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## Natural Law as the Universal Basis of Social Order

Prawo natury jako uniwersalna podstawa ładu społecznego

### THE FORMULATION OF THE PROBLEM

Natural law is, in many respects, essentially characterized by universalism. Among all other functions that it has performed in human history its influence on the formation of social order deserves special attention. Conceptions of natural law developed first in the European tradition and were later transferred to the tradition of American thought. Natural law in other great traditions is studied from the European and, above all, American point of view. The principal message of natural law would be realized by the establishment of a universal, global, and ethically good social order.

### THE MULTIDIMENSIONAL UNIVERSALISM

"Law" and "nature", as the constitutive terms of "natural law", have a universal scope in subjective, temporal, territorial, and objective respects. This is not contradicted by differences in their oral and written linguistic expression, contents and cultural conditioning. The conceptions of natural law apply to all mankind, all times, and all places where the basis of social order have emerged. Since social order occupies a significant position among universal human values it is the object of interest for nearly all disciplines in the humanities. The problem of natural law as the basis of social order is among the most developed paradigms of European and American thought in the humanities. In other traditions the paradigm of ideas resembling natural law is pervaded with the original ideas of Africanism, Judaism, Islam, Hinduism, Confucianism, and Buddhism. Reconstructions of the natural-law basis of social order in different traditions call for comparative studies, suggesting the multidimensional universalism.

The analysis of an immense number of various philosophical and theoretical pronouncements on natural law has led to the differentiation of common elements, defined as the paradigm or problem of natural law. It consists of several fundamental questions, formulated on a high level of abstraction, which allows a possibility of different answers presented in the logical order<sup>1</sup>.

The first question concerns the existence, sources, and acceptance of natural law. The existence of natural law is confirmed primarily by reflections on human nature, the nature of society and the universe. Such reflections lead to a discovery of similar norms of social order in all legal systems. The common sources of the natural-law norms are found in the permanent features of the nature of man, society, and the universe, in religious conceptions of natural law in its relation to the divine nature. The acceptance of natural law suggests that the norms of social order should be looked for in its descriptions, whereas the rejection calls for the acceptance of the state-established law alone. The positive or negative attitude adopted in relation to natural law in the long history of philosophy provides the basis for differentiating between the followers of natural law and the adherents to legal positivism.

The second question is connected with the essence of natural law. The diversity of answers given to this question reflects the diversity of the conceptions of natural law. However, all of them assume the binding force of the norms of natural law as well as the norms established by the state which comprise a natural sanction in cases of their violation. The essence of all conceptions of natural law focuses on stressing the obligation to do good in the ethical sense and to avoid its opposite. The juridical categories of justice and equity are based on ethical principles. The essence of natural law manifests itself in the impulses of conscience and instructions of the mind which characterize the nature of every thinking and morally aware man, and which become especially evident in situations involving a conflict of values. In the conceptions of natural law, descriptions of these impulses and instructions become the pattern of social order and actions that are in agreement with the norms of natural law. Respecting the natural-law norms of social order makes the peaceful coexistence of people possible, whilst their violation undermines human dignity, ruins the basis of social coexistence, and destroys the natural environment of the universe.

The third question pertains to the contents of natural law, its commands and prohibitions. The general significance of the conception of natural law comes very close to liberal thought. In both the commands and prohibitions focus on the protection of liberty, human dignity, and private property as the guiding principles of a good social order. Social order is usually characterized as a particular manifestation of the order observable in the universe. In relation to social life, order denotes descriptions of the more or less formalized models of the organized structures of the state which secure the possibility of meeting the needs and aspirations of its citizens. Models of social order presuppose the ne-

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<sup>1</sup> See R. Tokarczyk: *Questions of Natural Law*, „Archiv für Rechts- und Sozialphilosophie” 1985, Beiheft R. 23, p. 70 ff.

cessity of a degree of uniformity, permanence, continuity, and consistency of social actions, which is also stressed by the conceptions of natural law.

Finally, the fourth question refers to the functions of natural law. The range of applications of natural law in human has been very wide and, depending on need, extended from the destruction of obsolete forms of social order to the calls for new modern forms. In both these cases, i.e. destruction and creation, the functions of natural law have not reached only the national, territorial, or regional dimensions but also called for the universal, global order. In contradistinction to other factors uniting people in various forms of social order the conceptions of natural law reject violence and compulsion and refer to the broadest basis: to the nature of all rational and morally aware people. In the Middle Ages the universalist aspirations of the conceptions of natural law manifested themselves in the tendency to establish a pan-European social order, based on the Christian principles of papal power or the secular basis of imperial power. Renaissance and Enlightenment thinkers emphasized the permanence of the principal features of human nature and, at the same time, saw the possibilities of a fairly free modelling of social order. Modern thought, mainly liberalism, goes even further in the same direction: the formation of the democratic forms of social order in accordance with natural law is left to human individuals who enjoy freedom of action.

The above answers to the questions posed by the paradigm of natural law distinguish between the absolutely universal and static norms and the relatively universal, dynamic norms<sup>2</sup>. The former can be observed in, for example, the Ten Commandments, in Kant's categorical imperative, and other less famous sets of norms. The latter are derived from the former depending on a given social situation and intellectual climate of the times. The combination of the static and dynamic in the conceptions of natural law enhances its universalism. The former makes it binding in times of stable social order. The latter makes it possible to talk about cyclical return, rebirth, or rediscovery of natural law when new forms of social order are to be created. On the other hand, the human longing for absolute values at the basis of social order seems timeless.

#### THE EUROPEAN TRADITION

The search for the universal contents of social order based on natural law begun by the Sophists who distinguished between positive law (*nomos*) as an artificial or conventional mode of controlling people's behaviour and natural law (*physis*) regarded as a somehow natural or non-conventional mode to be observed in human nature as a component of the nature universe<sup>3</sup>. This antinomy between the natural and man-made order, which is still alive today, was seen as a way of understanding the interrelations between teleologism and in-

<sup>2</sup> A comprehensive discussion of this differentiation is given by A. Verdross: *Statistisches und dynamisches Naturrecht*, Wien 1971.

<sup>3</sup> On the subject of the European tradition of natural law see, i. a., R. Tokarczyk: *Klasyki praw natury*, Lublin 1988.

tellectualism in the thought of Antiquity. Intellectualism was regarded as the basis of teleologism as a particular feature, important in the formation of a proper social order. Teleologism meant that social order would remain consistent with natural law if it was rationally purposeful, i.e. if it ensured the conditions of harmonious intellectual and physical development of the people who lived in it. Intellectualism perpetuated the belief that the human intellect was capable of making the principles of social order conform to the norms dictated by human nature.

In medieval European thought the search for the natural-law sources of a universal social order moved to the predominantly theological domain. All Christians saw the origins of the universal natural law in the personal God, the maker and lord of the universe. The essence of natural law was seen as a manifestation of divine will or intellect present in the Edenic social order corrupted by man's original sin which thrust him into the imperfect social order, though with a promise of a return to the perfect order in the after life. The divine order was sharply contrasted with the man-made order. The hierarchy of laws was also clearly defined: man-made laws were subordinated to natural laws which were subjected to divine law which, in turn, was derived from eternal law. On this hierarchical basis the papacy attempted to establish a universal European order in opposition to the emperor's European order.

Modern approaches to natural law did not renounce the universalist aspirations in constructing models of social order, but these were based on the secular basis of empiricism and rationalism, pervaded with mechanicism, individualism, and contractualism. The mechanistic interpretations of natural law inspired the achievements of physics in those times. According to the individualistic point of view society order to ensure the realization of individual aims, needs, rights, and liberties. The modern idea of natural law conceived of these individual actions within the framework of the conception of the social contract which was to curb the asocial and apolitical tendencies of human nature. This idea gave rise to the universalist systems of rights, natural rights, declarations of human and civil rights. The eighteenth century is regarded as the age of the triumph of natural law. Natural law determined the contents of the French and the American declarations of human rights. It affected the American Constitution and the Polish Constitution of May 3, 1791, and penetrated into Austrian, Prussian, and French legal codes. But the ideal of social order based on natural law was at the same time losing its strength. From the very beginning of the conception of natural law its strength relied on the discrepancy between the ideal social order and reality. The incorporation of natural law into local legal acts undermined the validity of its universalist pretensions.

The revival of natural law took place at the turn of the nineteenth century, at the time of the crisis of the social order based on the philosophy of legal positivism. There are practical and ideological reasons behind the renewed interest in natural law after the Second World War. The practical needs connected with the prosecution of the Nazi war criminals forced the judges of the international tribunals to refer to natural law, and after the defeat of the Nazis it was necessary to thoroughly revise the constitutional basis of social order. The ideological need for reviving natural law was caused primarily by the lack of a

universal ideology to challenge communism. This was a major consideration throughout the period of the so-called "cold war" between socialism and capitalism. Finally, the great popularity of natural-law thought that began in 1970's was brought about by the predominance of the liberal models of social order and the crisis of the totalitarian model<sup>4</sup>.

#### THE AMERICAN TRADITION

The rise and development of the natural-law thought in the United States was at first influenced by the European tradition<sup>5</sup>. Having matured, especially since the middle of the twentieth century, the American thought exerts a major influence not only on the European tradition but also on those of other continents. Hence there is much talk of the universal influence of Americanism, especially of the American version of liberal order derived from the conception of natural law.

Natural law has performed a number of functions in American history. Those ideas of natural law which were used for the sake of defence of human rights and liberties played the greatest role as the sources of the universalist premises of social order. They were first used during the American War of Independence, then in the Declaration of Independence and the Bill of Rights, and finally they became an axiom of the American Constitution, inspiring the most influential legal, political and social theories. With the emergence of America as a superpower on the international arena these ideas fall on fertile soil in many countries of the world.

The basis of the American social order is the constitution based on the principles of natural laws which have assumed the form of natural rights. The makers of the American constitution believed, along with their people, that there are natural, innate rights that can be revealed by reason. In order to become binding, positive laws must be in agreement with these natural rights. State authority must protect these rights on the basis of a consensus with the people. The protection of these rights requires the use of proper democratic procedures. Moreover, all citizens must be treated as equal in the face of law. A combination of these assumptions legitimizes the political power<sup>6</sup>.

The ideological justification of the American social order can be found in the liberal doctrine based on the principles of natural law and the essentially secular rational pragmatism. The ideological cornerstones of the American variety of liberalism include the postulates of changes leading to the social progress, freedom understood as lack of restrictions of individual actions, a flexible definition of the limits of the power of the state, protection of private property, overcoming the isolationism in international relations. These ideas have been developed by the theorists of American liberalism, implemented by American

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<sup>4</sup> Cf. J. Zajądło: „Trzecie odrodzenie” prawa natury? (Uwagi metodologiczne), „Colloquia Communia” 1988, 6/41, 1989, 1/42, p. 109 ff.

<sup>5</sup> R. Tokarczyk: *Prawa wierne naturze*, Lublin 1980, p. 43.

<sup>6</sup> W. R. Harbour: *American Constitutionalism and Natural Law*, "Vera Lex" 1987, vol. VII, no. 1, p. 1 ff.

politicians, kept alive in the minds by the American people, and transferred to other countries by their citizens enchanted with the successes of the American social order<sup>7</sup>.

American followers of the idea of supporting social order with the conceptions of natural law adapted according to requirements use them in two ways. On the one hand, it is used as an instrument for criticizing social order contrary to the conceptions of natural law, and, on the other, for extolling the superiority and merits of social order based on such conceptions. Nowadays, by means of the so-called Americanisation, both functions of the American conceptions of natural law are rapidly becoming universal in scope. In the light of the above, the rejection of the conceptions of natural law must inevitably generate the evil of totalitarianism, the axiological evil of the relativism of values, and the practical evil manifesting itself in the cynicism of political authority. On the other hand, the acceptance of the appropriate conceptions of natural law is to ensure the proper construction of a liberal-democratic social order.

#### OTHER TRADITIONS

It is also interesting to consider the great cultural traditions of Africanism, Judaism, Islam, Hinduism, Confucianism, and Buddhism in the light of the possible similarities to the European and American conceptions of natural law<sup>8</sup>.

Studies of African peoples who live on the primitive level of civilizational development confirm the hypotheses about the existence of ideas resembling the concept of natural law in their culture. They are contained in the norms regulating the tribal life which constitute a kind of natural law for these communities. In particular, they define the relations between the ruler and his subjects analogously to the relations between positive law and natural law in civilized countries. The tribal rulers are hampered in their decisions by higher norms derived from tradition. These norms represent a sense of natural justice which defines, for example, the proceedings of the tribal court, determines the guilt of the offender, inflicts the punishment, and deprives of material gains acquired in a manner that is disapproved of. Tribal communities accept the norm according to which the willing cannot suffer injury and no one can be held responsible for damages incurred by forces outside one's control. These are well known norms of social order<sup>9</sup>.

Three ideas of natural law developed in the Judaic tradition: Jewish law has no need of natural law; Jewish law is identical with natural law, Jewish law comprises natural law as one of its constituents. The first two views, being rather

<sup>7</sup> R. Tokarczyk: *Współczesna amerykańska myśl polityczna*, Warszawa 1981, p. 13 ff.

<sup>8</sup> These problems are discussed in a special issue of *University of Notre Dame Natural Law Institute Proceedings*, vol. V, Notre Dame, Indiana 1953. It was summarized by H. Waśkiewicz: *Powszechność prawa naturalnego*, „Studia Philosophiae Christianae”, ATK 1970, 6, 1, p. 237 ff. She confused the meanings of the concepts of "universalism" and "generality" which provoked a critical response of J. Iwanicki: *Uwagi do pracy H. Waśkiewicz: Powszechność prawa naturalnego*, *ibid.*, p. 269 ff.

<sup>9</sup> M. Gluckman: *Natural Justice in Africa*, "Natural Law Forum" 1964, vol. 9, see also his *Politics, Law and Ritual in Tribal Society*, Oxford 1965.

extreme, do not find too many followers. According to the predominant view, which is representative of contemporary Judaism, natural law is a component part of Jewish law as a set of norms regulating the functioning of social order in Jewish communities. God gave Moses on Mount Sinai the written law called the divine law and an unwritten, or oral law called the divine-natural law. The unwritten law, reconstructed from the written law is the divine-natural law. It plays a major role in Judaism as a concretization of the general formulations of the written law which replaces laws established by the state and facilitates certain modifications of the principles underlying the social order of Jewish communities. Generally speaking, the Jewish jurisprudence comprises a number of other conceptions that can easily be subjected to interpretation in terms of natural law<sup>10</sup>.

The monotheistic system of the Moslem tradition constitutes the common basis for religion, ethics, politics, and law. Any attempts at formulating conceptions of natural law as universal norms in the realm of animate and inanimate beings are also derived from this system. The Islamic universalist models of social order which are sometimes implemented by means of the so-called holy war are not, however, widely accepted outside the Moslem world. On the other hand, since the nineteenth century some Islamic countries tend to adopt certain elements of social order from the European tradition. The processes of universalization of some elements of social order could be aided by certain religious similarities between Islam and Christianity derived from the common roots of Judaism. However, Islam is less susceptible to external influence than Christianity<sup>11</sup>.

The Hindu tradition points to the existence of four kinds of law: divine, eternal, natural, and positive. The predominance of divine and eternal law is so great that the need to refer to natural law is reduced to minimum. The Hindu concept of *dharma* is a kind of equivalent of the concept of natural law. It denotes duty, righteousness, the performance of virtue. Each being, animate and inanimate, is pervaded by *dharma*, a kind of inner law of its own nature. The preservation of one's own being depends on observing the law proper to its nature. The same applies to human nature, the nature of social order, and the nature of the universe. The relationship between human actions and *dharma* is expressed by the concept of *karma*. The correspondence of *dharma* and *karma*, or its lack, determines the fate of individual human beings and, ultimately, of social order<sup>12</sup>.

In the Chinese tradition several conceptions have been considered as equivalents of natural law. Evaluations of positive law in terms of the natural-law criteria of the mythical Golden Age were the earliest. They gave room to the religious conception of natural law as an expression of divine will of universal

<sup>10</sup> Rabbi S. Freehof: *The Natural Law in the Jewish Tradition*, [in:] *University of Notre Dame...*, p. 15 ff; see also "Vera Lex" 1986, vol. VI, no. 2, the entire issue is almost exclusively devoted to natural law in Judaism.

<sup>11</sup> Khalifa A. Hakim: *The Natural Law in Moslem Tradition*, [in:] *University of Notre Dame...*, p. 29 ff.

<sup>12</sup> M. S. Sundaram: *The Natural in the Hindu Tradition*, [in:] *University of Notre Dame...*, p. 69 ff.

love among the people. However, the most important role was played by the later, essentially secular, ideas resembling natural law: *tao*, *tien-tao*, *chin*, *lai*, *lei*, *tao-lei*, and *t'ien-lei*. Lack of space does not permit a more detailed analysis of these concepts so we shall only mention some of their features. All of them denote something like natural law in the sense of universal norms derived from the nature of being. This being extends from the universe in the idea of *tao* to human nature in the idea of *lei*. Between the two extremes of macrocosm and microcosm there are various combinations and modifications of them. The hierarchy of order appearing in particular beings has been expressed most fully by the *tao* school. Man ought to live in accordance with the earthly order which is to follow the way of heaven which, in turn, must follow the order inscribed in *tao* denoting the way, the road, movement, action. Living in accordance with natural law means respecting this hierarchy of order<sup>13</sup>.

The buddhist tradition relies on the image of the eternal universe which extends beyond all spatial limits, consists of an infinite number of microcosms and macrocosms, and has no creator. The natural laws of social order are formed within the *dharmadhatu* as human community governed by the norms of its nature. It combines the antinomies of good and evil, right and wrong, truth and falsehood, beauty and ugliness, pleasure and pain. The order of *dharmadhatu* is reflected in the two aspects of the human mind: *prajna* and *karuna*. *Prajna* is the transcendental knowledge and *karuna* is its transformation inside his nature. Both these aspects of knowledge complement each other and allow man to see the rules of social order and to find his proper place in life. They also determine his position in the posthumous land of happiness<sup>14</sup>.

The Japanese branch of Buddhism was marked by the influence of the European conceptions of natural law. At the end of the nineteenth century Gustave Emile Boissonade, French advisor to the Japanese government of Meiji prepared civil and penal codes based on natural law. After the Second World War they were referred to when the Japanese war criminals were prosecuted. During the world-wide revival of natural law it was propagated in Japan by that outstanding lawyer and politician, Kotaro Tanaka. It has penetrated into many Japanese universities<sup>15</sup>.

#### THE UNIVERSALIZATION OF SOCIAL ORDER

The universal models of social order which have been developed in accordance with, for example, natural law can be used in the organization of particular states. However, human history points to the existence of strong tendencies towards a supranational, global universalization of some conceptions of social order. The movement of ideas in time and space expresses the supremacy of some

<sup>13</sup> Hu Shih: *The Natural Law in the Chinese Tradition*, [in:] *University of Notre Dame...*, p. 119 ff; G. Xiangrui: *The World-View and the Natural Law Thought of the Taoist School in Ancient China*, [in:] *Das Naturrechtsdenken heute und morgen*, Berlin 1983, p. 257 ff.

<sup>14</sup> D. T. Suzuki: *The Natural Law in the Buddhist Tradition*, [in:] *University of Notre Dame...*, p. 91 ff.

<sup>15</sup> J. Lio m p a r t: *Natural Law in Japan and Kotaro Tanaka*, "Vera Lex" 1985, vol. V. no. 1, p. 7 ff.



conceptions of social order over others. This is a result of military, political, economic, religious, cultural, and other factors. In Antiquity the pacifist and cosmopolitan ideas of the stoics gained wide currency. The Middle Ages witnessed the clash of two projects of the supranational European universalism: the papal pacifism and the militarism of the German Empire. Modern times have produced utopian visions of a universal world order. Contemporary times are characterized by the plurality of conceptions of world order which rely both on violence and peaceful measures. Violence is advocated primarily by imperialistic and totalitarian projects. Peaceful measures aimed at introducing a universal international order have been supported by the League of Nations and the United Nations. Various continental ideologies have enjoyed less influence, with the notable exception of Pan-European ideas against the background of Pan-Africanism, Pan-Americanism, and Pan-Arabism. One should also take note of the Club of Rome and its projects of world order.

The conceptions of supranational universalization of social order connected with natural law deserve special attention for a number of reasons<sup>16</sup>. They are characterized by universalism in, at least, double sense. First of all, each, even the most modest conception of natural law aspires for universal scope and application. Secondly, such conceptions have universal origins, being present in a more or less mature form in all major traditions. Although every conception of natural law comprises universal aspects, there are kinds of universalism which do not agree with natural law, especially those which attempt to introduce a universal social order by means of military force or psychological indoctrination and compulsion. All the great empires based on violence, indoctrination and compulsion sooner or later come to an end, confirming the greater durability of the universalization of the supranational social order concordant with natural law.

The natural-law thought offers clear indications as to the content of the conceptions of social order. Antiquity highlighted the principle of the harmony of the component parts of social order. The Middle Ages advanced the idea of hierarchy. Modernity declared the cult of freedom. Nowadays the categories of equality and justice are being stressed. All conceptions of social order which declare their conformability with natural law remain in the domain of the broadly conceived liberalism. This relationship can also be reversed: liberalism adopts natural law as one of its fundamental assumptions. At present there is a fairly clear awareness of the universally accepted contents of the supranational social order. It would have to be a liberal, rather than totalitarian order; it would have to allow freedom of movement for individuals whilst protecting local differences, it would have to protect national values without renouncing the advantages of international ties, it would have to be a loose economic and cultural federation of different nations rather than a centralistic system based on compulsion<sup>17</sup>.

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<sup>16</sup> See, for example, M. T. R o n e y: *How to Develop World Peace Through Law*, "The Catholic Lawyer" 1967, vol. 13, no. 3, p. 211 ff.

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All kinds of peaceful communication on a global scale, involving all the people, remain the principal way of the universalization of all values, especially those connected with social order. Nowadays, such a communication is facilitated by a number of factors including the development of fast means of transportation, systems of information, computer systems, television, radio, telephones, etc. Owing to such modes of communication, global resonance is also given to actions contrary to natural law which hinder the universalization of social order, e.g., local wars, environmental pollution, nationalism<sup>18</sup>. The processes of universalization are animated by intensive action on the part of nations and races which until now have been underdeveloped and discriminated against. The rebellion against the totalitarian socialist order brought about transformations on a universal scale. Against this background the supremacy of the liberal model of social order as developed in capitalist countries has become even more evident.

The actual processes of the supranational universalization of social order are consolidated by means of the so-called unification of law, which also, in a way, sanctions them. Regional unification, as in the case of Europe, may initiate a global unification. The scope and success of legal unification depend on the substance of international relations, on whether its objectives correspond to the participants' interests. Comparative studies play a major role in identifying this correspondence. The profits that can be derived from unification are numerous: easier international relations, reduced risks, legal basis for solving international conflicts. So far the greatest success has been achieved in the unification of communications law, commercial law, and transport law. The Pacts of Human Rights adopted by the United Nations have won a nearly universal acceptance. They constitute a giant step on the way to the universal model of social order based on natural law<sup>19</sup>.

#### THE UNIVERSALIZATION OF RESEARCH

The universalization of certain conceptions of social order requires the universalization of research. As a rule, the influence of individual scholars without an institutional background is rather limited.

One of the first successful attempts to study natural law as the basis of a supranational social order was made by the Natural Law Institute established in 1947 in a private American Catholic University of Notre Dame. Until 1961 the Institute had successfully played the role of the main centre of studies on the universal scope of natural law. It published an excellent scholarly periodical, "Natural Law Forum" in which many outstanding scholars from all parts of the world published their works. In 1951 the Institute organized a conference attended by representatives of all the great religious traditions of the world to demonstrate that elements of natural law are present in all of them and to stress

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<sup>18</sup> See, for example, A. Grzegorzcyk: *Moralistyczna wizja dziejów*, [in:] *Sense polskiej historii*, ed. by A. Ajnenkiel, J. Kuczyński, and A. Wohl, Warszawa 1990, p. 48 ff.

<sup>19</sup> R. Tokarczyk: *Wprowadzenie do komparatystryki prawniczej*, Lublin 1989, p. 190 ff.

the importance of natural law in the processes of the universalization of the supranational social order. The influence exerted by the Institute weakened at the beginning of 1960's mainly because its creative potential had become exhausted<sup>20</sup>.

However, the Vatican remains the most important Christian centre supporting extensive studies on the development of universalist conceptions. Since the Second Vatican Council, models of Christian social order based on natural law have been advanced with increasing intensity. This is done directly by the Vatican by means of papal encyclicals and pilgrimages and indirectly through Catholic colleges and universities offering the social teaching of the Church. The Christian model of a global world order is pervaded by deep humanitarianism based on the postulates of freedom, equality, and human dignity. It was Christian culture that gave rise to declarations and pacts of human rights as well as to international organizations such as the League of Nations or the United Nations, which carry out universalist projects<sup>21</sup>.

In 1971 the World Conference on World Peace through Law combined with the Third World assembly of judges took place in Belgrade. Discussing the peaceful coexistence of all nations, the participants assigned a major role to natural law, especially in establishing the basis of social order in particular countries (groups of countries, or even all countries together), solving international conflicts, teaching respect for human dignity<sup>22</sup>. Natural law in its concretized form of human rights was constantly on the agenda of the Conference on Security and Cooperation in Europe in Helsinki (1972–1975). The same can be said of the Belgrade meeting of the signatories of the Helsinki Final Act. The Belgrade meeting which lasted from 1977 to 1978 was concluded with the adoption of the Belgrade Declaration. The ideas of Helsinki and Belgrade were incorporated in the research projects of the International Peace Academy in Vienna. They also found their reflection in the famous reports of the Club of Rome.

In August 1979, in Basel, Switzerland, the Natural Law Society was established by an international group of philosophers of law. The principal aim of the society consists in studying all relations between natural law and positive law. The results of those studies are published in a scholarly journal, "Vera Lex. An International Review on a Global Issue", edited in an unconventional way by Professor Virginia Black from Pace University in the United States<sup>23</sup>.

The universalist aspirations of the Centre for Natural Law Study at the Institute of Legal Philosophy, University of Osaka. From 1967 to 1975 the Centre published "Annual of Natural Law Study" which contained mainly articles writ-

<sup>20</sup> For a discussion of other causes of the crisis of the Institute see Tokarczyk: *Prawa...*, p. 60 ff.

<sup>21</sup> See Cz. Strzeszewski: *Ewolucja katolickiej nauki społecznej*, Warszawa 1978; A. Michalska: *Prawa człowieka w systemie norm międzynarodowych*, Warszawa–Poznań 1982.

<sup>22</sup> "World Law Review", Washington D. C. 1972, vol. 5.

<sup>23</sup> "Vera Lex" consistently stresses the relations between natural law and social order. See, for example, G. R. Velasco: *Natural Law or Ideal Order*, "Vera Lex" 1982, vol. III, no. 2, p. 2 ff.

ten by European scholars. The hermetic Japanese culture is hardly conducive to the universal influence of the rather original studies of Japanese scholars.

Among the universalist research projects on social order the one proposed by the International Society for Universalism deserves special attention. The society was established in 1989 at the initiative of Professor Janusz Kuczyński from the University of Warsaw and Professor Michael H. Mitias from Millsaps College in the United States. The co-founders of the society organize numerous meetings and conferences in an attempt to create a metaphilosophy and meta-theory of universalism as the basis for a future global order. The results of the studies conducted by Professor Kuczyński and his colleagues are published in "Dialogue and Humanism. The Universalist Quarterly" which is to some extent a continuation of an earlier journal "Dialectics and Humanism". The University of Warsaw publishes "Library of Dialogue" series as a part of the Peace and World Order Research Project, which is closely connected with the program of the International Society for Universalism<sup>24</sup>.

#### INSTEAD OF CONCLUSIONS

The universalization of the conceptions of social order is among the oldest and most ambitious designs of the intellectual elites of mankind. Attempts at their practical implementation encounter many difficulties which can be expressed as antinomies. Within the framework of the natural-law thought aimed at establishing the basis of social order the following antinomies can be distinguished: naturalism and conventionalism, idealism and materialism, utopianism and realism, subjectivism and objectivism, thought and practice, stability and mutability, nationalism and universalism. We shall restrict our general remarks to the latter three antinomies which seem to be the most important ones from the point of view of practice<sup>25</sup>.

The natural-law thought is a good example of the antinomy between stability and mutability which pervades all law. It results from the two diverse functions of law which consist, on the one hand, in consolidating the existing social order and, on the other, in making the necessary changes. This antinomy comes to the fore in the time of major social crises when the adherents to the old order struggle against the exponents of new forms. In both cases the natural-law thought has played a major role<sup>26</sup>.

The antinomy of nationalism and (cosmopolitan and internationalist) universalism has a long history, too. The division of mankind into many groups which emphasize their distinctness is an obvious consequence of extreme nationalism. If this distinctness is conceived of as superiority of one nation over

<sup>24</sup> The fundamental work is J. Kuczyński: *Dialogue and Universalism as a New Way of Thinking*, Warsaw University 1989. On the Society's programme see J. Kuczyński: *Dialogue and Humanism*. "The Universalist Quarterly" 1991, vol. I, no. 1, p. 1ff. See also M. H. Mitias: *Challenges of Universalism*, *ibid.*, p. 5 ff.

<sup>25</sup> See W. Friedmann: *Legal Theory*, London 1953, p. 465 ff.

<sup>26</sup> R. Tokarczyk (ed.): *Tradycja i postęp w prawie*, Lublin 1983, particularly p. 11 ff.

another, nationalism leads to the increase of tension in international relations, and sometimes even to open conflicts. Various universalist conceptions, which on the whole do not question national values, point to the prospects of the community of peaceful coexistence of nations in the structures of global order<sup>27</sup>.

Finally, the antinomy of thought and practice pertains to all rational human activity. In terms of the natural-law thought it reflects the clash of the ideals of social order with the imperfect attempts at their implementation. Whereas thought can reach simplicity, clarity, harmony, and precision, social practice is as a rule far more complicated, diffuse, torn by contradictions, and volatile. Thought can become rational, unbiased, and objective, social practice is usually emotional, biased, and subjective. Thought defines the universalist horizons, practice is defined by the horizons of people determined by local conditions. Thought can develop unhindered by time limits, practice is under a greater pressure of time. And, what is perhaps the most important: thought is reversible, practical achievements usually make any return to the previous states impossible.

#### STRESZCZENIE

Prawo natury ze swej istoty charakteryzuje się uniwersalizmem pod wieloma względami. Wśród różnych funkcji, jakie spełniało w dziejach ludzkich, na szczególne rozważenie zasługuje jego wpływ na kształtowanie ładu społecznego. Koncepcje prawa natury rozwinęły się najpierw w tradycji myśli europejskiej, a następnie przeniesione zostały do tradycji myśli amerykańskiej. Z europejskiego i amerykańskiego przede wszystkim punktu widzenia badane jest prawo natury w innych wielkich tradycjach myślowych. Spełnieniem głównego przesłania prawa natury byłoby ustanowienie uniwersalnego, ogólnościowego, dobrego w sensie etycznym ładu społecznego.

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<sup>27</sup> See Kuczyński: *Dialogue and Universalism...*, p. 29 ff.

