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The role of psychopedagogy – the development of understanding of the child**

ABSTRACT: The discussion on human rights always refers to the relationship between a person and a specific authority. The rights of a given person are the element that is supposed to allow them to effectively demand their own dignity, in particular in a situation in which they experience a specific injustice. The harm felt is most often caused by a clear disproportion between the rule of a specific institution or ruler and the capabilities of a person. That is why we talk, for example, about the need to guarantee the rights of a patient in a situation where a hospital or educated doctors make the patient feel aggrieved. A slightly different situation concerns the rights of the child. Here too, we have an element of power. We are talking here about parental authority. However, this is a different type of relationship. The authority mentioned here is presented by people who (most often) care for and love the child. At the same time, however, the child mentioned here is in the position of a person who in certain situations must adapt to the will of the parents. Is such a situation always necessary? Can children's rights introduce a specific democratic system in the family? What is the connection between children's rights and the obligations of the youngest? When speaking about children's rights, should we always remember the aforementioned obligations?

This article will attempt to answer these questions.

KEYWORDS: children's rights, legal pedagogy, human dignity, upbringing, society.

1. Introduction

In mid-1990, the premiere of the film “Korczak” took place in Poland. This film was directed by Agnieszka Holland. It presents the final period of the

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life and activities of the famous Polish doctor and educator, Janusz Korczak. So far, only one film has been made telling the story of this “first Ombudsman for Children”, as Dr. Korczak is often called in Poland. In one scene of this film, we see the “old doctor” walking down a corridor carrying a girl in his arms. After a while, we notice that he is going to a class with medical students. In the next scene, we see the child being placed behind an X-ray machine. After turning it on, Dr. Korczak turns to his students, saying, ‘This is what the heart of a child who is afraid looks like’. He asks his students to remember this sight.

The story described here is a perfect example showing how important children’s rights are to society. We are talking about a specific group of people to whom these rights apply. Janusz Korczak, mentioned here, used to say: ‘There is no child, there is a person!’ That is true. However, we are talking about a person who is not yet fully mature—someone who builds their own world, learns to experience new things, makes mistakes, and makes the first attempts to correct them. Any discussion of entitlement involves an element of power. Historical analyses of the development of the concept of human rights indicate the need for instruments that allow an individual to defend him or herself in situations involving powerful authorities. When it comes to children’s rights, however, we are in a slightly different situation than, for example, a patient who tries to express his or her own opinion before a doctor who, possessing medical knowledge, also has power. A child can develop most fully within the family. The Convention on the Rights of the Child points out in several places the need to support the child’s ability to grow up in the presence of both mother and father. Parents naturally have authority that comes with responsibility for another person. Therefore, it is a special type of power in which the key element is care for the other person. This person is developing psychosocially, and this development seems to be the key issue.

On the one hand, this development can be understood in a socio-historical way. This refers to a change in the approach to the protection of children’s rights. Over the last centuries, we see a similar evolution: the child was no longer treated as an object but became a subject. What is important, however, is that development also concerns the child. This process develops the ability to self-educate. This article will particularly present these two levels of development in defined areas.¹ In the summary, a

¹ In these parts of this article, the author will use edited and enriched materials collected during the preparation of his habilitation publication.

discussion will be proposed regarding the current pedagogical and legal understanding of the idea of children's rights. The author's reflections on the dilemmas and challenges in this area will be presented.

2. The history of children's rights

When analysing the phenomenon of children's rights, it is important to pay attention to selected historical elements that relate to this issue. When analysing important historical information, attention should be paid to the first time—socio-legally—that the unique nature of the child's situation was acknowledged. Unfortunately, this historical instance is negative. This occurred in 365 AD, when Emperor Valentinian abolished the Law of the Twelve Tables, which had been in force in the Roman Empire since 450 BC. According to this document, sick and disabled children were killed immediately after birth. As Szarkowska points out, both in ancient times and in the Middle Ages, children were not considered worthy of special protection, receiving objective rather than subjective treatment. It is worth mentioning that Roman law emphasised that children were de facto the property of their parents, especially the father (*Pater rex*). The child's situation was analysed solely from the perspective of the parents' will and assessment of the situation. As noted, it was mainly the father who had unlimited power over the child. In her reflections, Szarkowska adds that in the periods mentioned: 'One of the manifestations of limiting the child's freedom was wrapping him in swaddling clothes, putting him in corsets, or tying him in chairs'.² As the quoted researcher adds: 'In old Poland, a child did not have full rights; it was subordinated mainly to its father and completely dependent on him. The father decided about the life and freedom of the child; he could sell it, kill it, or mortgage it'.³ Here, however, by examining the "history of childhood" and the history of respect for children's rights in previous centuries, we come to a surprising observation. Considerable information indicates that child abuse was not only the norm but the expected course of action. Sometimes, interesting exceptions to similar practices can be seen.

² Upbringing and education throughout the ages (2013), [Online]. Available at: <https://blogwychowieduka.blogspot.com/2013/12/wychowanie-w-sredniowieczu.html> (Accessed: 12. December 2023).

³ Ibid.

An example here is the law passed in 1374 – the Statutes of Wiślica. They introduced restrictions on the above-mentioned, essentially absolute, fathers' rights. From the perspective of modern times, this seems surprising, but then it was necessary to introduce a penalty for infanticide. This principle was regulated by the Statutes. However, it cannot be forgotten that at the same time the right to punish children was retained.⁴

The context of using force against a child shows ignorance regarding childhood, which is still incomprehensible today. According to Polish researchers, Rodkiewicz-Ryżek and Błeszyński, until the 18th century, childhood, as a special developmental period for humans, was not considered. The educators mentioned here note that 'Childhood was treated as a period of physical and moral weakness that should be treated with strict upbringing, which results from the conservative interpretation of the Bible, and can also be observed today in the most radical Christian movements'.⁵ It was only at the end of the seventeenth century that there was an important modification in the approach to the child and the rights it had. The views expressed by Jean-Jacques Rousseau were of key importance here. This philosopher is widely considered to be the first thinker who "discovered the child - as a child". This is particularly about drawing attention to the need to provide young people with care and protection. It was this approach that was the basis for building a humanitarian attitude towards children. It is necessary to note that children's rights—in the form of a separate term—appeared only in 1789. As it turns out, they were included in the French Declaration of the Rights of Man and Citizen. Equally important, this term was also used in Napoleon's Civil Code. This document introduced provisions regarding the basic rights of the child.⁶

Czyż points out that in a slightly later period, we can see specific actions to protect children's rights. This renowned researcher, who has been supporting children for many years, adds that a broader social discussion on the above-mentioned issue began between the 19th and 20th centuries. It is worth remembering the sad case of Mary Elen Wilson from Baltimore. As Czyż emphasises, the girl was '... beaten by her mother. She was helped by members of the local chapter of the Local Society for Prevention of Cruelty

⁴ Ibid.

⁵ Błeszyński and Rodkiewicz-Ryżek, 2010, p. 97.

⁶ Upbringing and education throughout the ages (2013), [Online]. Available at: <https://blogwychowieduka.blogspot.com/2013/12/wychowanie-w-sredniowieczu.html> (Accessed: 12. December 2023).

to Animals'. The quoted author also adds that from 1874, you can see the beginning of '...a movement to help children. Soon after, over 200 different local associations were established to protect children from violence'.⁷ Similar activities were of particular importance. In the period mentioned, we also notice a particularly dynamic development of the industry. As part of—often—heavy work, children were used as so-called “cheap” labour. There are also initiatives in Europe that advocate for the welfare of minors. It is important that scientific committees began to be established at the end of the 19th century. These organisations brought together criminologists and family judges. The purpose of the committees' activities was primarily to relax the provisions of criminal law in the parts relating to minors.⁸ At the beginning of the 20th century, the first scientific meetings began to be organised on this topic. At the same time, important changes of a legislative nature were introduced. They also concerned the functioning of children and their rights in the family. As Czyż points out:

in 1915 – in Norway, the rights of children born out of wedlock and out of wedlock were equalised by law (in Belgium, for example, it happened only in the 1980s, after the ruling of the Court of Human Rights in Strasbourg, in the case of *Marckx v. Belgium* from 1979).⁹

When we present specific historical contexts regarding children's rights in the 20th century, we cannot forget about Korczak. He is often called the first spokesman for children's rights.

In his reflections, the doctor, educator, and social activist pointed out that for many generations in the world, we have seen a clear division into:

- adults with rights, and
- children who are subordinated to their parents or guardians in every area.

In his book entitled “*A child's right to respect*” the author points out that a child has a unique value. Importantly, the value of a child indicated here refers to his or her unique childhood period of life. The child has value. We cannot focus on the fact that it will grow bigger one day. As Korczak pointed out, social changes must always consider the well-being of

⁷ Czyż, 2002, p. 9.

⁸ Czyż, 2002, p. 10.

⁹ Czyż, 2002, p. 9.

children.¹⁰ Korczak also pointed out in his works the importance of the Geneva Declaration, a document adopted in 1924. It contains principles indicating the need for equal treatment of children. This refers in particular to treating children with respect 'regardless of their race, nationality or religion'.¹¹ The convention also states that children should always be provided with help in the event of a threat they experience.

A particularly important moment for the protection of children's rights was the announcement in 1948 of the of the United Nations (UN) Universal Declaration of Human Rights. The announcement in 1950 was also valued by the Council of Europe and the European Convention on Human Rights. In its provisions, the Declaration draws attention to the unique nature of motherhood and childhood. The document further emphasises that all children are equal. They cannot be differentiated in any way by their family or social situation. It should be added that the European Convention mentioned above has become a legal tool that is difficult to overestimate. This document allows for an effective opportunity to defend children's rights before an independent judicial body (the Commission and then the Tribunal).¹² We cannot forget about the Declaration of the Rights of the Child adopted by the UN in 1959. This document was both an extension of the Geneva Declaration and constituted a valuable foundation for it. On the basis of this document, the UN General Assembly adopted the Convention on the Rights of the Child. As Czyż emphasises, the Declaration of 1959 contains ten principles regarding the protection of children's rights. These are principles such as:

equality of all children, without any exception or difference; the possibility of special legal protection; the right to a name and citizenship; the possibility of using social assistance; special care for children with special needs; understanding love as the basis for development; free and compulsory education at least the primary level; priority in receiving protection and assistance;

¹⁰ Upbringing and education throughout the ages (2013). Available at: <https://blogwychowieduka.blogspot.com/2013/12/wychowanie-w-sredniowieczu.html> (Accessed: 12.12. 2023)

¹¹ Skrzypek and Szłapka, 2003, p. 4.

¹² Czyż, 2002, p. 10.

protection against neglect, exploitation, and cruelty; education in the spirit of understanding, brotherhood, and tolerance.^{13,14,15}

Referring also to the Convention on the Rights of the Child, it is necessary to draw attention to two important elements. First, in the opinion of Szymańczak, the Convention:

... is the basis for activities undertaken for children's rights by both governments and international organisations, because it set the basic legal standards for this protection and formulated a wide catalogue of children's rights. This catalogue includes civil law, social-political law, and—by definition—to a small extent, economic law.¹⁶

Second, pointing to the importance of the Convention on the Rights of the Child, it is necessary to draw attention to the position of Polish jurisprudence. In many countries, this document has become an integral element of national law. It is worth recalling that the Polish Supreme Court emphasised in its resolution that the Convention in question had the status of an act a year after Poland ratified the document. In other words, its provisions should be applied directly.¹⁷

At the end of this part of the discussion, it is worth noting the still existing “tension” in the discussion on children's rights. We are talking here about the definition of a child proposed by the Convention on the Rights of the Child. As Jaros points out, during the creation of this document there was a discussion concerning an attempt to answer the question: when do we deal with a child? Ultimately, it was decided that it was necessary to create a broad standard. This idea allowed for a combination of different approaches: some parties emphasised that children should be legally protected from the moment of conception, while some countries had a different opinion, claiming that this approach was inappropriate. Ultimately, the Convention indicates that a child is a person who has not reached the age of 18.¹⁸ From

¹³ Czyż, 2002, p. 9.

¹⁴ UN, 1959.

¹⁵ Węgrzyńska, no date, pp. 3-4.

¹⁶ Szymańczak, 1996, p. 2.

¹⁷ Resolution of the Seven Judges of the Supreme Court No. 179 of 1992.

¹⁸ Jaros, 2013, pp. 93-95.

an international perspective, we can see when the period of childhood ends. However, we cannot say when this period begins. However, a significant change occurred in 2011. At that time, the European Court of Justice in Luxembourg issued a ruling in the case of *Oliver Brüstle v. Greenpeace eV*. One of its most important elements was drawing attention to the key elements concerning the “beginning of being a child”. In the position discussed here, it was recognised that human embryos are entitled to the same dignity as born persons. This fact means that it is prohibited to perform research on human embryos aimed at creating a patent.¹⁹

These comments may seem far from the main (psycho-pedagogical) thread of the discussion only at first glance. However, this is not the case. For several years, a very important discussion has emerged in Europe concerning the identity of people who were conceived using the in vitro method. We are talking about this group of children who have undergone a prenatal adoption procedure. The procedure involves transferring the embryo to a married couple (or a couple who are not in a formal relationship). However, the couple who accept the embryo does not know the details of the egg and sperm donors. The child also does not know who its biological parents are. In the classic adoption procedure, the child can find out the names of its parents. This is a very important element in building the child’s identity. The Convention on the Rights of the Child guarantees protection of the right to identity. In the prenatal adoption procedure, we have a different situation. The child will never learn the names of its parents. This is where the psycho-pedagogical thread comes in. Building a young person’s identity is also linked to the way they are treated in the prenatal period. In other European countries, there are people who hold uncompromising positions regarding those conceived in a similar way through the in vitro method. These people are fighting for their identity. Recognition of the dignity of the child at the earliest stage of its development allows for the creation of a policy that will respect its subjectivity after birth.²⁰

2.1. Selected elements of the discussion on children’s rights

As Marek Andrzejewski points out, the development of the idea of children’s rights is directly related to the functioning of the family

¹⁹ Brachowicz, 2012, pp. 70-72; Case C-34/10., *Oliver Brüstle v Greenpeace eV*, 18 October 2011.

²⁰ Ziółkowska and Krawczak, no date; Kmiecik, 2017, pp. 183–201.

institution. According to this author, the above-mentioned rights can be fully realised, especially in the family. Andrzejewski rightly points out that the Convention on the Rights of the Child is based on a similar—we might say—famiological assumption. It is also notable that the implementation of the children's rights discussed here is directly related to their harmonious development. In other words, "happiness, harmony, and understanding" are the elements that have a special impact on the full and real implementation of the rights of minors.²¹

The approach discussed here is not without elements that may raise some doubts. Czyż and Szymańczak jointly point out that:

Talking about children's rights, especially the rights of children in the family, is not an easy task, if only because the mental stereotype prevailing in our society perceives the issue of children's rights in terms of an attack on the authority of adults, especially if children's responsibilities are not discussed on this occasion.

These authors add that, in their opinion, the most common mistake when researching the protection of children's rights is to recognise them only when children fulfil their obligations.²² It is necessary to clearly state here that children's rights are an element of social debate that is unquestioned nowadays. Democratic countries recognise children's rights as a fundamental principle, often constitutionally grounded. It is commonly emphasised (also at the level of legal provisions) that an adult has no right to harm a child. However, it is worth paying attention to the comments of Błeszyński and Rodkiewicz-Ryżek. The assumptions presented above are inevitably declarative in nature. In the opinion of these authors: 'no legal acts can order adults to love or show love to a child'.²³ The emergence of the concept of protecting children's rights was intended—according to the educators mentioned here—to democratise intra-family relations. An important element cannot be omitted here. As these researchers state:

Human rights formulated in legal acts correspond to the needs of every human being who may demand that the state authorities

²¹ Andrzejewski, 1999, p. 172.

²² Czyż and Szymańczak, 1993, p. 3.

²³ Błeszyński and Rodkiewicz-Ryżek, 2010, p. 96.

satisfy them. However, the child is unable to demand respect for his or her rights on his or her own. The rights of the youngest can only be realized through the actions of adults.²⁴

However, it should be noted that nowadays changes in such thinking can be noticed. We are talking about the emergence of an increasingly loud movement, which we can call the “participatory movement”. We are talking here about clear, distinct, and specific voices of children and young people who want to be co-participants in discussions and co-decision makers in actions.

Researchers dealing with the protection of children’s rights also often criticise their family-centric nature. Czyż points out that relating children’s rights to the institution of the family is not a justified and accurate action. The author emphasises that rights are still identified with specific needs, such as happiness, love, security, etc. This approach, according to her, is promoted by some educators and psychologists. As Czyż indicates, such activities may exclude children’s rights from the broadly understood area of human rights protection.²⁵ It is worth taking a moment to discuss this approach to the topic. First, it must be emphasised that when examining the topic of human rights and children’s rights, we refer to one common element. This is about human dignity and the unique character of each human being. As Czyż points out:

Children’s rights should not be identified with their basic needs. There is no right to be raised in a barking family or the right to love, although these are extremely important needs of every person, and children are undoubtedly particularly important.²⁶

When we refer to the term “children’s rights” in relation to the word “authority”, we must first of all take into account a specific state system, whose representatives are, for example, obliged to take actions aimed at realising the child’s right to education or protection of health. We are talking about the public sphere here. Applying the concept of children’s rights to the parent-child relationship is erroneous, as we are referring to relationships that are private. As the author discussed here states:

²⁴ Błeszyński and Rodkiewicz- Ryzek, 2010, p. 96.

²⁵ Czyż, 2002, p. 5.

²⁶ Czyż, 2002, p. 5.

Children are subject to parental authority, and it is primarily their parents who decide about their upbringing and worldview. Parents may have very different ideas on how to raise their child, and the state cannot interfere in this unless the parents neglect the child or abuse their parental authority.²⁷

It must be repeated that the parent-child relationship is private. The relationships discussed here are not codified. Czyż adds that:

Parents who do not love their children are not punished for this reason. They only appear in court when they violate the law: abuse their power or neglect parental duties. The court's interference is not a form of punishment for the parents but of securing the child's endangered well-being, which in turn is often in fact a punishment for the child, e.g., placement in a care facility. And these are the only situations when the rights of the child come into "collision" with the rights of the parents.²⁸

Sharing the above position, it is also necessary to draw attention to an important phenomenon. Wrong and improper use of "parental authority" by parents inevitably leads to harm to the child. It is the child who experiences suffering in such moments. The child has no way of defending himself against someone who is stronger, both physically and emotionally (I am referring to the guardian, but above all the parent).²⁹ In other words, abuse of power by people close to the child leads to violation of the child's rights. In such a situation, it should be noted that children's rights cease to be private (only within the family); they become a public element. State authority has the right to interfere in the area of parental authority at certain times.

However, there is no doubt that the area of protection of children's rights in the family will always have a unique and exceptional character. For example, recognising that a child has the right to happiness will probably be accepted by the majority. At the same time, it will be considered a certain declaration; it cannot be objectively accounted for in the parent's actions.

²⁷ Czyż, 2002, p. 6.

²⁸ Czyż, 2002, p. 7.

²⁹ Błęszyński and Rodkiewicz-Ryżek, 2010, p. 109.

Many of the activities of parents in the area of protecting the rights of their children will be of a similar nature. We can analyse certain assumptions and declarations mentioned, though each family may have its own way of implementing them. If a particular parent takes actions that cause pain and suffering to the child, then he or she violates the child's rights. This happens on a plane that, interestingly, is not vertical. Here, there is no formal authority of the parent as an institution. Harm in the family is horizontal. There is harm inflicted in a horizontal position, i.e., an individual to an individual.³⁰

It is necessary to emphasise that the above-mentioned harm to the child and his or her suffering may refer to three dimensions of the minor's functioning:

- physical,
- mental, and
- moral (sometimes called spiritual).

As Stuchliński emphasises, support for the child in the protection of his rights should consist in defending:

the child's personal subjectivity, i.e., the growth and development of his independence as a developing human person. As part of this obligation, in its own way, it is also necessary to develop and defend the child's subjective physical and mental independence.³¹

The topic of defending a given person is connected with an important problem here. Numerous conventions and laws on children's rights adopted by individual countries and international institutions are of significant importance. However, these materials are largely created by adults. Very often, these documents do not account for the specific nature of the child and his or her world. According to Males, '...the extent to which children exercise their rights depends less on legislative solutions and more on the actions of adults who are the organizers and participants of the educational process'.³²

This position is not entirely correct. It must be remembered that both legal provisions and specific actions are phenomena that interpenetrate each

³⁰ Osiatyński, 2011, pp. 305–308.

³¹ Stuchliński, 2010, p. 31.

³² Balaguer, 2010, p. 3.

other. Both of these elements are very important. It is worth noting, however, that the analysis of the social phenomenon of children's rights appears when a given person is already an adult. In this respect, Włodarczyk, examining Korczak's concept of children's rights, also drew attention to the different perspectives of children and adults. According to Włodarczyk:

Pointing to the differences between children and adults, the strangeness of their worlds generating mutual incomprehension, and the importance of inequality in the relationship between them, explains the need to establish a separate law protecting children and their world, a law requiring self-limitation of adults.³³

The author points, among others, to the content of the book *Children's Rights to Respect* by Korczak, which draws attention to the fact that there will inevitably be tension in relationships between children and adults. We are not only talking about the difference of worlds here, but also about a different perception of reality by adults and children. Zavalloni, in this context, considering the practical meaning of the Convention on the Rights of the Child, points out that fully understanding the rights of minors requires an adult to "go back" to childhood memories. According to this educator:

To understand children, you need to think back to your own childhood. For this purpose, it is good to ask yourself a few questions, e.g., what did we like to do back then? Where did we have the most fun? Who did we play with? Starting from these questions, it is possible to look at the connections between the world of childhood and the demands of modern times through the prism of several completely neglected laws.³⁴

Based on such a subjective method, Zavalloni constructed a catalogue of the child's natural rights. In his opinion, they are a *de facto* manifesto. These rights include, among others, the right to birth, free time, wild adventure, fun, smell, and silence.³⁵

³³ Włodarczyk, 2012, pp. 68–49.

³⁴ Zavalloni, 2010, p. 40.

³⁵ Zavalloni, 2010, pp. 40–41.

3. Education for children's rights - towards self-education

The above-mentioned threads related to minors' perception of their own rights motivate us to pay attention to another element. Here, we are talking about the process of shaping children's attitudes towards the law and broadly understood social norms. It is worth noting the observations of Kozak and Kusztal, who believe that:

Research undertaken by legal sociologists on legal knowledge and ideas as well as attitudes of adults towards the law indicates that knowledge and ideas about the law, and also attitudes towards it formed in early childhood (in the phase of primary socialisation) constitute a permanent basis for the entire later system of ideas, beliefs and attitudes, even if it is reorganized under the influence of subsequent experiences and the fate of the individual.³⁶

We can therefore see that childhood has a unique role in the process of shaping attitudes:

- correct (respecting the law), as well as
- antisocial (e.g., nonconformist).

It is worth adding that the legal socialisation process directly affects the level of compliance with children's rights by adults. The cited authors add that:

When describing the process of legal socialisation, we can point out that it is during childhood and early school years that a specific network of legal concepts is created, which in the subsequent social functioning of the individual serves as a kind of "filter", shaping a specific image of law and institutions of civil society. Referring to the achievements of developmental psychology and sociology of law, we can say that the process of children's legal development and the transformation of children's attitudes towards legal norms are (relatively) universal and complementary.³⁷

³⁶ Kozak and Kusztal, 2014, p. 93.

³⁷ Kusztal, 2014, p. 93.

The type of socialisation discussed here consists of two stages:

1. The child functions between “punishment and reward” (They are the basic motivators for action).

2. The child learns to adapt to socio-legal norms. Law becomes an important element of personal development.³⁸

Buksik, when examining the phenomenon of moral and legal socialization of children and youth, also draws attention to two key stages. This author, following the teachings of Jean Piaget, emphasises that in the first years of his life (first stage), a child cannot completely fulfil the duties assigned to them. Duties are not yet a significant value. In the early stage of moral development, the most important factors are punishment and reward. These two elements serve as stimulators, allowing the child to gain positive benefits or avoid negative consequences. The next stage:

is called autonomy or cooperative morality. There is an internalisation of norms and a transition from objective to subjective responsibility. Rules and norms are not an order of adults, but a separate choice of good. The socialization process based on reciprocity and cooperation leads to the achievement of moral autonomy. The model of development of a child’s moral awareness and moral judgements runs from fear to respect, from realism to idealism.³⁹

The complex nature of legal socialization was indicated above. This approach needs to be supplemented here. It is necessary to refer to the proposal of human development by Kolberg. According to this scientist: ‘...moral development takes place by moving from one stage to another, towards achieving the highest form, which is moral autonomy. Reaching a specific stage without earlier stages is rather impossible’.⁴⁰ The Polish sociologist Frieske points out that this scale of development can be directly related to the presentation of attitudes towards the law developed in children and young people.⁴¹

³⁸ Kozak and Kusztal, 2014, p. 93.

³⁹ Buksik, 1997, p. 159.

⁴⁰ Ibid.

⁴¹ Frieske, 2001, p. 237.

Kolberg named and characterised the stages of moral development. In his opinion, there are three stages of morality.

1) The stage of preconventional morality:

A person or child performs or refrains from specific actions to avoid punishment or obtain a specific benefit. Morawski points out that this stage concerns the development of children between the ages of two and seven. Relationships with others are based on the phenomenon of reward and/or punishment. The evaluation of a given situation as good or bad depends on specific, expected consequences. Contact with others most often takes place on a commercial “favour for favour” basis.⁴² Frieske points out that a child’s respect for legal norms at this developmental stage is often based on fear (e.g., “I am afraid of punishment”, “I am afraid I will not get a reward”). By the end of this stage, however, there is an awareness that specific norms, for example, may support a planned action.⁴³ Preconventional morality corresponds to an opportunistic attitude towards the law. It is characterised by the adoption of specific principles without their internal acceptance. The primary goal here is to obtain a specific benefit, which may be ensured by compliance with certain rules or regulations.⁴⁴

2) The stage of conventional morality:

A person (including a child) takes a specific action to obtain a favourable opinion from a particular group. Respect for authorities slowly becomes important to him; on the one hand, there is a desire to obtain a positive opinion about oneself (we want this opinion to be expressed by an environment that is important to us, e.g., peers). On the other hand, the child begins to notice and understand the important role of authorities.⁴⁵

From a sociological and legal perspective, it is worth noting that an important reflection occurs at this stage. Here, we are referring to an internal dialogue regarding the legal legitimacy of a given authority, as well as the social function of respect for the law. The individual begins to consider the positive consequences of complying with the law.⁴⁶ The action can be described as conformism. As Pieniążek and Stefaniuk point out, such an attitude can take various forms of action:

⁴² Morawski, 2003, p. 64.

⁴³ Frieske, 2001, p. 238.

⁴⁴ Pieniążek and Stefaniuk, 2003, p. 211.

⁴⁵ Morawski, 2003, p. 65.

⁴⁶ Frieske, 2001, p. 238.

- External: a specific person complies with the regulations but without accepting them.
 - Internal: a specific person fully accepts, e.g., statutory obligations.⁴⁷
- Towards the end of these considerations, it is necessary to draw attention to the third stage of human moral development, i.e.,

3) The stage of post-conventional morality:

At this stage, a person undertakes certain actions out of respect for the law. According to Kolberg, the highest stage of moral development is when a person acts in accordance with his or her own, previously formed conscience. The internalisation of a legal norm takes place here. For example, when getting acquainted with legal provisions, a specific person analyses them and accepts only those elements that are consistent with their system of values. However, here we are talking about mature and critical analysis.⁴⁸ Frieske, focusing on the stage of moral development of young people, points out that few people achieve it. This is a level that requires active reflection and is often associated with the emergence of difficult dilemmas. This happens because of the individual's attitude towards the law, and solving them affects the individual's development. At this stage, we see that a person acting in accordance with conscience also respects norms, even if he does not agree with them. The law is accepted because of the noticeable moral value it presents.⁴⁹ The approach presented here is characteristic of a legalistic attitude. As Opalek points out, a person presenting such an attitude listens to the law '... and the reason for this is the very fact that it is binding law'.⁵⁰

4. Discussion and summary

Below, attention will be paid to several areas that seem to be particularly important in combining the areas of psychopedagogy and child protection. These areas will be presented separately.

4.1. *Children's rights as other rights*

As indicated above, when we refer to the topic of a person's rights, we intuitively dwell on the individual's relationship to power. When we violate

⁴⁷ Pieniążek and Stefaniuk, 2003, p. 209.

⁴⁸ Morawski, 2003, p. 66.

⁴⁹ Frieske, 2001, p. 238.

⁵⁰ Pieniążek and Stefaniuk, 2003, p. 206.

the law, we may face the authorities represented by the court or the police. When we are patients, we are forced to use the support of medical experts. The specialists mentioned here have knowledge that naturally gives them authority.⁵¹ Focusing here on children's rights, we see that we are talking about two types of authority that may apply to them. On the one hand, there is a formal authority, e.g., of a teacher who can oblige a child to take specific actions. The child is also a patient and is forced to respect the instructions of the medical staff. However, when we talk about respect for children's rights, we immediately come across the concept of "parental authority". Here, however, we are dealing with a different type of authority.

The above-mentioned rights, e.g., as teachers, police officers, or nurses, result from specific professional roles. These people can adopt very different attitudes towards the child. On the one hand, they may avoid emotional relationships. On the other, they may want to support the child regularly. The parent's authority, which is based on a unique relationship, is significantly different. This relationship results not only from a special biological connection but is also about the unique position of children and parents in relation to each other. In the vast majority of cases, parents base their relationship with their child on love-based care. Therefore, the analysis of the topic of respect for children's rights in the family has a slightly different context than when examining this phenomenon, e.g., in a school context. However, here it is necessary to look critically at the proposal to eliminate the phrase "parental authority". The phrase "power" has negative connotations for many people. However, this is not the right approach. It is true that there are situations when power is abused by parents. Numerous, single, negative cases can be contrasted with dozens of great examples of parental care. There is a proposal to replace the phrase "power" with the word "responsibility". This is a mistake. Parental authority, as mentioned, is based on the care inherent in the relationship. It has a stronger character than solely responsibility, which must also accompany, for example, a teacher. A parent cares for a child because he loves him. The teacher most often does not experience such feelings with students. Moreover, parental responsibility is not only based on rights but also on special obligations towards the child. As Kiliańska points out:

Parental authority is primarily a set of parents' obligations regarding the child, and the parents' rights regarding the child

⁵¹ Bińczyk, 1999, pp. 67-72.

are a secondary component of this authority. Parental authority includes all matters relating to the child, care over him, management of his property, representing him, and giving the basic direction in the child's upbringing.⁵²

4.2. Democratisation of relationships

The emergence of a discussion regarding children's rights, as indicated above, may pose a great challenge for some people (and even communities). We see different periods in the history of relationships between adults and children. A child was often treated as property. In other times, the child was considered a figure through which evil forces could act, penetrating the child's immature personality. In the following decades, the child was not a partner for discussion and dialogue for the adult. The emergence of the Convention on the Rights of the Child is certainly one of the most important elements drawing attention to the subjective nature of minors. The convention has been adopted by most countries in the world and has become a guide for legislative activities, in particular provisions that impose an obligation to listen to the child in every possible case. This is a particularly important element. In previous decades, e.g., in Poland, there was a famous saying: 'Children and fish have no voice!' This phrase expressed a paternalistic approach to the child. It can be said directly that this approach deprived children of their voice. The appearance of declarations, conventions, and laws describing children's rights indicates the need to adopt a new assumption. In this approach, the child's voice is treated as something new, as a value, an enriching element. The democratisation of relationships mentioned above also means abandoning paternalism. However, this approach must not disturb key intra-family relationships. In the discussion on the protection of children's rights, it is necessary to find a balance between proper protection of the rights of minors and the proper understanding of the parents' right to raise their children in accordance with their values and beliefs. It is important here, on the one hand, to shape a culture of respect for children's rights, while at the same time emphasising the importance of responsibilities. As Roncalli rightly pointed out:

If a man begins to become aware of his rights, he should also become aware of his duties. Anyone who has rights should also have the obligation to demand respect for them as a sign of their

⁵² Kiliańska, 2012, p. 141.

dignity. It is the responsibility of others to recognise and respect these rights. (...) Therefore, those people who demand their own rights, and at the same time either completely forget about their duties or perform them carelessly, must be compared with those who build an edifice with one hand and tear it down with the other.⁵³

4.3. Leading to responsibilities and rights

It is the above-mentioned relationship between respect for children's rights and upbringing that seems to be particularly important today. In this area, parental authority may be incorrectly overestimated, which may lead to a violation of the child's dignity. On the other hand, unfortunately, a situation may arise that can be described as the "sacralisation of children's rights". This situation may lead to a paradox in which, on the one hand, we will demand respect for children's rights, and on the other hand, we will treat children as adults. At this point, it is important to remember that when we talk about children's rights, we are talking about people who are still developing and maturing. Nowadays, children have quick access to information. Unfortunately, they do not have developed personality mechanisms allowing for a critical analysis of the information obtained. This makes it often impossible for a young person to objectively assess a given situation. Here, it is necessary to recall the natural process of human development, including development in the moral arena. Each of us experiences a journey in which we first take action due to, for example, fears and hopes. Then we focus on a group or authority, and finally, we act based on the content of the law and the voice of our conscience. The often-promoted idea of including children in the area of participation is very important. In this regard, it is indicated that children should have the opportunity to co-decide or make independent decisions. However, an unwise approach in this regard may lead to the opposite effects. As Petrażycki pointed out: '...the law can have a negative impact on morality, it can demoralise people, it can spread moral plague and degeneration with its unreasonable decisions'.⁵⁴

⁵³ John XXIII (1963) Encyclical "Pacem in terris", [Online]. Available at: https://opoka.org.pl/biblioteka/W/WP/jan_xxiii/encykliki/pacem_in_terris_11041963 (Accessed: 12 December 2023).

⁵⁴ Petrażycki, 1968, p. 29.

Similar situations are already beginning to occur in countries where, for example, children are allowed to visit doctors on their own or purchase contraceptives on their own without their parents' knowledge. It is no secret that nowadays young people often start having sex. However, depriving parents of knowledge about their children's activities and at the same time providing external experts (a pharmacy employee or a doctor) with this knowledge is not an action that protects children's rights. A child's development, as mentioned many times in the Convention on the Rights of the Child, can take place most harmoniously in the family. Moreover, in this regard, it should be remembered that one of the basic rights of a child is to be a child.

Bibliography

- [1] Andrzejewski, M. (1999) *Legal protection of the family*. Warsaw: School and Pedagogical Publishing House.
- [2] Balaguer, L. (2010) Twentieth Anniversary of the UN Convention', *Children in Europe*, 17, pp. 2-4.
- [3] Bińczyk, E. (1999) What the authorities are whispering about (according to Michel Foucault)', *Artistic and Literary Review*, 9, pp. 67-72.
- [4] Błęszyński, J. J., Rodkiewicz-Ryżek, A. (2010) 'Protection of children's rights in the light of Polish and international standards', *Pedagogika Christiana*, 30(2), pp. 95-110; <https://doi.org/10.12775/PCh.2012.026>.
- [5] Buksik, D. (1997) 'Selected psychological theories of human development', *Seminare*, 13, pp. 147-166; <https://doi.org/10.21852/sem.1997.12>.
- [6] Czyż, E. (2002) *Child rights*. Warsaw: Helsinki Foundation for Human Rights.
- [7] Czyż E., Szymańczak J. (1993) *Children's rights in the family, Around children's rights*. 1st edn. Warsaw: Helsinki Foundation for Human Rights.
- [8] Frieske, K. (2001) *Sociology of law*. Warsaw: Iuris Publishing House.
- [9] Jaros, P. (2013) *Ombudsman for Children's Rights in Poland*. Warsaw: Office of the Ombudsman for Children's Rights.
- [10] Kozak, M., Kuztal J. (2014) 'The principle of the child's best interests and its implications for legal socialization in the school environment', *Edukacja radna*, 34, pp. 89-103.

-
- [11] Kiliańska, A. (2012) The concept and content of parental authority', *Catholic pedagogy*, 3, pp. 141-149.
- [12] Kmieciak, B. (2017) 'Paradoxes and gaps of Polish regulations on the use of assisted reproductive techniques', *Family Forum*, 7, pp. 183-201; <https://doi.org/10.25167/FF/2017/183-201>.
- [13] Morawski, J. (2003) *Aggression replacement training. "Training materials"*. Warsaw: Amity Institute.
- [14] Osiatyński, W. (2011) *Human rights and their limits*. Kraków: Znak Social Publishing Institute.
- [15] Pieniążek, A., Stefaniuk, M. (2003) *Sociology of law - outline of the lecture*. Warsaw: Zakamycze Publishing House.
- [16] Petrażycki, L. (1968) *Introduction to the study of legal policy*. Warsaw: National Scientific Publishing House.
- [17] Skrzypek, M., Szłapka, K. (2003) *Child rights in the European Union*. Koszalin: Regional European Information Center.
- [18] Szymańczak, J. (1996) *The European Convention on the Exercise of Children's Rights as another element of the legal protection of children*. Warsaw: Department of Economic and Social Analysis, Chancellery of the Sejm.
- [19] Stuchliński, J. A. (2010) 'Child protection in the moral and ethical dimension, Children's needs and rights, legal and social aspects', *Zeszyty Nauk*, 2010/3, pp. 27-37.
- [20] Węgrzyńska, A. (no date) *Children's rights - basic information*. Warsaw, UNICEF: Educational Materials (Author's Archive).
- [21] Włodarczyk, R. (2012) 'Korczakowski's postulate and justification of the child's right to respect. A sketch of pedagogical deontology and asylum pedagogy', *Culture and Education*, 4, pp. 63-73.

-
- [22] Zavalloni, G. (2010) The natural rights of the child', *Children in Europe*, 17, pp. 40-41.
- [23] Ziółkowska A., Krawczak A. (no date) *Who did you get your eyes from? After in vitro., "Political Critique,"*, [Online]. Author's archive, Previously available at: <http://www.krytykapolityczna.pl/artykuly/zdrowie/20150403/krawczak-vitro-nie-jest-tylko-kwestia-medyczna-rozmowa> (Accessed: 12 December 2023).
- [24] UN, (1959) *The Declaration of the Rights of the Child Adopted by the United Nations General Assembly on November 20*, [Online]. Available at: <https://digitallibrary.un.org/record/195831?v=pdf> (Accessed: 12 December 2023).