

THE PLACE OF THE RIGHT TO SOCIAL SECURITY IN THE HUMAN RIGHTS SYSTEM

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Socio-economic rights, like "second generation" rights, have established a new relationship between the individual and the state. If the rights of the "first generation" protect the individual from state interference, then the rights of the "second generation", socio-economic rights strengthen the relationship between man and the state, obliges the state to care for people, to help the state under certain conditions. However, this assistance could be provided to others at the expense of a group of members of society (more capable and free). Such an approach to the nature of socio-economic rights is considered by some authors as a threat to the freedom and independence of the individual. Namely the right to social security that is the priority that characterizes all social rights, distinguishes this group of rights from other rights, and directs all social rights to the dignified existence of man.

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The proclamation of a social state, which implements the state's policy aimed at creating conditions for an adequate life and free development, complements the right to life with social content and forms the right to a decent standard of living. The realization of this right must be carried out by the state.

The renowned German jurist Christian Tomuschat notes that the right to life is one of the most important rights, but that the right to life alone is not enough for the full existence and development of the individual [4, 46-50]. This requires respect and observance of other rights. The right to life is an integral part of other basic human rights, and by interacting with them, it acts as a guarantor of their realization, allowing for the fuller disclosure of those rights. For example, the right to social security is considered a "dead" right if it does not guarantee a adequate standard of living. According to the level of development of social security, it is possible to think about the social policy of the state, which depends on many aspects of society (living conditions, employment, prevention of social conflicts, etc.). Social justice is a universally recognized value of modern democratic public consciousness enshrined in the basic documents of the international community.

There is also an approach in the legal literature that "violation of the right to freedom from hunger is considered a threat to international peace and security." As already mentioned, socio-economic rights belong to the second generation of human rights. The right to social security is undoubtedly one of the foundations of the socio-economic human rights system. Because all human rights, as well as the right to social security, are inextricably linked with the individual and his place in society. In our opinion, the disclosure of the content of the right to social security is more expedient from the point of view of the "individual".

One of the obvious features of the right to social security is that the realization of this right depends on the state and resources of the country's economy. This feature distinguishes socio-economic rights from civil and political rights. An example is the developed countries of the European Union, where the most effective social security systems exist in modern times. Although these words cannot be unequivocally confirmed in relation to the Republic of Azerbaijan, the social reforms carried out in our country in recent years give grounds to note the

significant positive progress. The content of the right to social security is guaranteed by a set of measures to be taken by the state to provide services to citizens in the event of social risks. Pensions, financial assistance, various social services and social assistance are the main types of social security.

Some scholars believe that social rights are only those rights that are directly related to the implementation of social protection, namely: protection of the family, motherhood and childhood, social security, housing rights, the right to health care, the right to health care, the right to a favorable environment and s.

Certain difficulties in the legal nature of social rights, different interpretations in the proposed lists of these rights (established in constitutions, international legal documents), as well as problems in the development (improvement) of mechanisms and guarantees for the realization of these rights, control over their activities. above all, due to the known contradictions of their legal nature and content.

Another issue is that social rights are usually not valued in the legal literature as natural, inalienable human rights. According to the Western classical liberal concept that prevailed until the middle of the twentieth century, social rights were not legally recognized as human rights. Proponents of this concept viewed social rights as the individual's right to receive from the state certain material benefits that guaranteed a "adequate standard of living."

Noting the dangers of the constitutionalization of social rights, K.Sanstein said that "the constitutionalization of social rights incites poor countries to stagnation or unreasonable and frequent disregard for constitutional norms" [2, 19]. Accordingly, the strengthening of social rights in the constitutions of countries with economies in transition undermines the institution of private property and harms the entire economic development of these countries.

Despite the existence of this view in jurisprudence and judicial practice, there is a growing tendency to consider social rights enshrined in the Constitution not only as fundamental guidelines for the legislature, but also as fundamental rights, as in civil and political law.

Another feature that reveals the essence of social rights in defining their place and role in the system of human rights and freedoms is the fact that this category of rights belongs to the "second generation" of human rights.

The category of "natural and inalienable" rights, which emerged at the end of the eighteenth century, helped to make the idea of freedom, as the highest value, more fully and comprehensively explained. The twentieth century is marked by the emergence of "second generation" rights that guarantee not only freedom, but also a decent life.

B.P.Yeliseev notes that "socio-economic rights slow down social activity and economic prudence of citizens, because it provides for the gratuitous receipt of income from the most successful members of society. The widespread realization of these rights teaches outsiders to live at the expense of others" [1, 7].

Thus, if the "first generation", or civil and political rights, implies the state to limit interference in the existence and development of the individual, to give people greater freedom, then the "second generation" rights, on the contrary, strengthen state intervention and increase state paternalism.

The above features are the main characteristics of social rights that allow the right to social security to belong to an independent group of rights and determine their role and place in the system of basic constitutional rights of man and citizen.

In order to define more precisely the place and role of the right to social security, it is necessary to first refer to the concept of social rights. In the modern sense of human rights - these are the most important opportunities, inseparable features of development that determine the extent of individual freedom.

Human social rights are rights enshrined in the norms of international and domestic law, which are realized in the social sphere, guarantee a sufficient standard of living, reflect the status

of various social groups, ensure social freedom and social security of each individual, the state plays an active role. plays.

Economic, social and cultural rights are an integral part of the human rights system. These are the basic norms that ensure the improvement of living conditions, the realization of the "ideal of a free human personality" that guarantees social progress and superiority to all members of the human family, and form the basis of freedom, justice and peace. Socio-economic rights relate to the human condition in the field of labor and life, employment, welfare, social security, and serve to create conditions in which people can be "free from fear and need".

Social rights and freedoms ensure a decent standard of living and social security and reflect the following rights: the right to equal pay for equal work without discrimination; the right to working conditions that meet life safety requirements; the right to a fair and sufficient guarantee of a decent life for himself and his family; the right to protection from unemployment; housing rights; the right to form and join trade unions; the right to rest and leisure, as well as a reasonable limit on the working day and the right to paid leave; the right to a normal standard of living, including food, clothing, housing, medical care and necessary social services; the right to receive social security in connection with unemployment, illness, disability, widowhood, old age; the right to motherhood and childhood; the right to the highest achievable level of physical and mental health.

The criterion for classifying social rights as a free group of constitutional rights is the existence of "access to social assistance by the state." Based on this, social rights include the right to safe work, equal rights to work not less than the minimum wage, the right to rest, the right to protection from unemployment, the right to protection of motherhood, etc. can be attributed.

Some authors define social rights as "minimum legal norms of human rights in the social sphere, which are fully harmonized and recognized by the world community, enshrined in the legislation of most modern states."

Social rights, as well as the right to social security, have a special place in the system of basic constitutional human rights.

According to Article 38 of the Constitution of the Republic of Azerbaijan, everyone has the right to social security. Everyone has the right to social security upon reaching the age limit established by law, due to illness, disability, loss of the head of the family, loss of ability to work, unemployment and in other cases provided by law [5].

Apparently, the legislature retains instructions on the social security of everyone in the event of circumstances specified by law.

As we have already mentioned, the right to social security has both domestic and international legal grounds. According to the UN Human Rights Committee's Note number 15 to the International Covenant on Civil and Political Rights, "The Status of Foreigners in Accordance with the Covenant," the reports of States Parties do not specifically state that each State Party is entitled to The will of all persons to ensure the rights provided for in the Covenant shall be emphasized [6].

In general, the rights enshrined in the Covenant apply to all persons, regardless of the principle of reciprocity or nationality.

Thus, the general rule is that every right enshrined in the Covenant must be guaranteed without discrimination between citizens and foreigners. States are required not to discriminate in respect of the rights guaranteed by the Covenant. This requirement applies to both citizens and foreigners [7].

The United Nations Committee on Economic, Social and Cultural Rights' General Record No. 19 to the International Covenant on Economic, Social and Cultural Rights, entitled "Social Security", states that Article 2.2 of the Covenant prohibits discrimination on the basis of nationality. notes that the Covenant does not provide for any special jurisdiction in this regard. If non-citizens, migrant workers have made payments to social security programs, then these people

should also be able to use those payments. The migrant worker's right to social security must be available at the time of the change of workplace [3, 20].

It is the right to social security that is the priority that gives all social rights their essential characteristics, distinguishes this group of rights from other rights, and directs all social rights to the dignified existence of man.

Thus, social security, which is a constitutional right, and social security, which is an integral part of social protection, are inextricably linked concepts and complement the right to social security as a whole.

In other words, social security is an element of the social protection system that ultimately determines its main characteristics, because it is the nature of public relations between the subjects of different types of security that forms the direction of social protection as a system. identifies its main features.

At the current stage of development of relations between the state and the citizen, given the unconditional reduction of the paternalistic role of the state, according to the author's approach, it is necessary to make certain changes in the concept of social security law. Such changes may reflect the active role of the citizen in the implementation of the right to social security, allowing him to use his potential for self-sufficiency.

A fundamentally new concept of the realization of the right to social security must be developed and established at the legislative level. This concept should not only provide for the social protection of man, but also determine the potential for the implementation of the mechanism of free human development, the potential of man to benefit society in the current situation.

The right to social security plays a leading role in the system of human social rights and occupies a central place. This thesis is determined by the place of the right to social security in the life of modern society.

In turn, the importance and place of specific rights, as well as their meaningful completion, form, first of all, the need to address the issues facing society and the state at a certain historical stage of their development.

The right to social security, along with civil and political rights, is by its very nature a fundamental human right. Based on the principles of justice and social solidarity, it is enshrined in the constitutions of countries as a direct right and has judicial protection. In this context, it, along with other social rights, obliges the legislature and the executive to implement this right, creating landmarks for the implementation of social state policy.

Thus, summarizing the above, it should be noted that the right to social security includes the possibility of enjoying both financial and social benefits in kind within the conditions established by law.

In cases defined by law, it is more expedient to look at the right to social security in a subjective sense as the right of everyone to receive social benefits. In the objective sense, the right to social security can be assessed as a set of legal norms governing public relations arising in connection with the provision of various types of social security.

Without diminishing the role and importance of other social rights, it must be acknowledged that the basis and center of the right to social security is a person who needs the help of the state for certain living conditions.

Sustainable development of society is impossible without the solution of issues related to the normal life and welfare of people, and an important role here belongs to the right to social security. This, in turn, gives grounds to draw conclusions about the central place of the right to social security in the system of social rights of man and citizen, its special nature.

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