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**Philosophy of care: social rights and the individual**

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## Streszczenie

W proponowanym artykule podejmujemy zagadnienia praw jednostki oraz praw społecznych; nasza analiza opiera się na myśli filozoficznej Mordecaia Roshwalda ucznia Martina Bubera, który szukał uzasadnienia ludzkiego bycia w świecie w kontekście umiarkowanego realizmu metafizycznego oraz epistemologicznego.

**Słowa kluczowe:** Mordecai Roshwald, filozofia troski, prawa jednostki, prawa społeczne, pluralizm, demokracja, relacje, wybory.

## INTRODUCTION<sup>1</sup>

The desire to understand reality prompted us to write an article, under the title: **Philosophy of care: social rights and the individual**, because all of us seeking to understand ourselves, others and the natural world, and also the society in which we lived. Ongoing dialogue with the past allows us to look at the human reality from the perspective of the experience of others that have occurred in previous centuries. We can say that the consciousness of history allows us to learn from the past, which was marked by totalitarianism, genocide, persecution on grounds of origin, religion or political convictions. Article has two parts: the first issue closer social rights, on the other hand the issue of individual rights. set it in the context of philosophical thought Mordecai Roshwalda.

### 1.

Social human rights are the domain of Western culture, which goes back to its roots in Athenian democracy. In vain look for them in the tradition of the East. Similarly, the subjectivity of the "invention" of western philosophy. Her look at the body results in an ethical and moral pluralism, economic, worldview. Western society has based on the tradition and culture of the Greek and Roman law.

Although over the centuries people were recognized in different ways, for example: in the Middle Ages, Western literature according to the scheme presented society: priests, warriors, peasants. In the poem Adalbert Leon says: "(...) the society creates a community of believers only one body, but the state is composed of three bodies. Because human law distinguishes between two classes: nobles and subjects (...), the former are warriors, guardians of the Church, are the protectors of the great and small (...), while they guarantee safety to themselves. Another class is the class of servants, whatever it is unfortunate tribe - is at the

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<sup>1</sup> This article is based on materials collected and published in a monograph: *Meeting of the philosopher with the reality. On research of Mordecai Roshwald's philosophical thought.*

cost of his effort. (...) Subject to supply all in everything (...). We see the king, the nobles, prelates, they become slaves of their slaves (...)."<sup>2</sup> And so the "house of God regarded as one is divided into three parts: some praying, others are struggling, others finally work."<sup>3</sup>

The varied world of medieval features a structure in which the most important was the role of the Church. It has called for unity, cohesion of a society that had to be one body (corpus), whose members were the various categories of feudal subordinate one's head - the Pope. In modern times, a major role was played by an entity within the meaning of Descartes, who in philosophy led to the coup involving the departure from the object to the subject. Author philosophy of the subject, having worked out the concept of an individual does not try to determine what the relationship and the relation between the individual and the community. Did not specify the definition of society based solely on scholastic notion of *Societas amoris*, but understood it quite differently than in the era of scholasticism. He said that a man is developing himself becoming functioning on the basis of the absolute "I", only in some cases it is necessary to ontic relationship to another person. Perhaps to be the subject is to realize himself infinitely by reason and virtue.

Although Descartes defines community as the primary fact established by God, although from the one side the subject is essentially a social and community by its nature is determined by conscious of individuals active in the community and, secondly, that to be the community need to be aware of the individual. In other words, the Cartesian speaks that a man is an individual, and the community was established together with the man, and the subject came up, without his community. The social world does not born men as men, even though the body lives and moves and is present in it, but the community is created by individuals.

Cartesian thoughts on the society seems absurd, because a person lives in a specific group of macro and micro even born in a society that defines the customary marriage. In the post Cartesian era changed the view of society and its laws. Descartes believed that we might keep the laws of God, but to discover them, must based on reason. To choose what probably is true based the reason *ratio*.

In the era of enlightenment the people created social rights and slogans such as: liberty, fraternity, and equality. Totalitarianism has rejected any desire for freedom, and

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<sup>2</sup> Cyt za: J. Le Goff, *Kultura średniowiecznej Europy*, Volumen i Klon, Warszawa 1994, s. 261.

<sup>3</sup>Ibidem

brotherhood based on the ideas of the individuals that have lead people to happiness and virtue. However, social rights based on the personality cult which by nature close opportunity to take free decisions, free expression, and social justice.

Democracy, which is alive in the modern world in its assumptions strives to meet the just needs of individuals. The universality of democracy does not mean that the whole world should conform to patterns of democratic culture. This culture is that there is a minimum set of rights, which state anywhere in the world should not be broken, such as the right to life, the right to express their views and beliefs, the right to association, the right to travel, the right to free choice of preserving freedom of " another ".

Determination of the minimum social rights should be the subject of public debate, which should be taken into account as a carrier of human rights: "(...) we are the carriers of rights, because nature has given to us: do not kill, do not steal, do not bear false witness, it is not positive law, but natural, applicable to all, regardless of political, religious or economic."<sup>4</sup> Moreover, the debate in the democratic countries, such as: the right to life cannot be a place of justification for the breaking of human rights in the name of supposed progress pluralistic.

Reflecting on the universality of rights should also be aware of the risks:

1. Some flow from operations democratically elected governments,
2. Others are dictatorial,
3. The third related to the violation of the rights deriving of traditional customs and some religious norms.

In the case of such violations should clearly identify violations of social rights. Unfortunately, the coincidence of the dictatorship of the most effective weapon is a revolution, not necessarily military, but changing social consciousness.

In the case of democracy, the main means of action should be education, the creation of conditions conducive to the search for truth. If the source of a violation is religious traditions and habits cannot be changed by decree, or sanctions. The change must be in social mentality, attitudes through education, international cooperation, and enculturation.

Social rights in a democracy strikingly similar to human relationships, but in the plurality system can freely develop relationships, which in turn leads that one of the parties has an advantage and the possibility of a sustainable use of coercion against another just as

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<sup>4</sup> M. Roshwald, *The Alienated Moralist in An Enemy of the People*, Modern Age, Vol. 46, s. 231.

the state in relation to society, such as: "The child in the family and at school. Female wherever it is economically and physically subordinate to man. The patient in the hospital, especially in the psychiatric ward. (But in the case of state schools, kindergartens, hospitals, as well as in the military, in prison and other closed institutions, human rights should be applied directly.)

In all such cases, the analogy with the state is so obvious that it's probably worth extend the application of human rights as well for them, because without a shield weaker cannot have a sense of security and cannot defend the dignity. Yet the protection of human dignity is universally recognized as a human rights grounds, perhaps is the only thing that many representatives of different philosophies of rights are agreed."<sup>5</sup>

This means that a person in a democracy should not be treated on the basis of common agreement as a tool. Proclaimed slogan "social rights" in recent years, in a democratic system, it got a huge career, for example: in the name of protecting society from terrorism is used torture. The laws are often identified as any needs of societies.

Social rights are primarily to meet basic needs and aesthetic. It is worth mentioning that the laws made in many cases ignores the natural law in order to meet the needs of a particular social group. In the last century came the flower children movement whose primary aim was a free love and pacifism, as a result of the U.S. government stiffened its position on armed conflict for the sake of reason of state.

In Europe, at that time gave birth to the economic power whose primary objective was to maintain the status quo, in order to maximize the financial benefits, such as: the sale of contraceptives are harmful to health. An important element of social rights covers a range of human needs, which is considered as a basic safety, in addition to aesthetic needs on the ground of mental and physical. However, in a democratic system power has the means of coercion, which as a result of misinterpretation may threaten the population "(...) a power in free elections based on the service protects all of society, otherwise social rights are being violated for the benefit of those in power (...) politicians, parties (...) "<sup>6</sup>

Consequently, when it comes to abuse of social rights, a person feels cheated and manipulated, but due to the term of office shall not affect the provisions of the law. Despite this those who are ruling should meet the needs related to quality of life and equality with the

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<sup>5</sup> W. Osiatyński, *Przyszłość praw człowieka*, Tygodnik Powszechny nr 37, 15 września 2002.

<sup>6</sup> M. Roshwald, *Democracy and Elite*, Modern Age, Spring 2003, Vol. 45, s. 149.

law and social justice, for a man meets many of his needs on the basis of social relations through laws.

Indisputable nature of social rights to participate in public life means that democracy is often equated with human rights, and all claims against the democratic government as they are formulated in terms of rights.<sup>7</sup> Social law in a democratic state, the choice of authorities is only the form and method of making the decision: "(...) it must be based on freedom and taken by majority vote. The law is contrary to the natural law should be abandoned because of the harm to the rights of the individual and society."<sup>8</sup>

The selection process in a democracy is the way most sets applicable to all standards of conduct, and shall divide the shared resources that are not in abundance for all, which is done by the parliamentary resolution.<sup>9</sup> Resolutions may not infringe the rights of minorities, such as: believers or non-believers. Social rights limit the freedom of the legislature. Parliament cannot rely on the public good to enter the law contrary to nature. Rights also protect against the majority of acting in the interest of the public good. These asset piercing both the principle of democracy and the principle of the common good.<sup>10</sup>

In addition, as noted by Professor Roshwald logic of social rights is different than for logic and the laws that govern, for people looking for solutions to improve quality of life, and the rulers take specific ideology and vision of society while attempting to unify laws and standards on the basis of political ideas economic: "(...) a modern democracy based on political opposition, it is dissatisfied with the government's work and wants to overthrow it (...). Although rarely take the opposite point of view of opponents, however, use the work to the public supported the new ideas for the quasi-public good."<sup>11</sup>

This is the tension between the right of social and democracy: the more there is the constitutional protection of the rights then there is less in the community place for compromise, the less freedom in the choice of targets by parliaments, the more power, gaining the courts, especially the Constitutional. So should exercise restraint in the recognition of

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<sup>7</sup> W. Osiatyński, *Przyszłość praw człowieka*, Tygodnik Powszechny nr 37, 15 września 2002.

<sup>8</sup> Ibidem; J. Bartoszewski, *Rozmowa "A" z prof. M. Roshwaldem*, maszynopis 1-28, 14-17 V, Sieradz 2012, s. 18.

<sup>9</sup> Ibidem, *Przyszłość...*, opr. cyt., 15 września 2002.

<sup>10</sup> Ibidem; M. Roshwald, *A Small Armageddon*, Oxford, London 1962.

<sup>11</sup> Ibidem, M. Roshwald, *Paths through mankind's perplexities*, Hardcover, New York 2008, rozdz. A., p. 3.

rights than the bare minimum and do not dress in robes of interest laws. That's why most mature democracies separates the constitutional rights of public policy objectives.

## 2.

Democracy in the modern world implies pluralism of rights, including the rights of the individual. The basis of a democratic system is to determine the rights of each individual person. While the general consensus as a choice on the basis of the majority, but to solve problems in which one of the parties objects to the majority, must be based on natural law. Liberal democracy cannot discriminate against minorities, political, religious, or ethnic: "(...) democracy has developed, with the active participation of citizens in the governance of the country, a system that reflects care and protect human dignity and guarantee the rights of the individual.

The dignity and rights must be protected for all residents of the state and do not discriminate against law-abiding citizens without violating the basic concept of human dignity. The concept of individual rights should be the foundation of any democratic state. The inseparable nature of decision-making and choices requires the opinion of individuals, and at the same time affirming the will of the nation. However, human dignity, (...) requires that certain rights for every citizen, (...) eliminating the mindless will of the majority. The majority should not be allowed to be right only for the chosen citizens, so should do everything to prevent from the power of the regime which is contrary to liberal democracy."<sup>12</sup>

Rights of the individual, or otherwise to put human rights to protect it from the totality of the government. While the legislature may impose restrictions or obligations on the individual, such as paying taxes, and military service for the common good, but not the tools to make law enforcement.

The individual rights already said by the Magna Carta of King John Lackland released in 1215 and consisting of 63 articles. In the last article we read: "Quare volumus Firmiter precipimus et quod Anglicana ecclesia libera sit et quod homines in regno nostro et teneant omnes habeant prefatas libertates, Jura, et Concessionones, bene et in pace, libere et quiete, plena et integre, sibi et heredibus suis de nobis et heredibus nostris, in omnibus rebus et locis, in perpetuum, Sicut predictum est. Juratum est car there ex parte nostra quam ex parte baronum, quod hec omnia supradicta bona fide et sine litle ingenio observabuntur. Testibus supradictis et multis aliis. Data per manum Nostra in grass quod inter vocatur Ronimed

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<sup>12</sup> Ibidem

Windlesoram et Stanes, quinto die dccimo Junii, anno regni nostri decimo septimo."<sup>13</sup> Magna Carta, although related to the feudal order was the first document that defined the rights of the individual in the system of monarchy.

In 1689 the Lords Chamber was introduced in England limitation of royal power in favor of parliamentary powers. In Europe, most of the rights of the individual were subject to monarchical authority. In the United States, after winning the war of independence made the Constitution, which guaranteed all, which was associated with an inalienable human right to freedom, right to life, to change their place of residence, freedom of religion, and freedom of political views.

The Constitution is the guardian of those rights assured individual behavior of its fundamental rights, they cannot be affected by the legislative, executive and judicial. Although the Supreme Court had the right to interpret the provisions of the Constitution, but if this interpretation was inconsistent with other paragraphs, this meant that the judges made a mistake. Additionally, you may be issued with one interpretation revoke or modify the basis with the referendum. Thus, in a democratic country one of the basic principles, the relationship between the individual and the state was the principle of the protection of citizens' trust in the state and its laws. The principle of individual trust to the state and its laws should be based on the natural law that ensure the safety of the individual and ensure that decisions are consistent with the norms of social coexistence.

The individual should therefore be able to determine both the consequences of specific behaviors and events under applicable at the time the legal status, as well as expected, that the legislature did not change them in an arbitrary manner.<sup>14</sup>

Legal security of the related law will allow so predictable actions of authorities and forecasting activities of the "organized political power in order to protect a country or a nation governed so a citizen feel safe when making decisions within the borders of the natural law (...). This action is based on basis of the cognitive apparatus of the individual, as well as through established control certain types of business, financial (...). The control functions are not rigidly defined and may vary depending on the country, one or the other and generations, but they must bear in mind the rights of the individual so that he may exist in the country where he was born."<sup>15</sup>

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<sup>13</sup> Magna Carta, art. 63, <http://www.magnacartaplus.org/magnacarta/latin.htm>, stan z dnia 05.07.2014r.

<sup>14</sup> Presentation by Dr. Janusz Kochanowski, Ombudsman at the scientific conference "Language Polish legislation, namely intelligibility and application of the law", December 7, 2006 Warsaw.

<sup>15</sup> Ibidem, *Paths through mankind's perplexities ...*, dz. cyt., rzdz. A, p. 5.



The law cannot therefore be entitled to rely solely on the callousness of legalism, but on the freedom of a citizen as a condition of responsibility for the state. Anticipating and making choices based on some knowledge of the law, allow to a person the organization to life issues and taking responsibility for his own decisions. Sort of legal security is also correlated with the dignity of a person, as a manifestation of the law of respect for the individual as an autonomous being and rational.<sup>16</sup>

## CONCLUSION

To conclude this lecture we would like to emphasize that the attempt to apprehend Mordecai Roshwald philosophical dissertation in the subject line: Philosophy of care: social rights and the individual, was the way of knowledge and deepening social and individual rights of individuals in the context of the philosophy of care. The study showed support, as we think about philosophical problems of human reality. The solutions proposed by our author, we have identified a philosophy of care can serve man as a "Socratic admonition."

Our author saying too much about the world he saw in it many elements of affirming man, even though he said that the present tends to self-destruction through self-centered and pluralistic reading of reality without reference to the truth, which should be based on ethical and moral standards.

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<sup>16</sup> Ibidem

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