

SECURITY AND HUMAN RIGHTS: CONTRADICTION OR RECONCILABLE PARADIGMS? STATE OF AFFAIRS IN BULGARIA

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Abstract: *This paper explores some recent changes in the structure of Bulgarian society and the corresponding challenges, related to human rights and security in general and in relation to different societal segments. Specifically, lately Bulgaria has been becoming a more and more multicultural country. Due to demographic, economic and other reasons, the number of ethnic Bulgarians is continuously decreasing. Reciprocally, the number of Roma population is increasing. Moreover, Bulgaria is a country recently flooded by refugees and illegal immigrants from Syria, Afghanistan, Iraq, the Arab world, etc. Different religious groups, sometimes imported, started pretending more rights and space in Bulgarian realm. The paper pays attention to the evolution of the attitude of Bulgarian citizens with regard to the protection of their human rights and the rights of the others. The sensitive issue of security and safety at the current stage of development is discussed. This study also presents the results from an inquiry of a specialized audience - law students. Their attitude towards the mentioned problems of the day is explored. Respondents' suggestions for more efficient, non-traditional tools for resolving the “hot” issues and securing safety are offered.*

Keywords: human rights, security, safety, refugees, minorities

1. Background

Human rights and security, without any doubts, are among the most important values of contemporary society. They have always been considered in close interaction as mutually determined. Many intergovernmental organizations, such as the United Nations, Council of Europe, Organization for Security and Cooperation in Europe, put these issues high on their agendas. The European Court of Human Rights in its case law also pays due attention to them. Security and human rights are a subject of privileged attention of many scholars – foreign [1,2] and Bulgarian [3,4]. Numerous non-governmental organizations – international [5,6] and

national [7,8] dedicate their activities to these causes.

Lately Bulgaria has been becoming a more and more multicultural country. Due to demographic, economic and other reasons, the number of ethnic Bulgarians is continuously decreasing. Reciprocally, the number of Roma population is increasing. Moreover, Bulgaria is a country recently flooded by refugees and illegal immigrants from Syria, Afghanistan, Iraq, the Arab world, etc. They contributed significantly to the diversified face of Bulgaria, and have not always been welcome by the local inhabitants considering them as potential competitors for work places, a factor for great public funds expenditures, etc. Different religious groups, sometimes

imported, started pretending more rights and space in the Bulgarian realm.

Significant evolution of the attitude of Bulgarian citizens with regard to the protection of their human rights and the rights of the others has been noticed recently. Traditionally tolerant towards varied ethnic groups, minorities and religions, society seems to become more and more sensitive in a negative way. General observations show that the fundamental human rights of different segments of today's population of Bulgaria are often confronted. Sometimes this leads to tension, discriminatory acts, and court cases. As a result, the quality of common life is deteriorating. The sense of safety and security is diminishing. The acts of aggression and crime rate between mentioned groups and the local inhabitants are increasing.

The justice system, on the other hand, has not worked efficiently for decades, and this has been repeatedly officially recognized. The state institutions are still trying to react (sometimes) to multiplying conflicts on social, economic, ethnic base, using conventional instruments, although it has been proved that they cannot bring peace. At the same time, they persistently refuse to use alternatives. The most exploited response is to limit or derogate some rights in favour of general security, while it is well-known that symbiosis is possible.

To verify the thesis that assuring both human rights' good status and security is possible and necessary, an inquiry was launched in September 2015. The target group was a specialized audience – 100 law students, 5th year, who are assumed to be well informed and to have a built opinion on the theme. Their attitude towards the mentioned problems of the day was also explored. Respondents' suggestions for more efficient, non-traditional tools for resolving the current “hot” issues and securing safety are offered.

2. Main findings of the survey

Participants were faced with several questions in writing. They were given some possible answers beforehand, but certain freedom was provided for further reasoning and argumentation. The results are very interesting and indicative of the attitudes and evaluation of the state of human rights and freedoms as well as security in Bulgaria.

2.1. To the question “**Do you think your human rights in Bulgaria are now well protected legally?**” the positive response dominates. Thirty-five percent of participants strongly believe that fundamental human rights are well and thoroughly settled. The survey shows that 38% of respondents can join them since they think that in Bulgaria there is a relatively good legal framework, following the ratification of international treaties on human rights and the transposition of EU law in recent times. It is recognized that European standards are given more and more importance; the laws contain the necessary guarantees. At the same time, a great number of the respondents underline the need of periodic updating and completing the legal framework of human rights in view of the evolution of both the doctrine and practice.

It is not, however, a small percentage - 25% - of those who think that protection at a legal level is not fully satisfactory. They believe that the laws have loopholes and inadequate regulations pertaining to fundamental rights and freedoms. Some say that minorities, according to different categories, are given too many specific rights, which puts them in a privileged position. Only two percent, however, found legal protection largely insufficient.

2.2. A complementary question was also placed: “**Do you think your human rights in Bulgaria are currently implemented fully in practice?**” Here the answers are not so encouraging. Only 15% respond with a resounding “yes” and confidently believe

that they can fully exercise their rights, which are guaranteed by democratic governance, the judiciary and other specialised bodies. Twenty-eight percent answered “rather yes”, showing some reservations. They emphasize that there are established institutions by whom they receive assistance, but the protection of rights is a function of activity and awareness of the particular individual. It is pointed out that European structures and instruments are a kind of a “guard” of the fundamental rights and freedoms, but it is recognised that they have limits and these are the rights of others, which inevitably must be complied with.

Twenty-seven percent of the respondents in the survey, however, consider that their rights have not been fully implemented in practice. Although governed by the law, they remain “on paper” and unprotected because institutions and especially the judicial system does not work properly and efficiently. There are too many opportunities for circumventing the law and its selective application with regard to the person (*intuitu personae*). Corruption and dependencies are additional obstacles for the uniform application of the law to everyone, hence the protection of rights. It is noted that a number of violations remain without response on behalf of the state.

The percentage of those who answered the question with “rather no” is great - 30%. They believe that the implementation of rights is often determined by the material status of individuals. There is insufficient awareness of the rights and means of protection, and even the so called social culture. There are no available effective mechanisms for this purpose. Distrust in the judicial system is huge and people do not even seek protection in many cases. Yet, the rights of the individual are not put on the necessary pedestal in Bulgaria, according to these respondents.

2.3. What was also surveyed was the attitude of the respondents towards the

number of rights that minority groups on the grounds of linguistic, religious or ethnic background. It is interesting to note the symmetry that is found in their responses.

According to 65% of the respondents minorities of linguistic background should have equal rights with the main population. This stems from the principle of equality and non-discrimination enshrined in the Constitution and the existing law. In this way, conditions for integration and conflict prevention are created. According to participants language can not be a cause of division among citizens of the country. At the same time, 31% find that these groups should be given a smaller number of rights, saying they should speak the language of the country they live in to enjoy all the opportunities. Four percent think they should have more rights, but only to the extent necessary for their full integration.

There are similar results in terms of minorities of religious background. Seventy-three percent of participants believe that they should be treated equally, as we have freedom of religion. Religion should not affect human rights, our society is tolerant and pluralistic. However, a considerable part -26% - believe that the scope of their rights should be narrower and this is a tribute to the traditional for the country Eastern Orthodox religion. Some respondents openly say that many religions are dangerous, there are misuses, people are manipulated and restrictions are necessary to ensure more security. Only one respondent considers there should be given a wider range of rights without giving arguments for the answer.

Very similar are the answers related to the rights of minorities of ethnic background. For 74% of the respondents the principle of non-discrimination is the basis for equal rights. At the same time, 25% believe that the rights package should be smaller and this is important for the security of the country and protection of the rights of others. Very different mentality, traditions,

customs, habits of different ethnic groups sometimes contrast with the lifestyle of the general population, they can affect it improperly and, therefore, restrictions are needed. Again, only one respondent thinks that these groups should have more rights that are in reality necessary for them.

A certain stagnation of traditional Bulgarian tolerance can be recognized in the responses. Fears of possible abuse of rights on behalf of minorities are creeping.

Emphasis is laid on the obligations that these groups should also implement.

2.4. The next question was: “**Do you think that in some cases human rights are in a conflict with protection of security?**”. The following answers have been received:

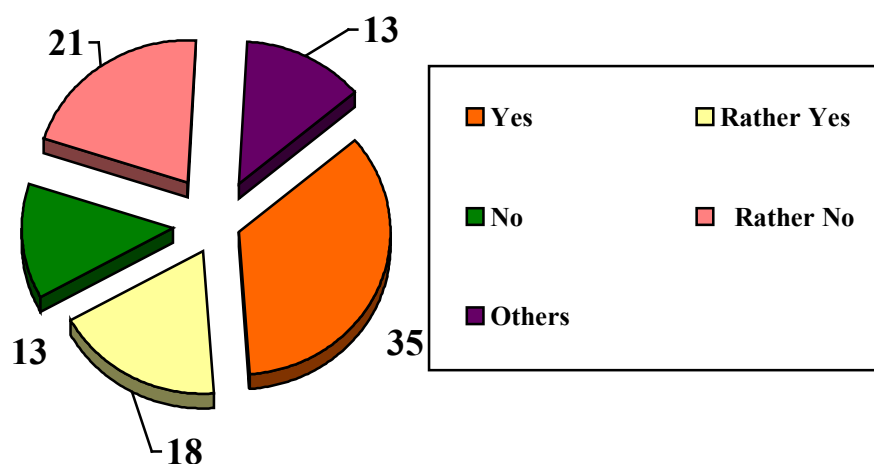


Figure 1: Existence of conflict between human rights and security

The main arguments for those who answered with “yes” are: Security and human rights are interrelated and protection of security inevitably puts limits on some human rights; rising the level of security diminishes the rights of an individual or a group (e.g. strict border control). Sometimes protection of the rights of a single person or a group could lead to problems with security and violation of the rights of many persons (fears are expressed that among refugees and migrants there are some members or terrorist groups, so we should not be so hospitable). Protection of security is used as a motive for controlling civil society.

Those answered with “rather yes” find that it seems for Bulgaria it is more important to observe the international and the European standards instead of protect national security. Moreover, protection of

human rights could be used for actions against national security. On the other hand, some extreme methods of protection of security inevitably restrict human rights.

The respondents with negative or rather negative attitude think that right to security is a fundamental human right and symbiosis between security and human rights is possible; the last ones are interdependent and are in a complementary relationship. While there is no misuse with rights, no threat for security. The other opinions expressed are rather ambivalent, no definite position. In general, the state should find the most favorable way on political level which ensures security and affects to minimal degree the rights of its citizens.

2.5. “Would you accept restriction of your rights in favor of security?”

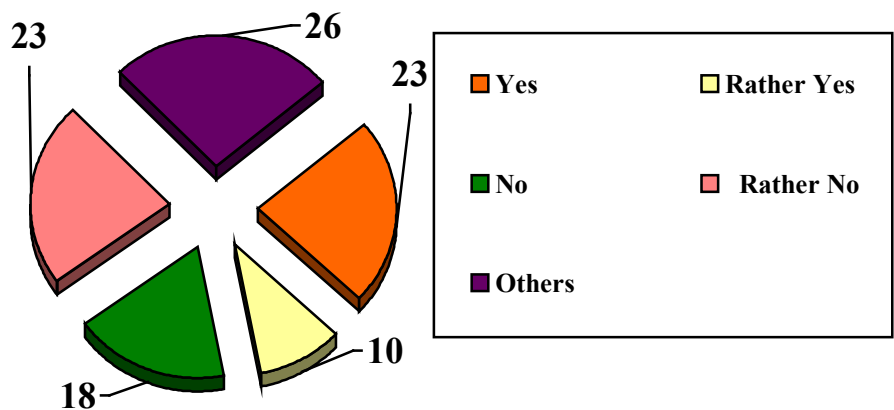


Figure 2: Acceptance of restriction of rights in favor of security

The respondents with positive or rather positive opinion find common security more important than the individual rights. Furthermore, there is no sense to have a right which cannot be exercised in a lack of security. Sometimes restrictions are justified and could be favorable for ourselves, think the participants.

Those with negative or rather negative answers stand on all their rights and find that both human rights and security have to be ensured, without restrictions.

Nobody should accept limits on their rights; all rights are of ultimate importance. They are inherent, immanent to human beings and their existence should not be pre-determined by other factors. Restrictions of rights themselves could even lead to security problems.

2.6. Furthermore, **the attitude to refugees and migrants** was explored. The following answers have been received:

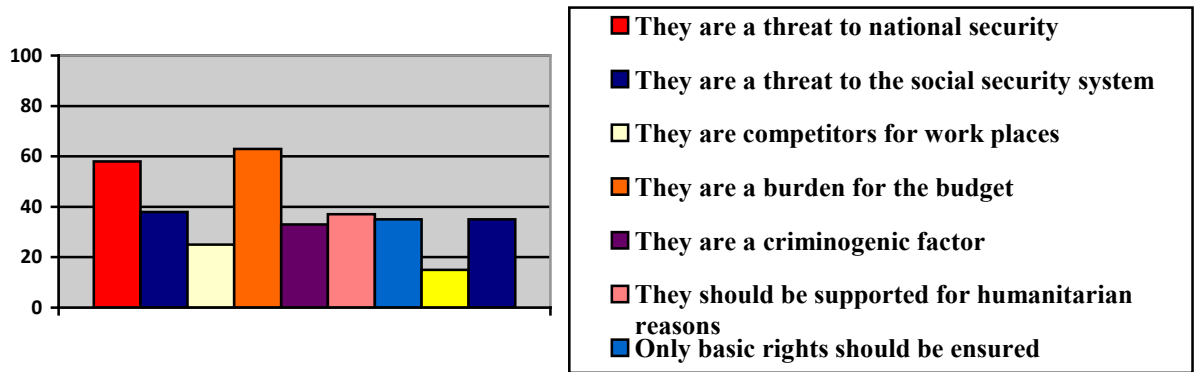


Figure3: Attitude to refugees and migrants

The brief analysis shows a rather diversified landscape. A lot of skepticism, anxiety, fear could be noticed in the answers. Negative attitude prevails, although nuanced and with different arguments. However, positive attitude and compassion are also expressed.

2.7. “Which are the basic unsolved problems in the following relation: **fundamental human rights - specific rights of separate groups – security?**”

The respondents find that the specific rights of the separate groups infringe the universality of human rights. It

is impossible all rights of all groups to be simultaneously fully implemented; some limits are necessary. When the specific rights of a given group affect basic human rights of the others, a security problem arises. The possession of more rights by a separate group leads to inequality and diminishes security.

2.8. “What should be changed in law and in practice so that human rights and security are ensured?”

The answers are as follows: The institutions, and mainly justice system, must start to work properly; the international and European standards should be closely observed; general mentality should be changed, thinking about the others is necessary. According to 3 % of the respondents there is no need of changes.

2.9. “Is the usage of alternative methods for resolving human rights problems appropriate? Which methods?”

According to 66 % of participants dialogue, negotiations, mediation, restorative justice could be applicable and beneficent in many cases. For 20 % binding decisions are necessary; conventional law gives higher protection. The rest 14 % find that it depends on the situation.

3. Conclusions

There is a trend to polarization, radicalization of this specific group (law students) of the Bulgarian society. The numerous incidents between representatives of different groups and the majority of

population are a fertile ground for raising sensitivity. That is why there is a need of careful, well-measured policy in today's multicultural Bulgaria.

There are already some grass-root initiatives - e.g. so called social mediation between refugees, migrants and local people; Roma and “health” mediators are trained. But these should be institutionalized. Regrettably, the policy-makers remain behind time.

The results of the study, albeit in a relatively narrow scale should intrigue institutions - legislative, executive and judiciary power. They contain assessments of the status quo, there are considered both the strengths and weaknesses of the protection of human rights and security in Bulgaria, and specific proposals have been made. Undoubtedly, the fundamental rights and freedoms and security are an international commitment, but at the same time, they are a crucial task of each state. When countries undertake actions in defense of the national security, they should strictly comply with human rights. The present refugee crisis poses many challenges to governments in Europe, including the Bulgarian one. The short-term national interests and security measures should not lead to human rights violations. Because security and human rights are compatible rather than contradictory paradigms.

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