

ALF ROSS AND HAL KOCH: TWO APPROACHES TO DEMOCRACY AS TO A PHILOSOPHICAL CONCEPT

The work is the attempt to fill the gap in contemporary Ukrainian philosophy of law by incorporating two names and concepts of democracy which were not known to our legal science – Danish philosophers Alf Ross and Hal Koch. It is established that Alf Ross emphasized democracy as a rational, institutional system grounded in legal realism and procedural legitimacy. In contrast, Hal Koch presented democracy as a cultural and moral way of life, rooted in dialogue, mutual respect, and education. So, while Alf Ross provides a procedural and institutional view of democracy and law, Hal Koch insists on its moral and dialogical foundation, emphasizing that law in a democracy must be rooted in a shared ethical life. This work explores their divergent yet complimentary perspectives.

Key words: democracy, legal philosophy, legal positivism, institutions.

Modern Ukrainian science development is impossible without taking into consideration the ideas and researches made by European colleagues during the last fifty years. It is crucial to incorporate into the history of the philosophy of law the contributions of Western and Northern European philosophers whose works were silenced in Soviet scholarship for ideological reasons and remains underrepresented in contemporary Ukraine due to the language barrier, as many of their texts have not been translated into Ukrainian. This gap hinders a comprehensive understanding of legal-philosophical traditions. It is therefore time to introduce into academic discourse the theories of Scandinavian (or *Nordic*) legal philosophers whose works constitute a significant part of European philosophical and legal heritage. Their inclusion will enrich legal scholarship and foster a more pluralistic and informed philosophical dialogue in Ukraine. This can be applied to the philosophical heritage of two Danish philosophers – Alf Ross and Hal Koch who contributed a lot into concept *Democracy* and developed its theoretic meaning. So, the goal of this work is to establish the main point of their conceptions and to generalize their theories concerning democracy. This can enrich actual knowledge of the theory and philosophy of law.

Democracy, as both a political regime and a legal ideal, can be understood through contrasting philosophical approaches. Alf Ross is a Danish legal and political philosopher, contributed significantly to modern understanding of democracy, law and political authority. His conception of democracy is deeply rooted in his broader commitment to legal realism and rationalism. For Ross, democracy is not just a political technique but a moral ideal that prioritizes equality, freedom, and rational cooperation among citizens.

Ross rejected metaphysical or natural law foundation for political authority. Instead, he believed that democratic legitimacy arises from the collective will of the people, expressed through rational, institutionalized processes. Democracy, for Ross, is characterized by the active participation of free and equal individuals in shaping the laws and policies that govern them. It's not merely majority rule, it is a system desired to secure the dignity and autonomy of every individual.

For Ross, the law's authority lies in its empirical effectiveness and its ability to coordinate behavior, not in moral or metaphysical ideals. He emphasized rationality, objectivity, and legal method, focusing on how democratic institutions function rather than the cultural conditions that sustain them. Importantly, Ross emphasized that democracy must be grounded in critical reason rather than tradition, custom or emotion. He warned against the dangers of populism and unthinking mass movements, arguing that democracy thrives when citizens engage in informed, rational debate. Thus, education and the fostering of critical thinking are vital elements of a functioning democratic society. Alf Ross also highlighted the procedural aspects of democracy. He saw fair elections, transparent institutions, protecting of minority rights, and the rule of law as essential mechanisms to ensure that democracy serves the ethical goals. Procedural fairness safeguards democracy from devolving into tyranny or chaos.

In sum, Alf Ross saw democracy as both a system of government and an ethical commitment to equality, freedom, and rational deliberation. His perspective combines a respect for institutional structures with a profound belief in the importance of rationality and critical thought in public life.

Another vision of democracy as a legal philosophic concept was formulated by Danish theologian and public intellectual Hal Koch. His approach emphasizes democracy's cultural and ethical dimensions over its institutional and procedural forms. In contrast to Alf Ross's legal realist and proceduralist view, Koch rooted democracy in dialogue, mutual respect, and moral responsibility, stressing that the democracy is not merely a system of government but also a way of life.

From a legal-philosophical standpoint, Koch's concept challenges the positivist reduction of democracy to rules and formal structures. For Koch, law and democracy must be grounded in shared values and active participation. He

viewed legal norms not as abstract commands but as the result of an ongoing ethical dialogue among equal and free citizens. Thus, law gains legitimacy not only through procedure but through its connection to the democratic ethos of openness, discussion, and inclusion.

While Alf Ross, influenced by Scandinavian legal realism, maintained that democracy derives its legitimacy from institutionalized procedures that reflect the will of majority, Koch, however, warned against the dangers of a purely formal democracy devoid of ethical substance. Without a democratic culture grounded in education, tolerance, and dialogue, legal structures risk becoming empty shells or tools for populism. He thus saw education and civic engagement as prerequisites for the law to truly reflect democratic values.

In essence, Alf Ross and Hal Koch, though both are prominent Danish intellectuals, approached legal and political philosophy from different perspectives. Ross, a key figure in Nordic legal realism, emphasized a scientific, empirical approach to law. He argued that legal norms gain meaning through their practical application by judges and institutions. Law, in his view, was not a system of abstract moral ideas but a tool grounded in social behavior and predictive value in democratic society. He strongly rejected natural law theories and sought to establish law as a value-neutral science.

Hal Koch, by contrast, was more engaged with democratic theory and the ethical foundations of political life. While not primarily a legal theorist, Koch emphasized the importance of dialogue, historical community, and the ethical responsibilities of citizens in a democratic society. He saw democracy not merely as a system of government but as a cultural and moral practice based on participation and mutual respect.

The key difference lies in their focus. Ross developed a legal theory rooted in empiricism and legal practice, while Koch concentrated on the moral and historical dimensions of democratic life. Yet, both valued rationality and opposed totalitarian ideologies, contributing to the intellectual reconstruction of post-war Danish and European thought.

References

1. Demokratikanon. Den Dansk Undervisningsministeriet side. URL: <https://static.uvm.dk/Publikationer/2008/demokratikanon/kap30.html> [in Danish]
2. Koch H. Hvad er demokrati? København: Gyldendal. 2008. 312 s. [in Danish]
3. Ross A. Hvorfor demokrati? URL: <https://bibliotek.dk/materiale/hvorfor-demokrati-alf-ross/work-of:870970-basis:07845065?type=bog> [in Danish]

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ЕЛФ РОСС І ХЕЛ КОХ: ДВА ПІДХОДИ ДО ДЕМОКРАТІЇ ЯК ФІЛОСОФСЬКО-ПРАВОВОГО КОНЦЕПТУ

Ця робота є спробою заповнити існуючу у вітчизняній філософсько-правовій науці прогалину шляхом введення до наукового обігу концепцій демократії двох данських філософів – Елфа Росса і Хела Коха. Встановлено, що Елф Росс розглядав демократію як раціональну, інституційну систему, що базується на правовому реалізмі і легітимних правових нормах. Хел Кох, навпаки, трактував демократію як культурний і моральний спосіб життя, чиє коріння криється у соціальному діалозі, взаємоповазі й освіті. Отже, якщо Елф Росс віддавав перевагу процесуальним і інституційним компонентам права і демократії, то Хел Кох наголошував на моральній та діалоговій складовій, підкреслюючи, що демократія має бути вкорінена у суспільну етику.

Ключові слова: демократія, філософія права, правовий позитивізм, інституції.

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