

STATE OF THE ART OF RIGHT TO PROTEST OR MANIFESTATION ESTADO DEL ARTE DEL DERECHO A LA PROTESTA O MANIFESTACIÓN PACÍFICA

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ABSTRACT

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The state of the art of the right to demonstrate is presented, in consideration of the international system, the subsystems of protection of human rights and the protection of fundamental rights established in the national law, the general objective is: to know the state of the art of the protection of the right to peaceful demonstration for the defense of democracy, for the effect in qualitative form is used the thesis, the antithesis, and the synthesis of the dialectic method, international entities are sought and by region, which protect human rights, in particular, the right to peaceful protest or demonstration is selected, thus resulting in the existence of international entities that protect human rights and the human right to demonstrate or protest, with exceptions of countries that limit it through internal regulation, a situation based on the principle of non-intervention. The right to demonstrate or protest is supported by international instruments signed by the international actors that make up the human rights protection system. In conclusion, the protection of human rights is carried out through the universal system, regional systems for the protection of human rights that sanction states that disrespect the right to protest or peaceful demonstration, it is established in the fundamental law in a state in which the division of government powers is effective.

RESUMEN

Palabras clave:

derechos humanos, manifestación,
protesta, protección.

Se presenta el estado del arte del derecho a manifestar, en consideración al sistema internacional, a los subsistemas de protección de los derechos humanos y a la protección de los derechos fundamentales establecidos en la ley nacional, el objetivo general es: conocer el estado del arte de la protección del derecho a la manifestación pacífica para defensa de la democracia, para el efecto en forma cualitativa se usa la tesis, la antítesis, y la síntesis del método dialéctico, se buscan entidades internacionales y por región, que protegen los derechos humanos, en particular se selecciona el derecho a la protesta o manifestación pacífica, así, resulta en la existencias de entidades internacionales que protegen los derechos humanos y el derecho humano a manifestar o protestar, con excepciones de países que lo limitan por medio de la regulación interna, situación fundamentada en el principio de no intervención. El derecho a manifestar o a protestar se encuentra respaldado por

instrumentos internacionales signados por los actores internacionales que conforman el sistema de protección de los derechos humanos. En conclusión, la protección de los derechos humanos se realiza a través del sistema universal, de los sistemas regionales de protección de los derechos humanos que sancionan a los estados que irrespetan el derecho a la protesta o de manifestación pacífica, se encuentra establecido en la ley fundamental en un estado en el que la división de poderes del gobierno es efectiva.

Introduction

The study is made in general terms on the regional human rights systems, which integrate the international human rights system at the global level, with particular reference to the human right to protest.

The state of the art of the right to demonstrate or protest at the international level includes documents related to the statutes and treaties that make up the international system, to the regional subsystems for the protection of human rights, and to the protection of fundamental rights, in particular the right to peaceful protest or demonstration.

Within the international system there are regional systems, which include Europe, America, Africa, Asia, the Arab League, and Oceania, depending on the geographical area, in order to guarantee human rights.

The study is elaborated with the purpose of knowing the organizations of public or private character that are dedicated to the protection of the right to protest or peaceful demonstration as part of the defense of the human rights of the population, its basis in the international treaties, whose members have signed and ratified them and integrate the respective international or regional system, and in the statutes of the international organizations.

The present research is of a qualitative type. In order to know the situation of the protection of the guarantees of the human being, the information of interest is obtained from documentary sources, which include digital documents, statutes of the international entities that are dedicated to protecting the rights of man, and related publications and research.

The dialectic method is used in the study, which allows establishing an argument derived from the contrast of two contradicting arguments. In consideration of the information obtained, the arguments are presented for comparison and synthesis.

The international instruments and the statutes of the entities are obtained through the Internet, in the pages of the international and regional organizations that protect the rights of the human being, in particular, the right to protest or peaceful demonstration, in democratic countries with the division of powers that is applied without authoritarianism in reality. The compilation of the information is elaborated in an office automation template, in which the statute, the international instrument, the organization, and the corresponding region are noted, as well as the research of interest for consultation and references.

As a result of the study, it is observed that there are countries that limit respect for human rights, as well as the right to peaceful protest or demonstration, by means of internal regulation, usually through norms established in their fundamental law, due to the principle of non-intervention. The expression fundamental law, political constitution, or national law in this article refers generally to the internal regulation of each country or state, as an actor in international society.

According to Palacios Peñafiel and Villacrés López (2024, p. 1287), the right to protest or demonstrate peacefully is supported by international instruments signed by the international actors that make up the human rights protection system.

The aforementioned rights are protected through the universal system, the regional human rights protection systems that sanction states that,

in general, they disrespect human rights, in particular the affectation of the right to protest or peaceful demonstration, which is usually established within the fundamental rights set forth in the national constitution whose precepts are applied to reality, without justifying the totalitarian actions of the elite in power.

Estado del arte del derecho a la protesta o manifestación pacífica

The Bill of Rights of February 13, 1689 issued by the “Lords spiritual and temporal and commons” in the kingdom of England, in numeral V prescribes: “That it is a right of subjects to petition the King, any imprisonment or prosecution of petitioners being unlawful,” while in numeral IX it states: “That the freedoms of speech, discussion and action in Parliament cannot be judged or investigated by any Court other than Parliament.”

The manifestations of protest of the inhabitants of a state have happened in the history of humanity in the USA, derived from the Declaration of Virginia of June 12, 1776, in the USA, in the numeral I (*Declaration of Virginia, 1776*, numeral I) it is declared:

That all men are by nature equally free and independent and have certain innate rights that, when they enter into the state of society, they cannot deprive or possess for their posterity by any compact, namely: the enjoyment of life and liberty, with the means of acquiring and possessing property and of seeking to obtain happiness and security

Section XII of the Declaration of Virginia states: “That freedom of the press is one of the great bulwarks of liberty and can never be restricted, except by despotic governments.” (*Declaration of Virginia, 1776*, paragraph XII)

Later, the French Revolution of 1789 led to the Declaration of the Rights of Man and of the Citizen of August 26, 1789, Article 1 of which establishes the following: “Men are born and remain free and equal in rights. Social distinctions can only be based on common utility. (Declaration of Man and the Citizen, 1789), Article 10 of the aforementioned declaration states that “No man shall be disturbed on account of his opinions, nor even on account of his religious ideas, provided that by manifesting them he does not cause any disturbance of the public order established by law,” and the article refers to the freedom of expression of thought and opinion.

In the Declaration of the Rights of Man and of the Citizen (1789), article 2 is constituted: “The purpose of all political association is the preservation of the natural and imprescriptible rights of man, those rights being liberty, property, security, and resistance to oppression,” while Article 11 states: “... every citizen may speak, write, and publish freely, except when he has to answer for the abuse of this freedom in cases determined by law.” Article 18 regulates the right to freedom of thought, Article 19 regulates freedom of opinion and expression, Article 20 declares the right to freedom of assembly and association, and Article 28 regulates that “everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.”

The Universal Declaration of Human Rights, according to resolution 217 (III), was proclaimed by the General Assembly of the United Nations in Paris on December 10, 1948, whose preamble mentions that respect for human rights and freedoms should be promoted at the national and international levels; its recognition is universal. The United Nations (UN), (sf) informs that “the Declaration

establishes, for the first time, the fundamental human rights that must be protected worldwide and has been translated into more than 500 languages.”

Regarding the term protest or demonstration, the dictionary of the Royal Spanish Academy states that to manifest is to take part in a public demonstration; it is synonymous with protest.

Peaceful demonstration in the sphere of human rights is a human right of the citizen in any democratic state, whose sovereignty rests with the people.

According to the author Lanza (2019, p. 5), the protest or peaceful demonstration, individually or in groups, is “aimed at expressing ideas, visions, or values of dissent, opposition, denunciation, or vindication.” Protest is related to “the promotion and defense of democracy,” and from the human rights approach, it makes use of “the right to freedom of expression, the right to assembly, and the right to protest, citing the IACHR, which considers other forms such as blockades, recreational activities, physical activity, art, traditions, uses, and customs.”

Authors Almeida and Cordero Ulate (2017, p. 14) explain that in Latin America there have been protests in democratic environments; thus, “indigenous communities have been key in Bolivia, Colombia, Ecuador, Guatemala, Honduras, Panama, and Peru.”

The United Nations (UN) (2012, p. 5) on the rights to assembly and association notes that they are a means for the exercise of rights in the different areas in which human beings are involved: “Freedom of peaceful assembly and of association are a valuable indicator of the extent to which states respect the enjoyment of many other human rights.”

Human rights have been the subject of treaties and conventions, and the Universal Declaration of Human Rights recognizes the right to peaceful assembly and association. In democratic states, the right to peaceful demonstration is included in national regulations; its protection is an activity in accordance with treaties, laws, and legal institutions.

Entities that Protect Human Rights at the Global Level

Human rights are protected in the countries of the world by human rights entities or organizations at the national and international levels, which make up the international system that protects them, and the regional systems made up of organizations created and operating in the different regions of the world.

The United Nations (UN) is an international actor that protects human rights through international treaties in member countries that have signed and ratified them in accordance with established procedures.

According to Article 92 of the Charter of the United Nations, with respect to the International Court of Justice, it institutes: “It shall be the principal judicial organ of the United Nations; it shall function in accordance with the annexed Statute, which is based on that of the Permanent Court of International Justice and which forms an integral part of this Charter.”

The Human Rights Council was created in the General Assembly of the United Nations (UN), according to resolution 60/1 of September 6, 2005. In paragraph 158 of the resolution, it states: “The Council shall be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all persons, without distinction of any kind and in a fair and equal manner.” The Human Rights Council replaces the Commission on Human Rights, which oversees the protection of human rights in national and international contexts.

The International Labor Organization (ILO) was created in 1919; its content is found in part XII of the Treaty of Versailles in sections 1 and 2, articles 385 to 427. Through the ILO, labor rights are promoted in accordance with the agreements signed and ratified by the member states of the world, with the idea of achieving peace with social justice.

The World Health Organization (WHO) was established in New York, signed “on July 22, 1946, effective as of April 7, 1948,” with the purpose of protecting the health conditions of the population against endemics and pandemics and to improve preventive, curative, and palliative activities for the human being.

The United Nations Educational, Scientific and Cultural Organization (UNESCO) was established in London in 1945 and came into force in 1948. It focuses on human rights, as in relation to the educational, scientific, and cultural fields, in order to promote progress in the living standards of human beings in different social strata. Among the related conventions is the Universal Convention on Copyright in 1952.

Amnesty International is an independent organization based in London. Its purpose is to monitor the respect and protection of human rights in the world. It was founded in 1961.

Human Rights Watch is an independent organization, founded in 1998, with roles in research on human rights and human rights violations around the world. This entity protects and promotes respect for human rights and suggests law proposals to improve individual guarantees.

On the other hand, there is the figure of the ombudsman, which Rodriguez (2006, p. 18) explains is an institution that protects people against abuses or arbitrary acts of the public administration that may violate their fundamental rights and guarantees. It only suggests or recommends when there are violations of human rights to put an end to the lack of respect for fundamental rights. According to the author, it was in “Sweden in the 16th century where the figure of the Ombudsman was born with its current characteristics (institutionalized in 1809),” and during the year “1713, King Charles XII appointed the first Supreme Ombudsman.” The Ombudsman inspected the jurisdictional organs, tribunals or courts, and expressed to the monarchic authority the abnormal situations he found in the application of the law.

The subsystems of protection of human rights are integrated organizations according to the region: ASEAN in Asia, the Arab League in Arab countries, the African League in Africa, the Organization of American States in America, and in Europe “the Convention for the Protection of Human Rights and Fundamental Freedoms” was created; in Oceania there are “the Australian Human Rights Commission and the New Zealand Human Rights Commission.”

Asia

Through General Assembly resolution 48/141 of December 20, 1993, the “United Nations High Commissioner for Human Rights in Asia” was created, the Office of the United Nations High Commissioner for Human Rights (sf) states that “The Regional Office for Central Asia (ROCA) of the United Nations High Commissioner for Human Rights was established in 2008 in Bishkek (Kyrgyzstan)” and deals with the protection and promotion of human rights in the countries of Central Asia.

In the Bangkok Declaration of August 8, 1967, the Association of Southeast Asian Nations was created in English: Association for Regional Cooperation among the countries of South-East Asia, known as the Association of South-East Asia (ASEAN), the Association of South-East Asian Nations, the

the secretariat is located in Jakarta, Indonesia, the treaty members are the Republic of Indonesia, Malaysia, the Philippines, the Republic of Singapore, the Kingdom of Thailand, Brunei, Vietnam, Laos, Myanmar, and Cambodia.

For Lamarque (2021, p. 52), “ASEAN reformed itself to adapt to new circumstances and challenges. This led to the creation of instruments and mechanisms for the protection of human rights, such as the IAHRs and the Declaration of Human Rights.” In 2009, the Intergovernmental Commission on Human Rights was created; in 2010, the Commission for the Promotion and Protection of the Rights of Women and Children was created; in 2012, the Declaration of Human Rights in Cambodia was issued.

According to Lamarque (2021, p. 58), the ASEAN human rights system is limited by the principle of non-intervention, so that the agreements are conditioned to the requirements of the local government, which includes the Commission on Human Rights with oversight functions in this area.

Fraga Martell (2024, pp. 62-63) narrates that “on April 26, 1996, the Shanghai Group emerged as a forum for dialogue,” then, in Shanghai on June 15, 2001, the Shanghai Cooperation Organization (SCO) was established (Declaration on the establishment of the Shanghai Cooperation Organization), with the purpose of having good relations and cooperation. The member states are Russia, the People's Republic of China, Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, India, and Pakistan.

Arab Countries

The Arab League was founded in 1945 to cooperate among the Arab countries that signed the charter. In 2004, the Arab Charter on Human Rights was issued, which states the human rights guarantees in accordance with the principles of the Charter of the United Nations and the Universal Declaration of Human Rights and the Declaration of Human Rights in Islam.

Africa

The African Union is an international organization that includes within its activities, promotion and protection of human rights in cooperation with the African Commission on Human Rights.

The African Charter on Human and Peoples' Rights was adopted on July 27, 1981, in Nairobi, Kenya, and declares the duties and rights of the individual. In Chapter I of Part II, the African Commission on Human and Peoples' Rights is created, and in Article 45 of the aforementioned Charter, it is established that the Commission promotes human and peoples' rights, thus guaranteeing the protection of such rights.

Cartes Rodriguez (2017, p. 253) evidences that in 1998 the Protocol to the African Charter was adopted, leading to the establishment of an African Court of Human and Peoples' Rights. To protect them, the court in question hears and resolves; its resolutions are binding on member states.

America

The Organization of American States (OAS), according to Article 1 of the Charter, is a regional organization to achieve order, peace, and justice. The charter was signed in 1948 in Bogota, Colombia, and was amended by the protocols of Buenos Aires in 1967, Cartagena de Indias in 1985, Washington in 1992, and Managua in 1993.

The Inter-American Commission on Human Rights (IACHR) was created in accordance with Chapter XV of the Charter of the Organization of American States, Article 107,

standard: “shall have, as its principal function, to promote the observance and defense of human rights and to serve as an advisory body to the Organization in this field.”

The Statute of the Inter-American Court of Human Rights (IACHR) was approved in La Paz, Bolivia. Article 1 states that “...it is an autonomous judicial institution whose objective is the application and interpretation of the American Convention on Human Rights.

The Inter-American Court of Human Rights (IACHR) exercises its functions in accordance with the provisions of the aforementioned Convention and the present Statute.” Article 2 states that it has a jurisdictional function and a consultative function.

The American Convention on Human Rights (ACHR) has been in force since 1978. Part I establishes the rights and duties that are protected, with attention to its main function, according to Article 41, which is to “...promote the observance and defense of human rights...”

Article 15 of the American Convention on Human Rights (ACHR) recognizes the right to peaceful assembly, Article 16 establishes freedom of association, and Article 23 of the same legal body establishes political rights, including the right to elect and be elected.

Europa

On November 4, 1950, the member countries signed the Convention for the Protection of Human Rights and Fundamental Freedoms. The text is divided into three titles: Title I contains the rights and freedoms; Article 9 regulates the right to freedom of thought, conscience, and religion; Article 10 regulates freedom of expression; and Article 11 regulates freedom of assembly and association. Title II regulates the European Court of Human Rights, and Title III corresponds to various provisions.

The European Court of Human Rights functions on a permanent basis in accordance with Article 19 of the aforementioned Convention, which states: “In order to ensure the respect of the commitments resulting for the High Contracting Parties from this Convention and its protocols, a European Court of Human Rights is hereby established...”

In Article 53 of the Charter of Fundamental Rights of the Human Being issued by the European Union in 2016, proclaimed to achieve the protection of fundamental rights, it states:

Nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognized, in their respective fields of application, by Union and international law and by international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Member States' constitutions.

The European Commission is part of the European Union and applies the law to members, including the Charter of Fundamental Rights of the European Union and related directives to safeguard human rights.

The Organization for Security and Cooperation in Europe (OSCE) (sf) states that it “promotes human rights and fundamental freedoms,” and its sphere of action includes the European continent, North America except Mexico, and the countries of Central Asia.

Also, the Organization for Security and Cooperation in Europe (OSCE) (n.d.) indicates that the Office for Democratic Institutions and Human Rights (ODIHR) “monitors the human rights situation in the 57 participating States,” which includes the rights to freedom of assembly and association.

Oceania

The Australian Human Rights Commission promotes respect for and protection of human rights. Established in 1986 as an independent body, its functions include enforcing human rights, receiving complaints about discrimination, and administering federal human rights laws.

The Australian Human Rights Commission (AHRC) (Sf) states that it “is an independent third party that investigates complaints of discrimination and human rights violations” (Australian Human Rights Commission, n.d.).

The New Zealand Human Rights Commission is established in accordance with the United Nations Convention on Human Rights, in force since February 1, 1994, which outlines the provisions of the 1977 Human Rights Commission, promotes respect for human rights, harmonious relations between individuals, and racial equality and equal employment opportunities, and protects the human rights of persons with special needs.

According to the United Nations (UN) Human Rights Council (2010, p. 5), in 2009 the Head of State repealed the Human Rights Act 1999 by the “Human Rights Commission Decree 2009.” Its main functions are to promote public awareness of the content of human rights, advise the government on human rights, and defend human rights in Fiji.

Human Rights

The universality of human rights is a characteristic of human rights; in this regard, Article 1 of the Universal Declaration of Human Rights establishes: “All human beings are born free and equal in dignity and rights and, endowed as they are with reason and conscience, should behave fraternally towards one another.” Article 2 of the same body of law regulates respect for human rights without any distinction or restriction.

The characteristic of universality is inferred from the fact that the provisions on the protection of human rights are part of international law, as can be seen in the Universal Declaration of Human Rights and in the international treaties on the subject signed by the member countries.

Human rights are interrelated, from the right to life, the right to freedom of thought, protest, or demonstration; association; the right to health; to work; to the protection of genetic data; digital rights; and social rights, including the right to elect, to be elected to public office, and to live in an adequate and healthy environment for human life.

The Juan Vives Suriá Foundation (2010, p. 36) mentions that the “Constitutions of the rule of law establish formal counterweights between the different powers as a means to prevent the concentration and authoritarian exercise of power.” In that sense, the protection of the independence of the powers of the republic is considered: the executive, legislative, and judicial powers, whose interaction must avoid legal insecurity and uncertainty due to the exercise of power in a dictatorial manner that controls the powers and justifies their actions with national precepts. The form, organization,

and structure of the powers of the State are established in the organic part of the national constitution.

In this regard, Peñaloza and Garza Salinas (2002, p. 20) explain that the rule of law in a State is a human right that must be protected in order to maintain legal certainty and security.

Del Picó Rubio (2024, p. 162) mentions that “Legal certainty is one of the purposes that the doctrine has established as proper of the Law.” The author concludes that legal certainty, respect, and protection of the rights of the individual are achieved through the power of the state. (Del Picó Rubio, 2024, p. 173)

The researcher Carrasco García (2019, pp.139-140) quotes Castillo Córdoba, who states that human rights are moral norms, which are incorporated into the national legal system; thus the State is obliged to respect them. Among these rights are included civil and political rights.

Consequently, the human rights regulated in positive law, generally in the dogmatic part of the national constitution, are transformed into fundamental rights.

National Law and Human Rights

In a democratic state, the political constitution guarantees and protects human rights. The author Carrasco García (2018, p. 144) explains that fundamental rights are called constitutional rights when they are regulated by the national constitution. In consideration of the principle of constitutional legal primacy, it is null and void any rules, regulations, judgments, or contracts that contradict constitutional provisions.

Through constitutional control, procedures are established to guarantee and protect the fundamental rights of citizens, who may resort to the competent jurisdictional bodies to request that their rights be respected.

Carrasco García (2018, p. 145) relates human rights to personal dignity “and to the values of freedom, equality, and solidarity; they are recognized and protected without any discrimination by the legal-constitutional order of democratic states and by the collective conscience, which is manifested in the international law of the United Nations.”

Characteristics of Human Rights

The characteristics of fundamental rights according to Carrasco García (2018, p. 154) are universality, absolute, inalienability, imprescriptible, interdependence and immutability, universality is characteristic related to the human being without any distinction, because of its characteristic of being absolute, without any exception they must be respected, human rights do not prescribe in any term, they are inalienable, they cannot be alienated because of their characteristic of being inalienable, the interdependence of human rights refers to the fact that they are concatenated in defense of the human being, in addition, they are immutable because they are derived from the permanence of the inherent nature of the human being.

According to the aforementioned characteristics, the rights in the civil and political categories of freedom of expression, association and demonstration are integrated with the other rights, without any impairment, thus preventing states from disrespecting human rights and backsliding in their protection.

Method

Dialectical Method

The authors Rodríguez Jiménez and Pérez Jacinto (2017) clarify that in general, the dialectical method starts from “the concrete sensible to the abstract and from this to the concrete thought and from this to practice.”

Continuing with the authors Rodríguez Jiménez and Pérez Jacinto (2017, p. 178) regarding the dialectical method, they elucidate that the relationship of abstract thinking with generalization reaches the concrete that is thought and reasoned from the interdependence between the action, the phases of the process, and the events under study, from whose arguments the contrastation or comparison is made, which allows observing, analyzing, and inferring the situation under study and its evolution.

Céspedes (2017, p. 290) says that “dialectics is given in and by human praxis, and it is in this where it is found as the logic that is grasped from the reflexive act of concrete existence.” He quotes Sartre when he states that dialectics “is the logic of the constant change present in the relations of the process of objectification characterized by its negativity.”

Ibarra Serna (2019, p.34) quotes Popper, who describes the dialectical method, estimates that it is integrated in three parts which he calls: “the thesis, antithesis, and synthesis.” He further explains that dialectics “gathers the merits of thesis and synthesis.” The thesis and antithesis are contradictions, and by contrasting or comparing them, the result is deduced by means of synthesis.

The author Vilchis Esquivel (2008) states that the dialectical method leads to the “triadic model thesis-antithesis-synthesis, whose process involves an initial affirmation, its negation, and the negation of this, which in turn is an affirmation that gives rise to a new cycle.” She explains that, according to Hegel's idea, the procedure depends on the synthesis.

From what has been expressed, it is clear that the dialectical method focuses on the interaction of opposites to reach a synthesis; it is used to contrast contrary arguments from which the synthesis is obtained.

The dialectical method identifies the thesis according to the situation under study, according to the problem, the questions, objectives, and hypotheses that are posed to find the synthesis that allows relating the thesis with the antithesis used.

According to Vilchis Esquivel (2008), the antithesis is an expression opposed to the thesis, which is analyzed with respect to the situation in contrast to the thesis, so that in the synthesis the thesis and the antithesis are compared to distinguish the situations under study, according to what is described in the previous paragraph by the author Ibarra Serna Itzel Cristina.

The study investigates the protection of the right to protest or peaceful demonstration as a sample defined by the author as one of the human rights protected by the international system and regional subsystems for the protection of human rights.

The information was obtained from documentary sources available on the Internet: electronic books, scientific journal articles, and statutes of the international entities under study. The pertinent information was compiled by means of a template designed in office automation for the annotation of the different organizations or entities, according to the region in which they operate and the resolution in which the statute of incorporation is found.

Results

The results for the thesis, antithesis, and synthesis according to the dialectical method are presented below.

Thesis

The member states of the regional subsystem or of the universal system for the protection of human rights respect human rights, including the right to peaceful protest or demonstration, and freedom of association, freedom of expression of thought.

The right to peaceful demonstration is protected for the defense of democracy in accordance with the Charter of Human Rights and in the international treaties of the regional systems that make up the human rights system. The protection of human rights includes the right to protest or peaceful demonstration, which implies respect for the right to free association and the right to freedom of thought.

There are international institutions that protect human rights by region, integrate regional systems, and generally integrate the universal system for the protection of human rights, which includes the right to protest or peacefully demonstrate.

In states where the constitution is applied to reality, human rights, including the right to protest or demonstrate peacefully, are protected.

The national law protects human rights in a democratic state and regulates them by establishing them in the fundamental law that is in the normative category, whose norms are applied to reality and include the protection of the right to peaceful protest or demonstration, freedom of association, and freedom of expression of thought.

Antithesis

None of the member states of the regional subsystem or of the universal system for the protection of human rights respect human rights, including the right to peaceful protest or demonstration, freedom of association, and freedom of expression of thought.

The right to protest or peacefully demonstrate is not protected for the defense of democracy; in some states, respect for human rights is carried out at the convenience of those who hold power and use the law to justify their actions.

There are international institutions for the protection of human rights, which do not protect human rights by region and are not integrated into the universal system, excluding the right to protest or peaceful demonstration.

In states where the constitution is used to justify the actions of the ruler, human rights, including the right to protest or demonstrate peacefully, are unprotected.

The national law does not protect human rights in a democratic state and adopts protection by establishing them in the fundamental law that is in the normative category, whose norms do not apply to reality, and excludes from protection the right to peaceful protest or demonstration, freedom of association, and freedom of expression of thought.

Synthesis

There are member states of the regional subsystem or of the universal system for the protection of human rights that respect the right to peaceful demonstration and the human rights of the human beings who live there, in democratic states with

the right to peaceful protest or demonstration that is protected, along with freedom of association and freedom of expression of thought, in accordance with the Universal Declaration of Human Rights, while there are states that disrespect human rights through internal provisions, in general they are authoritarian, without division of powers; the right to protest or peaceful demonstration is unprotected at the convenience of those who govern; the laws are interpreted to justify the authoritarian actions of their rulers; legal certainty and the defense of democracy are affected.

The international institutions included in the regional and universal subsystems for the protection of human rights protect human rights and the right to peaceful demonstration in countries that are members of international treaties, while in countries that disrespect human rights, international sanctions are imposed on actors that affect human rights and on the state whose leadership avoids respecting them, including the right to peaceful protest or demonstration.

In states whose constitution is interpreted and applied to reality according to the rules, recommendations are adopted to achieve the protection of human rights, including the right to protest or peaceful demonstration.

Generally speaking, the national law of each state, a member of the international society, protects human rights. When they are positivized, they are called fundamental rights. They are established in the dogmatic part of the political constitution of republican states, while in totalitarian states, or in which, according to their fundamental law, the division of powers is non-existent, they are generally unprotected, in particular the right to protest or peaceful demonstration; freedom of association and expression of thought are unprotected, justifiably at the convenience of the leadership in power.

Discussion and Conclusions

The authors Palacios Peñafiel and Villacrés López (2024, p. 1287) explain with attention to the right to peaceful protest or demonstration:

protest has been used as a means of resistance to oppression, injustice, and violation of rights. It has been a key tool in the struggle for racial equality, labor rights, women's rights, LGBT+ rights, human rights, and environmental protection, so the right to protest is supported by international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the American Convention on Human Rights, to which Ecuador is a party.

This is in accordance with the fact that human rights and the human right to protest are protected by the international human rights system, which includes the Universal Declaration of Human Rights, as well as instruments of the regional human rights subsystem.

Calvache Navarrete (2024, p. 59) describes that “Ecuador is a plurinational and intercultural state recognized in the 2008 Constitution; the collective rights of indigenous peoples are recognized (1998), and the Right to Resistance is guaranteed (...).”

The previous paragraph coincides with the result of the present research in the sense that the constitutions recognize human rights, in particular the right to resistance, the right to protest.

Llano Franco (2024, p. 115) alludes to the fact that “social protests continue to be an essential collective action in contemporary democratic states, which is why their protection, not only constitutional but also international, constantly strengthens it.”

This is in accordance with the fact that human rights and the right to peaceful protest or demonstration are protected by the national constitution, as well as by international treaties.

The United Nations Organization (UN), an international actor within the system for the universal protection of human rights, acts according to its statutes in coordination with regional systems that protect human rights, mostly public entities.

Human rights are protected by the universal system and regional systems for the protection of human rights, which interact and sanction states that disrespect human rights, particularly the right to protest or peaceful demonstration, also protected by fundamental law, together with the right to freedom of thought and the right of association in a republic, as opposed to the authoritarianism of those who, in the exercise of power, violate the human rights of the population.

The national constitution establishes the fundamental rights for the protection of the human being, derived from those established in international treaties; on the other hand, the international conventions on the matter under study become part of the national legal framework according to the regulated procedure, at the top of the national legal framework, except in states that define domestic law with a higher legal hierarchy than international law.

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