

Robert Krasoń

*Summary*

***THEORETICAL AND LEGAL ASPECT OF THE PRINCIPLE OF TRUST  
IN THE ACTIVITIES OF PUBLIC ADMINISTRATION***

Doctoral dissertation prepared in the Department  
of Theory and Philosophy of Law under the  
supervision of dr hab. Bartosz Wojciechowski, prof. UŁ

Łódź 2020

Confidence in the activities of public administration bodies is a pillar of normalization of social relations on many levels of life and a desirable element of the functioning of a free society in a democratic state of law.

Trust is the foundation of interpersonal relationships. It plays the role of the factor which integrates and bonds community in general. Inscribed in our existence, it is a postulate or even a requirement of our reality. It can be said with certainty that life in society is oriented on trust as a constitutive component of its being. A democratic state of law with highly developed administrative structures equipped in appropriate and provided for this purpose instruments is to build, protect and deepen confidence in a specific group of individuals - the state. In today's world, it is difficult to imagine the functioning of a community without specifying and accepting specified procedural and material norms constituting a catalog of solutions to problems of public life, implementation of policies, and in particular compliance with ethical values - being a kind of compass that sets the individual direction for individual entities in the community.

Public administration creates, based on the provisions of universally binding law, the organizational structure of the state, operating through entities established or delegated to perform specific tasks. Actions for the state are generally carried out in an imperious manner by interfering with the legal sphere of the citizen, limiting his freedom, property or imposing the obligation of specific behavior on him. The exception is the pro-social activity of public administration bodies consisting in granting various types of benefits to individual entities and collective.

Binding public administration to the principles of legalism and the rule of law, which generally allow its functioning only within the limits of the law, means that both subject and subject matter must respond to the changing reality and is in particular susceptible to changes in the legal system in the political, material-legal and procedural sphere. Thus, undoubtedly, an important problem of modern times in the face of the above indications is a crisis of trust in public administration. Therefore, we are dealing with a serious research and practical problem that has been thoroughly analyzed by the author of the dissertation summarized in this summary.

Confidence in administration presupposes maximum humanitarianization of the attitude between individual and the public authority. It is supposed to oppose the bureaucracy as much as possible and build mutual trust in the citizen towards the authorities and vice versa - authorities against the citizen. As correctly indicated in the subject literature, the authorities

will not inspire confidence in a citizen without first showing confidence in the citizen<sup>1</sup>.

Especially in the current times, in modern and highly developed democratic societies, in a globalizing world, the level of trust should increase, not decrease. Trust is a sine qua non for efficient public administration. That is why today it is so important, desirable and thoroughly analyzed.

This dissertation indicates that the measure of trust directly affects the level of open, innovative activities, increases the intensity of social mobilization, promotes the development of communities and is a driving force for the potential of the inhabitants of a given country. In a society based on mutual trust, not only is there a general increase in prosperity, but also in the quality of life of its individual citizens.

One could even say that they exist in some way "easier" or even "better". Trust provides equal benefits to the person bestowing and bestowed. When we trust someone, our actions are free, free from uncertainty, there is no need to control anyone or make sure that everything is as we would like it to be. Therefore, we can devote more energy to family, work, intellectual development, and finally social activities. It is therefore an invaluable social value without which it is difficult to imagine the further development and proper existence of societies in general. In a modern democratic state ruled by law, in which public administration bodies and the organizational structures subordinated to them operate in a manner established in the legal order, subjects of trust, efficiency and effectiveness are gaining in importance.

This became possible due to the liberation of legal regulations and scientific doctrine from the ideological ballast that burdened them, in which research on administrative law and the science of administration were immersed in the period of the socialist state. Today, public administration is above all a structure made up of people organized around related bodies, created and endowed by law with the rights, obligations and restrictions in operation, conducting permanent activities taken over by the state as serving the public interest.

The dissertation indicates that the principle of a democratic state ruled by law also includes the requirement to protect citizens' confidence in the state and its organs, involving public administration bodies. This requirement presupposes that public administration bodies maintain a minimum of honesty towards citizens: compliance with established rules of conduct, non-withdrawal from promises and non-abuse of the imperious position and rights towards citizens.

When analyzing the theoretical and legal aspects of the principle of trust in the

---

<sup>1</sup> E. Iserzon, J. Starościak, *Kodeks postępowania administracyjnego. Teksty, wzory i formularze*, Komentarz, Warszawa 1970, s. 55.

activities of public administration, it should be noted that the mission of public administration is defined by law and based on existing social values, the main purpose of its operation. This achieving and securing the common good in the state on the basis and within the limits of applicable legal norms, which at the same time determine the common good and the methods of its creation and protection in individual areas of public administration activities.

Therefore, in the dissertation we will find a reference to good administration, which is supposed to change the perception of public administration as such by administrators, the science of administrative law, and above all administrated. Undoubtedly, this is another step towards the decomposition of Weber's concept of administration - we are gradually losing anonymity, isolating the official from the applicant as the ideal of administration. The administration's hierarchy and information advantage is loosening, narrowing recognition and only activity is taking place within the limits of applicable standards, completely disposing of any form of recognition.

It is impossible to comment on the structure of a democratic state ruled by law without referring to the theory of the discursive democracy of the German philosopher Jürgen Habermas, whose essence we can specify in the context of the "deliberative model". Habermas acknowledges that social and political order is fair if it is ready to criticize itself, at the same time guaranteeing a place for space for debates, during which all opinions and political will of citizens can be formed in an unforced manner and on the assumption that it does not give up completely from seeking the truth. Undoubtedly, it should be stated that "deliberative democracy" paved the way for the author's search and formed the form of his involvement as an intellectual. Jürgen Habermas, wanting to restore faith in reason, tried to reconcile theory and practice. He focused, however, on the theory itself, which, in the absence of a social entity that could ensure such unity, should itself be aware of its relation to practice. This consensus began the stage of building a new reflective critical theory, which then permeated into the entire work of Habermas. It was crucial for the author to maintain the power of classic politics, and more specifically the principles of practical insight into what is right and just, without giving up the scientific accuracy of knowledge, which, unlike the practical philosophy of the classics, claims modern social philosophy.

Habermas, not wanting to give up the idea of reason, created a new theory of rationality. He referred to the achievements of Max Weber, who distinguished actions into rational ones based on the purpose and value. This was to show that those who attack rationality in general have rationality in mind with regard to purpose and argue rationally with regard to value. Jürgen Habermas also adopted the settlements of Karl-Otto Apia, who



pointed out that language has validity claims. These assumptions allowed him to formulate the statement that the one who strikes reason with arguments, stands on the ground of reason, that is why somehow hits himself, and that rationality as a certain competence that allows to follow the rules is not free from normative claims. What is more, rationality becomes the central category.

The culmination of Jürgen Habermas aspirations and searches is within the *Theory of Communication Action*, in which he referred to deliberative democracy. According to the theory of the German thinker, the reconstruction of law from a discursive-theoretical point of view means the use of procedural rationality to justify the social order and system of laws. Of course, in his assumptions he took into account those rights, which citizens must grant to each other if they want to order their coexistence by means of positive law norms. Habermas in his theory came from the belief that the source of communicative rationality is the unifying power of discourse, which without coercion establishes a consensus between participants. Ultimately, it is the discourse that decides about the validity of the questioned norms in force in society. The philosopher rightly noted, however, that discourse, which is a method of reaching agreement, does not specify, however, what specific values we should follow during its conduct. For Habermas, the universal validity of standards does not have to be associated with coercion. It can also have its source in the autonomous will of people, by reaching agreement. This relation of factuality (coercion) and normativity (consensus) was highlighted and explained perfectly in *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*.

Johann Gottlieb Fichte, one of the three great philosophers of German classical idealism, also referred to the essence of society and the relations that govern this creation. Fichte in his considerations touched on a number of important topics about humanity as such in general, and his social philosophy focused on the theory of mutual recognition. Fichte based this theory on the behavior, needs and problems of an individual existing within a given community. According to him, man is called to live in society, and by living in isolation person ceases to meet the conditions necessary to recognize itself as a human being - it is in contradiction to itself, in contradiction to its being.

The social bond ensuring the realization of freedom is of an antagonistic nature and is accomplished by the fact that intelligent individuals set the limits of their tendency to unrestricted, free action. Fichte defined the role of the individual in the realization of freedom and justified it in such a way that the existence of a rational society of free individuals depends on the reasonable conduct of themselves. Free society is built and nurtured by

intelligent people, their consciences, and the ability to distinguish between what is morally good and what is bad. They should pursue their own goal and follow social rules - an accepted ethos, in a conscious way. The only factor which obligates being to such behavior is belonging to the human species and the community it forms.

In *Grundlage des Naturrechts*, Fichte stated that the interaction of human subjects on each other is not the effect of being a human, but that this interaction is something that makes it possible to become a specific entity "I-Individual". This should be understood in the way that people remain in certain relationships not because they are social beings who, by their nature, cooperate with each other, but that these relations constitute the humanity of the subject. These relationships also enable the subject to become a specific "I - Individual". Fichte's transcendental "I" implies reference to "We". "We" do not abrogate the existence of the "I", but it normalizes them and vice versa. According to the philosopher, you cannot think about yourself without assuming the existence of a second entity. The assumption of accepting the existence of a second entity is the beginning of the emergence of a social relationship in existence, and this bond is called by Fichte as a legal bond or legal relationship, introducing also the concept of free entities. The status of the law and the relationship of law and morality, as well as the principles of recognition, are far from accurate. In this regard, the author proposes to accept that the relationship of recognition is the point at which all spheres of human life in community cross, from morality, ethics and faith, ending with law, public life, the state and politics.

According to Fichte, it must be acknowledged that regardless of the principles professed by individual social units - in the moral world people live together under specific social norms and principles. Fichte's theory of mutual recognition is based on mutual giving and receiving, which results in the abolition of social inequality.

According to this theory, it is freedom and equality that are inseparable and complementary elements of law. Freedom finds its grounding in the equality of all people. Their lasting relationship manifests itself in the ethical and social sphere by recognizing each individual as a habitat of freedom and reason. It should be noted, however, that a rational and free individual is not alienated or separated from other entities. According to Fichte, self-awareness as a free being appears only when interacting with other, equally free persons. The individual is not in a state of isolation, but its complement of knowledge about itself occurs only through conscious contact with other units.

Problem of mutual recognition can be found in Georg Wilhelm Friedrich Hegel's vision of social relations. In this theory, the concept of intersubjectivity comes to the fore. Hegel

believed that the struggle between entities for mutual recognition of their own identity would create in society a desire to create, in the practical-political plan, institutions as a guarantee of freedom, which is nothing more than the intersubjective recognition of their autonomy by individual individuals. Each stage of interaction abandoned due to the pressure of struggle corresponds to some gains in the autonomy of the individual and at the same time increases the level of social solidarity. Hegel's assumptions were that the desirable state is the inseparability of one's own goal from the community's. The author explained, that every philosophical theory of society must take as a point not so much the functioning of individuals as separate entities, but the ethical relationships that constitute the common structure of these activities. Hegel distributed explanations of the transition from the state of "natural ethics" to society as an organized form, which he defined as a relationship of ethical totality. It should be noted that Hegel often referred to Fichte in his theory of mutual recognition. However, he deprived the Fichtean model of his transcendental-philosophical robe and applied directly to the various forms of mutual action between individuals.

According to Hegel, the structure of mutual recognition is the same in every case, to the extent that the subject is aware that he is recognized by another subject in terms of his abilities and features and is thus reconciled with that subject. At the same time, he learns what the essence of his own identity is and thus, as a self-determined subject, he confronts another one. It should be noted that the philosopher saw in his logic an internal dynamism that allowed him to take another step away from the original Fichtean idea. In order to reach the past determination of the internal potential of human ethical life, Hegel used the negative dynamism of the Fichtean model of recognition, giving it a specific form in the "negative" course of its development. This path is a continuation, or perhaps a corollary of the model of the original struggle of all against all, which Thomas Hobbes inaugurated the history of modern social philosophy. Fight, as a moral medium, leads in this case - from an undeveloped state of ethical life to a more mature stage of the ethical relationship between people.

Hegel significantly formatted the Hobbes model and the concept of social struggle, which did not give the opportunity to understand the practical conflict between subjects as a dynamic ethical moment in the overall context of social life. According to Hegel, everything that is social did not only incorporate from the very beginning the sphere of moral tension, but also included a social medium through which this tension could be discharged in the form of conflict.

Hegel based the concept of mutual recognition on the fact that the state is a reality of concrete freedom. It is based on the fact that in this freedom, the individual and his specific



interests achieve full development and recognition of right to himself, at the same time these interests turn into the public ones, recognizing, according to their own knowledge and will, the public interest as their own substantive spirit and they are active for it as their final goal. The principle of the modern state contains such a colossal strength and depth that it allows, in principle, subjectivity to develop into an inherent term of extreme personal detail. The modern state derives its strength and depth from the fact that it appears as a political form of modern society, which, according to Hegel, defines civil society, because only a community of people sharing and led by common ethics can be considered as a community.

Axel Honneth was also the one who referred to the phenomenon of recognition and openness to other people. According to his theory, recognition is nothing but a process of openness to other people. This assumption is based on the analysis and description of the essence of our contacts with other people, as well as the essence of our social bonds. Intersubjective recognition relationships are created according to this concept in the sphere of paying attention to another human being. Recognition, which allows an individual to feel accepted by others, a morally responsible subject, is one side of the process of creating intersubjectively shared norms, because it assumes the appreciation of precisely those features that are common factors for a given group. According to Honneth, it is important to respect and accept another person's personality different from ours. Honneth in the *Fight for Recognition* has set himself the goal of developing such a model of social change, which in his view occurs as a result of morally motivated social conflicts. Thanks to these assumptions, the author managed to present his own position, different from the traditional sociological approaches in circulation, for which the main cause of the conflict was primarily economic interests. Honneth built his concept around the concept of identity as the basis for human flourishing and self-realization. His interests include mainly intersubjective conditions in which such identity has a chance to arise, flourish and which he describes as relationships of recognition. The author, describing the theory of recognition in the aspect of openness to other people, wrote about individualization and inclusion, and clearly emphasized the fundamental role played by universalized, modern law and recognition relationships mediated by it in the construction of integrated human identity.

According to Axel Honneth, openness to another person from the point of view of recognition relationships can help modern people combine important values: individualism and a sense of community, of what is mine, unique with what is common, what I am in and I need to be settled, somehow rooted. Openness to other people can occur in all the spaces of our community life: in the private space of marriage and family, friendship, neighborly



relationships, in public space, in politics, in the media, in all our social commitment.

It should be noted that Honneth's concept of recognition understood as a process of opening people to each other is an ethical social project, an alternative to the neoliberal modern world. In his perspective, as a process of opening up to others, Honneth confesses that in order to understand social processes such as development or change, it is necessary to focus on the experience of the individual, the experience seen in the historical plan, rooted in a broad, cultural context, but always individual, subjective, currently lived. The category of intersubjectivity is fundamental to this theory. It is thanks to it and through it that our work on our own identity becomes possible, as well as self-criticism of the actions of each of us.

The problems presented in this dissertation, an attempt to explore it and reflections on it, are a kind of panacea which task is to alleviate the tension in the relationship between administrators and administrators. It is also concluded that the contemporary public administration, facing various challenges and problems, must be equipped with appropriate tools and legal provisions in order to implement the principle of trust in citizens. Only by equipping public administration with the appropriate, laid down instruments, will allow it to build, nurture and maintain the level of mutual trust desired by society in a democratic state of law, which public administration bodies must certainly wish for.

666- 1.06.2020  
Rohit Kumar