

LAW, RIGHTS, AND JUSTICE: THE DEFENCE OF HUMAN RIGHTS AND FREEDOM

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Abstract

It is a legal axiom which is both old and new for those that has endured time. Its legal metronome (time varies) varies in stability and legal security as a form and content. A "legal idiom" has in itself some questions that require answers in legal focus through an elaboration of a contemporary perspective of the right concepts. Simultaneously, this recognizes the functions of law in the modern era and the modern theories which are legal. This study analyses the implementation of legal norms in a confrontational system of values and concepts of comparative legal categories and contemporary legal science. This is carried out in the context of contemporary legal interpretation of science in achieving its ultimate goal: - "Delivering justice." Consequently, this is the greatest victory that mankind possesses.

Therefore, in interpreting this phrase: "La Legge e` uguale per tutti!= The law is equal for all!," the following questions was put into consideration:

- a) Is the law equal for all?
- b) Is the law the same for all?
- c) Is the law approximately the same for everyone?

In giving answers to these questions, I always refer to the right expression "Roman" which states that "The logic of the lawyer is approximately equal to the logic of the mathematician." Therefore, between these two logics, there is a connection because the logic of the mathematician serves to interpret the laws of mathematics. In the same vain, the logic by another lawyer serves to interpret its laws and jurisprudence. In recognizing this causal connection, we make use of formal logic which helps us to shed light on the importance

of using this logic in these types of sciences. If mathematics is an exact science, the logic of mathematician would lead us through a due outcome of open science and not exact. Thus, this is in connection with the integral $(-\infty, +\infty)$ minus infinity to plus INFINIA. Also, it is in connection with the conclusions of some exercises and problems that arise at the end which is approximately equal, greater, or smaller etc. Nevertheless, this gives logical answers and solutions to these problems. The sheer concept that $1 + 1 = 2$, is more realistic than $5:3$ is approximately equal to 1.7 following the example between the concept of absolute and relative. As such, the logic of the mathematician has led to the exact science of mathematics from the absolute to the relative.

Furthermore, the question arises even though it is clear that there is an exact science which is the relative and absolute.

It is clear that jurisprudence is not an exact science or absolute, but is relative because justice is the truth in dynamic. Specifically, if you will stick to the adaptation and connotation of the expression, the agreement reached in the speech was that: "The law is equal for all"! Thus, we will have an answer that it is absolute.

Consequently, if you will stick to the adaptation and connotation of the expression, the agreement reached in the speech was that: "The law is the same for all"! Then, there would be a response that it is relative. In addition, if you will stick to the adaptation and connotation of the expression, the agreement of the speech stated that: "The law is approximately the same for everyone"! Then, we had an answer that it is between absolute and relative. However, this legal prudence helps us today because we are in a contemporary legal pluralism. Here, the re-conceptualization of the right clarity that comes through its protection of freedoms and human rights, the globalization of law, or the right of other globalized context are stated below: "La legge e`uguale per tutti costitucini". = "Law is equal for all constitutions".

Keywords: Law, right, justice, freedoms and human rights, the constitution

I. INTRODUCTION

KNOWLEDGE IN THE FIELD OF LAW

The concepts of law, right, and justice used in the protection of freedoms and human rights will be expressed and treated in a legal way of

conversation between lawyers. Thus, through the historical knowledge of law, well substantive knowledge has increased above that level of maturity (of course, this expression is not enough). Also, it constantly expands with the progress of the study. However, the knowledge in the field of law can be expressed in the following two areas:

1. General Knowledge: This is observed in terms of a network structuring of space and time. Therefore, it provides an orientation of historical law which serves as the basic framework for continued enrichment and concentration.

2. Special Knowledge: This has to do with areas of law whereby one is an advanced student or a research associate of law.

In this context, sufficient holding in this case is possible only through a systematization of knowledge to spread regularly in time and space, and also through an understanding of the restructuring aid and incentives for scientific work.

Furthermore, the history of today's present law is divided into various ways throughout history. For example, this can be seen in the history of state and law, history of institutions, history of philosophy of law, history of the constitutional law, history of civil, criminal, administrative, family commercial law, and in various disciplines of law in general and in particular.

This division process is dynamic and is a relevant phenomenon in the history of the law. Thus, this is an expression of the historical expansion of the concept of law and the changes in the interpretation done by lawyers.

STUDYING THE HISTORY OF LAW

The first condition for the study of the history of law as an academic study from the perspective of a lawyer in a comparative overview, requires the knowledge of different fields. Then, it is done as a companion that comes as an added value which always makes use of a tinge. The lawyer does not only study the makeup of schools, but also the cutting trend and culture in emphasizing individual who has knowledge in positive load bearing neurons of knowledge. This is in relation to themselves and the society in which they live in expressing quantitative and qualitative values in the interests of prosperity and progress.

ILLUMINATING DISCUSSION

This process is necessarily connected with illuminating discussion with the theory of this dynamic process. This means that penetration is essentially independent, critical, and is conducted on the basis of the knowledge obtained in the process of the elaboration of a matter. In addition, it also has an apparently correctable content. The process of learning, in terms of the acquisition of knowledge through researches (active and positive ones), is principally endlessly with no end. This process is voluntary and it does not mean that everything used in the learning process is expensive. Consequently, the knowledge acquired involves oriented knowledge, technical knowledge, and complementary knowledge.

THE ROLE OF LAWYER

Generally, lawyer or the lawyer's community plays a distinct role in the creation of elites in this area in relation to the use of logical interpretation and legal justification of the right in an open and democratic society. Thus, this enable the various entities to apply the law in a State, where the main contract is that of freedom and human rights and the rule of law enshrined in the Constitution. Those who exercise the rule of law have the obligation to protect the freedoms and human rights of the citizens. Thus, this function is a legal and security infrastructure of a democratic and free society.

II-DEVELOPMENT: LEGAL SECURITY

The doctrine of constitutional law has recognized that legal security is among the essential elements of security of the rule of law. This security presupposes the confidence of inter alia citizens in the state and the immutability of the law on regulated relations. Reliability has to do with the fact that citizen does not have to worry constantly about the diversity and the negative consequences that affects them. Also, they do not need to bother themselves about the normative acts which aggravate a situation that is determined by previous acts. Affirming the principle of legal security and its key elements, "it has to do with the case of guaranteeing the reliability of the system of legal norms regarding safety if it cannot be justified or defended in a particular situation." The Constitutional Court¹³⁶ notes that this principle cannot succeed in any case. This means if the case appears that a different

¹³⁶ Constitutional court

legal arrangement of a relationship is directly affected by the public interest with all its essential elements, this natural interest will take precedence over the principle of legal certainty.

In this context, this important fundamental principle finds embodiment in Article 17 of the Constitution.¹³⁷ However, this article explicitly defined the restriction that must be proportionate to the situation that has been dictated. These limitations may not infringe the essence of freedoms and rights. In any case, it cannot exceed the limitations provided for the Convention on Human Rights¹³⁸. Following this, the Constitutional Court is of special importance on the question if the legal provision is subject to control, which is based on the criteria and not the restriction of the basic constitutional rights and freedoms provided by Article 17 of the Constitution of the Republic of Albania. To justify the view of the Constitution and the touch of the rights and freedoms of the individual, it is imperative to satisfy certain conditions. Thus, these conditions include those carried by law restriction, and those that have been made in the defense of the rights of others. This condition is made to be in proportion to situations that has not infringed the essence of the human rights. This constitutional provision requires the evaluation of the legal necessity of the state intervention. Consequently, this depends on the nature of the right, the character of public interest that should be protected, and the specific circumstances that bring about an intervention to a minimum and a much less aggressiveness in terms of human rights.

EQUAL PROTECTION OF THE LAW

Equal protection clause of the law is essentially a restriction on state legislative process, forcing it into a general sense. In this sense, special people or human groupings with different characteristics are being treated equally. However, the absolute affinity of the individual in relation to the state in this direction will almost make it impossible for the lawmaker activity of the state. This is because it will avoid majority of the legislation. In addition, any law-making activity has its foundation in the design of various remedies for situations that appear in the life of a particular society.

¹³⁷ Article 17 of the Constitution of Albania

¹³⁸ Convention on Human Rights

In order to be unavoidable in this framework, it is imperative that classifications should be made to individuals in the respective groups. Consequently, based on the objective aspect, it is impossible for some people not to be treated differently from other people or group.

However, the constitutional principle of equal protection of the law requires lawmakers to set some standards necessary in balancing equality among individuals or social groups. As the general rule in contrast with the clause of the due process, the weight of the balance is interpreted in favor of the individual or the relevant social group. The equal protection clause of the law is interpreted in weighing the balance in favor of the State. This means that the State, namely the lawmaker and executioner, is free to design the elections directions as it deems necessary and appropriate. The state makes distinctions by treating people in different ways. However, these different approaches have not exceeded the limits of been acceptable and rational in disrupting a balance. The constitutional principle of equal protection of the law requires lawmakers to make classifications to exempt necessary arbitrary classifications of suspicion. However, the differences made to certain individuals or groups in relation to others are acceptable to a reasonably extent. Maintained links objectives legitimately states that any case cannot conflict with fundamental human rights.

Hence, for human right to be treated as equal by the law, it is required to be placed by declaring unconstitutional, any legal provision that conflicts with basic constitutional principles through a process of constitutional control by the Constitutional Court. Hence, this has constitutional discretion to consider and decide on requests by the availability of various physical or juridical subjects addressed to this court. This is to be expressed in relation to the object of the unconstitutionality of a legal provisions related to certain leads. Consequently, this claims violated the legitimate interests of researchers requiring a new legal regulation of relations between the state and the individual or a group of individuals, as well as between each other. We can oppose the social purpose of the law by any possible claim under which the state can find the appropriate and most effective ways to spin through in achieving this goal. There is no basis to put in the discussion and question of the constitutionality of the law. From my standpoint as a lawyer, I respect the principle that the court speaks and express only through orders and decisions and the fact that any other comments is redundant. They are redundant because it is the duty of the legislators to transform this juridical

normative in accordance with the constitutional principles and the inclusion already known in both domestic and international law.

Based on this fact, we go to the constitutional sanction that the lawmaker has scripted. This law was written in Article 16 of the Constitution¹³⁹ of the fundamental human rights and freedoms. Furthermore, the obligations set forth in the Constitution for Albanian citizens are also valid for foreigners.

However, the protection of human rights can never come as an attribute of obstacle in realizing the goal of the community. We can undermine the effectiveness of Community law in the legal orders of the States that enter into its composition. This is because if you refer to Convention exclusively as a quality guideline for the protection of human rights, to assist in determining the content of the fundamental principles of Community law for the protection of human rights cannot be a hindrance to the realization of the goal of the community. Moreover, we can undermine the effectiveness of the community rights in the juridical orders of the States who are entering to be part. Due to composition efficiency and the unity of community law principles, the violation of the fundamental human right and freedom in this report can only be judged in the light of community law. They cannot be put into arguments which are in violation of basic human rights in member states constitution.

The right to run the court is one of the aspects of the right to review. Sanctioned in Article 42 of the Constitution,¹⁴⁰ among other things, this constitutional right is intended to guarantee citizen by any act that causes a violation of their rights without excluding cases where the violation comes from any act of the state administration. The rule of law presumes that any interference of the executive authorities in the rights of the individual or legal person, must be subject to effective control by a body that provides or guarantee independence and impartiality during the application review process. The right to refer to the court (right of access), can be defined as the right of every individual to bring criminal charges to a court that has full jurisdiction to resolve the matter. However, another object of complaint that needs to be dealt with is done through the availability of the applicant and the competent court. This has the discretion to review it within a reasonable

¹³⁹ Article 16 of the Constitution of Albania

¹⁴⁰ Article 42 of the Constitution of Albania

time given the legal right to a decision based on the facts and evidence of the law. In this perspective, I want to emphasize that the right is important and the procedures are required. Thus, this means that by the subjective and formal provisions of the civil procedural law, the Civil Procedure Code¹⁴¹ sets mandatory rules, which is same and equal for the judgment of civil disputes and other disputes provided in this Code and special laws.

The court in this case cannot refuse to examine and give decisions on matters submitted for review. Therefore, arguing that the law is absent is not complete, but there are contradictions or it is unclear.

Only parties may intervene in the court for the start of court proceedings, unless the law provides otherwise.

Parties are free to withdraw the lawsuit at any time, but should always be before its extinction for trial or its effect under the law.

Consequently, even these cases still have restrictions on access to file as a minor person cannot bring an indictment. Also, a person who does not have the capacity to act cannot sue, but can participate in the trial only through a civil legal representative. However, these representatives exercise all procedural rights under the provisions that adjust with their ingenuity.

Furthermore, lawmaker has determined in this case, prohibitions and prohibitive for achieving civil procedural law. Also in the exercise of the right of lawmaker besides raising the general principle that has given access to any natural or legal person who is not prohibited, I have given the right to file a claim with the plaintiff's legal representative or the trailer of the attorney. This was done by clearly expressing this allowance as toll on the special trailer of the attorney.

In this case, we have permissive provisions that guarantee the fulfillment of the procedural standpoint of this right.

Therefore, even though the law is equal for all, different subjects still have different rights. Also, the Family Code which was explicitly defined clearly states that claim for the dissolution of marriage may be established by both spouses and by each separately, but never by their legal representative or attorney in question. This is done this way because it is the only exclusive right of these subjects to go into marriage. As such, it needs to be resolved by a de facto and de jure measure.

¹⁴¹ Civil Procedure Code of Albania

Also, provisions of Family Code in Article 2¹⁴² of the trailer states that the parents, the competent authorities, and the courts in their decisions and activities must have as a primary consideration of the best interests of the child. Therefore, the interest of the child has a priority on any other legitimate reasons.

The Penal Procedure Code¹⁴³ are explicitly defined by the lawmaker tasks criminal procedure legislation and procedural compliance rates before an impartial court which decides on the basis of the law and makes decision based on evidence. This criminal procedural legislation has the duty to ensure a straight proceeding of equal law, personal freedoms, and protecting the legitimate rights and interests of the citizens. Also, it helps to strengthen the enforcement of the Constitution and the laws of the State legally.

In these procedural provisions are set rules on how to conduct the prosecution, investigation, and trial of criminal offenses. In addition, it also constitutes the execution of the court decisions which are binding on the subjects of prosecution of the State bodies, legal entities, and citizens.

In addition, provisions lawmaker has explicitly defined that different subjects are not equal before the law. Specifically to minors, for instance, women who are pregnant cannot be equal before the law with other subjects of criminal offenses or other offenses.

Furthermore, these mandatory provisions are taken into account in a clear way that prosecutes criminal offenses. Majorly, the right of establishment has prosecutor. In the meantime for those offenses provided by Article 284 Criminal Procedure Code, the prosecution may begin with the complaint of the injured who can withdraw it at any stage of the proceedings. Also worth noting is that a peer sufficient space in these procedural provisions of Article 61 and following the Code of Penal Procedure, has access to civil lawsuit and criminal proceedings. This states that there were no casualties from the offense as a guardian, legal representative, or any other person who has legitimate interests from the connection between the offense and injuries.

So even in these provisions, different entities have different rights and different legal obligations.

¹⁴² Article 2 of the Family Code of the Republic of Albania

¹⁴³ Code of Criminal Procedure of the Republic of Albania

In the legal and constitutional context, the Constitutional Court has interpreted Article 18¹⁴⁴ of the Constitution stating that: "Equality before the law and the law does not mean you have the same solutions for individuals or category in different objective conditions. Equality before the law and the law presumes equality of individuals on equal terms. Only in exceptional cases and for good cause, that it can objectively justify the different treatment of certain categories benefiting from this right."

III. CONCLUSION

In conclusion, nothing loses in life because everything is converted from a state to another state.

Taking the premise of this expression as any science, it is the same also for taking legal science in comparative terms. Thus, this puts law, justice, and righteousness as coordinates. This three are important and fundamental to contemporary legal regimes in view of the state of law and the fundamental freedoms of the individual, thus creating "traffic light systems of law."

Through the addition of these three coordinates together with the fourth coordinate space which is time, mankind works considering the time. Therefore, the time of working for humanity in the context of "amendment of time" refers to a new generation who will pay the bill. In addition, every change has a consequence which corresponds to a legal cultural heritage.

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¹⁴⁴ Constitutional Code of Albania

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