

## Democracy and philosophy of subjective rights

### الديمقراطية وفلسفة الحقوق الفردية

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DOI: 10.46315/1714-011-002-050		

Received: 15/ 02/ 2021 Accepted: 10/ 04/ 2021 Published : 31/ 03/ 2022

#### Abstract (English):

The philosophical conception of the history of democracy, after the intellectual, scientific, religious and political lights movement that Europe witnessed from the beginning of the Renaissance and the French Declaration of the Rights of Man and the Citizen, has been associated with the idea of the universalism of the human being as an ontological value, and as a philosophical conception and an individual tendency that formed the doctrine of democracy based on the sovereignty of the individual And his absolute freedom, considering the individual as a subject of the right. This organic link between democracy and the individual has been embodied at the level of political, economic and individual freedom in addition to defining its contractual relations of the individual with the state based on the recognition of such rights.

**Keywords:** Philosophy; right; democracy; the individuals; Law.

#### ملخص باللغة العربية

إن التصور الفلسفي لتاريخ الديمقراطية بعد حركة الأنوار الفكرية، العلمية، الدينية والسياسية التي شهدتها أوروبا بداية من عصر النهضة و الإعلان الفرنسي لحقوق الإنسان والمواطن كذلك، قد ارتبط بفكرة كونية الإنسان كقيمة أنطولوجية، وكتصور فلسفي ونزعة فردية الذي شكل عقيدة الديمقراطية القائمة علي سيادة الفرد وحرية المطلقة ، باعتبار الفرد موضوعا للحق، لقد تجلّى هذا الارتباط العضوي بين الديمقراطية والفرد علي مستوى الحرية السياسية والاقتصادية والفردية إضافة إلي تحديد علاقة الفرد التعاقدية بالدولة، انطلاقا من الإقرار بمثل تلك الحقوق الفردية.

**كلمات مفتاحية:** الفلسفة؛ الحق؛ الديمقراطية؛ الأفراد؛ القانون.

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## **Introduction:**

This study aims mainly to study the political, social and economic dimensions of the theory of individual and collective rights. It also aims to present a complete philosophical conception of the history of democracy.

The hypothesis of this article studies the philosophical history of democracy in its Greek concept, which was linked in its origins to the meaning of the demos, but after the French Revolution, democracy was linked to the subject of individuals after the emergence of the theory of natural rights and intellectual, scientific, religious and political lights, especially after the American (1776) and French (1789) revolution and the development of industrialization, which was particularly known by Britain, France ... and Germany in the seventh and eighteenth centuries.

How does the question of democracy arise according to the philosophy of subjective rights?

## **Methods:**

The problematic of this article is first philosophical. The philosophical character of democracy requires us to use the analytical, historical, critical, and comparative approach.

## **Results**

Arguably, the historical deviation made by democracy in modernity era, after the French Revolution and its Declaration of the Individual and Citizen Rights, expresses the first signals of the demos decline and people decay. This leads to reducing fact of the liberal concept by Don "Kratos" in the theocracy of individuals as the subject of right. This latter claims the right in the name of equality and not in the name of sovereignty reiterating on people's increased legitimate power in the name of the true history of democracy.

## **Discussion**

The two main epics related to Homer reveal that Odyssey and the Iliad, considered as rudimentary source of Greek life in the period between the twelfth and eighth centuries BC. Homer's conversations on "agora", originally meant the market or city stock exchange where ideas were publicly exposed and circulated, even sometimes for money (Prélot, M., & Lescuyer, G., 1997, 39).

The political history of Athena may lead us to question the mystery of 'demos' and its manifestation in the public squares of the Agora to decrypt the code of Democracy at its inception by "Prikles" in his memorial speech on the martyrs during its defeat by Sparta in the Peloponnesian Wars (Nay, O., 2016, 21).

This general will, represented in the image of its owner Demos, does not at all reflect, in terms of time, the real stakes that the democratic people have drawn for themselves however, as time and despite the revolutions that the peoples have fought have not proven that they have a right in their heroic time.

**1. The democratization of speech implies the principle of Isegoria:**

The Greeks invented the rule of "Isegoria", this law that allows individuals to mentally and morally commit themselves to the responsibility of their participation in public opinion and making it, as it gives citizens the opportunity to have the equal right to participate in and discuss the political decision, direct it and control it during the political process. Consequently, citizens have the direct right to propose laws, to judge the law and try it in a constitutional manner between the Chambers of the Ecclesiastes and the Council of Five Hundred, and the courts (Debbasch, CH., Bourdon, J., Pontier, J., & Ricci, J., 1986, 99) .

The Greeks also created the legal rule "Isonomia" that regulates the behavior of individuals represented in the "rule of civil equality before the law" "Isonomie" "Isoi" This rule means equality in rights that appeared in Athens with the beginning of the reforms of " Clisthène " around 508 BC. M., which mainly focused on establishing a political system based on the idea of equality before the law (Nay, O., 2016, 25).

**2. The territorial conception of freedom:**

Benjamin Constant, in his book "Freedom of the Ancients and Modernists"(1817), believes that freedom in the concept of protection for individuals against the domination and arbitrariness of the state is what we find in the contemporary liberal definition of the meaning of democracy, everything that guarantees the independence of individual citizens and to protect them exclusion from any potential interference of state power, and freedom in its ancient classical sense in ancient cities has linked its meaning in his view to the meaning of political participation, that freedom for the Greeks was seen from another vision, giving them space and the opportunity for political participation within the community (Audard, C., 2009, 111).

The city is the place of realization of human freedom, and it is political participation which makes the difference between the free man and the slave, according to the Aristotelian notion, the human being fully realizes his humanity only by his participation in the life of the city (polis), thanks to the city, he develops the virtues that make him a civil and civilized being. (Audard, C., 2009, 110)

Political freedom, in its old democratic content, failed to protect and guarantee individual rights, as the link between the protection of individual rights and the right to political participation was embodied in another form amidst the ancient Athenians. For the ancients, freedom was subject to collective submission by assuming everyone directly without the exception of collective deliberation in the public square "agora".

### **3. Demos community and territory**

The demos are concentrated on a specific territory, that of the cited state, citizenship in an Athenian democracy linked to the territorial belonging of the populations's rights, because the territory plays an important role for the collective identity, defining the demos as an organic tribal whole having a community of tradition, customs, culture and unit of blood. People belonging to a culture and language of a common history (Durand, D., & Lits, L., 2005, 11)

Democracy is defined as a political, social and economic doctrine which believes that the benefit, or the public interest requires the expansion of the law, as far as possible, in front of private freedoms and before their exercise, in word and deed, just as that same public interest requires, as much as possible, the state's interference in people's affairs, and its limited role in achieving public security, which constitutes the political condition for exercising such freedoms.

### **4 Sovereignty and the principle of legitimacy in a democracy:**

Sovereignty appeared for the first time in its history in the six writings of John Bodin on the Republic (1567), Sovereignty that expresses the absolute existence of the state and its continuation in time with the permanence of its power at home and abroad, legally expressing the moral character of the state Sovereignty is therefore, the State has absolute power, nothing and can, not be divided (Nay, O., 2016, 159).

Democracy is not a system of freedom, as Karl Schmidt sees in his book Politics and Theology. Rather, it is a legitimate form of political power, which is the use of power, and the threat to use it. It is the phenomenon of the monopoly of legitimate violence, yet it derives its existence from the satisfaction of the governed. It exists at the state level and social organizations, and it is not static, fixed but developed (Schaar, J., 1989, 33).

Not necessarily every political power is a legitimate authority, for political legitimacy represents the ethical framework that determines the nature of the relationship between the ruler and the ruled, and power is the imposition of the will of an individual or group on others, since every legitimate force depends on persuasion and not threat or Coercion. Legitimacy is measured by the extent of the

political system's ability to create the satisfaction and acceptance of the masses, because every political force that does not enjoy the condition of acceptance by the people is considered oppressive, and every political power that is accepted by the people is a legitimate authority, and every legitimate force between the ruler and the ruled is a relationship of domination and submission. That is itself subject to the contracting condition the voluntary submission of masses.

**5. Subjective right, individual and sovereignty (philosophical perspective):**

**a. The Philosophy of Subjective Right:**

It was Grotius, who formulated the doctrine of the unlimited sovereignty of the individual. From the sovereign individual thought on the model of a sovereign state, self-ownership signifies a right of absolute control over his mind.

The individual in the terminology is a singular, monogamous human being, and this concept contains another meaning, which is the totality that cannot be divided into smaller components, such as the Greek term atom in the concept of Democritus, which means indivisibility, just as the concept of the individual applies to humans only. As for other organisms or human-made things, you use the concept of a sample, or something

The word "individual" means the derivation of the thing that is not divided physically, and individuals are only found in the three higher levels of existence, which are: membership, life and thinking. As for the rigid naturalness, there is no existence in it only the "samples", and membership, life and thinking represent the general conditions of the individual. Or the boundaries beyond which no individual existence can exist (Kamel, F., 1991, 7).

Moral individualism, that is, the expression of the individual as a moral being, independent, and free, regardless of his or her non-existence in society. It means, on the philosophical level, the direction that sees in the individual, the supreme value that is the most sublime and most expressive of the human and social reality, or the most lofty value in existence. And the first source for all rights and every activity or work...

The liberal conception of freedom thinks that individuals are sovereign and equal. The virtue of the common good and its defense to legitimize power has been replaced by that of the individual interest. The modern freedom according to constant refuses all sacrifices of the interest of the individual to a higher good. For consequentialist morality (consequentialism), unlike Kantian morality, for example an action is morally good only by its consequences, and not by the intention or the will that motivates it (Audard, C, 2009, 114).

The Kantian revolution will consist in placing the notion of justice and no longer that of the common good at the heart of democracy, as well as a solution to Hobbes's dreadful problem by pacifying the destructive passions which allows the freedom of each to be respected.

The social ontology of liberalism needed to tear individuality from its roots and its affiliations in order to constitute the modern political and legal subject, the dissubstantification of the Cartesian subject that Kant takes to its limit point in the transcendental argument. Indeed, according to Kant, the human subject doubled into a transcendent Ego outside space and time, a free actor in the realm of ends, and an empirical Ego, subject to the law of causality or the law of nature. The individual According to Kant doesn't have a self-knowledge because the ego is not just a "thing" given in space and time. It is a construction or a scheme which makes it possible to speak of a subject of law, independent of historical, social and empirical affiliations, he becomes a person: an end in itself, not just a means, which cannot be subjected to an authority.

Locke consists in the constitution of the sovereign individual as a subject of law, and not only as a being of desire, as for Hobbes. The most important right is, for him, the right of resistance to oppression which is constitutive of liberal individualism (Treaty of civil government, ) the originality of Locke is to transform the doctrine of natural freedom into a doctrine of political power by placing political power in the hands of individuals a power of decision and of governing oneself (self - government) that nothing can override. (Audard, C., 2009, 56)

Locke's interpretation of Power, as seen by Hobbes, as the capacity of human beings to govern themselves (self-government) and to judge the common good by outside of any state organization. This is the big difference with Hobbes, but also with the artificialism will of Rousseau, for whom the individual becomes a subject of law, autonomous and responsible for himself, only within the artificial framework of the law and the social contract. Rousseau believes that, by nature, the individual is only animal, unconscious and ignorant. He becomes human only by entering civil and political society, by the social contract.

The principle of personal interest, or principle of individual utility (Self-preference) or greatest happiness principle Bentham distinguishes between an explanatory principle, a natural law, that the happiness of each man is his only real end and the principle of the greatest happiness for the greatest number is the only universally end. The Principle which applies in legislation and to translate this principle of utility into a principle of action, the only justified limit of human freedom is the prohibition of suffering imposed by others (Audard, C., 2009, 144).

According to H. Halévy is the fusion of interests in the general interest (the exchange value between human ends, the fusion of interests by the principle of utility, it is the principle of utility (self preference) which allows the artificial harmonization of individual interests (Colliot-Thélène, C., 2011, 25), the work of legislation, the problem of individual cooperation and social consent is found in the use of the principle of utility as a principle of action.

The general interest is therefore the combined result of egoistic interests in competition, of sympathy for others; the moral problem is the identification of the interest of the individual with that of the community (Audard, C., 2009, 145).

**6. Democracy between the question of legality and the historical legitimacy of the demos:**

Tocqueville corrects the tyranny of private interests, he thinks that virtue should be pursued for itself and not because it is useful, one should do good without interest, because freedom is an end in itself, indeed includes the passions and interests as the driving forces of human activity, not as, in the ancient way individualistic passions, for Tocqueville, can be counterbalanced by altruistic passions and the exercise of what we could call it a citizenship of civil society.

Tocqueville wonders about the reconstruction of the social fabric threatened by individualism? The practice of local democracy and self-government transforms selfishness and immoral ambitions into public sense (Colliot-Thélène, 2011, 29).

The genesis of the idea of compensatory passion is found in Mandeville's fable of the bees, private vices make the public good in his theory of moral feelings and the conception of the invisible hand of Adam Smith inspires the pacifying virtues of soft trade commerce replaces war according to Constant, it was the same idea of the invisible hand( the spontaneous order) of Hayek and his conception of artificial virtues (Colliot-Thélène, C., 2011, 128), as David Hume's (Compensatory passions) in his treatise on human nature, says that reason is the slave of the passions, that is to say that without passion the reason would be powerless to act. We must therefore understand human passions as being the engine of action like Chez Mandeville, Adam Smith or Ferguson, an anthropology of passions, the common good stems from personal interests (Helvétius), by bringing into play the passions and interests of some against others, it is possible to neutralize and domesticate them without resorting to domination and violence (Blondiaux, L., 2008, 22).

How does the question of democracy arise according to the philosophy of subjective rights?

What Rawls criticizes in the new Welfarist liberalism that he condemns as utilitarian and to assume the existence of a common good for all members of society, he distinguishes between a deontological morality of the Kantian type, which affirms the priority of just about the good, and the teleological morality of utilitarianism, which draws the right from the maximization of well-being.

### **Conclusion:**

The subject of right is the figure of the modern political. At the end of the two- century- long history of Western political regimes, a faithful interpretation of this figure is the democratic citizen who mobilizes to defend his rights or to conquer new ones. This figure of political subjectivity is the product of the modern state, that is to say, of the unicity of the power from which the individual can expect the guarantee of his right. The citizen has never ceased to be subjected because power is still an external instance which he turns to make claims, to protest, etc. This subject is now a citizen in that the rights he claims are equal right.

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