with regard to the link between social rights and the various principles contained in the various constitutions, there is a certain correlation between principles and social rights. In particular with regard to the principle of equality which influences the right to have an adequate standard of living, education, healthcare, social protection, housing.

At the same time these rights are essential for social justice and real equality. It is noted that social rights are a tool to arrive at the principle of equality. Social rights are a tool to also arrive at the principle of dignity, and of living an existence worth living.

In the case of social rights, the principle of equality must be understood not only from a formal point of view but also as the possibility of having the same possibilities, rights and benefits.

It must be noted that being equal before the law and not being discriminated against does not imply equality compared to uniformity, but equality means respect for differences. Consequently, the link between social rights and the principle of equality also implies inclusive equality in order to have real equality that takes into account the needs and different situations of people. (Zanetti, 1999, 2001; Luciani1995; Schiavello 2000)

5. European Landscape

Rights must also be able to shape themselves according to the progress of society. They are aware of various social-economic transformations. History has shown that political ideas themselves directly influence rights, particularly in our case social rights. The latter are influenced and their implementation depends directly on political decisions.

In 2017 the European Parliament, the European Council and the European Commission at the Gothenburg summit issued the "European Pillar of Social Rights", this Pillar established twenty fundamental principles with the aim of raising standards in matters of working conditions and social protection. In this way we have a Europe that is not only stronger but also fair and inclusive.

The twenty principles are divided into three categories: equal opportunities and access to the labor market, fair working conditions and social protection and inclusion.

In particular these principles are:

1. Education, training and lifelong learning: understood as the right of every individual to quality learning, training and education in order not only to gain skills to be more successful in the world of work but at the same time to participate fully in society.
2. Gender equality: understood as equality between men and women not only in treatment for remuneration purposes, but also as equal opportunities for participation in the world of work and in the possibilities of career advancement.
3. Equal opportunities: understood not only as equal opportunities for everyone regardless of race, ethnicity or sex. In itself the opportunity can be of employment type, guarantee of civil protection, education and access to public services and goods.
4. Active support for employment: the intent is to give each person the opportunity to improve their job prospects through various economic supports.
5. Flexible and secure employment: workers' rights to equal and fair treatment regardless of the type of employment. Self-employment and entrepreneurship are encouraged. Just as you discourage precarious work.
6. Wages: aims to prevent working poverty, and guarantees the right of every person to a decent wage. This objective is achieved by providing adequate minimum wages.
7. Information on working conditions and protection in the event of dismissal: starting from the right to be informed from the start of work about obligations and rights, ending with the right of appeal in the event of an unjustified dismissal.
8. Social dialogue and worker involvement: this principle encourages dialogue between workers and the employer regarding employment, economic and social policies. In this case the parties can conclude collective agreements.
9. Balance between professional activity and family life: comes to the aid of men and women

who have family care responsibilities. In this case, leave and work flexibility with assistance services are foreseen.

10. Healthy, safe and adequate working environment and data protection: the intent is to protect health and safety in the workplace, as well as the protection of personal data, in particular for work in the context of digital platforms.

11. Childcare and support for minors: this pillar aims to protect minors from poverty and to guarantee minors the right to early childhood education and care not only at sustainable costs but also of good quality.

12. Social protection: understood as the right for all workers to adequate social protection, regardless of the type or duration of the employment relationship.

13. Unemployment benefits: understood as the right of unemployed people to support from public services to enter or reactivate the world of work.

14. Minimum income: the right to an adequate minimum income to guarantee a dignified life.

15. Income and old-age pensions: the right for women and men, without distinction, to a pension commensurate with contributions and which guarantees a dignified life.

16. Healthcare: the right to access quality healthcare at affordable costs.

17. Inclusion of people with disabilities: the right of all individuals to live in equity and equal opportunities. This can be achieved through policies to ensure minimum income support to ensure a dignified life. Also to support them in participating in social and working life through an environment suited to their needs.

18. Long-term care: particular care at home and local services.

19. Housing and assistance for the homeless: understood as the right of personnel who are in a state of social disadvantage not to have forced evictions and for the purposes of promoting social inclusion the provision of services and access to social housing.

20. Access to essential services: the right to access essential services, such as water, transport, energy, digital communications, sanitation. Likewise, support from states for people in need.[1]

For each of these principles, the Commission has implemented related actions.

The Covid-19 pandemic has highlighted the importance of the implementation of the European Pillar of Social Rights, which has proven to be one of the main and perhaps the only social strategies of the European Union. Even in the current situation, with the war in Ukraine and the increase in inflation, the twenty European Pillars can prove to be a means to fight poverty and strengthen social protection.

Also with the challenges of demographic and climate changes, with the invasion of new technologies, the pillars will be a beacon for the states which are mainly responsible for social rights. In particular with regard to the competences of states in terms of social rights, it is recognized that they have primary and exclusive competences. That is, it is the states who are primarily responsible for employment within national territories. It is the states who are directly responsible for education, for the minimum wage, for healthcare.

In 2021, the European Commission also presented an Action Plan for the implementation of the Pillar. This plan is not the only initiative of the commission which has also prepared numerous legislative initiatives such as the EU Strategy on the Rights of the Child, European Child Guarantee,

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[1] See:http://www.europarl.europa.eu/news/it/headlines/eu-affairs/20170616STO77648/europa-sociale-le-politi-che-dell-unione-europea-per-la-societa; https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-mo netaryunion/european-pil-lar-social-rights_it; https://ec.europa.eu/commission/publications/reflection-paper-social-dimension-europe_it

Disability Rights Strategy 2021-2030, European Assistance Strategy, EU Strategic Framework on Health and Safety at Work 2021/27, the new Youth Guarantee, Equality Strategy gender 2020/25, EU Action Plans against racism 2020/25, Action Plan for the social economy.

Ahead of the adoption of the European Pillar of Social Rights in 2020, a survey was carried out in 27 EU countries. Eurbarometer found that 71% of people interviewed wanted a more social Europe and considered the lack of social rights a serious problem. Instead, 62% of people interviewed were positive in believing that by 2030 Europe would be more social[2].

Instead, the survey carried out in 2023 shows that 7 out of 10 European citizens considered Europe to be a stable reality and the majority of those interviewed were positive about the future of Europe[3].

Furthermore, 5 years after the creation of the European Pillar on Social Rights, in 2022 in the European Forum on Employment and Social Rights, they took stock of the progress achieved and confirmed the commitment by presenting more than 130 initiatives for the implementation of the Pillar.

The EU social objectives for 2030 were also approved. Among these objectives, equal opportunities and access to the labor market, fair working conditions, social protection and inclusion stand out.

It appears that these principles are important for European leaders, giving a strong message of a more equal and inclusive Europe.

6. Final Considerations

It is highlighted that it is difficult to analyse the theory of social rights outside the political context and public ethics. (Viola, 2014, p 115)

From a strictly legal point of view, it appears that social freedoms must first of all be provided for and guaranteed at a national level, that is, by the constitutional charters of the various countries. Only if freedoms are guaranteed can rights also be affirmed, and consequently full enjoyment can be achieved, since freedom and rights are equivalent to human dignity.

In fact, it is noted that many countries provide social rights in their national laws. Such as the right to social security and protection, the right to healthcare, the right to education, etc.

In particular, social rights are a *condizio sine qua non* for enjoyment of human freedoms. In the absence of the implementation of social rights, freedoms risk becoming nihilistic.

Likewise, today in the crisis of state sovereignty, sovereign guarantees are very important and have a direct impact on national systems. As a result, social inequalities are reduced and social inclusion is promoted.

Important progress can also be seen at the international level. In 1948 we witnessed the adoption of the Universal Declaration of Human Rights, the declaration established very important rights such as the right to food, housing, education and assistance. Rights that establish a dignified standard of living for the individual.

Furthermore, two important interim conventions have been adopted by the International Labor Organization, on Decent Work and the United Nations Convention on the Rights of Persons with Disabilities.

Furthermore, in 1966 we see the adoption of the United Nations Covenant which contemplates not only social rights, but also economic and cultural ones, on the other hand we note that it has a declarative nature and is devoid of effectiveness, as there are no bodies to control the compliance by the contracting states.

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[2] *https://europa.eu/eurobarometer/surveys/detail/2266*

[3] *https://europa.eu/eurobarometer/surveys/detail/3053*

For this reason the European Pillar of Social Rights acquires an inestimable value, because in the European context it defines a strategy aimed at guaranteeing better working and living conditions. Some of the principles contained in this pillar were also recognized in the Union acquis, but climate and social changes and new technologies have made it necessary to introduce new principles.

It is also important to note that these principles are enshrined not only for European citizens, but also for those of third countries, legally residing in a European country. These principles apply to all people and all employment situations, regardless of the duration of the contract and its methods.

But modern times, where globalization is reflected not only in economic, but also environmental and technological aspects, make it necessary for social rights to progress. That is, they should not be understood as individual social rights belonging solely to the individual citizen, but understood as human rights that require multilevel and international protection. (Viola, 2014, p.116)

For one part of the doctrine, social rights are of a second level, for others they are compared to the rights of freedom. But, man is a single whole, linked to the social and economic environment that surrounds him. Maritain also expresses himself in these terms, that is, that "*The person as such is a whole, an open and generous "whole"* (Maritain, 1978, p. 37).

It follows that human dignity is the keystone, the ultimate goal of freedoms and rights, in our case also of social rights.

Globalization and emancipation must be understood as the evolution of dignity itself and must lead human beings to a higher level of guarantees. Meant guarantees of being a free man, but not from all social aspects, but free from those humiliating social aspects. Freedom, understood as non-discrimination of women in the workplace. And not freedom from work itself. Because, social rights come to life within indispensable and obligatory social and economic conditions.

The need to be in the work environment amplifies the need to guarantee the key principles of law, such as the principle of equality and non-discrimination.Because man cannot disconnect from the working context, it follows that the working context must be filtered by discrimination.

Almost three centuries after the then utopian idea of Thamas Paine (Paine, 1979) it seems that today, more than ever, minimum income is a concrete theory, even if much debated. It represents the highest form of social state and the most refined idea of democracy.

Likewise, Paine's idea invites us to overcome the connections of social rights with citizenship (Cf. Marshall 1950; Zolo, 1994) and open up to the era of globalization, which requires a broader vision of citizen and citizenship. (Cf. La Torre, 2004)

The analysis carried out highlighted how social rights are the reflection of the evolution of societies and people. But despite the positive developments made, the challenges to be faced are still large and require continuous commitment at both national and international levels.

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