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DILEMMAS OF LIBERAL DEMOCRACY

The subject of the essay are two basic problems, relevant to the rational justification of the democratic and liberal principles of social life. The first concerns the logical and empirical arguments for the adequacy of a liberal project, the second – its intrinsic coherence. In practical terms “the problem of adequacy” may be formulated in the following way: why in the fundamental conflict of the 20th century between liberalism and various kinds of ideologies and totalitarian practices, does one have to stay on the side of philosophy and practice of freedom for everyone, in conditions of limited state under the rules of law.

The problem of coherence then becomes a practical dilemma: how to reconcile social inequalities, which are inseparable from economic freedom and immanent in a free market economy, with a common aspiration to equality and justice in a law-abiding state?

The fact that contemporary liberal literature refers to mutually exclusive arguments for adequacy and coherence of liberal democracy reveals the lack of satisfactory, from the point of logic and practice, solutions to these two basic methodological and practical questions of contemporary liberalism.

The main goal of the essay is to prove the statement presented above.

1. INTRODUCTION

Under the term “liberal democracy” we will denote “liberal project” of society life organization according to two basic groups of principles:

1. The principle of organization of economic activity through individual enterprise in the free market economy (which are called “principles of free competition capitalism” or “liberal economic principles”),

2. The principle of the power of the majority and of basic human rights guaranteed by the state of law (called: “principles of democratic state of law” or “liberal political principle”).

Liberal economic principles, in their normative form, postulate such organizational and legal solutions which allow unlimited production, purchase and sale of everything that can be produced, purchased and sold, free choice of profession and economic activity. These unlimited activities create “the system of economic freedom” which is expressed in the free flow of capital, labour and goods (free exchange of property and type of business activity).

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Liberal political principles, in normative terms, postulate such judicial and political solutions that guarantee the exercise of social rights and freedom in free competition of ideas and political concepts. These solutions, called “the system of political freedom” in liberal project, are expressed in the idea of “the rule of law”.

In the liberal project it is also presumed that the system of economic freedom is a necessary condition for “the system of political freedom”. The law of economic freedom allows only for such an intervention of “rule of law” in economic activity which, firstly, would not interfere with free trade and free competition, and secondly, are necessary because it is impossible to finance them from the profits of a private economy.

The attempts of confirmation of the liberal principles of social life in the intellectual tradition of liberalism usually appealed to various philosophical concepts of natural law (Smith 1954; Misess 1990; Hayek 1982; Friedmann 1994) or utilitarian behaviour theory (Mill 1959; Rawls 1994; see also Gray 1994 and Manet 1994).

All the previous attempts of the formulation of natural law theory, which would fulfil logic and experience requirements, have not given satisfactory results. A similar situation pertains to the utilitarian behaviour theory (Gray 1994, pp. 61–73).

The justification of the adequacy of economical and political liberalism formulated by K. Popper in his fundamental work *The Open Society and its Enemies* should be regarded as representative for the second half of the 20th century. This attitude stays in opposition to both speculative theories of natural law and Hegelian-Marxist concepts of history.

The confrontation of the Popper position with the well-known views of F. Fukuyama on liberal democracy (Fukuyama 1996 and 1997), conducted in part 1 of this essay which refers among others to Hegel’s philosophy, allows to recognize the “problems of adequacy” in contemporary liberalism after the defeat of its main ideological adversary – communism.

In the tradition of liberalism, besides the “problems of adequacy”, the matter of coherence of postulated principles is discussed, especially the principle of economic freedom and principle of equality and justice – immanent in democratic rules of law. Two ideological and political streams in contemporary liberalism: “classical-orthodox liberalism” and “social liberalism” (or modernized liberalism) are political signs of controversies about the substantiality of the mentioned principles and their coherence in the frames of unitary social project.

In part 2, confronting the “classical” and “modernized” solution of “coherence project”, we come to a conclusion that the conflict of liberal law is a constitutive property of this project.

Part 3 is devoted to the justification of the above thesis. We analyse the relation between the “principle of rational economy”, which is inseparable from “economic freedom system”, and the principles of equality and justice postulated in liberal project.

2. THE PROBLEMS OF ADEQUACY

Over 50 years ago Popper wrote *The Poverty of Historicism* and then *The Open Society and its Enemies*. Both these works express the same fundamental belief, namely that the methodological doctrine of historicism offers theoretical and methodological foundations and justification for all totalitarian ideologies and their political practices. K. Popper considered G.W.F. Hegel to be the father of modern historicism. Popper saw all the philosophical system of the German philosopher as a mutiny against freedom and reason (Popper 1987, pp. 3–58, 140–158, 170–194).

In 1989 Fukuyama wrote a short essay and then a book entitled *The End of History and The Last Man* to prove the contrary: Hegel’s methodological doctrine of historicism gives us the intellectual tools to describe and explain the history of the 20th century with the defeat of communism and the world-wide triumph of liberal democracy as its climax. The logic of the description also provides us with arguments to prove the truthfulness and adequacy of the principles of liberal democracy and a free market economy. According to Fukuyama, Hegel’s philosophy is by no means mutiny against freedom and reason, but quite the opposite: as early as the 19th century the German philosopher gave us the theoretical testimony of the triumphal march of Freedom and Reason world-wide (Fukuyama 1996, p. 90–111, 190–196).

These two examples drawn from the domain of the latest political philosophy illustrate well what is meant when speaking of “the problems of adequacy”. These are methodological difficulties relating to a possibility that the truthfulness and adequacy of the liberal-democratic principles organizing social life could be rationally justified. Difficulties, however, appear in “the family”, so to speak – among decided advocates, not critics, of the liberal-democratic principles of collective life.

Both Popper and Fukuyama are firmly convinced that it is the adherents of the liberal democracy and the free market economy who are right in a fundamental ideological conflict between political and economic liberalism and various totalitarian ideologies, especially fascism and communism in the first place. They differ only as to what makes them right. According to Fukuyama this is the methodological doctrine of historicism, especially in Hegel’s version.

Popper, in turn, believes that choices of political and economic freedom can only be rationally justified in strict opposition to this doctrine.

Although they maintain radically opposing views as to the methodological and social contents of Hegel's philosophy, both Popper and Fukuyama agree with the following thought of the author of *The Philosophy of Law*, namely that ideological controversies focusing on the elementary principles which organize a collective life are the driving force of the activity of particular people and whole nations. Popper, however, rejects the two succeeding premises of Hegel's historiosophy: 1. historical determinism and 2. historicism.

In the first place, Hegel thought that only the principles of collective life which are the expression of historical necessity might be seen as true and adequate. Secondly, he believed that the consciousness of necessity historically changes towards a knowledge of the absolute truth – i.e. the knowledge of the absolute and universal principles of the social life. Popper rejected these premises on the following grounds:

Firstly, such a concept of historical necessity, he asserted, makes no room for the idea of free human actions, the free shaping of one's destiny and one's influence on the direction of history through free choices. Adherents of the historical determinism, so Popper maintained, regarded the choice between rivaling proposals of the organization of the social life as impossible, since they considered true only those proposals that reflect historical necessity. Choices that clash with it win no chance to become real.

Secondly, according to Popper, when assuming that principles of the social life are historical and thus only relatively adequate, it is possible to justify any social system. This premise and the historical determinism serve together to rationalize totalitarian ideologies and politics in the 20th century.

Thirdly, the author of *The Poverty of Historicism* regards these premises as contradictory to the requirements of falsificationism which, he believes, are the requirements of the growth of scientific knowledge in general (Popper 1987, p. 197–212 and Popper 1989, p. 65–94).

Popper's third argument may be neglected here, a number of the logical and empirical proofs which cast doubt on adequacy of the methodology of falsificationism have already been presented (Amsterdamski 1983, p. 139–165). Therefore, we are free to examine Popper's first two arguments independently of whether or not the principles of determinism and historicism comply with the requirements of falsificationism.

Rejecting Hegel's historical determinism, Popper meets the following dilemma: when a free man faces the 20th century's fundamental controversy between liberalism on the one side and communism or fascism on the other, why should he stand on the side of ideology and the politics of freedom?

The choice cannot be accounted for by any logical means since it would be necessary to accept some other principles of social life, which result in political and economic liberalism and thus need themselves to be justified. Appealing to “human nature”, as did the pre- and post-Hegelian liberals of the Enlightenment also fails, because all human actions are based on “human nature”.

Since D. Hume it has been known that no principles of political and economic freedom could be deduced from sentences on social facts. It is not possible to justify logically any transition from a description of given conditions of the society to the postulates concerning our (moral, legal or political) behaviour in it. No normative conclusion can be drawn from premises (statements on social facts in this case) if there is not at least one imperative proposition among them. I. Kant sought to cope with this logical difficulty by assuming that there are *a priori* moral imperatives independent of human experience, which are decisive for our moral and political choices. Yet, Popper rejects Kant’s apriorism as it goes against scientific practice.

Two possibilities remain: either the choice between liberalism and various antiliberal alternatives appears purely arbitrary, or we must accept some other non-Hegelian variant of determinism that serves, however, the same methodological and theoretical tasks.

Because arbitrariness denies rationality, Popper gives us a modified “determinism” which, he believes, at least makes it possible to judge the results of free choices. This is expected to be done thanks to a set of criteria provided by “humanist ethics” based not on the concept of “human nature” but on a “modern doctrine of human rights”(Popper 1987, p. 204–211).

Instead of Hegel’s “necessary and thus rational choices” Popper introduces “choices that are sensible in the light of axiological necessity”. In the first case the “historical necessity” precedes free choices, in the other “axiological necessity” serves to judge the results of the choices *post factum*. Yet, if the “axiological necessity” is not *a priori*, there still remains a problem: why should the results of our choices between opposing social ideas be based upon this rather than that set of criteria, this and not that “doctrine of human rights”? To justify a current “set of criteria” another “set of metacriteria” is needed etc., the ruling “doctrine of human rights” does not result from a description of real human behaviour.

Popper looks for the solution to this problem in his “doctrine of methodological falsificationism”; he interprets the “axiological necessity” in terms of constantly falsifying hypothetical postulates which refer to desirable human acts.

However, if, for the reasons given above, we reject “the doctrine of falsificationism”, only faith remains: the faith in “humanist ethics” appears the only means to justify the liberal-democratic principles of collective life. As another opponent of Hegelian determinism, R. Aron puts it: “We can only

believe in the liberal institutions. These are feelings rather than facts that the faith is based on.”(Aron 1992, p. 312).

For Fukuyama this solution is not satisfactory for a fundamental reason: a sphere of “faith and feelings” should not be confused with that of “logic and facts”. The first is purely subjective, while the second provides us with intersubjective communication and testability of information. The sphere of “faith and feelings” explains all and thus nothing. This is only the logic and facts that enable us to rationally discuss the problem of truthfulness and adequacy of the liberal principles.

According to Fukuyama, if it is true that 1. ideas eventually rule the world, 2. the history of the 20th century is the history of the ideological rebellion against liberalism (both Popper and Aron agree with the above statements) and 3. the fall of communism stands for a defeat of the last historically significant antiliberal alternative, then the principles of a liberal democratic state and free market economy ought to be acknowledged as the only right and thus the necessary principles of social life at the end of the 20th century (Fukuyama 1996, p. 287–297).

Also Popper and Aron believe that political and economic liberalism is the best and the most perfect human invention through the ages of historical development. They are not sure, however, if this is really the case. Having rejected Hegel’s historical determinism they cannot find an unquestioned criteria of good and evil, but only declare their faith in liberal ideology. According to Fukuyama it is not faith but Historical Reason that finds expression in the liberal principles of social life. And since what is rational is necessary, then a triumph of liberalism is the victory of historical necessity which has been so passionately criticized by Popper.

Adherents of the liberal-democratic principles struggle not only with the “justification problems”. The very principles, their coherence and a possibility of their practical realization are matter of controversy.

3. THE ANTINOMY OF VALUES

A. de Tocqueville was one of the first theoreticians of democracy who, having examined the matter empirically, came to the conclusion that the conflict between freedom and equality belongs to the most fundamental controversies of every democracy (Tocqueville 1976, p. 369–482). While studying the legal and political systems of the United States, England and France he noticed that conflict could find a solution either in a system of “antidemocratic liberalism” or in an “antiliberal democracy”. In the first case economic liberalism usually comes together with political despotism, in the other – some legal and political obstacles to prevent unlimited freedom (especially economic freedom) are

created to protect equal possible access to power, wealth, education and prestige. If carried to its ultimate consequences, each of these solutions ends with its self-denial: political despotism ends with a destruction of freedom, including economic freedom. A radical egalitarianism, in turn, starts from the elimination of freedom, particularly economic freedom, and comes to destroy equal access to power and prestige.

Later historical experiences fully confirmed these theoretical views of the author of *On Democracy in America*.

How, then, might freedom be preserved in conditions of equal access to wealth, power and prestige? How can political and economic freedom be reconciled with the inevitable movement toward equality? These are dilemmas faced by the adherents of ideology and politics of freedom.

The problems of equal possibilities in conditions of freedom appear also in the works of another theoretician of democracy, J. St. Mill. Mill's fundamental work *On Freedom* deals with the individual's right to decide about his destiny. For this reason he discusses so extensively the limits of power to which society is entitled to subordinate an individual – the limits of “freedom from...”.

There are two kinds of norms and institutions that safeguard the former by means of which a given community wants to subordinate an individual: moral norms with public opinion, and legal norms with state compulsion.

Therefore, first of all, Mill considers a question of “freedom from...” as a problem of protecting an individual against the tyranny of public opinion and the political power. How can an independence of an individual and a social control be adjusted to each other? Where should the limits of the adjustment be drawn? At what point does the power of an individual over himself end and the power of society begin? – these are only some questions marking the extent of Mill's considerations (Mill 1959, ch. III).

In his later works, particularly in his social papers, Mill came to the conclusion that the question on man's freedom cannot be exhausted by the problem of protecting an individual against the tyranny of public opinion and the power of a state. A self-realization of man, which is freedom, cannot be ensured by equality before law and political liberties if there are deep differences in access to wealth, culture, power and prestige. The differences make it impossible for an individual to profit from political rights and liberties. The “freedom to...” i.e. a possibility to use the same means (power, knowledge, wealth) to achieve rights and liberties is a necessary condition to exercise the “freedom from...”.

The logic of this argument had led Mill to accept a position that was later described as “social liberalism”. This ideology of freedom makes the following questions justified: Does any occupation make the self-realization of man

possible? Can we speak of freedom in conditions of unrestricted competition in which the strongest always win? Is not freedom in relations between an employer and an employee on the labour market a pure fiction, if the market situation leaves the latter no choice?

These are questions not only about a practical sense of freedom, but also about a sense of justice whose connection with equal possibilities in access to wealth, power and prestige was obvious for Mill.

For F. Hayek (Hayek 1982, ch. IX) "justice" is a senseless concept since one must sooner or later lose in a free competition society. Similarly, there is no democracy without free competition. Therefore democracy also has nothing to do with justice and even less with equal possibilities in access to wealth, power or prestige. According to the author of *The Road to Serfdom* man is the master of his destiny in a free society: thanks to his labour and enterprise, he decides about his welfare, when he drops a vote into a ballot-box, he makes a decision about the shape of institutions and law which safeguard his freedom. If he loses in that economic and political competition, he must have deserved it: so if as an employee he complains of his weaker position in the labour market than that of his employer, let him either find a weaker employer or become an employer himself or quit working at all. If he grumbles at the unequal access to power or the lack of prestige and complains of the law that sanctions this inequality, he must be wrong since who possesses the power and prestige and creates the law to guard both certainly deserved it.

Modern continuators of Mill prove, however, that freedom for all may only be secured when the state defends the weaker whose weakness was not deserved by them but results from unfavourable socio-economic systems in which they find themselves quite independently of their will. So the state must accept the constitutional obligation to secure every man's right of access to a minimal set of material and spiritual goods related to human dignity. The Charter of Rights and Liberties should be then completed with The Charter of Social Rights. The state should also use legal means to limit any private and corporational violence based on economic freedom, which condemns some to lose and others to win no matter whether they deserve it or not. How far the state can intervene for the benefit of weaker, how deep it can involve itself in creating equal possibilities in access to wealth, power, culture and prestige remains open. It is certain, however, that there is no freedom where there is no access to a minimal set of material and spiritual goods which determine human dignity.

According to Hayek's followers, the state should not interfere in inequalities inseparable from economic freedom, even if they drive a bigger part of the society into terrible conditions. The inequalities, they say, finally

maximize a collective welfare from which the poorest part of society also profits. This is not the state but a calculation based on the individual economic freedom that ought to decide on a scale and dimensions of poverty. Instead of worrying about “the deservedly wronged and beaten” the state should rather support the most productive ones. The question of human dignity should be left aside for philanthropists and charities. The Charter of Social Rights, the state’s interference into a sphere of free enterprise, is a negation of freedom and economic rationality and a “road to slavery”. A “maximization of the collective wealth” by way of supporting the most productive is the only means to “minimize the sufferings of the deservedly wronged” and a “way to freedom”.

This position was modified by J. Rawls who, contrary to F. Hayek, considers it valid to apply a notion of “justice”. For him “justice” means: 1. equality before the law and equal participation in public life and 2. such an inequality in access to goods that “maximize the improvement of the situation of the poorest”. (Rawls 1994, p. 28, 208–224).

The assumption that someone is always beaten in conditions of the free competition links this formula with the position of Hayek and his advocates. If Hayek stakes exclusively on “the deservedly winning” who enlarge (“maximize”) collective wealth, Rawls, in turn, seeks to “excuse” the winning by the “maximal” improvement of a situation of the beaten. According to Rawls, if a growth of collective wealth in conditions of free competition does not maximally improve the situation of the poorest social classes, then “the winning” in the competition do not deserve their win. Inequalities thus arisen are “unjust”.

Contrary to what Hayek thought, Rawls assumes, in the above argument, that a situation of the poorest is not automatically improved by the maximization of collective wealth. If this is the case, then the state must correct the results of the free competition for the benefit of “the deservedly beaten”. Thus Rawls makes a step toward social liberalism; he accepts a process of growing rich in conditions of free competition, providing that it is accompanied by a maximal, in given economic conditions, improvement of the situation of the poorest (Rawls 1994, p. 356–456).

“Maximization of the collective wealth”, “minimization of the collective indigence”, “maximal improvement of the situation of the unhappiest”, “minimization of the social sufferings” – these are various proposals – formulas that convert the fundamental dilemma of liberalism – the contradiction between equality and freedom into a contradiction between freedom and economic rationality on the one side and social justice on the other.

4. REASON AGAINST PRINCIPLES

Of course Rawls is right when he says that a “minimization of the collective wealth” does not automatically “minimize a collective indigence and poverty”. There is not any logical connection between these extremes. From the empirical point of view, instead, a possibility of limiting a number of people who profit from that larger and larger collective wealth is not at all excluded by the “maximization of the collective wealth”. Both in the past and the present we meet situations when a growth of the “wealth of nation” is accompanied by its concentration in few hands and by the increase of unemployment.

The economic studies in a rational behaviour of the producer and the consumer in conditions of free market and free competition also prove that it is logically impossible to minimize costs and maximize effects simultaneously. For the very reason, the principle of the rationality of the behaviour of *homo economicus* takes the shape of two postulates: 1. maximizing effects at given costs, 2. minimizing costs at assumed effects.

Taking the logical and empirical critique of Hayek’s formula into account, Popper proposed its modification. Not a “maximization of collective wealth”, he argued, but rather a “minimization of collective indigence” and thus a “minimization of human sufferings” should be declared the political aim of the democratic state.

The formula can also be challenged that the “minimum of global indigence” does not necessarily imply that less people exist in conditions which unable them to satisfy elementary needs (which is a measure of the poverty level in a given society). From the empirical point of view it is not unlikely that the minimization of collective poverty comes together with the increase of population driven into it. Popper agreed with that; in his later works he replaced this strict optimization formula with a less exact postulate of a “possible, in given conditions, limitation of indigence and human sufferings”.

Even putting aside the formal defects of Rawls and Popper’s optimization formulas of social justice, it should be noted that they are relatively adequate at best with regard to 17% of the world’s population which produces a slight more than 60% of a global gross national product and monopolizes above half of the world’s imports and exports. Per capita net national product ranges from \$13,000 to \$25,000 in this world of freedom and wealth.

Yet, there is another world inhabited by about 75% of the human population who produce only 15% of GNP. Per capita net national product ranges here immensely: from tens to \$1000. UNESCO and FAO reports prove that in this world 1.5 billion people hardly satisfy their elementary

needs, almost 600 million remain permanently undernourished and 40 million people die of starvation annually. A tyranny of poverty and indigence here comes together with violence (including constant military conflicts and civil wars) and political tyranny.

What “minimum of sufferings” or “maximal improvement of the situation of the poorest” may be declared just in this world? How big should this world’s share in the global GNP be to free its inhabitants from hunger and offer them access to elementary medical aid and elementary education that respects modern standards? Who ought to decide about a more just distribution of the world’s wealth when the richest countries limit their aid to merely 0.06% of their GNP?

It is absolutely insufficient to apply optimization calculation to solve the above problems on a global scale, as has been seen from a “logic of economic argumentation” once (in 1994) offered to the World Bank by its prominent economist Laurence Sommers. In his official note that leaked to the press, the ex-vicepresident of the World Bank was trying to persuade his colleagues to intensify a transfer of “dirty” technologies to underdeveloped countries. This, he argued, would help to maximize global wealth of the world. Here are the fundamental elements of this optimization logic:

1. The costs of harmful pollution depend upon incomes which were lost due to the increase in diseases and death rate. Therefore such pollution should be transferred to countries with the lowest wages. From the point of view of the global profit and loss calculation a death rate increase caused by toxic waste and harmful technologies which invade underdeveloped countries brings lesser losses than the death rate increase in developed countries where the cost of labour is much higher.

2. The costs of polluting the environment rise nonlinearly – they are very low at the beginning. The underdeveloped countries are less polluted. So, a trade of waste and pollution and a transfer of dirty technologies to these countries would reduce the global costs of increasing the welfare.

3. The demand for a clean environment resulting from aesthetic and sanitary needs is typified by a high profit flexibility. It occurs in countries with high incomes. To satisfy this demand and thus to increase wealth it is necessary to transfer waste, garbage and dirty technologies to countries with low incomes (According to “Gazeta Wyborcza” 1992, no. 42).

This peculiar “life and death calculation” met with moral disgust and condemnation in some underdeveloped countries (particularly in the countries of Latin America). The logic of Sommers’ argumentation was said to express the callousness of world’s technocracy. Is this moral disgust justified?

Popper would say that such a calculation cannot be accepted from the point view of the “humanistic ethics”. Hayek’s advocates argument otherwise: if you say A, you have to say B:

A. If it is admitted that the increase of welfare requires free trade, free competition and profit and loss calculation based upon economic freedom (and these are fundamental principles that govern policies of international financial institutions, the biggest one – the World Bank among them) and if it is agreed that the stronger and thus more productive always win this competition while the global wealth of the world relies on their activity, then

B. the World Bank policy should support those who decide about growth of the global productivity from which eventually the beaten profit.

Sommers is Hayek’s faithful disciple. Yet, the logic of his argumentation proves that “maximizing of the collective wealth” does not have to automatically imply an improvement of the socio-economic situation of those who are in the position of losers in the world’s economic competition.

Sommer’s speculations prove also that applying economic optimization calculations to solve swelling problems of inequality and injustice have no practical meaning. In this case Economic Reason clashes with the postulates of equality and justice proposed both by Rawls and Popper. The economic calculation resembles a knife that is used to kill in gangster’s hands and to cut meat in hands of a butcher. If there is no meat, a knife is not needed, not to mention such “details” as the “equality of rights” or “equal participation in public life”.

Fukuyama’s belief that the triumph of liberal democracy and market economy stands for the “victory of economic reason” and economic calculation, which shape social relations according to the spirit of freedom, equality and justice – this belief should also be seen as positively exaggerated. In this case Popper would say that the experience of almost 70% of the world’s population serves as an empirical basis to falsify and reject the hypothesis of the American scientist.

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