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## Secção

# Investigação Científica / Scientific Research\*

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## Problems of Restricting Human Rights in Civil Society

### Problemas de restrição dos direitos humanos na sociedade civil

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**ABSTRACT:** The purpose of the research is to identify the main problems of the restriction of human rights within the analysis of civil society. A qualitative approach was employed, incorporating the analysis of legal documents, academic literature, news sources, and statistical reports. For the selection of studies, six inclusion criteria were used, which were related to the appropriateness of the topic and content. Using them, 38 items of scientific literature and other sources were selected for analysis. Those countries characterized by a high level of civil society development were considered: USA, France, Germany, Great Britain, and Turkey. The results determined that the main criteria of public society are determined by a high level of market economy, private property, democracy, openness, and participation in international organizations. However, the results show that a significant number of individuals in the EU and the US report workplace discrimination that violates fundamental human rights guarantees under the Universal Declaration of Human Rights (UDHR) and the European Convention on Human Rights (ECHR). The decisions of *A v. the United Kingdom* (2004) and *Handyside v. the United Kingdom* (1976) illustrate the legal debate on restrictions on human rights. The study identified the need to strike a balance between the interests of state security and the protection of individual freedoms.

**KEYWORDS:** civil society, human rights, problems, limits, criminal procedure

**RESUMO:** O objetivo da investigação é identificar os principais problemas da restrição dos direitos humanos no âmbito da análise da sociedade civil. Foi utilizada uma abordagem qualitativa, incorporando a análise de documentos legais, literatura académica, fontes noticiosas e relatórios estatísticos. Para a seleção dos estudos, foram utilizados seis critérios de inclusão, relacionados com a adequação do tema e do conteúdo. Com base neles, foram selecionados para análise 38 artigos da literatura científica e outras fontes. Foram tidos em conta os países caracterizados por um elevado nível de desenvolvimento da sociedade civil: EUA, França, Alemanha, Grã-Bretanha e Turquia. Os resultados determinaram que os principais critérios da sociedade pública são determinados por um elevado nível de economia de mercado, propriedade privada, democracia, abertura e participação em organizações internacionais. No entanto, os resultados revelam que um número significativo de pessoas na UE e nos EUA denuncia discriminação no local de trabalho que viola as garantias fundamentais dos direitos humanos ao abrigo da Declaração Universal dos Direitos do Homem (DUDH) e da Convenção Europeia dos Direitos do Homem (CEDH). As decisões *A contra o Reino Unido* (2004) e *Handyside contra o Reino Unido* (1976) ilustram o debate jurídico sobre as restrições aos direitos humanos. O estudo identificou a necessidade de encontrar um equilíbrio entre os interesses da segurança do Estado e a proteção das liberdades individuais.

**PALAVRAS-CHAVE:** sociedade civil, direitos humanos, problemas, limites, processo penal.

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## 1. Introduction

Currently, civil society plays a foundational role in the development of a democratic system. In this context, issues of restriction of rights and freedoms become important. Civil society provides a system of institutions and human relations that operate independently of the state and ensure the realization of the basic rights of citizens. However, even in developed democracies, there may be cases in which the rights of certain population groups are limited. These groups may face restrictions on their rights due to various reasons, such as ethnic, local, political, or economic factors. Modern works have proven that one of the main problems is balancing the need to protect national security with the observance of the rights and freedoms of citizens<sup>3</sup>. Recent studies have demonstrated that individual states can use inherent national security arguments to limit rights, including those related to freedom of speech and the right to assembly. In some cases, such restrictions can be justified in emergency situations; however, the active or systematic application of these measures can lead to the growth of authoritarianism, and therefore, the violation of key democratic norms.

The purpose of this work is to characterize the main problems of the restriction of human rights within the framework of the analysis of civil society. The research questions are as follows:

1. What are the defining characteristics and functions of civil society in the context of human rights protection?
2. Which areas of civil society experience the most significant restrictions on human rights, and what are the underlying causes?
3. What legal and institutional mechanisms exist to prevent human rights violations within civil society?

## 2. Methodology

### 2.1. Research Design

This study is based on a qualitative approach, which involved the analysis of

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<sup>3</sup> CHANEY, Paul. Shrinking Civil Space? Exploring State and Civil Society Perspectives on the Contemporary Situation of Human Rights Defenders in South Asia. *Journal of South Asian Development* [online]. 2022, 097317412211199 [viewed 30 July 2024]. ISSN 0973-1733. Available from: doi:10.1177/09731741221119935; KAMEL, Islam. The role of robotics and automation in surgery: critical review of current and emerging technologies. *Futurity Medicine* [online]. 2023, 2(1), 23–35 [viewed 30 July 2024]. Available from: doi:10.57125/FEM.2023.03.30.03

various types of sources: websites, legislative documents, and scientific literature (chapters of monographs, books, articles, materials from conferences, etc.).

## 2.2. Data Collection

The study includes scientific literature and international legal documents<sup>4</sup>.

Data collection involved selecting the main scientific juridical metric databases: Westlaw, LexisNexis, HeinOnlin and Scopus. Keywords such as civil society, rights, development, limitations, and problems were entered into this searchable database. A total of 6,456 results were obtained. However, all duplicates were initially discarded (-2,976 results). After that, all non-relevant studies were discarded (-1,856 results). The date range was then shortened: from 2018 to 2024. This indicator did not apply to fundamental works on democratic development, particularly the studies of A. Tocqueville. These actions resulted in 1,387 results. After a brief analysis of the titles, 443 items, which the author of the paper assessed as not relevant to the study, were discarded. This left 544 results.

1. The study should describe the genesis of civil society, that is, the study should analyse the historical development, theoretical foundations and social prerequisites for the formation of civil society.

2. The work should highlight the main mechanisms, models and regulatory and legal aspects of its activities.

3. The study should include an analysis of key components, such as non-governmental organizations, human rights initiatives, public movements and independent media.

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<sup>4</sup> In particular, the study includes the following primary sources:

*International Human Rights Treaties:* Universal Declaration of Human Rights (UDHR) (1948) – Articles 19 (freedom of expression), 20 (freedom of assembly), and 21 (political rights); International Covenant on Civil and Political Rights (ICCPR) (1966) – Articles 18 (freedom of thought and religion), 19 (freedom of expression), 21 (freedom of assembly), and 22 (freedom of association); International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966) – Relevant to restrictions on social rights; European Convention on Human Rights (ECHR) (1950) – Articles 10 (freedom of expression) and 11 (freedom of assembly and association); American Convention on Human Rights (1969) – Similar protections as the ECHR but in the Inter-American system.

*Constitutional Law:* United States Constitution – First Amendment (freedom of speech, press, assembly, and religion); German Basic Law (Grundgesetz) – Article 5 (freedom of expression) and Article 8 (freedom of assembly); French Constitution – Guarantees rights under the Declaration of the Rights of Man and of the Citizen.

*Key Court Decisions:* European Court of Human Rights (ECtHR); *A v. the United Kingdom* (2004); *Handyside v. the United Kingdom* (1976); United States Supreme Court; *New York Times Co. v. United States* (1971) – Press freedom and government censorship.

4. The study should mention cases or general trends of human rights restrictions in the context of civil society.

5. The study should include a detailed description of the methodological approach, including methods of data collection and analysis.

6. Time range for scientific literature: from 2018 to 2024.

Using criteria 1, 2, and 3, 156 results that did not relate to civil society were screened out. Using criteria 4 and 5, another 287 positions were rejected.

### 2.3. Data Analysis

For data analysis 45 positions of scientific sources were chosen. The initially selected materials were divided into those related to civil society, those related to rights violations, and those describing both the first and the second points. Initially, to determine the main components of civil society based on the analysis, the first and third groups of materials were processed. After that, the second and third groups of materials were analyzed to identify the main cases of human rights violations. The synthesis method was then used to combine the results.

### 3. Literature review

The theoretical foundations of the chosen issues are contained in well-known scholars of political theory. Ronald Dworkin introduced the theory of rights as “Trump cards”. He argued that human rights are fundamental and cannot simply be weighed against the public interest<sup>5</sup>. Scholars point out that his theory implied that restrictions on rights are possible only in extreme cases. Given the phenomenon of civil society, this theory can explain why legal restrictions should be justified and proportionate. For this reason, the “theory of justice” developed by John Rawls is important<sup>6</sup>. This scholar developed a concept in which fundamental freedoms should be guaranteed for all. His “principle of difference” allows us to determine that there are certain restrictions on rights if they are justified to protect the least privileged groups. The theory of communicative action and the public sphere developed by J. Habermas suggests that civil society is an important space for public debate. It is here that the mainstream public opinion is formed. Restrictions on human rights can undermine this space,

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<sup>5</sup> DWORKIN, Ronald. Taking Rights Seriously. *Political Science Quarterly*[online]. 1978, **93**(2), 337 [viewed 13 March 2025]. ISSN 0032-3195. Available from: doi:10.2307/2148620

<sup>6</sup> RAWLS, John. Justice as Fairness: Political Not Metaphysical. In: *Equality and Liberty*[online]. London: Palgrave Macmillan UK, 1991, pp. 145–173 [viewed 13 March 2025]. ISBN 9780333538456. Available from: doi:10.1007/978-1-349-21763-2\_10



especially if they are aimed at censoring or suppressing activism<sup>7</sup>. This problem has received a rather detailed description in the scientific world<sup>8</sup>. Scientists have focused on various elements of human rights compliance in modern realities, but also on certain restrictions that advance together with threats of a global scale.

Chaney, for example, emphasized this element when examining the development of rights and freedoms in the Association of Southeast Asian Nations (ASEAN). He identified the important role that regional political structures have on the work of civil society<sup>9</sup>. Gell approached the understanding of the modern meaning of civil liberties differently: in her opinion, the discourse on human rights is undoubtedly important for the protection of individual freedoms and dignity, but it is not always acceptable for the implementation of social transformations<sup>10</sup>.

On the other hand, First made a rather critical assessment of human rights: in his opinion, the fixation on the right to work is not enough, because the reality can be such that people cannot provide themselves with a sufficient standard of living due to low wages or unstable working conditions<sup>11</sup>. The discourse on human rights and their development is thus evolving towards further improvement of the interpretation of basic human rights.

Other researchers emphasize the importance of countering human rights restrictions and developing certain strategies to reduce the negative impact of such restrictions<sup>12</sup>. Temporary restrictions on human rights are discussed in studies devoted

<sup>7</sup> FLYVBJERG, Bent. Habermas and Foucault: Thinkers for Civil Society? *The British Journal of Sociology*[online]. 1998, **49**(2), 210 ISSN 0007-1315. Available from: doi:10.2307/591310

<sup>8</sup> BIRCHALL, David. The role of civil society and human rights defenders in corporate accountability. In: *Research Handbook on Human Rights and Business* [online]. Edward Elgar Publishing, 2020, pp. 422–445 [viewed 30 July 2024]. ISBN 9781786436405. Available from: doi:10.4337/9781786436405.00030

<sup>9</sup> CHANEY, Paul. Civil Society Perspectives on Rights and Freedoms in the Association of Southeast Asian Nations. *European Journal of East Asian Studies* [online]. 2023, **22**(3), 193–228 [viewed 30 July 2024]. ISSN 1570-0615. Available from: doi:10.1163/15700615-02203005

<sup>10</sup> GELL, Marissa. Limitation of Human Rights Discourse in Ushering Transformative Change. *Crossings: An Undergraduate Arts Journal* [online]. 2023, **3**(2) [viewed 30 July 2024]. ISSN 2816-5209. Available from: doi:10.29173/crossings143

<sup>11</sup> FIRST, Chen. Are the Laws Still Poor? Reflections on the Right to Work Limiting the Right to an Adequate Standard of Living. *LSE Law Review* [online]. 2023, **8**(3), 322–367 [viewed 30 July 2024]. ISSN 2516-4058. Available from: doi:10.61315/lse.lr.463

<sup>12</sup> HEINZEL, Mirko, and Mathias KOENIG-ARCHIBUGI. Harmful Side Effects: How Government Restrictions against Transnational Civil Society Affect Global Health. *British Journal of Political Science* [online]. 2022, 1–18 [viewed 30 July 2024]. ISSN 1469-2112. Available from: doi:10.1017/s0007123422000564



to the impact of Russian aggression against Ukraine since 2014<sup>13</sup>. It is important to note that such restrictions covered a wide set of rights; in particular, changes were made to the understanding of the right to education<sup>14</sup>.

Separate studies are important for understanding the development of processes of building elements of civil society in certain countries. For example, Luciani traced how cooperation with the EU influenced the formation and support of civil society in Azerbaijan. Luciani used the concept of “selective visibility” to describe the strategies used by the EU to provide support to civil society organizations while maintaining a balance between diplomatic relations and human rights protection<sup>15</sup>.

Other scholars note the negative impact of COVID-19 on the rights and freedoms of citizens, emphasizing the need for a balance between the protection of public health and the observance of human rights<sup>16</sup>. The importance of cross-cultural cooperation, including in terms of jurisprudence, was emphasized by Sayed<sup>17</sup>.

Modern authors used different methodologies for research. These works provide insights into understanding various aspects of the development of human rights, civil society, and social problems. Understanding the complex social problems of our time and the negative manifestation of globalization indicates the relevance of further research into such issues. The regional aspect, political situation, traditions, and external influences can have a negative impact on the protection of civil liberties and the formation of civil society.

## 4. Results

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<sup>13</sup> KHALYMON, Serhiy, Vadym POLOVNIKOV, and Pavlo VOLYNETS. Socio-psychological Profile of a Person Who Confidentially Provides Assistance to the Operational Unit. *Anuariode Psicologia Jurídica* [online]. 2020, **30**(1), 13–20 ISSN 2174-0542. Available from: doi:10.5093/apj2019a10

<sup>14</sup> HRUZEVSKYI, Oleksandr. A Systematic Analysis of the Impact of the Military Conflict on the Distance Education System in Ukraine. *E-Learning Innovations Journal* [online]. 2023, **1**(1), 71–87 [viewed 30 July 2024]. ISSN 2957-2207. Available from: doi:10.57125/elij.2023.03.25.04

<sup>15</sup> LUCIANI, Laura. Navigating a ‘Shrinking Space’: Selective In/Visibilities and EU Engagement with Civil Society in Azerbaijan. *Europe-Asia Studies* [online]. 2023, 1–24 [viewed 30 July 2024]. ISSN 1465-3427. Available from: doi:10.1080/09668136.2023.2267196

<sup>16</sup> MARSZAŁEK-KAWA, Joanna, and Kateryna HOLOVKO. Limitations of Human and Civil Rights in the Era of the COVID-19 Pandemic and the Activity of the State and Law. *Bratislava Law Review* [online]. 2023, **7**(1), 89–100 [viewed 30 July 2024]. ISSN 2644-6359. Available from: doi:10.46282/blr.2023.7.1.339

<sup>17</sup> SAYED, Ruslan. Exploring Cultural Influences on Project Management Approaches in Global Business Development. *Futurity of Social Sciences* [online]. 2023, **1**(4), 38–60 [viewed 30 July 2024]. Available from: doi:10.57125/fs.2023.12.20.02

It is appropriate to distinguish between the essential understanding of civil society in two senses: in the narrow sense, as a non-political society or civil community, and in the broad sense, as a political society, that is, any established social relations, forms, and institutions that are not subject to direct government regulation. This distinction helps determine the origin of civil society in the history of human civilization. This article's author calls attention to the broad, objective elements that contribute to the historical growth and establishment of civil society. Specifically, the first significant aspect is the existence of private property rights within a nation's economic structure<sup>18</sup>. Since private property is the most advanced institution in a democratic civil society, it both determines and necessitates its existence in all its varied and unique forms. The second aspect is the economic and historical component linked to the development of a market economy in any nation. A democratic society must construct an economic relations system that follows its own set of rules to foster other freedoms<sup>19</sup>. The process of evolution of a democracy as a social state and political technology is the third factor that supports the processes of social consolidation of a conscious community.

In any nation, democracy, as a socio-political system in one form or another, not only necessitates civil society but also actively promotes its growth and development<sup>20</sup>. Publicity and the corresponding general public awareness that it fosters are essential to the functioning of civil society because they allow people to understand social problems, recognize political and economic situations realistically, and take appropriate action to address them. In essence, public organizations are established amateur (non-governmental), non-profit groupings of citizens that were formed voluntarily with the goal of defending collective rights and achieving a variety of common goals<sup>21</sup>.

<sup>18</sup> SMIDT, Hannah, Jessica JOHANSSON, and Thomas RICHTER. Civil Society Under Attack: The Consequences for Horizontal Accountability Institutions. *Studies in Comparative International Development* [online]. 2024 [viewed 30 July 2024]. ISSN 1936-6167. Available from: doi:10.1007/s12116-023-09423-x

<sup>19</sup> REYES MENENDEZ, Valeria. The Role of Civil Society in National Human Rights Protection Systems. In: *A Global Handbook on National Human Rights Protection Systems* [online]. Brill | Nijhoff, 2023, pp. 42–55 [viewed 30 July 2024]. ISBN 9789004535046. Available from: doi:10.1163/9789004535053\_004

<sup>20</sup> ALIEVA, Leila. Azerbaijan and the impact of the lack of democratisation on relations with the EU. *European View* [online]. 2014, **13**(1), 39–48 [viewed 30 July 2024]. ISSN 1865-5831. Available from: doi:10.1007/s12290-014-0292-8

<sup>21</sup> CARDENAS GONZALES, José Rolando. Freedom of expression in electoral processes A question of limitation of rights or self-limitation of freedom of expression? *CentroSur* [online]. 2023, **7**(2) [viewed 30 July 2024]. ISSN 2600-5743. Available from: doi:10.37955/cs.v7i2.310

The restriction of human rights in civil society must comply with three key principles: necessity, proportionality and legitimacy. These principles are central to international human rights law and are confirmed by numerous official documents. These are interests such as national security, public order, or the rights of others. This is defined by the International Covenant on Civil and Political Rights (ICCPR). Article 19(3) of this document states that freedom of expression may be restricted only if it is necessary “for the protection of the rights or reputations of others or of national security, public order, or public health or morals”<sup>22</sup>. Furthermore, Article 21 states that the right to peaceful assembly may be restricted “in the interests of national security or public safety, public order, or the protection of public health or morals”. Similar considerations are contained in the European Convention on Human Rights (ECHR). Article 10(2) states that restrictions on freedom of expression are permissible “in a democratic society” if they are “necessary” to achieve a legitimate aim. Article 11(2) contains similar provisions regarding freedom of assembly. An example is also the decision of the European Court of Human Rights (ECtHR), in particular the case of *Handyside v. UK* (1976). In this case, the court determined that “necessity” implies the existence of a “pressing social need”. The principle of proportionality stipulates that if a restriction of a right is necessary, it must be minimally burdensome and comply with the stated aim. This implies that the state cannot impose stricter restrictions than are reasonably necessary. Such considerations are contained in official documents, particularly the ICCPR (1966), Article 4(1) provides for restrictions on rights only in a public emergency, but they must be “strictly proportionate” to the threat.

At the same time, the principle of legitimacy implies that the restriction of rights must pursue a certain legitimate aim, which is determined by international law. The ECHR (1950) states that restrictions are permissible only “in a democratic society” to protect “the rights of others, national security, health or morals” (See Table 1).

**Table 1. Principles in international law and the practice**

Principle	International documents	Case law	Examples from countries
Necessity	ICCPR Art. 19(3), 21 (restrictions on freedom of expression and assembly)	<i>Handyside v. UK</i> (1976) – “pressing public need”	USA Patriot Act (2001) UK Counter-Terrorism Act (2006), which has implications for restricting freedom of

<sup>22</sup> BUTT, Areeba. International Covenant on Civil and Political Rights (ICCPR). *SSRN Electronic Journal*[online]. 2024 ISSN 1556-5068. Available from: doi:10.2139/ssrn.4856071

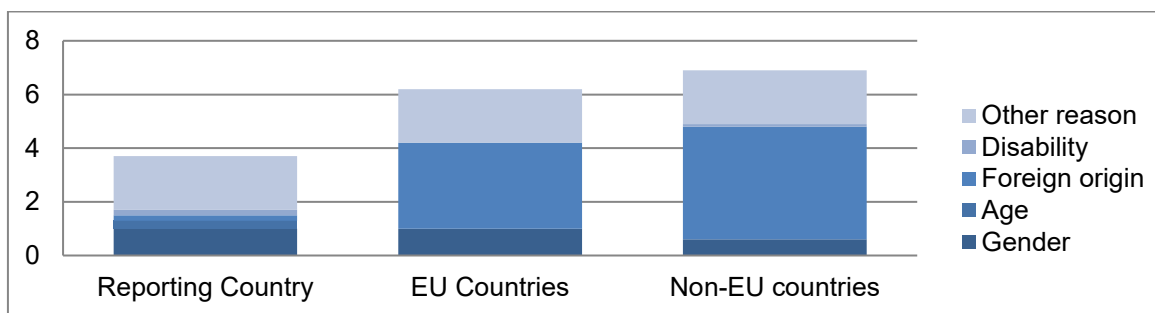
	ECHR Art. 10(2), 11(2)		assembly. France Permanent state of emergency following 2015 terrorist attacks Turkey Mass arrests following 2016 coup attempt.
Proportionality	ICCPR Art. 4(1) (restrictions in times of emergency) ECHR, Protocol No. 15	Sunday Times v. UK (1979) – measure cannot be excessive A v. UK (2004) – prolonged detention of terrorism suspects disproportionate	USA Restrictions on entry for citizens of Muslim countries (Trump v. Hawaii, 2018). France Ban on wearing the burqa (2010) found proportionate by the ECHR. Germany Online censorship law (NetzDG, 2017) limits disinformation but criticized for being excessive. In Turkey, the closure of 150 media outlets since 2016 was found disproportionate by the OSCE.
Legitimacy	ICCPR Art. 19(3) (protection of national security, public order) ECHR, Art. 10(2) (democratic society)	The Observer and The Guardian v. UK (1991) – censorship is only possible in the interests of national security	USA PRISM program justified by counter-terrorism. UK Espionage Act (2023) introduces new restrictions on media. Germany Legitimate restriction of freedom of speech to combat extremism. Turkey Blocking social media is often justified by threats to national security.

Source: author's development

According to Eurostat data, 3.2 million women and 3.6 million men in the EU between the ages of 15 and 74 reported experiencing discrimination at work in 2021. The primary reason for the discrepancy between these two figures was the proportion of males (0.2 million) versus women (1.6 million) who reported experiencing gender-based discrimination. Findings from the 2021 Labour Force Survey (EU-LFS) module show that the proportion of employed individuals who experience workplace discrimination varies based on their place of birth (Self-perceived discrimination at work, 2021). Within the European Union, those born outside of the EU reported higher rates of discrimination at work (7.7% for males and 8.8% for women), with those born

inside the EU having lower rates (5.4% for men and 7.5% for women).

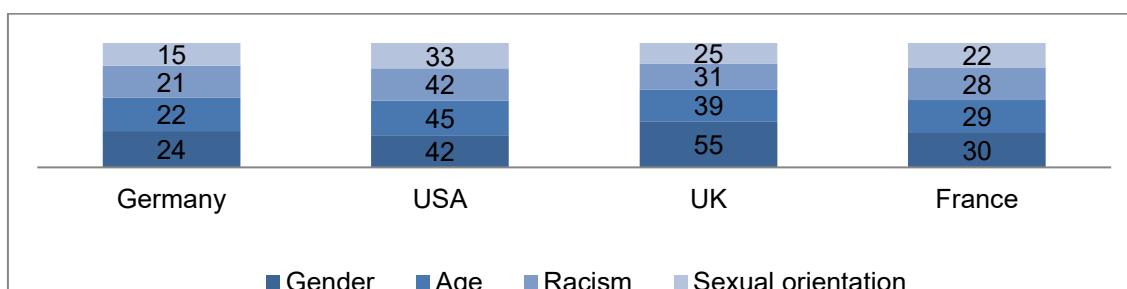
**Figure 1. Total statistical data for men and for women**



Source<sup>23</sup>

Moreover, three out of five U.S. employees have witnessed or experienced discrimination based on age, color, gender, or sexual orientation, despite the fact that businesses are increasing their commitment to diversity and inclusion. This is supported by a recent Glassdoor poll, which also revealed that discrimination is a problem not limited to the United States and is prevalent in France, the United Kingdom, and Germany. It also affected 55% of British workers, 43% of French workers, and 37% of German workers (see Figure 2).

**Figure 2. Failure to Observe Human Rights Due to Discrimination in Selected Countries**



Source<sup>24</sup>

Another important indicator is access to quality education. In the concept of civil

<sup>23</sup> Self-perceived discrimination at work - statistics - StatisticsExplained. *Language selection | European Commission* [online]. 2021. [viewed 30 July 2024]. Available from: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Self-perceived\\_discrimination\\_at\\_work\\_-\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Self-perceived_discrimination_at_work_-_statistics)

<sup>24</sup> How Common Is Workplace Discrimination? *StatistaDaily Data* [online]. 2019. [viewed 30 July 2024]. Available from: <https://www.statista.com/chart/19761/discrimination-experienced-by-respondents-in-the-workplace/>

society, education and access to it play a crucial role. For EU countries, the level of education is high; however, according to the observations of scientists, cases of hostility are not so often noticeable here<sup>25</sup>. The USA, on the other hand, serves as a more striking example. Child Trends, a non-partisan research institute that studies child data, claims that educational aspirations are lower for black youngsters. Black parents don't anticipate their kids to get as much schooling as white parents do because they are often less educated than their white counterparts. Reduced expectations lead to self-fulfilling prophecies, which in turn cause students to have lower expectations, less positive attitudes toward learning, fewer possibilities for after-school study, and less communication between parents and children about school.

After formal education starts, disparities persist. In the 2011–2012 school year, almost 140,000 students were held back in kindergarten. Black students are disproportionately held back, even though a growing body of data indicates that keeping kids back has negative social and academic effects and increases their likelihood of dropping out in the future. Black kids made up 34% of those held back in the ninth grade, when retention rates peaked<sup>26</sup>.

So, in the leading countries of civil society, racial discrimination can manifest in various forms. For example, it can occur through racial profiling by law enforcement agencies and unequal access to education and employment. At the same time, racial discrimination can lead to segregation in the housing sector<sup>27</sup>. The impact of religious discrimination can also manifest in social isolation and marginalization of religious minorities, and limited access to employment and economic opportunities<sup>28</sup>.

<sup>25</sup> ILLMEIER, Gertraud, Daniela MUSSNIG, and Franjo STEINER. On the Significance of Civil Society for Liberal Democracy – Perspectives from the Caucasus, South-Eastern and Central Europe. *DerDonauraum* [online]. 2020, **60**(4), 41–58 [viewed 30 July 2024]. ISSN 2307-289X. Available from: doi:10.7767/dedo.2020.60.4.41

<sup>26</sup> COOK, Linsey. U.S. Education: Still Separate and Unequal The data show schools are still separate and unequal. [online]. 2015. [viewed 30 July 2024]. Available from: <https://www.usnews.com/news/blogs/data-mine/2015/01/28/us-education-still-separate-and-unequal>

<sup>27</sup> BUYSE, Antoine. Squeezing civic space: restrictions on civil society organizations and the linkages with human rights. *The International Journal of Human Rights* [online]. 2018, **22**(8), 966–988 [viewed 30 July 2024]. ISSN 1744-053X. Available from: doi:10.1080/13642987.2018.1492916

<sup>28</sup> WIDYANTI, Yenny Eta. Human rights and Indonesian legal protection of traditional cultural expressions: A Comparative Study in Kenya and South Africa. *Jurisdictie: Jurnal Hukum dan Syariah* [online]. 2024, **14**(2), 315–334 [viewed 30 July 2024]. ISSN 2528-3383. Available from: doi:10.18860/j.v14i2.24318; ETUVOATA, Anthony Ebruphihor. Towards Improved Compliance with Human Rights Decisions in the African Human Rights System: Enhancing



Gender discrimination manifests itself in wage inequality and career opportunities, limited access to certain professions or roles, and gender-based violence<sup>29</sup>. The impact of gender discrimination can result in economic inequality and dependency, increased risk of violence, and its consequences for physical and mental health. Ultimately, manifestations of discrimination based on sexual orientation involve various restrictions on the right to marry and adopt children, violent actions and persecution by society, discrimination at the workplace and in educational institutions, etc. (see Table 3).

**Table 3. Discrimination Processes**

Discrimination based on race	
Manifestations	Racial profiling by state and law enforcement institutions Unequal access to education Unequal access to employment Social marginalization Economic marginalization Segregation in the housing system
Impact	Limited opportunities for quality education Limited opportunities for professional development Limited opportunities for economic growth Limited access to quality healthcare
Discrimination based on religion or belief	
Manifestations	Discrimination in education Discrimination in the labor market Stereotypical attitudes Restrictions on freedom of religion Restrictions on the exercise of religious practices
Impact	Social exclusion Marginalisation of religious communities Limited opportunities for professional development Limited opportunities for economic growth Psychological stress due to persecution Restrictions on reproductive rights
Discrimination on the basis of gender	
Manifestations	Inequality in the professional field Inequality in wages Restrictions on access to education or a particular profession Insufficient access to social services
Impact	Economic inequality

the Role of Civil Society. *Human Rights Review* [online]. 2020, **21**(4), 415–436 [viewed 30 July 2024]. ISSN 1874-6306. Available from: doi:10.1007/s12142-020-00603-z

<sup>29</sup> ZAITSEV, Serhii. The role of management accounting in the sustainable development of small enterprises: an analytical review of challenges and opportunities. *Law, Business and Sustainability Herald* [online]. 2023, **3**(1), 33–45 [viewed 30 July 2024]. Available from: <https://lbsherald.org/index.php/journal/article/view/42>



	Economic dependence Violence Limitations in personal development Limitations in professional development
Discrimination based on sexual orientation	
Manifestations	Restrictions on the right to legal marriage Restrictions on the right to adopt children Violence Persecution Discrimination at work or in education Lack of legal protection against discrimination
Impact	Social isolation Stress Limited access to social assistance Limited access to legal aid Economic difficulties Increased risk of violence

Source: author's development

At the same time, on the example of the events that took place in the major countries of the world, it is possible to trace specific cases when the arguments for defending national security were used to limit the rights and freedoms of citizens in different countries and regions. Besides, in the USA after the terrorist attacks in 2001, Patriot Act that was objected to expand the government's powers to track people suspected of terrorism. Modern scholars emphasized that the law was criticized for violating privacy<sup>30</sup>. After the terrorist attacks, the United States created a prison in Guantanamo Bay to hold terrorist suspects without formal charges and judicial processes. Another example is the situation in France in 2015. After active terrorist attacks in Paris, the French government imposed a state of emergency. It allowed the police to search and detain without a warrant.

## 5. Discussion

Considering the purpose of this study, namely the analysis of the main problems of non-compliance with human rights in the context of civil society, several important results have been identified that require a more detailed discussion. First, it was

<sup>30</sup> NATIL, Ibrahim. Introducing barriers to effective civil society organisations. In: *Barriers to Effective Civil Society Organisations* [online]. Abingdon, Oxon ; New York : Routledge, 2020.: Routledge, 2020, pp. 9–19 [viewed 30 July 2024]. ISBN 9781003053040. Available from: doi:10.4324/9781003053040-2; LIN, Feng. The Two Philosophical Thoughts of Pluralism – Hegel and Wittgenstein's Reflections on Pluralism. *Futurity Philosophy* [online]. 2024, 3(1), 4–22 [viewed 30 July 2024]. Available from: doi:10.57125/fp.2024.03.30.01

established that the main features of a civil society are the presence of private property, a developed economy, a formed institution of democracy, openness, and the presence of various public associations. Other researchers who have studied the phenomenon of civil society have also emphasized that components such as pluralism, active public participation, responsibility and transparency, and respect for human rights and freedoms are also important<sup>31</sup>. According to the author of this work, these elements are also important, but most likely they refer to the institution of democracy, as shown in this work. Therefore, without belittling the opinions of other scientists but emphasizing the results of this study, we believe that these elements are only components of such a phenomenon as democracy. The results of this study confirm A. Tocqueville's opinion that there are dangers for the democratic system (the foundations of civil society)<sup>32</sup>. In particular, the scientist emphasized the extreme politicization of the system. The French liberal noted that parties which do not defend principles, but material interests bring negativity to the democratic order

The results of this research indicate that restrictions on human rights in civil society are often justified by the principles of necessity, proportionality and legitimacy<sup>33</sup>. While these principles serve as safeguards to prevent arbitrary restrictions, their application varies across jurisdictions, often leading to conflicts between state security interests and individual freedoms. The Basic Law of the Federal Republic of Germany<sup>34</sup> enshrines human dignity as inviolable (Article 1), setting high standards for assessing restrictions on human rights. This perspective is especially relevant in case A v. UK (2004), where the European Court of Human Rights ruled that the indefinite detention of terrorism suspects was a disproportionate measure. The

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<sup>31</sup> LOMAKA, Victoria, Ivan YAKOVIYK, and Yevhen BILOUSOV. Europeanisation and Its Impact on Candidate Countries for EU Membership: A View from Ukraine. *Access to Justice in Eastern Europe* [online]. 2023, 6(2), 59–81 [viewed 30 July 2024]. ISSN 2663-0583. Available from: doi:10.33327/ajee-18-6.2-a000221; REZVOROVYCH, Krystyna, et al. Application of law as a special form of its implementation: trends for the future. *Futurity Economics&Law* [online]. 2023, 3(1), 28–35 [viewed 30 July 2024]. ISSN 2956-4476. Available from: doi:10.57125/fel.2023.03.25.03

<sup>32</sup> DE TOCQUEVILLE, Alexis. Democracy in America. In: *The Two Narratives of Political Economy* [online]. Hoboken, NJ, USA: John Wiley&Sons, Inc., 2011, pp. 179–207 [viewed 30 July 2024]. ISBN 9781118011690. Available from: doi:10.1002/9781118011690.ch12

<sup>33</sup> International Covenant on Civil and Political Rights. *United Nations* [online]. 1966. Available from: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>; European Convention on Human Rights [online]. [no date]. Available from: [https://www.echr.coe.int/documents/d/echr/convention\\_ENG](https://www.echr.coe.int/documents/d/echr/convention_ENG)

<sup>34</sup> Basic Law for the Federal Republic of Germany. *Gesetze im Internet* [online]. [no date] Available from: [https://www.gesetze-im-internet.de/englisch\\_gg/englisch\\_gg.html](https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html)

Universal Declaration of Human Rights<sup>35</sup> affirms the right to security, but as evidenced by US surveillance programs such as PRISM, national security measures often infringe on civil liberties<sup>36</sup>.

The most common manifestations and forms of non-observance of rights in civil society are discrimination based on race, religion, sexual orientation, and gender. These findings are also widely supported in the scientific literature. Scientists have emphasized the widespread nature of religious prejudices, which occur not only in certain political processes but also in everyday affairs, including the workplace<sup>37</sup>. Recommendations for ensuring human rights at the broadest level have also repeatedly become the subject of wide discussion at the international level. This is confirmed by the opinions of scientists regarding the extent to which these norms are relevant for modern life.

The proposed results make it possible to identify racial discrimination as an actual problem of our time. This confirms the views of other researchers who consider it an important task of jurisprudence to regulate and eliminate such discrimination, both at the international and regional levels<sup>38</sup>. At the same time, some researchers tend to see elements of crisis in modern civil society due to its inability to provide equal rights to all nationalities<sup>39</sup>. More relevant are the opinions of scientists regarding the fact that turning to authoritarianism does not allow for the disappearance of bias or the provision

<sup>35</sup> HUMAN RIGHTS U.S.A. *Universal Declaration of Human Rights*. Minneapolis, Minn: Human Rights USA Resource Center, 1998.

<sup>36</sup> International Covenant on Civil and Political Rights. *United Nations*[online]. 1966. Available from: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

<sup>37</sup> GILS, Eskevan. EU relations with Azerbaijan and the post-Soviet region over time. In: *Azerbaijan and the European Union* [online]. Routledge, 2019, pp. 44–67 [viewed 30 July 2024]. ISBN 9780429488481. Available from: doi:10.4324/9780429488481-3; GOSZTONYI, Gergely. The Practice of Restricting Internet Access Before the European Court of Human Rights or New Tools of Political Censorship. In: *Censorship from Plato to Social Media* [online]. Cham: Springer International Publishing, 2023, pp. 147–156 [viewed 30 July 2024]. ISBN 9783031465284. Available from: doi:10.1007/978-3-031-46529-1\_10; PROKOPENKO, Olha. Experience of Implementing E-Learning to Support the Educational Process in EU Countries during the COVID-19 Pandemic: A Bibliometric Review. *E-Learning Innovations Journal* [online]. 2023, 1(1), 55–70 [viewed 30 July 2024]. ISSN 2957-2207. Available from: doi:10.57125/elij.2023.03.25.03

<sup>38</sup> LORCH, Jasmin. Civil Society Between Repression and Cooptation: Adjusting to ShrinkingSpace in Cambodia. *Journal of Current Southeast Asian Affairs* [online]. 2023, 42(3), 395–420 [viewed 30 July 2024]. ISSN 1868-4882. Available from: doi:10.1177/18681034231214397

<sup>39</sup> BOLLEYER, Nicole. Civil Society, CrisisExposure, and Resistance Strategies. In: *Routledge Handbook of Illiberalism* [online]. New York: Routledge, 2021, pp. 939–956 [viewed 30 July 2024]. ISBN 9780367260569. Available from: doi:10.4324/9780367260569-68

of human rights<sup>40</sup>. On the contrary, civil society with the appropriate development of the legal framework makes it possible to ensure human rights and their observance at the appropriate level<sup>41</sup>. The presence of such discussions stimulates further scientific research in the field of jurisprudence, as it looks like a promising theoretical basis for the formation of broader generalizations in the future.

The limitations of this study may relate to the chosen methodology, particularly the qualitative approach. Without diminishing the importance of the selected works, subjectivism may be present in research. The author of this work attempted to address this by validating the results, specifically by comparing different types of sources and results from various authors.

## 6. Conclusions

So, the essence of civil society is revealed in two aspects: narrow, as a non-political society, and broad, as a political society that is not subject to direct government regulation. The main factors in the development of civil society are the existence of private property, the development of a market economy, and the evolution of democracy. Civil society is supported by publicity and general awareness, as well as by constitutional guarantees and relevant legislation, including criminal procedure legislation. However, despite these achievements, the issue of non-compliance with human rights remains open in the civil societies of the USA, Germany, France, and Great Britain.

The study found that the development of civil society is affected by problems related to discrimination and inequality. A significant number of women and men in the EU have reported discrimination in the workplace. However, discrimination based on race, religion, gender, and sexual orientation remains a widespread problem that limits the rights and freedoms of citizens. Access to quality education and health services is also uneven, further deepening social and economic inequality. These problems underscore the urgent need for further development and strengthening of civil society

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<sup>40</sup> TRAN, Kien, and Khoi Trong DAO. "Desperate times, desperatemeasures": an appraisal on Vietnamese law's limitation of rights in the COVID-19 crisis. *Cogent Social Sciences* [online]. 2024, **10**(1) [viewed 30 July 2024]. ISSN 2331-1886. Available from: doi:10.1080/23311886.2024.2350558

<sup>41</sup> FOA, Roberto stefan, and Grzegorz EKIERT. The weakness of postcommunist civil society reassessed. *European Journal of Political Research* [online]. 2016, **56**(2), 419–439 [viewed 30 July 2024]. ISSN 0304-4130. Available from: doi:10.1111/1475-6765.12182

to ensure equal rights and opportunities for all citizens.

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