

ACTA ASIATICA VARSOVIENSIA
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Professor Roman Sławiński
(1932–2014)

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Introduction

Dear Readers!

We are presenting you yet another, already the 28th, issue of *Acta Asiatica Varsoviensia* devoted to the countries and culture of Asia. Over the years of its activity the journal started to be issued in English and it has hosted on its pages many eminent experts on Asia, yet still it remained faithful to its formula which was proposed thirty years ago by Professor Roman Sławiński, the founder of the journal and its permanent editor in chief. This formula stipulated that the Asian cultures should present themselves in the journal and talk directly with their own voice. The idea was both: to include in the group of authors and editors of the magazine scientists who grew up in Asian cultures, as well as to publish materials based on or referring to the texts – philosophical, linguistic, historical, sociological, religious studies or political studies – which were created by the Asian culture. These could be proper names as an object of linguistic research, religious texts, political documents, ideological declarations, but also biographical materials, historiographical elaborations, experience of meeting other cultures and mutual acculturation phenomenon resulting from the relations.

Professor Roman Sławiński left us in November 2014. The more time passes from his death, the more I feel his absence and the more I realize how unique a character he was in the world of research on China. Professor Marianne Bastid-Bruguière, a prominent French scholar from Institut de France in Paris, who met Roman Sławiński in the times of his studies in Beijing, writes about that fact. Most striking is the variety of interests and multidimensionality of research on China which he ran. He was trained as a linguist, and he knew perfectly well not only the classical language, but also many dialects. There was even a time it was appreciated by Mao Zedong himself. Roman Sławiński was interpreting a conversation of the Chinese leader with the Polish state authorities. During the conversation Mao Zedong changed as usual from the classical language to the dialect of Hunan province, which was his place of origin. When he realized he was using the dialect, he noticed that it was not a slightest problem for the interpreter to understand his statements. Then he asked: „Who is that young man who understands the Hunan dialect?” It was known that many Chinese from the surroundings of the Chairman did not understand him when he spoke in the native dialect. It so happened, that Roman Sławiński knew the dialect.

He was interested not only in the language. History, politics, culture as well as China's economy were the subject of his interest and research. His views, opinions and insights on these matters were the inspiration for many researchers of China, some of which are the authors of the materials contained in this issue. Of the many research interests of Professor Sławiński in recent years at least two may be mentioned. First one became Confucianism, especially its latest colours and shades. Professor persistently sought and discovered them in the texts of Chinese scientists, government documents, archives and everyday citizens of China. In this regard he was a dedicated explorer and a keen observer. Even the slightest detail was important to him. Minor personnel changes on the bureaucratic ladder were important for the formation

of general conclusions. From my conversations with him, I got the impression that he was rather skeptical about the possibility of a revival of Confucianism under the supervision of the communist authorities. So he concluded after examining many texts of the so-called new wave of Confucianism in China. His works on the latest Chinese historiography constitute an invaluable contribution to global research on contemporary China. His second passion was the research on the minorities of China Southern. The field research among the peoples of Miao and Tujia that he ran and in which I had the opportunity to participate assumed getting to know the nature of change in the cultural identity of these minorities in the era of globalization and accelerated socio-economic transformation in China. These studies had not been completed, and we can only hope that one of the students of Professor will continue them in the near future.

The arrangement of contents offered to you in the 28th issue of *Acta Asiatica Varsoviensia* refers to the research passions of Professor Sławiński. The first article, written by Stanisław Tokarski – Indologist and long-time associate of Professor Sławiński, concerns dialogue between the East and the West and the possibility of mutual understanding and agreement. Understanding another culture is also the ability to read the symbols contained in the letters and that aspect of the intercultural dialogue interested Professor Sławiński in particular. The question of so-called Asian values – presented in the articles written by Adam Jelonek, Adam Raszewski, Artur Kościański and Larisa Zabrowskaia – was very close to Professor Sławiński and he dealt with it for many years as part of his research on the so-called new Confucianism. The issue of Chinese migration in the world was also in the interests of Professor – mainly in the context of global economic and social phenomena. This part of the research on China is presented in the article on the Chinese migration to France by Nicolas Levi. The issue of Chinese language was obviously important for Professor Sławiński as a linguist and he always welcomed in the columns of *Acta* the authors writing about language and linguistic issues. This area of research is presented in the current issue in the article on Chinese names written by Irena Kałużyńska. On the other hand, the artistic part of the culture is referred to in the articles by Izabella Łabędzka, Lidia Kasarełło, Ewa Chmielowska, Fu-sheng Shih and Diana Wolańska. The first three of these articles relate to Taiwan, where Professor conducted research for many years which resulted among others in a monograph *History of Taiwan*. The further three articles penned by Waldemar Dziak, Iwona Grabowska-Lipińska and Anna Mrozek-Dumanowska refer to the political sphere. Political sphere is inextricably linked with the ideology which was also the case of China. Confucianism and the new Confucianism emerged and developed in the shadow of the emperors, presidents and chairmen of the Chinese Communist Party. Researching them without the analysis of the political scene was not possible. The part of articles is closed by two texts unrelated with China, but with the Middle East. Their authors – Dorota Rudnicka-Kassem and Marcin Styszyński present materials based on the Middle Eastern sources and thus relate to the traditions of *Acta Asiatica Varsoviensia*. The issue is closed by the report from field research in southern China by Professor Sławiński and me. For me it was a unique opportunity to get to know at least a little piece of China – a unique one, because my guide was Professor Sławiński – such a great scholar and such a seasoned expert on Asia.

I would like to thank the authors – students, colleagues and friends – for participation in the preparation of the issue, and the Directorate of the Institute of Mediterranean and Oriental Cultures of the Polish Academy of Sciences for the possibility to dedicate the anniversary issue of *Acta Asiatica Varsoviensia* to Professor Sławiński.

Jerzy Zdanowski

ADAM RASZEWSKI

Human Rights in China and the Philosophical Perspective

Abstract

In today's socio-political reality, human rights take an important place as part of the debate on the relationship between the citizen and the state. Against this background, we can distinguish those states which do not belong to the circle of Western culture, including China. The author raises the question of a presence of human rights in China, treating it as a philosophical issue. He points to the need for taking on a perspective of economic development as an opportunity to improve the situation of the individual. The author considers the possibility of an implementation of a new political model and indicates the threats to human rights in China.

Key words: human rights, China, economic freedom, Western culture, liberty of individual

Introduction

Human rights are an issue, which has recently described the events functioning in a socio-political reality. They are present in the discourse of political science as both a desideratum of the relations between the state and the individual, as well as in the space of concepts verifying a qualitative dimension of legislation. Due to a perception of the legality of political regimes through a prism of human rights, they are included in the scope of a normative critique of forms of organization of the political sphere. The teleological function of a state in today's reality should take into account the legal grounds for a demand of individual rights in interactions with the institutions of public authority.

The social sciences list many definitions of human rights.¹ In my analysis, I will refer to a definition proposed by the *Encyclopedia of Public International Law* that recognizes¹ this

¹ "Human rights are the qualified form of rights and freedoms of the individual, projected to protect their interests, attributable to each human person, regardless of nationality and of any differentiating characteristics", Wiesław Skrzydło (ed.), *Polskie prawo konstytucyjne* [Polish Constitutional Law], Lublin: Verba, 2003, p. 154. This definition would suggest an objective and intercultural nature of human rights, which, however, does not apply outside a circle of Western civilization in the West. In addition, Wiktor Osiatyński states: 'human rights are universal, moral laws of a fundamental nature, associated with each individual in their dealings with a state. The concept of human rights is based on three arguments: first, that every authority is limited, and second, that each person has a sphere of autonomy, to which no power has access; and thirdly, that each individual can claim a state to protect their rights', Wiktor Osiatyński, *Szkola Praw Człowieka. Teksty wykładów* [School of Human Rights. The Texts of Lectures], Vol. 1, Warszawa: Helsińska Fundacja Praw Człowieka, 1998, p. 16. This statement accentuates a limitation of the state's power as a source of human rights. Katarzyna

category as a ‘means of protection and the services which should be respected according to currently accepted freedoms; all people should be able to claim them from the society they live in.’² It seems to be valuable due to the emphasis of the temporal and historical nature of human rights. Human rights are not absolute and universal; and furthermore, they are not rooted in a transcendent, normative system. They take the form of an incarnation of the current ideas on the individual’s freedom, approaching the Hegelian conception of truth as the variable value over time and depending on the beliefs of the community.³ In my article I see human rights as a system of rules governing the liberties of those individuals that do not possess supernatural sanctions and are not a result of natural law, but should be treated as a projection of the rationalist and restitutionary ideas concerning a human person.

In my analysis, I refer to the perception of human rights as a category which belong to the philosophical rather than the legal sphere; the aim of this article is to examine the chances of an implementation of human rights in China. I am aware of the fact that this category is a part of two different traditions (i.e. the West and East) of political and social philosophy. I pay special attention to these economic issues as an important category for an analysis of bilateral relations. The thesis of my paper is one that through liberal economic solutions and focusing the government’s attention primarily on an economic sphere, it is possible to strengthen the position of Chinese citizens in their relations with the state, which to the highest extent expresses the spirit of their human rights.

Human rights as a philosophical category

Theorists of human rights perceive this category as inherently related to a human person and associated with man at birth. C. Wellman points out that the real nature of human rights result from the humanity of man.⁴ This interpretation points to the integral nature of human rights and its autonomy in relation to positive law. However, it is a lack of rootedness in transcendence, highlighting the subjective nature of a human person with respect to power and dealing with the sphere of the community as a common good, which has contributed to the discretionary treatment of certain groups of citizens.

Philosophically, human rights arise from a separation of reason and faith. The foundation of this epistemological diversification is the thirteenth century’s revolution of Averroism. The belief in the eternity of the world and the unity of souls (a form of mono-psychism) was a breach of the orthodoxy, but also the greatest importance that should be attributed to the concept of two truths, both religious and philosophical; the religious truth by Averroes was seen as a more accessible interpretation of philosophical truth,⁵ the simultaneous

Koszewska emphasizes the contextual nature of human rights, describing them as ‘basic, universal and inherent rights of the human being in their relations with the public authorities’, Katarzyna Koszewska (ed.), *Prawa człowieka – poradnik nauczyciela* [Human Rights – a Teacher’s Guide], Warszawa: Centralny Ośrodek Doskonalenia Nauczycieli, 2002, p. 11.

² *Encyclopedia of Public International Law*, Vol. 8, Human Rights and the Individual in International Law. International Economic Relations, Amsterdam–New York–Oxford: North Holland Publishing Company, 1985, p. 268.

³ Heinrich Rickert, *Die probleme der Geschichtsphilosophie*, Heidelberg: Winter, 1924, p. 90.

⁴ Carl Wellman, *An Approach to Rights: Studies in the Philosophy of Laws and Morals*, Dordrecht: Springer Science & Business Media, 1997, p. 81.

⁵ Bonnie Kent, *Virtues of the Will: the Transformation of Ethics in the Late Thirteenth Century*, Michigan: Catholic University of America Press, 1995, p. 41.

existence of the religious truth, as revealed by grace and through the teaching of the Church, and philosophical truth, experienced cognitively, which would suggest a possibility of a simultaneous existence of the two of these contrary to one and another.⁶ An intellectual separation of reason and faith has led to the undermining of the Church's authority in shaping rationalistic truths. The modern conflict between faith and reason first resulted in the Enlightenment's agnosticism of state institutions and secondly – in the twentieth century's totalitarianisms, arising from a supremacy of ideology (understood as a holistic vision of the world, creating also its own ethics and new concept of man)⁷ over a natural law. When ideology ceased to be coherent with traditional morality, it rejected religious truth, proclaiming that only philosophy has the legitimacy to represent the temporal perceptions of an individual. The sphere of the dogmatic gave way to reason, which, however, by not having supernatural sanctions, was unable to design a fair idea of social relationships.

The separation of the philosophical truths of the eschatological and ethical foundation, being a consequence of Revelation, has caused the emancipation of the human mind as a separate entity to build its own reality, as an alternative to the traditional, socio-political order. Thus the modern trend towards the creation of ideology was born. Soon we could experience the evolution of ideas on the law. Modern ideologues have introduced the concept of a state of nature as a category aimed at describing a certain reality existing before founding a state, in which individuals had specific permissions associated with them due to their humanity.⁸ Furthermore, these rights were not a consequence of the restrictions of the freedom of others, but had a positive connotation, as the birthright of freedom for abstract people.

Human rights emerge as an ideology, due also to its wishful nature. Ideology, as Hannah Arendt emphasized, is a result of modernity, while assuming the postulated reality⁹ one that should arise as a result of the implementation of theoretical assumptions of philosophers engaged in social engineering. Arbitrarily, a prior reality – according to the ideologues – should be established in order to achieve the main goal of humanity: a temporal happiness. Human rights, like ideology, ignore the empirical judgment of man's political and social nature; they do not lend themselves to verification, but seek to replace the current reality with a kind of counter-reality, and believe in the amelioration of the *status quo*. Human rights are not a recent vision, but a chiliastic one.

Human rights are also a political utopia. As noted by Thomas Molnar, the cause of political utopia is the abandonment of faith in God and his commandments¹⁰ when a human mind doubts the legitimacy of revelation, it starts looking for support in accordance with its own theoretical concepts. The individual mind wants to create the Kingdom of Heaven on earth. Similarly, human rights do not refer to the Ten Commandments, but are a rationalist and secularist result of the destruction of the traditional order – both religious and political. This

⁶ Adam Wielomski, *Konserwatyzm – między Atenami a Jerozolimą* [Conservatism – between Athens and Jerusalem], Warszawa: Fijor Publishing Company, 2009, p. 13.

⁷ Idem, *Filozofia polityczna francuskiego tradycjonalizmu 1796–1830* [Political Philosophy of the French Traditionalism 1796–1830], Warszawa: Capital, 2013, p. 18.

⁸ Pierre Jurieu, *Les soupirs de la France esclave, qui aspire après la liberté* [Sighs of a French Slave Who Longs for Liberty], 1689, John Locke, *Dwa traktaty o rządzie* [Two Treatises of Government], p. 136.

⁹ Hannah Arendt, *Korzenie totalitaryzmu* [The Origins of Totalitarianism], Warszawa: Wydawnictwa Akademickie i Profesjonalne, 2008, pp. 233–235, 241.

¹⁰ Thomas Molnar, *L' Utopie. Eternelle Hérésie* [Utopia. Eternal Heresy], Paris: Beauchesne, 1973, p. 249.

concept was put into practice by the French Jacobins and revolutionaries of the twentieth century. Wishing happiness for the new man, they all wanted to demolish the existing order, with its roots in human nature and the objective laws described by social physics.

Human rights do not take a universal form, and are not common either, as modern culture considers abortion as a human right, while accepting the exclusion of older people from the group of individuals possessing an unfettered right to life. Narrowing the circle of those with the inalienable rights of individuals, human rights theorists reject the Christian concept of the individual as a being with a soul, implying a human dignity.¹¹ They stress the Cartesian formula *Cogito, ergo sum*, indicating the identification of humanity with an existence of thought processes. Unborn children and the elderly, i.e. those who cannot demonstrate the aforementioned features, do not have the natural rights of man.

Human rights as a freedom through economy

It seems that the beginning of economic relations between China and an integral Europe could be considered as the agreement between the European Economic Community and the People's Republic of China, signed on April 3rd, 1978. The result of this bilateral cooperation was the 'Joint Committee on Trade Co-operation'. As a long – term result, the closer economic relations of the two entities is shown by the access of Chinese products to most markets in the European Economic Community.¹² At present, China is one of the most important economic partners of the European Union. China is the second-largest trading partner of the European Union.¹³ In 2005 trade turnover was recorded at 210 billion euros, which is sixty times greater than that compared to the 1970's and the beginning of bilateral economic relations. Only the co-operation between the Community and the United States take on a larger proportion Chinese import modern technologies on a massive scale – The European Union's participation factor in this case is 50%.¹⁴ An important document also was the report *The European Union – China: Closer Partners, Growing Responsibilities*, published by the European Union in 2006. It pointed to the crucial role of mutual economic relations and stressed the political importance of China as a key player on the global political stage. The significant effect was the power China had to lead to a strategic partnership with the European Union and in particular in the field of trade and investment (document *Competition and Partnership*). Joint arrangements were made to promote a free market, contributing to the implementation of the obligations arising from China's membership in the World Trade Organization and ensuring respect for intellectual property.¹⁵ Mutual co-

¹¹ *Katechizm Kościoła Katolickiego* [Catechism of the Catholic Church], Warszawa: Pallottinum, 1994, paragraphs 2270, 2274.

¹² Tomasz Białowąs, Magdalena Kąkol, 'Stosunki handlowe Unii Europejskiej z Chinami w latach 1995–2007' [Trade Relations between the European Union and China] in *Pozycja Unii Europejskiej w handlu międzynarodowym* [Position of the European Union in International Trade], Bogumiła Mucha-Leszko (ed.), Lublin: UMCS, 2009, p. 139.

¹³ Tomasz Kamiński, 'Miejsce Chin w polityce bezpieczeństwa Unii Europejskiej' [China's Place in the Security Policy of the European Union], *Azja – Pacyfik*, No. 9, 2006, p. 31.

¹⁴ Xinning Song, 'EU-China Strategic Partnership: Domestic and International Perspectives', materials from the conference *International Politics of EU-China Relations*, organized in London on 20–21.04.2006 by the British Academy and Chinese Academy of Social Science.

¹⁵ Katarzyna Hołdak, Anna Konarzewska, 'Stosunki Unii Europejskiej z Chinami' [Relations between the European Union and China], *Bezpieczeństwo Narodowe*, No. 5–6, 2007, pp. 279–280.

operation is the subject of the annual summit devoted to economic development. The year 2008 saw the establishing of the High Level Economic and Trade Dialogue as a formula for mutual negotiations and the seeking of opportunities to strengthen bilateral economic relations. In dealing with China, the European Union mainly focuses on improving the quality of products and services, the marketing of the yuan and increasing the transparency of business procedures. The Chinese economy enjoys preferential conditions of access to the European Union's market and operates in frameworks of a significant, often unilateral, system of exemptions and allowances.¹⁶

The creation of an effective system of human rights protection seems, in the case of different civilization conditions, extremely difficult. Therefore, we should look for other ways in which to build mutual trust and strengthen the position of the individual in Chinese society. The author of this article advocates a promotion of a free market as a way of creating alternative solutions to shape the ethos of public space and sanction the subjective position of the human being in China. The desire to build a strong society, which is the primary goal of the theorists of human rights, should flow from a will to release the social energy of citizens. The way to create a subjective nature of society, which in fact is a sum of individuals and may be a reference to organizational and commercial talents as a natural function for each individual's desire for freedom. Only the person who has entered into an enriching community has a real chance of improving their own feelings towards members of another nation. The political freedom in countries with a short democratic tradition usually take the form of a short-term implementation of solutions including society in decision-making processes; the lack of a civil society mentality contributes in such places to a rapid collapse of democratic political legitimacy and a refutation of the election procedures. Therefore, the competitive solution seems to be striving to build a large, strong middle class through participation in the fruits of economic development.

Human rights in the Chinese context should therefore primarily take the form of economic freedom, treated as a duty, which is based on a will of creation of a just system, and also as a consequence of the presence of free market elements in this cultural environment, at least with respect to Shanghai or Hong Kong. Economic efficiency stems both from external factors (fiscal burden, transparency of a tax system, the ability to obtain foreign investment), as well as internal, which are endogenously related to the moral condition of the units; joint success builds awareness of the citizen and a need for participation in the community, the commitment to property rights as inherently linked to a human person; therefore, Chinese human rights should primarily stem from a holistic and substantial respect for fundamental ethical categories: developed, objective cultural norms and a binding concept of a man with generated wealth. Ownership does not result from a positive law, but it is derived from the laws of nature; the human person is sovereign in respect of any item a man possesses; this is why everyone should be able to freely dispose of their own goods. Moreover, it is impossible to separate the ownership of a man's identity without violating the integral formula of dual, spirituality and the material nature of a human being. The guiding principle of a good political regime is a fair system of an allocation of the burden to the community and the legitimate right, founded on a relatively widespread belief in the

¹⁶ Tadeusz Sporek, 'Analiza stosunków handlowych pomiędzy Chińską Republiką Ludową a Unią Europejską' [Analysis of Trade Relations between the People's Republic of China and the European Union], *Studia Ekonomiczne*, No. 123, 2012, pp. 28, 34–35.

universality of certain legal and moral categories. With regards to the economy, a vision of common good is being performed by a ban on tax progression and an effective system providing a criminalization of the violations of a private property. The appropriation of another human being's property is, as in the case of Locke's thought,¹⁷ a violation of an indisputable relationship of ownership and the complementary state of a man, in which this person is open to the forces of nature.

The protection of economic freedom becomes one of the desiderata, and also provides the basic condition of release of Chinese entrepreneurship. Economic activity is directly proportional to the degree of state control of economic relations; with an increasing size of government, a freedom of the individual, and an axiological foundation of the market game as it decreases. Freedom is understood as inseparable from the category of a human being and is a part of Bacon's tradition of perception of freedom as a category built on the empirical analysis of human behavior and nature¹⁸ which are the main starting points for formulating generalizations about the philosophical concept of an individual. Participation in the area of trade is based on a free participation of citizens; each of them has a right to become rich, assuming a sole criterion limiting this activity – i.e. similar privileges to another entity. The empowerment of the citizen implies their sovereignty in terms of ownership and a power of transmission of the fruits of their own work. Human rights in the Chinese model should become the free use of property and an unfettered opportunity to hand gifts to another person; the relationship between a state and a citizen should generate an attachment of a human to the goods of that person, out of which a respecting of the common good and a sense of responsibility as members of the community arises.

An example of the Chinese idea to empower individuals through the economy has become an open door policy, conducted since 1978 by Deng Xiaoping. It stemmed from the awareness of the Chinese leaders in terms of a need for European technology. Furthermore, China urgently needed foreign investment, which in a closed, isolated China presented themselves with a deficit. The situation changed with the opening to Western business. Soon, the authorities set up four special economic zones (including the Shenzhen, which was initially a fishing village and now can be perceived as one of the most developed cities in China)¹⁹ which are now the more dynamic developments of Hong Kong and Taiwan. The economic zones have become a symbol of the dynamic changes, built by the release of energy of the Chinese citizens. It should be noted that these areas have empirically demonstrated the ineffectiveness of bureaucratic activity in the economy and a supremacy of the elemental forces of the market. In rural areas, since farmers became tenants of land, crops yields from year to year started to increase.²⁰

Deng's reforms not only undermined the system of state management of the economy, but also due to the liberalization of trade, allowed many individuals to feel hope for change. China's rural community gained the opportunity for social transformation and a participation in the fruits of change. That spontaneous, unorganized, non-ideological,

¹⁷ Zbigniew Rau, 'Wstęp' [Introduction], *Dwa traktaty o rządzie* [Two Treatises of Government], John Locke, Warszawa: Państwowe Wydawnictwo Naukowe, 1992, p. 46.

¹⁸ Antoni Podsiad (ed.), *Mały słownik terminów i pojęć filozoficznych dla studiujących filozofię chrześcijańską* [A Little Dictionary of Terms and Concepts for Students of Christian Philosophy], Warszawa: PAX, 1983, pp. 426–427.

¹⁹ Retrieved from: <http://www.esquire.com/features/china0807> (accessed 18 November 2014).

²⁰ Jean-François Dufour, *Géopolitique de la Chine* [Geopolitics of China], Paris: Complexe, 1999, p. 31.

apolitical movement devoid of leadership²¹ contributed to the advancement of civilization, but also ushered in a new perspective perception of Chinese society: as a community capable of breaking objective conditions and creating a sphere for the common good with respect to their traditions and a context of civilization. Human rights understood through the prism of economic promotion should be based on respect for the free will of an individual, which is a contribution to economic success. They have a strong foundation of indeterminism, in which an ethical dimension primarily focuses on the sovereignty of a human soul and free will as the basis of conscious action; and material success which is always preceded by a teleological activity of a human person. In terms of indeterminism, free will is independent of the external conditions; is able to imply doing a good deed, which is reflected in the moral condition of man and the durability of his efforts.²²

Freedom of the individual is also a right of association, by gathering together other representatives of the same profession. The communities created within the same profession are a social phenomenon known in ancient times; they express the spirit of anteriority in relation to the state, which is a product of modernity. Economic freedom should manifest itself in pre-state independent bodies – family, state, clan, and group expressing the interests of the community. Human rights, understood as an expression of the separate nature of citizens, consistent with the spirit of a given cultural region, in the economic sphere is a focus on developing a culture of ethical capitalism, and thus built on values such as respect for their own and others' work, the integrity of the effects of that activity, Ulpian's meaning of justice (regarded by the Roman writer and jurist as a virtue)²³ is given to anyone to which it rightfully belongs. Free man produces more and more efficiently, as exemplified by the economic successes of the nineteenth century; a citizen enslaved by of the state's activity works inefficiently, increasingly limiting examples of their own initiative and entrepreneurship (as in Soviet Russia).²⁴ The labor freedom also means striving to develop the most effective solutions in the economic sphere; this should happen not only because of the sheer pragmatics, but also with regard to work as an ontological category of common good and importance *per se*.

Morally the legitimate factor is also an expectation of the understanding and fair assessment of the products of human labor. Personal economic benefit is an axiom of action, although it may not take an absolute form. The Chinese authorities should make an effort to minimize the desire for a social explosion of energy and cultivate in their own citizens a virtue of entrepreneurship, manifesting itself in an effort to create maximum possible relations in the sphere of private business. The Latin word *dignitas* perfectly describes the value of a citizen's own good, which is an incentive to work harder for themselves and for the community.

Cicero defined justice as a virtue, seeing it as a spiritual factor, giving a chance of insight into the foundations of an individual right of action.²⁵ From the point of view of economic freedom, the Ciceronian category of justice is of particular importance, being a generator of perception of each individual. Thus, the validity of the citizen's involvement is measured both by the internal compliance with the standards of conduct that has been previously internalized and the fruit of external effort, axiologically verified by the other participants of a social reality.

²¹ Retrieved from: <http://www.kapitalizm.republika.pl/chiny.html> (accessed 18 November 2014).

²² Podsiad, *Mały słownik terminów...* p. 427.

²³ Cicero, *De virtutibus* [On virtues], p. 7.

²⁴ Richard Pipes, *Rewolucja rosyjska* [Russian Revolution], Warszawa: Państwowe Wydawnictwo Naukowe, 1994, p. 535.

²⁵ Cicero, *De inventione* [On Invention] II, p. 160.

Threats to economic freedom

The main threat to economic freedom, preventing it from the instauration of an individual rights protection system is a complex and omnipotent state, interfering in economic life. As Anthony Szymański posits ‘state control is limiting an individuals’ economic freedom of action and associations, and thus expands too much the economic power of the state, allowing for an intervention of the state and its lower organizations. The state’s engagement deprives mankind of their liberty due to killing the advantages of the self-host, which is being replaced by the clerical or collective management, which is economically poorer, less cost-effective, less laborious, and prone to abuse. This state control, where state authorities engage directly in the economic process, creates a political dependence on the citizens (employees, suppliers, buyers, independent farmers, who must obtain a permit from the authorities) from the government and political parties, resulting in a decline of civic morality and the civilization level.²⁶ A presence of the state in the economy generates extensive administrative costs while implying a reduction in the free play of the market. Citizens are forced to compete with state entities, all with the support of an apparatus of power; this unequal fight discourages the individual to a state, subconsciously forcing them into a circle of black economy. The existence of this phenomenon is what a state should be blamed for the more actively it is running, the more that citizens are trying to protect themselves against the expansion of a Leviathan. The citizens independence requires the withdrawal by the state from the vast majority of areas of economic life.

The level of economic freedom in China can be easily measured, inter-alia, by reference to the *Index of Economic Freedom*, published annually by The Wall Street Journal and Heritage Foundation. The document includes an analysis of the limitations of economic freedom and the stringency of regulations affecting the economy of a given state. In particular the report examines the tax burden on property rights the advancement of the black economy and the quality of trade policy. In 2013 China occupied 140th place in the ranking of countries and has been classified as a country where economic freedom is very limited (the so-called *mostly unfree* category).²⁷ It is a very symptomatic observation. The Report of The Wall Street Journal and Heritage Foundation has long proved a correlation between economic freedom and per capita income; independence from the state creates the legal framework, institutional growth and social development; the consequences of such phenomena are the limitation of poverty, an increase in prosperity and an advancement of environmental protection.²⁸ With the resignation of the state from regulating the economy, we can see the added value, which is a manifestation of creating market institutions and expanding the circle of prosperity. Capital accumulation promotes respect for property; allows for the entrenchment of a stable layer of citizens capable of making investments, which in turn yields prosperity and creates additional jobs.

This tool is not perfect, as an attempt to verify the complex socio-political phenomena. Sometimes the individual countries involved in the ranking occupy different places other to those we would normally attribute them in the analysis based on empirical observation.

²⁶ Retrieved from: http://krakowskie.nazwa.pl/test/index.php?option=com_content&view=article&id=177:antoni-szymanski-qetatyzm-i-wolno-gospodarczaq&catid=6:klasyicy-o-wolnym-rynku-i-rolu-pastwa-w-gospodarce&Itemid=7 (accessed 21 November 2014).

²⁷ Retrieved from: <http://www.heritage.org/index/ranking> (accessed 21 November 2014).

²⁸ James Gwartney, Robert Lawson, Joshua Hall, *Economic Freedom of the World: 2013 Annual Report*, Vancouver: Fraser Institute, 2013, p. 2.

However, this is a charge that can be drawn to each study as a subject of falsification. The Chinese path should primarily emerge through the ability to convince foreign investors to engage in economic activity in China with a reduction of the state's presence in the economy; the level of sophistication of state actions, the dependence of mechanisms on party decisions and common interventionism²⁹ – all these factors slow down the pace of development, which is a leading factor in relation to the Chinese dream of building a strong society.

China's problem is also due to a poorly developed system of personal data protection. There is no single document that would regulate the issue of access to personal data. This function was to be served by the Personal Information Protection Law of 2008; however, the aforementioned document remained in the realm of its projects. Communicational effectiveness requires an urgent legislative activity in the use of information and the simplifying of the decision-making procedures. Currently, China is considered to be an attractive place for foreign investments, despite the high levels of corruption, which can be observed in China every day. The transition from a planned economy to a market economy has enabled China to obtain not only exceptional economic growth, with high growth opportunities, but also has created situations in which corruption in the public and private sector is booming. The Chinese government openly admits that corruption is a problem that can shake economic growth in the long term, and therefore an anti-corruption campaign was launched across the country. Unfortunately, it did not bring the desired effect, despite such measures as the strengthening of legislation, higher penalties and more control on companies and government offices.³⁰ Corruption in China often takes a systemic character as the only effective tool for a positive outcome of civil applications. This situation generates a moral decadence in society. Corruption muddles a certain normative order within the community, helping to undermine any developed habits and entering into the area of subconscious behavior. At this point, it is worth recalling the concept of *habitus*, which is present in the works of Aristotle and St. Thomas. A key development of this concept is attributed to Pierre Bourdieu. Bourdieu's term is recognized as a system of beliefs, aptitudes and thought patterns, determining a specific course of action.³¹ The group of those internalized believe the effects of the perception of moral standards, resulting in an impact on the community. Corruption is a social problem, beyond the moral sense of an individual; it reduces the authority of power, implying the creation of a division and separation between citizens and public officers.

Conclusions and recommendations

The issue of human rights in China is still a delicate phenomenon and continues to be in a development phase. The chances of a political transformation should be estimated as slight, as indicated by the failed attempts to liberalize the political system that took place in the twentieth century. The Chinese mentality, strongly pro-state and denying an adaptation of Western standards, maintains the existing political model. This is why the only way of transformation is an economic path: through the marketization of a public sphere and a reduction of bureaucracy. The foundation of human rights is a strong position for an individual. It is impossible to establish such an important role for a human being without an effective opposition to the

²⁹ Jean C. Oi, *The State and Peasant in Contemporary China: The Political Economy of Village Government*, Berkeley – Los Angeles – Oxford: University of California Press, 1991, p. 102.

³⁰ Retrieved from: <http://www.chinskiraport.pl/blog/handel-z-chinami-korupcja-w-chinach/> (accessed 21 November 2014).

³¹ Pierre Bourdieu, *The Logic of Practice*, Stanford: Stanford University Press, 1990.

processes substantially damaging the social fabric. This phenomenon reinforces criticism of the transformation of the economic system, resulting in a weakening of the sense of identity of their own state. Due to the lack of a transparent implementation of privatization, an individual may feel alienated from the ruling class; at the same time, an atrophy of faith in the objective nature of socio-political processes implies a moral stagnation and erosion of pro-state attitudes, enhancing public antinomy to the institutions of power. Corruption must be fought primarily due to the evil that infects the moral layer. It is an example of a very strong debilitation on the interests of citizens, especially those who are at a stage of capital accumulation. Along with economic capital, social capital is weakened, regarded as an emanation of energy and the willingness of citizens to public engagement. The anti-developmental nature of corruption relies on binding itself with the phenomenon of social stratification; in the current situation of those people who are capable, but do not participate in the system of governing, of corruption, being deprived of the chance of promotion; corruption reduces labor mobility, generating a social disintegration and affecting the quality of the political elite.

China should fight corruption, taking care of the interests of its own citizens. Human rights *de facto* mean an organization of society in which to the greatest extent an efficiently functioning community is possible. They should develop a consistent, transparent business model, being the fruits of a joint effort by society and the elites. At the same time, the authorities should firmly enforce these solutions by both parties. Corruption not only slows down the pace of development, but also kills the soul, destroying attachment to the authority, which in strongly traditional Chinese society, is of great importance. Corruption leads to a loss of individualization within social relations and a creation of opposition to the elites; resulting in, citizens losing their trust in public authorities and a seeking of support in the collective as an effective entity to bilateral relations.

The Chinese state as sovereign in its political and economic fields, should encourage the free market and protect the property of the citizens. The inviolability of property contributes to the multiplication of wealth, which in turn creates an area of common good. The scope of freedom of the individual should be subject to restrictions, primarily due to the moral condition of individuals.³² Entrepreneurship may quickly turn into greed, freedom of mismanagement and lead to abuse. In this case, the state appears as a guarantor of public order and an arbitrator of social disputes. Economic freedom should be supported by the state, promoted in the mental sphere, but also limited by the common interest and objective values so treated as ontological categories. Human rights are based on freedom, which cannot be regarded as anything otherwise than as the right of every human being. The presumption of freedom, not official intervention, should be the principle of public institutions. So it must be the axiom or the starting point of the perception of an individual in the community. The state's involvement in the economy should take place in case of the violation of an axiological order, and remind us of Carl Schmitt's idea of establishing a new order by sovereign power.

Chinese human rights at the beginning of the twenty-first century, are rooted in the concept of economic advancement. This success can occur primarily by limiting the amount of rules and social stimulations of an individual's instincts. Human nature leads each of us to optimizing our own place in a community and a desire for happiness. The social philosophy of a man makes each of us perceive this as a collection of specific talents and

³² Tom Palmer (ed.), *Why Liberty? Your Life. Your Choices. Your Future*, Ottawa, Illinois: Jameson Books Inc., 2013.

aptitudes. An example of a prudent policy towards its own citizens should be given by the Chinese authorities. They have a mission to cultivate the virtues of thrift, as elements which are the normative foundations of wealth and intellectual development. These effects may be achieved by imposing high standards by rule of law and law enforcement, created as a consequence of an ideological compromise³³ and consistent with the spirit of national traditions. Honesty is the best policy, Benjamin Franklin once said.³⁴ This idea should guide the contemporary hosts of China in their concern for a common good.

³³ The relationships between the economy and axiological categories were described in: Idem, *After the Welfare State*, Ottawa, Illinois: Jameson Books Inc., 2012.

³⁴ Andrzej Kojder, 'Korupcja i poczucie moralne Polaków' [Corruption and the Poles' Sense of Moral] in *Kondycja moralna społeczeństwa polskiego*, Janusz Mariański (ed.), Kraków: Wydawnictwo WAM, Polska Akademia Nauk – Komitet Socjologii 2002, p. 249.

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