




KATARZYNA KRZYSZTOFEK-STRZAŁA

 <https://orcid.org/0000-0003-2579-1454>


Jagiellonian University in Kraków

Selected Fundamental Rights in the Polish Constitution of 1952¹

Abstract

Fundamental rights are those which, in the Constitution, provide protection for the most important rights and freedoms. Due to the nature of the People's Republic of Poland, the guarantees provided by the Constitution of the People's Republic of Poland of 1952 were essentially limited to the rights granted to citizens only. In socialist states, their role was reduced to defining the position of the citizens and their relations with the state. These were civil, political rights, granted by the state, and not recognized as inherent rights of every human being. In its original version of 1952, the Constitution contained in Chapter 7 a catalog entitled: Fundamental rights and duties of citizens. After the 1976 amendment, this was Chapter 8. As fundamental rights, the Constitution recognized the following: the right to work, the right to rest, the right to health care, the right to education, the right to enjoy cultural achievements, equal rights for men and women, the right of marriage and the family to be protected by the state, the right of the youth to be protected by the state, freedom of conscience and religion, freedom of speech, printing, assembly, rallies, marches and demonstrations, the right of association, equality of citizens regardless of nationality, race, or religion, the right to address complaints and grievances to state bodies, personal inviolability, the right to asylum of foreign citizens. The aim of this study is to characterize several selected fundamental rights introduced by the Constitution of the People's Republic of Poland. The analysis will include: the right to work, the right to education, freedom of conscience and religion, freedom of speech, printing, assembly, rallies, marches and demonstrations, the right of association. The paper will present the way the above-mentioned rights were regulated in the Constitution and their interpretation in the socialist state. The method used in the work is the descriptive method.

Keywords: Polish Constitution of 1952, fundamental rights, the right to work, the right to education, freedom of conscience and religion, freedom of speech, printing, assembly, rallies, marches and demonstrations, the right of association

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Introduction

After the World War II, as a result of the Yalta Agreement, Poland found itself in the Soviet Union's sphere of influence. Because of this the communists took *de facto* power in Poland and the ideology that prompted the new legal and political order was Marxist-Leninist. Unlike in the Soviet Russia, in Poland the communist government did not decide to discard the entire legislative output of the earlier era but decided to opt for legal continuity.² Most of the laws that were part of the Second Republic legal system were not repealed in a formal procedure, even if they were not compatible with the dominant materialist ideology. In these cases, they were simply not applied in practice without a formal derogation.³

The Constitutional Act of 19th February 1947 on the System and Scope of Action of the Supreme Authorities of the Republic of Poland,⁴ referred to as the Small Constitution, did not regulate the issue of civil liberties and rights. This matter was the subject of the Declaration of the Legislative Sejm of 22nd February 1947 on the exercise of civil rights and freedoms.⁵ This document had no legally binding force as it did not take the form of a law, e.g. an act, but as it was claimed in the literature of the communist era, "the Legislative Sejm undertook in its laws to ensure the exercise of the fundamental civil rights and freedoms listed in the catalog contained in the declaration."⁶ Fourteen points in the declaration listed the fundamental rights and freedoms of citizens. These included equality before the law regardless of nationality, race, religion, sex, origin, position or education, listed in the first place, and followed by freedom of conscience, freedom of religion, freedom of the press, speech, association, assembly, public assembly and demonstration, the right to work and rest, the right to education, the right to elect and be elected to organs of state power and many others. The Declaration concluded by stating that laws should prevent taking advantage of the civil rights and freedoms for the purpose of fighting against the democratic system of the Republic of Poland.

It was not until the Constitutional Act of 22nd July 1952⁷ that civil rights and freedoms were comprehensively regulated in a legal act of the highest rank. This Constitution devoted Chapter Seven to the fundamental rights and duties of citizens. Within the framework of this chapter, the following rights were accorded to citizens:⁸ to work (art. 58), to rest (art. 59), to health protection and assistance in the event of illness or incapacity to

² Stawarska-Rippel, *Prawo sądowe*, 35–7.

³ *Ibid.*, 40–4.

⁴ Ustawa konstytucyjna z dnia 19 lutego 1947 r.

⁵ http://bs.sejm.gov.pl/F?func=service&doc_library=ARS01&local_base=ARS01&doc_number=000027375&sequence=000001&line_number=0001&func_code=DB_RECORDS&service_type=MEDIA (accessed: 23.05.2025).

⁶ Burda, *Polskie prawo*, 370. On the Declaration, see also: Skrzydło, Zakrzewski, "Mała Konstytucja," 23–4.

⁷ Konstytucja PRL z 1952 r.

⁸ The citizen's right to education or work is linked to activity on the part of the state and can be implemented with the collaboration of the state. In the case of freedoms, it is important that the state refrains from acting and allows the citizen to exercise the freedom in question, e.g. of conscience and religion. Dobkowski, *Konstytucyjne prawa*, 159–60.

work (art. 60), to education (art. 61), to the enjoyment of cultural achievements and creative participation in the development of national culture (art. 62), the right of association (art. 72), the right to lodge complaints with any state authority (art. 73) and the freedoms⁹ of conscience and religion (art. 70), speech, print, assembly and rallies, marches and demonstrations (art. 71). In addition to the above, in the chapter described above, the Constitution provided for the state protection of the creative intelligentsia (art. 65), equality of rights between men and women in all areas of the state, political, economic, social and cultural life (art. 66), state care and protection of marriage and the family (art. 67), tender care of the state for the upbringing of the young and the provision of the widest opportunities for their development (art. 68), equality in the rights of citizens of the People's Republic irrespective of nationality, race and religion (art. 69), bodily integrity (art. 74), and with regard to citizens of third countries the People's Republic of Poland provided for the granting of asylum (art. 75).

These are not the only rights that can be called fundamental and that were granted to citizens in the Constitution of the People's Republic of Poland. Some also worth mentioning are e.g. the right to vote (art. 81 and art. 82), the right to inherit the personal property of citizens (art. 13) and the right of the accused to defence (art. 53.2). As Kazimierz Opalek writes, "The fact that they were included in the Constitution leads one to presume that they are fundamental. On the other hand, certain doubts may arise due to the fact that they are found outside the chapter entitled «Fundamental rights and duties of citizens.»"¹⁰

The institution of fundamental rights and freedoms of citizens was seen as a variable and dynamic value, dependent on changes in the economic and political system of the state. Secondly, a certain correlation was perceived between the rights and duties of citizens, i.e. more effective, better performance of one's duties leads to an increase in the gains of the working people and, as a result, to an extension of citizens' rights and freedoms.¹¹ An expression of this approach that made the scope of civil liberties and rights set out in the Constitution dependent on the stage of development the state was in was the amendment of the Constitution in 1976.¹² As a result of this, new rights recognized as fundamental were added, such as art. 71 which guaranteed Polish citizens the right to enjoy the values of the natural environment, coupled with the duty to protect it, and art. 76 providing for the provision of comprehensive care to veterans of battles for national and social liberation, and the right of citizens to enjoy the protection of the Polish People's Republic abroad (art. 89). Some of the previous provisions of the Constitution were amended and adapted to the new political and social reality (e.g. the ways in which the state would ensure the exercise of the right to work were specified), while some provisions of a criminal nature were deleted, e.g. in art. 70 of the 1952 Constitution where

⁹ "[...] some issues can be regulated by granting rights, while others can only be regulated by the category of individual freedom. [...] Also, it cannot be accepted that freedom of thought and speech, or freedom of conscience and religion, can be treated in law as rights and not as individual freedoms." Siemiński, *Podstawowe wolności*, 38–9.

¹⁰ Opalek, *Podstawowe prawa*, 55. According to another definition of fundamental rights, freedoms and duties of citizens, they are regarded as such only when they concern fundamental areas of an individual's social life. Siemiński, *Podstawowe wolności*, 44.

¹¹ Burda, *Polskie prawo*, 370–1; Kąkol, *Prawa i obowiązki*, 19–20; Siemiński, *Podstawowe wolności*, 66.

¹² Ustawa o zmianie Konstytucji PRL z 1976 r. .

the original wording of paragraph 3 provided for punishment for the abuse of freedom of conscience and religion for purposes detrimental to the interests of the Polish People's Republic.¹³

In the era of the People's Republic of Poland, there were many different classifications of fundamental rights in the socialist legal science.¹⁴ One of the proposed classifications, based on the criterion of content, makes it possible to distinguish four groups of fundamental rights of citizens, which included rights in the social and economic sphere (e.g. the right to work), in the political sphere understood as related to the functioning of the state mechanism¹⁵ (e.g. the right of association, freedom of assembly, rallies, marches and demonstrations), in the cultural and educational sphere (e.g. the right to education), and personal freedoms (e.g. freedom of conscience and religion).¹⁶ According to Kazimierz Kąkol, fundamental civil rights can be divided into socio-economic, e.g. the right to work or the right to education, socio-political, e.g. the right of association, freedom of speech, printing, the right to organize assemblies and rallies, marches and demonstrations, and individual freedoms and liberties of the citizen, and within these the freedom of conscience and religion.¹⁷

The protagonists of the socialist system emphasized that it was this very system that provided "the possibility of exercising the fundamental rights of citizens on the principles of freedom, equality and universality, for the fundamental condition of freedom and equality of every citizen is the socialisation of the means of production."¹⁸ Interestingly, the doctrine of the People's Republic of Poland recognized some of the rights that were nominally defined as civil in the Constitution as pertinent to all people regardless of their citizenship in the name of the humanism of socialist law. Rights of this nature included e.g. cultural rights, social rights, or freedom of conscience and religion.¹⁹

¹³ Burda, *Polskie prawo*, 371–3.

¹⁴ For more on this topic, see: Michalska, "Podstawowe prawa społeczne," 31. Soviet literature proposed a division between the rights of the citizen as a worker, the rights of the citizen as a socio-political activist and the citizen as an individual. After: Wojtkowiak, "Konstytucyjne wolności obywateli PRL," 14.

¹⁵ It was usually said that the civil rights of the communist era were political rights, including the freedom of conscience and religion, but not in the sense of rights linked to state activity, but as rights granted by the state to citizens, which were, as it were, at the disposal of state power. On the other hand, in the strict sense, political rights are linked to the role of the citizen as "co-host of the country." *Podstawowe prawa obywateli PRL*, 17.

¹⁶ Burda, *Polskie prawo*, 375–8. Stanisław Bednarski divided the fundamental rights of citizens in a slightly different way; he took also their content as a criterion, and distinguished economic, social and cultural rights, including e.g. the right to work, rest, education or culture; political rights, including, e.g. the electoral right or freedom of speech, printing, assembly, rallies, marches and demonstrations, and the right of association; personal civil freedoms, including e.g. freedom of conscience and religion. Bednarski, *Prawa i wolności*, 17–8.

¹⁷ Kąkol, *Prawa i obowiązki*, 13–4.

¹⁸ *Ibid.*, 7.

¹⁹ Burda, *Polskie prawo*, 374–5.

1. The right to work

The importance of work for the benefit of the People's Republic of Poland and how it was prioritized by the communist authorities is evidenced by the wording of Art. 14 of the Constitution of the People's Republic of Poland. It stipulates:

1. Work is a right, a duty and a matter of honour for every citizen. By their work, by the observance of work discipline, by work emulation and the perfecting of methods of work, the working people of towns and villages add to the strength and power of the Homeland, raise the level of prosperity of the people and expedite the full implementation of the socialist system.
2. Work champions enjoy the respect of the whole nation.
3. The Polish People's Republic gives increasing practical effect to the principle: 'From each according to his ability, to each according to his work.'

Art. 58 of the Constitution of the People's Republic of Poland of 1952 provided citizens of the People's Republic of Poland with a guarantee of the right to work, understood as the right to employment paid in accordance with the quantity and quality of work done. Art. 58, section 2 listed the factors ensuring the right to work. These comprised social ownership of the basic means of production; the development of a social and co-operative system in the countryside, free from exploitation; the planned growth of the productive forces; the elimination of sources of economic crises and the abolition of unemployment. After the amendment of the Constitution in 1976, Art. 58 became Art. 68 and the wording of section 2 was changed to indicate the following as factors ensuring the right to work: the socialist economic system, the planned growth of productive forces, economical use of all factors in production, a steady promotion of scientific and technological progress in the national economy, and the system of education and raising of professional qualifications. Socialist labor legislation was identified as securing the proper implementation of the right to work. This catalog was expanded relative to the original one and it can be said that it was modernized, too, which is evidenced e.g. by the inclusion of scientific and technological progress, the rational management of the factors of production or the improvement of professional qualifications. The literature emphasizes that the right to work was not of a demanding nature, but was limited to the possibility of being employed.²⁰ Such a guarantee was also contained in art. 10.1 of the Labor Code of 1974²¹ (the Constitution stipulated that socialist labor legislation secured the proper implementation of the right to work), "Work shall be ensured to the citizens of the People's Republic of Poland through the continuous and comprehensive development of the national economy and a policy of rational employment." In this provision, the constitutional guarantees of the right to work were framed in a simplified and abbreviated manner. The concept of work was understood to include not only work under an employment contract, but also work in crafts, on individual peasant holdings, the cottage industry, as well as artistic or other creative work.²² The right to work was considered to be, "the starting point for other rights of an economic and social nature, since

²⁰ Piekarski, "Podstawowe zasady," 42–3.

²¹ Kodeks Pracy z 1974 r. [*Act of 26 June 1974 Labor Code*], Journal of Laws of 1974 no. 24 item 141.

²² Piekarski, "Podstawowe zasady," 42; Piotrowski, "Prawo do pracy," 108–14.

by work [...] the working people of towns and villages reinforce the strength and power of the state and accelerate the implementation of the socialist system, which is, after all, the condition for the increasingly full implementation of other civil rights.”²³ The right to work is sometimes counted among social and economic rights.²⁴ The influence of the Polish United Workers’ Party on the planning of the economic development of the country, the organization of production as well as its supervision of the means of production led to the ideologization of work and the adoption of the impossible assumption of the abolition of unemployment and the pursuit of full employment.²⁵ It was claimed that this idea was successful: “The problem of unemployment has been permanently eliminated in People’s Poland. This is an achievement of historical significance, an achievement that was only possible because Poland embarked upon the road of building socialism.”²⁶ With the benefit of hindsight, however, a look at the organization and implementation of the right to work in the era of the People’s Republic of Poland leads to different conclusions. Work in socialist Poland was badly organized, ineffective and performed in a slapdash way (according to the words, “whether you stand or lie down, you’ll get your two grand anyway”).²⁷

2. The right to education

The right to education was derived from the essence of the system of social justice, with the argumentation that knowledge entails the pursuit of human participation in the life of society.²⁸ This right was guaranteed by the Constitution of 1952 in art. 61 and the amendment of 1976 placed this provision in art. 72 and changed the wording of this provision. In guaranteeing the citizens’ right to education, the Constitution indicated how this right was to be implemented by mentioning, in section 2, universal, free and compulsory primary schools (after the amendment of 1976, the free and universal school system on the one hand and compulsory primary schools on the other were referred to separately), the continuous expansion of general secondary education, vocational education and higher education (the amendment of 1976 indicated the universalization of secondary education and the development of higher education). The latter two ways of making the civil right to education a reality retained the original wording in 1976 and included state assistance in improving the qualifications of citizens employed in industrial plants and other urban and rural work centres as well as a system of state scholarships, the expansion of dormitories and student hostels and other forms of material assistance for the children of workers, working peasants and the intelligentsia. The amendment to the Constitution in 1976 was significant; whereas in 1952 only primary education was constitutionally guaranteed as free, in 1976 there is mention of free education without indicating its

²³ Burda, *Polskie prawo*, 376.

²⁴ Michalska, “Podstawowe prawa społeczne,” 34–5; Kąkol, *Prawa i obowiązki*, 25.

²⁵ Kamosiński, “Praca jako obowiązek,” 64–5.

²⁶ *Podstawowe prawa obywateli PRL*, 7.

²⁷ Chumiński, “Systemowe uwarunkowania,” 251–2. See also: Szymaniak, “Prawa obywatelskie,” 32.

²⁸ Burda, *Polskie prawo*, 377; Piotrowski, “Prawo do nauki,” 155–6.

specific type, which suggests a guarantee of free education in all types of schools. As it was stressed, this opened up the possibility of education regardless of financial status and created equal opportunities for everyone.²⁹ Universal access to education extended not only to children and young people, but also to adults who wished to improve their qualifications or supplement their education. Emphasis was placed on the constant expansion of both the base of schools at every level, including universities, the base of highly qualified teaching staff (estimated to reach two million by 2000), a system of scholarships, and the base of dormitories and hostels, which was to serve the full realization of the right to education available on an equal basis to every citizen of the People's Republic of Poland.³⁰ At the same time, preferential treatment of young people with a worker or peasant background with regard to admission to full-time higher education was justified on the basis of the principle of justice and equal opportunities for citizens in the situation of applying for higher education,³¹ as "the interference of the socialist state, acting in the interests of the working masses and manifested in the form of a system of social preferences for admission to higher education, is necessary until the conditions for admitting all applicants to full-time studies are created."³²

3. Freedom of conscience and religion

The freedom of conscience and religion guaranteed to citizens in the Constitution of the People's Republic of Poland was transformed as a result of the amendment of 1976. In its original wording, art. 70 of the Constitution of 1952 introduced the principles of individual and institutional freedom of conscience and religion indicating the freedom of churches and other religious associations to exercise their religious functions, the separation of the Church from the State and the statutory regulation of the principles of the relation between state and Church and the legal and material situation of religious associations (institutional aspect) while putting a ban on forcing citizens not to participate in religious acts or rituals, or forcing citizens to participate in such acts or rituals (individual aspect). Section 3 of art. 70 criminalized the abuse of freedom of conscience and religion for purposes detrimental to the interests of the People's Republic of Poland. The amendment of 1976 not only changed the location of the guarantee of freedom of conscience and religion by moving it to art. 82 but also removed the provision on penalties for the abuse of freedom of conscience and religion. Freedom of conscience and religion was defined in socialist doctrine as, "the right to hold a freely chosen worldview, whether religious or non-religious, the right to follow a freely chosen religion."³³ Formally, the Constitution used the word "citizen," thus according the freedom of conscience and religion only to persons fulfilling the condition of being a Polish citizen. In the literature,

²⁹ *Podstawowe prawa obywateli PRL*, 15–6.

³⁰ Bednarski, *Prawa i wolności*, 40–4.

³¹ Dobkowski, *Konstytucyjne prawa*, 236.

³² *Ibid.*

³³ Kąkol, *Prawa i obowiązki*, 94.

however, it is claimed that this is a constitutional right of every person.³⁴ There were also voices in the literature claiming a dual character of the freedom of conscience and religion, i.e. as a freedom of a personal nature and also of a political nature, which was supposed to result from the principles of the political system determining the attitude of a socialist state towards religion and churches.³⁵ It was argued in the literature that the privacy of religious beliefs boils down to the absence of the obligation to declare one's religion in public documents, to the guarantee of full political and civil rights to all citizens regardless of religion, and that it is not religion but the results of work for society that determine the assessment of a citizen.³⁶ The Decree on the Protection of Freedom of Conscience and Religion³⁷ also accorded freedom of conscience and religion to the citizens (art. 1). The Law on Assemblies³⁸ excluded from the scope of its regulations religious services and rituals of state-recognized religious associations, provided that they took place within churches, chapels and houses of prayer intended exclusively for these purposes (art. 4.1.9). In the period of the People's Republic of Poland, freedom of conscience and religion, apart from its obvious individual character with guarantees of this freedom to individuals, became the basis for allowing the activities of churches and other religious associations. The basis for the existence of churches and other religious associations was the accumulation of the individual freedom of conscience and religion of believers, and no separate legal basis was granted to churches and religious associations for their functioning.³⁹ In the context of freedom of conscience and religion, it has often been argued in the literature that one of its guarantees granted by the state is the possibility of attending religious instruction classes held in out-of-school religious premises according to the parents' decision. It has been mentioned that these premises are under the supervision of the state educational authorities while emphasizing that the supervisory powers do not concern the content of the teaching.⁴⁰ Despite the principle of separation between Church and state, justification was found for state interference in the sphere of the internal affairs of churches and other religious associations, because, as it was written, "certain actions of the church, which are not of a purely religious nature, must be agreed with the relevant state authorities. These include such matters as the creation of new parishes and dioceses, the appointment of new persons to ecclesiastical positions, etc."⁴¹ The separation between state and Church proclaimed by the constitution was a so-called socialist separation, presupposing above all the full secularization of the state.⁴²

³⁴ Grzelak, *U podstaw*, 9.

³⁵ Dobkowski, *Konstytucyjne prawa*, 184.

³⁶ Kałol, *Prawa i obowiązki*, 94–5; Langer, "Wolność sumienia," 78. For more on religion as a private matter of the citizen, see: Godlewski, *Obywatel a religia*, 19–23. This was not a true statement; according to the regulations of the Polish United Workers' Party, activists for churches and other religious associations, especially the Catholic Church, were not allowed to join its ranks. See: Krzysztofek, *Położenie prawne*, 52–4.

³⁷ Dekret o ochronie wolności sumienia z 1949 r.

³⁸ Ustawa o zgromadzeniach z 1962 r.

³⁹ Grzelak, *U podstaw*, 15–6; Świątkowski, *Wyznaniowe prawo*, 138.

⁴⁰ Bednarski, *Prawa i wolności*, 75–6.

⁴¹ *Ibid.*, 77. In 1956, the Decree of 31 December 1956 on the organization and filling of church positions was passed (Journal of Laws of 1957 no. 1 item 6) which required prior agreement with the competent state authority in situations of the creation, transformation, abolition, determination of territorial boundaries and seats of dioceses and parishes.

⁴² Grzelak, *Z problematyki*, 24.

4. Freedom of speech, printing, assembly and rallies, marches and demonstrations

The freedom of speech, printing, assemblies and rallies, marches and demonstrations were not changed by the amendment to the Constitution made in 1976. The Constitution of 1952 guaranteed this freedom in art. 71, and then in art. 83 after 1976. The constitutional legislator pointed out that the means of exercising this freedom would include the provision of printing houses, paper resources, public buildings, halls, means of communication, radio and other necessary facilities for the use of the working people and their organizations. In the literature of the period of the People's Republic of Poland it was emphasized that the right of citizens to organize assemblies, rallies, marches and demonstrations was linked to the right of association.⁴³ Pursuant to the Law on Assemblies, the right to convene assemblies was vested in, inter alia, professional, self-governing, cooperative and other social organizations (art. 2). Assemblies were considered to include conventions, rallies, demonstrations, marches, talks, lectures, processions and pilgrimages (art. 1.2). The Law excluded from the scope of its regulations a broad catalog of assemblies, including e.g. those convened by state institutions or political organizations (art. 3). Depending on the kind of entity that convened the assembly, there was the requirement to either notify the state authorities in advance or to obtain permission from them (art. 7 and art. 8). The freedom of speech and print was listed within the same constitutional provision that also included the right of assembly, and it was emphasized that it was not and could not be a right of an absolute nature, "the mass media in socialist countries, serving to inform, reflect and shape public opinion, have always based their activities on the assumption that freedom of speech and opinion-forming cannot be synonymous with exercising discretion with regard to speech and opinion-forming."⁴⁴ The socialist system did not provide for freedom for the possessing classes, but only for the working people of towns and villages. Thus, freedom of speech and print was only guaranteed for the latter group while representatives of the possessing classes, identified with the so-called system of Western democracy, could not expect freedom of expression in a socialist country. In order to protect the socialist system from the danger that might be caused by supporters of the capitalist system if they could freely proclaim their views, organs of state control of the press, publications and shows were established.⁴⁵

This freedom, like all freedoms, must be treated in a class-conscious manner consistent with the interests of the working people as the host of the country and the state. [...] Restrictions on freedom of speech and print involve primarily preventing the publication of such views and information that are detrimental to the principles of the socialist system [...] This limited freedom of speech is fully justified and socially accepted.⁴⁶

⁴³ Kąkol, *Prawa i obowiązki*, 82.

⁴⁴ *Ibid.*, 85.

⁴⁵ *Ibid.*, 88–90; Szczepaniak, "Wolność słowa i druku," 88. Dekret o utworzeniu Głównego Urzędu Kontroli Prasy, Publikacji i Widowisk z 1946 r. [*Decree of 5 July 1946 on the establishment of the Central office for the control of press, publications and shows* (Journal of Laws of 1946 no. 34 item 210 as amended)].

⁴⁶ Bednarski, *Prawa i wolności*, 64.

This freedom was categorized as a political right, i.e. one allowing citizens to participate in political life, express their opinion or make demands.⁴⁷

5. The right of association

The right of association was variously treated in the socialist literature, either as a political right understood as linked to the activity of the state mechanism, or as a civil freedom.⁴⁸ In the original wording of the Constitution of 1952, this right was guaranteed by art. 72, and after the amendment of 1976 this article became art. 84. It is worth noting that the amendment of 1976 did not introduce any changes; the right of association was formulated in an identical manner. This right was granted to the citizens of the People's Republic of Poland for the development of political, social, economic and cultural activity of the working people of towns and villages. Section 2 of the provision listed the types of associations that citizens could form to achieve the objective set out in the first paragraph. These were political organizations, trade unions, associations of working peasants, cooperative associations, youth, women's, sports and defence organizations, cultural, technical and scientific associations and others. Section 3 contained a ban on the formation of associations and participation in them if their purpose or activities were detrimental to the political, social or legal order of the Polish People's Republic. The largest organization bringing together working people was trade unions.⁴⁹ In addition to them, there were numerous associations established either on the basis of special provisions or the umbrella act of Law on Associations,⁵⁰ and they were socio-political, cultural, educational, scientific, technical, welfare, self-help and religious associations.⁵¹ It was argued that

[...] the expansion of diverse forms of coming together of citizens, social organizations, associations is rightly regarded as a characteristic feature of socialist societies [...] many associations and organizations [...] perform tasks of great social importance which also fall within the scope of the state administration.⁵²

It was explicitly and clearly stated that opposition organizations must not be allowed to operate in a socialist state. It was pointed out that the purpose of the existence of associations in a socialist system was different; their role was to activate citizens and encourage them to participate in the political, social, economic and cultural life of the state. Moreover, participation in associations gives citizens the opportunity to control the activities of the state and to interact with it.⁵³

⁴⁷ *Podstawowe prawa obywateli PRL*, 26. See also on freedom of speech and print: Zakrzewski, "O ingerencji prawodawczej," 632–54.

⁴⁸ Michalska, "Podstawowe prawa społeczne," 32.

⁴⁹ The rules for their establishment and functioning were laid down in the Act of 1 July 1949 on Trade Unions (Journal of Laws of 1949 no. 41 item 293 as amended) which gave trade unions a wide range of autonomy. See: Kąkol, *Prawa i obowiązki*, 80–1.

⁵⁰ Prawo o stowarzyszeniach z 1932 r.

⁵¹ Kąkol, *Prawa i obowiązki*, 81.

⁵² *Ibid.*, 82.

⁵³ Bednarski, *Prawa i wolności*, 66–7.

Conclusion

In the socialist system, it was emphasized that the welfare of man had priority for the state, that the principles specific to the socialist concept of human rights emerged from the principle of social justice and the legal equality of citizens. In doing so, it was emphasized that civil rights and freedoms, like duties, were linked to being a citizen of the People's Republic of Poland. The condition for possessing or rather being granted such rights as it should be said, was membership of the Polish society and state because rights and freedoms in the socialist concept did not result from the inherent dignity of the human person, but from the bestowal of the state. To citizenship as a condition for exercising civil rights and freedoms, the criterion of reaching a certain age was added.⁵⁴ It is difficult to agree with this assertion; while in the case of the right to form associations, electoral rights or freedom of assembly, they may be age-dependent, in the case of freedom of conscience and religion or the right to education it is difficult to make them age-dependent. It was considered that, "The civil rights and freedoms enshrined in the Constitution and ordinary laws have their origin and foundation in the political, economic and social realities of the People's Republic of Poland."⁵⁵

It was considered that the common features of fundamental rights, regardless of their content, included the equality of citizens under the law, the reality of rights, the interdependence between rights and duties, and the constant expansion of the scope of these rights combined with their fuller implementation. It was argued that it was only the socialist state that implemented the principle of the equality of all citizens through the nationalization of the basic means of production and the abolition of landed estates. Furthermore, the reality of rights was ensured by the indication in the Constitution of the conditions and means creating the possibility of their implementation.⁵⁶

The institution of civil rights and freedoms in a socialist state differs from the corresponding institution in a capitalist state in that civil rights and freedoms in a state of a social justice system under construction are secured not only by legal guarantees, but, importantly for their effectiveness and reality, by material guarantees in the form of adequate economic, social, cultural, etc. facilities.⁵⁷

This was the explanation for the construction of most constitutional provisions guaranteeing fundamental civil rights and freedoms, pointing out that they consist of two parts, i.e. one covering the content of the particular right or freedom, and another one, defining the means of their implementation.⁵⁸

As contemporary legal researchers of the period of the People's Republic of Poland demonstrate, the lack of mechanisms to control the provisions of the Constitution, combined with very superficial references to it in jurisprudence, meant that the actual role of the fundamental civil rights and freedoms enshrined in the Constitution of 1952 was small.⁵⁹

⁵⁴ *Ibid.*, 12–5.

⁵⁵ *Ibid.*, 24.

⁵⁶ *Ibid.*, 18, 21–2.

⁵⁷ Burda, *Polskie prawo*, 373.

⁵⁸ *Ibid.*, 373–4.

⁵⁹ Kazimierczuk, *Wolność zrzeszania się*, 36.

This state of affairs was also linked to the recognition that the guarantor of the practical application of fundamental civil rights and freedoms was, in a socialist state, the attitude of the Communist Party, which exercised a leading role in the state.⁶⁰ “But it is also correct to say that a citizen should be a citizen, and the extent to which in a concrete situation he is so treated by the state organs depends on the existing atmosphere of public life, which is always decisively influenced by the ruling party.”⁶¹

A characteristic feature of the legislation of the period of the People’s Republic of Poland was its generality, which made it possible to interpret the law very broadly. This also applies to the guarantees of fundamental rights included in the Constitution of 1952. A good example of this is the provision introducing the guarantee of freedom of conscience and religion both in the individual and institutional dimensions. Marxist-Leninist ideology in its assumptions excluded the existence of churches, considering religion to be the opium of the people, a superstition that was to be replaced by an atheistic ideology.⁶² However, due to the attachment of Polish society to faith and the Church, in fear of social agitation, the Constitution of the People’s Republic of Poland did not introduce the principle of an atheist state, but only a secular one, without specifying the type of separation – hostile or friendly. Such a general formulation gave the opportunity for free interpretation and clarification of the type of separation through legislation. The choice of hostile separation as a model for the relationship between the state and the Church in the People’s Republic of Poland is evidenced, for example, by the 1953 decree on the filling of clerical church positions,⁶³ which made the assumption of the position of, for example, parish priest, conditional on the consent of the state authorities. Also the guarantee of the free exercise of religious functions by the churches was only a guarantee remaining on paper, which is confirmed by the difficulties that the Catholic Church in particular had to face when wanting to organize a procession or pilgrimage.⁶⁴ The law in books and law in action were totally different.

The analysis of the academic literature that formed the basis for the development of this paper is thought-provoking. The basis for the considerations undertaken in this article is the literature of the period of People’s Poland from the 1950s to the 1980s. The vast majority of the publications cited replicate the same phrasing, the authors reach identical conclusions, which means that whenever the reader reaches for another monograph, they get the impression that they already read this in another book. Nowadays, when we reach for books analysing the principles of the political system or the provisions of the Constitution, we often find there different interpretations, the authors’ points of view dif-

⁶⁰ Siemieński, *Podstawowe wolności*, 274.

⁶¹ *Ibid.*

⁶² See: Lenin, “Socjalizm a religia,” 78–9 (Archive of the Institute of National Remembrance, branch in Kraków, IPN Kr 0179/201, vol. 1).

⁶³ Dekret o obsadzaniu duchownych stanowisk kościelnych z 1953 r. [*Decree of 9 February 1953 on the filling of clerical church positions* (Journal of Laws of 1953 no. 10 item 32)].

⁶⁴ “[...] introduce difficulties and restrictions with regard to disloyal clergy. For our division here the matters of applications for permission for public collections and assemblies outside the precincts of places of worship will come into play in the first place. Basically the same guidelines are maintained for B.C. [Corpus Christi] processions.” National Archive in Kraków, PWRN Obyw. 211, confidential official note of a working meeting at the Social and Administrative Department of the Ministry of the Interior in Warsaw on 27 April 1963, k. 41.

fer. On the other hand, it can be said that in the era of the People's Republic of Poland there was only one correct line of interpretation explaining the provisions of the Basic Law. In that time there were only very few such issues and provisions of the Constitution that authors argued about or interpreted in different ways. There were minor divergences, e.g. regarding the division of the fundamental rights and freedoms of citizens or the slightly different understanding of these rights (to a very limited extent, some authors would grant some rights not only to citizens, but to everyone on a humanistic basis). This uniformity in the interpretation of constitutional principles probably resulted from the source that was considered fundamental for the creation of law in People's Poland, i.e. the Marxist-Leninist ideology and socialism as a social system. Therefore, the identity of the names of the rights and freedoms guaranteed in the Constitution of 1952 with those provided for in the Basic Law of 1997 cannot be misleading. What is different nowadays is the source of these rights, i.e. the inherent dignity of the human person. Also different is the subjective scope of their recipients, i.e. every human being regardless of their citizenship or origin (of course, there are exceptions here, e.g. concerning the electoral right or the right of association). The analysis of the academic literature of the People's Republic of Poland era used in this paper also leads to the conclusion that it was a constant practice to juxtapose the understanding of fundamental civil rights and freedoms under socialism with their understanding in bourgeois states. To a very wide extent, sometimes even wider than just a description of the phenomenon in the light of the socialist concept, the same was presented in capitalism to prove the superiority of socialism as a system ensuring the equality of citizens, the reality of the guarantee of fundamental rights and the striving to extend them as a result of the common effort of the working people of towns and villages, as the subject to whom power in the People's Republic of Poland belonged.

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