

## Discourse versus praxis: European union, policies and human (i) legal status

Ana Campina\*, Law Department, Portucalense University, 4200-072 Porto, Portugal

### Suggested Citation:

Campina, A. (2018). Discourse versus praxis: European union, policies and human (i) legal status. *Global Journal of Sociology: Current Issues*. 8(2), 037–042.

Received from May 05, 2018; revised from August 20, 2018; accepted from September 01, 2018;

Selection and peer review under responsibility of Mustafa Gunduz, Cukurova University, Turkey.

©2018 SciencePark Research, Organization & Counseling. All rights reserved.

---

### Abstract

One of the most powerful instruments to the politic, juridical and judicial and society life is the Discourse. This is the origin and the consequence in the human beings/citizens life, behaviour and 'position' facing the different contexts. The European Union being an Organisation where the Human and Fundamental Rights are in the top of all legally stated actions, within internal or international context, it is proved that there are serious and different gaps between the official discourse and the effective praxis with prejudice to the promotion, protection and defending the European citizens as the migrants or refugees. The European policies and laws are enough to prevent violations and actions against the supposed protection, but the violation is constant. Portugal is a study case as we assisted to an important evolution but there is integration passivity or social absence action of the migrants.

**Keywords:** European union, rhetoric, education, human rights.

---

\* ADDRESS FOR CORRESPONDENCE: **Ana Campina**, Law Department, Portucalense University, 4200-072 Porto, Portugal.  
E-mail address: [acampina@upt.pt](mailto:acampina@upt.pt) /

## 1. Introduction

The present research based on the gap between the discourse and the praxis, a dangerous context/reality dissimulated through manipulation of the information and, consequently, the Public Opinion. European Union (EU) has a cultural way of acting as well as the transparency law that should be the hindrances of this divergence. However, EU is facing serious Human/Social problems needing more than 'new' legislation, policies implementation, assumption of the realities of the problems and an action concerted between all EU member states and the International Relations looking forward, not only for the immediately solutions but also developing the society based on a solid structure protecting and promoting the Human Rights and the European Fundamental Rights. Therefore, the aim of this study is to prove that the discourse is different from the praxis.

In Portugal, as a study case, we assisted to a Human Rights paradigm changing, around the world, but especially visible in EU due to different causes: terrorist attacks and the extremely security international measures; the anti-Semitic ideology proliferation, the racism and discrimination dangerous rates; renew Refugees waves; the economic crisis conducting millions to the real poverty; social capacity absence to understand and (re)act according to the needs, facing the violence and Rights violations.

The political, social, economic and cultural pressure is (too) high, the 'powers' are important and need if are according to the law limits and aiming the 'governance art', i.e., politics but there are too many pressures, mostly negative. Nevertheless, there are simple, easy and cheap measures that would be implemented with immediately positive consequences.

Analysing the EU policies, the discourses and the most important official speeches; the Mass Media position and 'action'; the known and 'supposed' pressures to the political and social powers; the security concerns and its real needs and serious failings; the social/Public Opinion 'images' and perceptions related with the effective questions and the EU and the International Relations concerning the Human Rights protection and promotion positioned in the social realities.

The qualitative research is being scientifically important which results within political science, European (social, legal and/or cultural) studies as well as by the International Relations. The EU Refugees Crisis, which real dimension is not possible to identify now, would be an opportunity to develop the social democratic intervention by pedagogical programmes to engage the citizens as a political and social actor within the democratic concern. The xenophobia, racism and discrimination are serious problems, EU is facing without the control need, would be decreased by the Human Rights 'scientific' knowledge and understanding for a humanitarian social general behaviour.

In fact, the political rhetoric is not enough to change Public Opinion but it is a start point to promote an overview and Human (re)conceptualisation of contexts and happenings, pedagogically controlled by the re-education for 'new' perceptions, 'positions' generating (social and individual) behaviours away of the controversy and negative complexity. Through a concerted action of politicians, policies, EU and especially the society acting to their own protection by a normal and natural humanity and solidarity!

## 2. European union, policies and human rights

The present research based on the gap between the discourse and the praxis, a dangerous context/reality dissimulated through manipulation of the information and, consequently, the Public Opinion. EU has a cultural way of acting as well as the transparency law that should be the hindrances of this divergence. However, EU is facing serious Human/Social problems needing more than 'new' legislation, policies implementation, assumption of the realities of the problems and an action concerted between all EU member states and the International Relations looking forward, not only for the immediately solutions but also developing the society based on a solid structure protecting and

promoting the Human Rights and the European Fundamental Rights. Therefore, the aim of this study is to prove that discourse is different from the praxis.

### 3. Human rights, European union and the 'refuges crisis' and the Portugal as a study case

Considering Portugal as a study case within EU, it is important to state that the Refugees is a subject in the Political actuality agenda, a society conversation object and the media recurrent new. In fact, according to this research, the fundamental question is not the importance given in this country and/or society, but the way of deal with it. The rhetoric and the praxis are not connected, developing and proliferating distorted information with consequences in the Public Opinion.

The migrations and the Refugee Legal Status in Portugal have been the object of an urgent and emergent intervention within the Education for Human Rights, but inward of a dangerous discourse utopia. This is not new in the Portuguese History, if we have in mind the 'Estado Novo', the repressive and oppressive regimen lead by Antonio de Oliveira Salazar during almost 40 years, as well as in the beginning of the democracy in the 70's and 80's from 20th century, it is understandable that there is an important evolution but the genetic of the rhetoric is still alive. So, studying and developing a scientific research about Human Rights in general, and the titled Refugees Crisis in particular, require an historical context explanation although being necessarily short.

The Human Rights<sup>a</sup> in Portugal were legally recognised by the first democratic Republic Constitution from 1976<sup>b</sup> what is a great evolution for the country, society and the development of the Portuguese History. In addition, there is a Refugee Status<sup>c</sup>, in the juridical and judicial scenery what is an important instrument concerning the protection of the Fundamental and Human Rights of the people in this special legal situation. However, there is a serious 'absence of literacy' concerning the effective identification, recognising and interpretation of the migration and specially the Refugees and their legal protection as well as the obligation/need of reception and integration.

Defining the Portuguese Refugee legal Status as the person who 'being afraid by the persecute reason for their race, religion, nationality, filiation in a certain social group or their political opinions, being abroad the country from their nationality and cannot be or, due to the fear, do not want to ask for the protection to that country; or if they do not have nationality and being abroad of the usual residence, after different happenings cannot or do not want to be back'<sup>d</sup>

It is important to enforce the legal obligatorily to support and protect the Refugees. Although the biggest part of the Portuguese society does not have enough knowledge about the legal normative, there is a serious absence of education for the law and the real Refugees situations. So, consequently at national (Portuguese) level, as well as the EU context, facing the same social, legal human vacuum, the education is the need and the solution to promote a true integration and social behaviour. There

---

<sup>a</sup> Human Rights should be understood as the Universal based on the International documents, namely the United Nation ones, protecting, defending and promoting these rights to all human beings.

<sup>b</sup> With the democratic Portuguese Constitution from 1976, the Human Rights achieved the political and legal status of Fundamental Rights. So, in all Portuguese legislation there was a crucial change in the protection of all Portuguese society. According to the International Law this was one of the most important evolution gained from the democratic implementation. Finally, considering the EU this a fundamental legal element and nowadays the Portuguese, European and International Law is implemented and protected in Portugal, defending and promoting the most significant values assisting the citizens and collective people, independent of their nationality, including the stateless people, although the different problems faced.

<sup>c</sup> Law n. 15/98 from 26th March stated by the legal-juridical concerning the Asylum and Refugee policy.

<sup>d</sup> United Nations Geneva Convention from 1951 about Refugee Status. This structure the previous legal international documents about the thematic and promote a more efficient international codification of the refugees' rights. This Convention stablish the base normative of the human being treatment who assume this Status despite the authoritative power to allow the States implement the deliberations. In Portugal, after the legislative process with several limitations, the Status came into force in 1976: Decreto-Lei n.º 43 201, 1st October 1960, changed by the Decreto-Lei n.º 281/76, 17th April, published in Diário da República n.º 91/76.

is a legal responsibility, more than the emergent solidarity and humanitarian behaviour and actions, but a social psychology and attitude involving everyone, all European citizens. So, obviously those security actions should be implemented but without tampered concepts generating wrong perspectives as looking the Refugees, as intruder's human beings, undervaluing the serious situation of all of them, considering them as potential terrorists or threats. The Education for the Human Rights concerning all these questions should be developed by the Public Opinion that should be informed to be able to understand the context, the legal situation and the dramas they are facing. In fact, Portugal and EU should protect and promote Human Rights and EU Fundamental Rights, and Education is the key of changing.

The research results confirm the need of the diagnostic and denounce the Human Rights violations, the social violence (visible and invisible in society), developing a concerted social pedagogical action, according to the needs of each country, to construct a proactive society aiming the effective inclusion of the Refugees and Migrants within the EU and each country legal structures. However, this 'work' need to be implemented in different concerns based on the responsibility, the conscience of the realities, identifying the interests and the needs. This is an official (State) mission but an institutional and individual responsibility.

Especially, due to the different wars, Europe lived a serious demographic mutation, a geopolitical and a geostrategic important change with political, legal and social consequences. This has been a process from the beginning of the 20th century, but until the actuality, the process is being developed and Europe is trying to develop the stability, but due to the most several reasons, this is not in the level supposed to be to protect all European citizens and the migrants (in Refugee situation, or not).

The International Relations with EU as Organisation, as well as the EU states members, are based in Human Rights by the law, as this is the context where the titled 'Refugees Crisis' and Migration movements of millions; however, the need of Education should be one of the first aims to prevent suffering, violence and including the deaths of millions. This is complex, but it cannot be ignored or tolerated by the absence of the (in)formation. The danger of the general tolerance with this serious problem, including the (apparent) transitory situations, by the human point of view, has to be prevented by the (re)Education for Human Rights.

The difficulties of the implementation of this Education for Human Rights, in the most different contexts and to the most different recipients, would be alleviated by the concerted action. Despite all the hindrances (important and difficult to overcome), there are powerful actors in all these needs/interests/reality concerns/effective solutions: the Social Media Communication, from the political agents as well as the social educators: families, teachers, Security Forces, National, European and International authorities, Companies and Social Institutions. According to the International System and within the World Order, the Governmental and Non-Governmental Organisations should be not only focused in Security and in their scopes but also in a teamwork looking for this dramatic statistics reduction as a reflex of the Human Being protection.

Finally, the absence or the reduced number of the denounces are promoting the violence and violation of Human Rights, so these concerted actions and the liability as the motivation to solve the real problems are really urgent, as the prevention of all 'Human Traffic'; the Political interests against the Human Rights effective movements and investments; the occult powers at all levels and actions against these Human Beings.

If the *discourse* is one of the most important and powerful instruments, regrettable is not a reflex of the reality, due to the manipulation and changed (in)formation. This is not only dangerous but also a serious movement against the protection and promotion of the Human Rights in general, as the Refugees in particular.

#### 4. Conclusion

Hannah Arendt said that all human activities are conditioned due to the men live all together; however, any action can only be figured out of the man society. This support the human capacity to act the equality, human and conscience of the ethic, moral and civic of each human being, what only happen if we have information and knowledge supporting the opinions and the consequent actions. However, first, everyone should be able to define and understand the Human Rights in all their life concern, and this is the first difficulty that should be worked by the Education.

The discourse, from all the 'structures' and pronounced by the most different 'actors' are mostly far from the reality, so it should be always faced as an important and powerful instrument, but easily manipulated with serious consequences to the societies improving the problems affecting the Human Rights.

Looking the past (history), to understand the present and construct the future, the Education is not just a United Nations, EU and most of the Democratic States strategy and law but one of the most efficient and powerful strategies and instruments.

World and Humanity dimensions, despite all constraints, the Education for Human Rights is not an option but a need and a social and International law obligation that should be faced as a priority, preventing all violence and promoting a renewal society based on Human values.

#### References

- Arendt, H. (2001). *A condicao humana*. Lisboa, Portugal: Relogio de Agua.
- Campina, A. (2013). *Antonio de Oliveira Salazar: Discurso Político e 'retorica' dos Direitos Humanos*. Salamanca, Spain: Ediciones Universidad Salamanca. Coleccion Vitor.
- Arjona Ramirez, M. (2006). *Predicao linear harmonica para processamento espectral e temporal de sinais de voz. Tese (Livre Docencia)—Escola Politecnica*. Sao Paulo, Brazil: Universidade de Sso Paulo.
- Ballestros, M. (2005). *Los democristianos y el proyecto político de cuadernos para el dialogo. 1963–1969*. Salamanca, Spain: Ediciones Universidad de Salamanca.
- Bessis, S. (1998). Os direitos do homem e a sua historia, In M. A. Combesque [Dir.]. *Introducao aos direitos do homem*. Lisboa, Portugal: Terramar.
- Bobbio, N. (1992). *A era dos direitos*. Rio de Janeiro, Brazil: Campus.
- Bulygin, E. (1997). *Sobre el status ontologico de los derechos humanos*. *Revista Doxa*, no 4. Alicante, Spain: Universidad Alicante.
- Brandao, P. (2002) Salazar—Cerejeira, a 'força' da Igreja—Cartas Ineditas do Cardeal-Patriarca ao Presidente do Conselho. Lisboa, Portugal: Editorial Noticias.
- Callaway, R. L. & Harrelson-Stepdhens, J. (2007). *Exploring international human rights: essential readings*. Boulder, CO: Lynne Rienner.
- Cunha, P. (2003). *Direitos Humanos—teorias e práticas*. Edições Almedina. Coimbra.
- CUNHA, P. (2003). *Política Mínima*. Edições Almedina. Coimbra.
- CRUZ, M. (1997). António de Oliveira Salazar—Inéditos e Dispersos I—Escritos Político-Sociais e Doutrinários (1908–1928). Bertrand Editora. Venda Nova.
- Cruz, M. (1999). *O Estado Novo e a Igreja Católica*. Editorial Bizâncio. Lisboa.
- Filibeck. (2000). *Direitos do Homem de João XXIII a João Paulo II*. Principia. Cascais.
- Gaspar, J. (2001). *Os Discursos e o Discurso de Salazar*. Prefácio Editora. Lisboa.
- Gil, J. (2005). *Salazar: a retórica da invisibilidade*. Editora Relógio d'Água. Lisboa.
- Foucault, M. (2005). *A arqueologia do saber*. Edições Almedina. Coimbra.
- Fukuyama, F. (1992). *O fim da história e o último homem*. Edições Gradiva. Lisboa.
- Matos, H. (2003). *Salazar—A construção do mito*. Vol. I. Temas & Debates. Lisboa.
- Mourgeon, J. (1981). *Os direitos do Homem*. Publicações Europa-América. Lisboa.
- Nader, P. (2003). *Filosofia do Direito*. Forense. Rio de Janeiro.

Campina, A. (2018). Discourse versus praxis: European union, policies and human (i) legal status. *Global Journal of Sociology: Current Issues*. 8(2), 037-042.

Paine, T. (1998). *Direitos do Homem*. Publicações Europa-América. Lisboa.

Perez Luño, A. (1999). *Derechos Humanos, Estado de Derecho y Constitución*. Ediciones Tecnos. Madrid.

Salazar, A. (1919). *A minha resposta. No processo de sindicância à Universidade de Coimbra*. França Amado. Coimbra.

Velasco Arroyo, J. C.(1990). Aproximación al concepto de los derechos humanos, in *Anuario de Derechos Humanos*. Facultad de Derecho. U.C.M. nº 7. Madrid.