

LAWS BEYOND RELATIVITY. COMMAND OR FAIRNESS?

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A better introduction or idea is hardly possible to be suggested starting a talk on law than with which Plato begins his piece in the *Laws*:

“To whom do you ascribe the authorship of your legal arrangements, Strangers? To a god or to some man?”

The answer was obviously just the opposite what we would give today:

“To a god, Stranger, most rightfully to a god.”

There is hardly need to argue that today the answer would be that “To men, most rightfully to an institution”.

What is the cause of the difference, and what are the conflicts today we must put forward in terms of a Law that is beyond man’s competence, and laws which are created by modern men.

According to Thomas Aquinas law is “a certain rule and measure of acts whereby man is induced to act or is restrained from acting”². Law is directly related to human reason because the measure of human actions is reason as if reason had only one interpretation or understanding. Especially to divine reason; and in the second place to human reason, when it acts in accordance with the purpose or final goal implanted in it by God. Aquinas described the categories of laws with precision. These are the eternal law, the divine law, the natural

¹ * Polish translation of abstract is of editorial origin. Plato, *Laws*, 624a. <http://www.perseus.tufts.edu/hopper/text?doc=plat.+laws+1.624a>, access: 16.08.2022.

² Thomas Aquinas, *Summa Theologiae*, q90, a1, www.documentacatholicaomnia.eu, access: 16.08.2022.

law, and the human laws. This is a hierarchy of laws, not simply a sort of neutral or technical classification of the laws available for man. In order to actualize or apply this classification for the day, we shall have to discuss the conflicts of modern reason to be able to point out the resultant conflicts of reason vs faith. Blaise Pascal summed up the middle stand or position of man, and his dual character, and applied it for the conditions of the arising modern man in his *Thoughts*: “For after all what is man in nature? A nothing in regard to the infinite, a whole in regard to nothing, a mean between nothing and the whole; infinitely removed from understanding either extreme”³. This assessment perceives man as part of nature which is in-between the Divine and the monsters or beasts. As a consequence man is begirded with dualities, the highest of which is expressed by the tension between man’s rationality and his emotions and faith. At the dawn of modernity Pascal almost depressively states that “What a chimæra then is man! how strange and monstrous! a chaos, a contradiction, a prodigy. Judge of all things, yet a weak earth-worm; depositary of truth, yet a cesspool of uncertainty and error; the glory and offscouring of the Universe”⁴. Modern man instead of fighting for the higher standards of his character turned away from God who proved to be a burden or troublesome for man. What did modern man start to do according to Pascal? “He only is our true good, and since we have left him, it is strange that there is nothing in nature which has not served to take his place; neither the stars, nor heaven, earth, the elements, plants, cabbages, leeks, animals, insects, calves, serpents, fever, pestilence, war, famine, vices, adultery, incest. And since he has lost the true good, all things can equally appear good to him, even his own destruction, though so contrary to God, to reason, and to the whole course of nature”⁵. Modern man chose his rationality not to be the source of modesty, but to be his instrument to emerge as God – this modern arrogance is the major source of modern man’s distress and reveals the major conflicts of man today for some time.

If we wish to analyze the conflicts of modern rationality and faith in terms of man’s contemporary understanding of law, then it would be better to divide the issue into three parts following Thomas Aquinas’ classification of laws, i.e. I suggest to discuss the Divine Law, i.e. the state of religion, Natural Law, i.e. the state of nature, and Human Law, i.e. the state of modern politics.

I. DIVINE LAW, THE STATE OF RELIGION

Modernity is distinguished from any other ages that in modernity there is no truth, only opinions about it, there is no one way of life, but only different life-styles, and there is no justice other than created by man, i.e. law is relative. If law is relative, given the previous conditions,

3 B. Pascal, *Thoughts*, No. 72, <https://web.archive.org/web/20081013231458/http://www.gutenberg.org/files/18269/18269-h/18269-h.htm>, access: 16.08.2022.

4 *Ibid.*, No. 434.

5 *Ibid.*, No. 425.

there is only one outcome of it, i.e. the relativity of law. Divine law, which is one, will become one among other laws. There is no one Law, there are only laws. If there is no longer one law, then we can have as many laws as we please. So we can multiply them at our convenience. And modern man does multiply them at his will or needs. If there are many laws with many sources, then it is no wonder that the strength and validity of one particular law is relative. The whole modernity is best described by the relativization of laws and values. Two supporting views are the following on that. The one is from back to the 1980s when Allan Bloom began his book entitled *The Closing of the American Mind* by writing that “There is one thing a professor can be absolutely certain of: almost every student entering the university believes, or says he believes, that truth is relative”⁶. Another view, admittedly also a Straussian in conviction, by Thomas L. Pangle writes this in his book on Leo Strauss: “The equalization of values is the greatest danger. Values and cultures can and must be ranked in accordance with the degree of resoluteness or seriousness with which the basic values are held or advanced, and in accordance with their depth or shallowness, their comprehensiveness or narrowness, their honesty or hypocrisy, their communal responsibility or irresponsibility, their degree of veneration for their past and of revolutionary creativity looking to their future”⁷. If “equalization of values” takes a general view, then relativity of values is the normal and not the exception. Any value is just as good as any another. These two views originating from common vein of thought clearly identify our present attitude and orientation of action towards law and truth. Everything is relative, at least to the modern liberal mindset. This is the core tenet and practice of modern Western thought, which makes understandable why religion has been declining in Western societies to a degree when there is no relevance of Christian religion in the self-assessment of European culture. Let alone hatred against Christianity and religion in general which has become quite rampant in our culture together with self-detestation. Atheism used to be an intellectual position but today we have only nihilist deniers of all religious views or emotions as if there were no laws without human reason.

As a consequence, without religion there is no faith, with whatever qualities, and there is no religion without God – the conclusion is that an age without God is consequently an age without faith. What remains? Whatever human rationality can produce: relative truth, i.e. the promise of final answers which cannot be fulfilled, and complete nihilism that so much characterizes late modernity in the West, though denied by nihilists. Everyone knows that without faith hardly anything higher can be accomplished. Therefore we all need faith, the issue is whether the source of faith is an individual disposition or a belief in God. Like faith, love, trust, loyalty, responsibility, brotherhood

6 A. Bloom, *The Closing of the American Mind*, New York: Simon and Schuster, 1987. p. 25.

7 T.L. Pangle, *Leo Strauss. An Introduction to his Thought and Intellectual Legacy*, Baltimore: The Johns Hopkins University, 2006, p. 33.

and friendship, altruism and the like all need an objective vantage point so that they can be used and respected. Modern man, however, is deprived of any objective standards of both truth and faith other than his own rationality which has rules but no safeguards. So when during the Continental Enlightenment especially French thinkers preferred modern concept of rationality they also questioned, to say the least, religion and faith, too, as we know it for long.

Religion keeps our mind's eye always on the fundamental issues of our lives. Living without religion relegates human beings to an organic way of existence depriving them of belief, the lubricant of all human actions. The great temptation is how to assess religion:

- Should it be judged from an epistemological point of view, i.e. what evidence can we cull in order to prove that God does exist?
- Should we judge it from a functional or pragmatic point of view that would betray the conditions of religion which create the most practical answers to human beings during their life time?

It was Pascal again who, among the first modern thinkers, challenged the suggestion that God's existence should have to be subjected to the standards of modern scientific knowledge. He criticized Descartes and the new cult of reason which was made dependent on the assumption that reason should achieve absolute status in understanding the world or existence. But Descartes' suggestions gained upper hand, and Pascal remained only an "important" thinker. The status and prestige of Divine Law lost its widespread impact when the newly emerging modern concept of nature prescribed scholars to trying to understand the laws of nature thus opposing the divine law with natural laws. Its culmination was Charles Darwin's conception of evolution that delivered a hard blow on religion. The moment that natural laws were contrasted with the Divine Law, modern science came to the opponent of Divine Law. This is where we are now. Natural laws are to be investigated by modern science and modern scientific knowledge, therefore Divine Law is deprived of its empirical ground, i.e. nature, and also deprived of its spiritual impact because, according to the pursuers of modern scientific knowledge, knowledge is the ultimate source of evidence whatever issue is put forward. What is not scientific, cannot be taken seriously, or taken into consideration scientifically.

We are, yet, surrounded with religious urges, meanings and symbols despite the fervor of the anti-religious tendencies over the more than two hundred years of anti-religious and anti-Church tendencies. Why is that furious hostility against religion? Because modern European idea of progress, which is focused upon future accomplishments, is blocked by the idea of future proposed by Christian theology

and religious practice including the threat of past things which are not irrelevant. All religions offer a solace for death or after-life. Christian religion promises eternal life, i.e. you should not fear death because life is not ended with your earthly passing away. In contrast modern secular promise is an earthly paradise enwrapped in human progress – what is more, modern science is about to oust religion.

In traditional European culture we have had two sources of wisdom. One is religion, the other is philosophy. The main difference between the two is that religious wisdom targets the question of how one should decide in a particular situation, whereas philosophical wisdom is directed at the aspect of all phenomena seeking the causes of them. But modern science distanced itself to both sources of traditional wisdom. It means that the individual of the modern society should find a way of accommodating himself to the teachings of modern scientific knowledge as if the question of “how should I live?” can be answered on scientific basis. But it cannot be unless you deprive the citizen or the individual of his original free will. If all human matters should be judged and directed by scientific knowledge then individual freedom were immediately obliterated at once. Therefore it is not an exaggeration to declare that forcing the individual or person to make decisions in his or her life on the basis of sciences would completely destroy the foundations of our culture and freedom.

Religion has always been a point of debates and passionate discussions. The usual questions are concerned with the most profound needs of human existence. But what is unique about religion today? It is, I assume, that religion has gone through a process of relativization, therefore religion has had to share its place and functions with other forms of human aspiration towards handling and possibly solving the riddle of existence. Christian religion together with ancient Greek and Roman thought provide the pillars of European-American civilization which is more comprehensive than culture. Modern mind is based on depriving culture of its authorities and absolutes. Modernity abhors anything that has either transcendental or traditional roots. Because what is good for the modern is its meaning: good is what is new. What does it mean to suggest? Only one thing: all bad things and evil rest in the past, i.e. what is accomplished, and therefore liable to be taken for granted. Relativization as a modern tendency, however, plays a special role in the case of religion. It is because religion is about the mode of existence, not simply a particular aspect of human life. We relativize political power, knowledge, values, whatever you wish, but religion is the very first, therefore the most comprehensive and relevant form of understanding of human conditions tied to a pragmatic guidance as for the issues of how one should live. The only attempt ever made to establish a religion-free society or community was proposed by communists, and carried out as far as they could proceed. All human

communities and states have been founded on a tacit assumption that God or gods ensure the living and flourishing of the individuals that are comprised by it. The exemption occurred within the European culture during the years of communist takeover in Eastern Europe, and parallel in the West by the radical leftists and liberals. What they wished to achieve was a secular society in which religion had only an inferior or even an outlaw situation, i.e. mode of life can be managed without religion. Thus the relativization of religion did not mean the abolishment of religion as such, but it meant the weeding out a mode of life based on religion in favor of a secular life with all its implications and practical consequences. Religious mode of life slowly but steadily has become one of the possible ways of life in European culture among several other alternatives. And this is the clue to discussing religion and divine law as an issue of modern way of life. Religion lost its pivotal role in deciding the primary issues of life of any generation. You can be religious but may live a completely secular life fully ignoring religious commands. Being religious is regarded as no more than having a hobby like playing chess.

The central issue of human existence is whether we live under eternal or divine law or under provisional laws. If order is ensured for us by eternal law, then the order of human communities should have to observe this law. If order for man is created by human reason and culture, or to put it differently, laws are based on and created by the relativized nature of man, then man should only focus on laws enacted by man. Needless to say that the original question of the ancient Greek philosophy, whether man's order is to follow physis or nomos, no longer vexes European man. Nomos rules, physis obeys.

II. NATURAL LAW: THE STATE OF NATURE

In a culture in which divine law is relativized, it is only a matter of time that natural law is relativized or even denied, too. The concept of nature and natural law has almost always mediated between divine law and human laws. The Bible does not know the concept of nature. It was a contemporary philosophical school, the Stoics, who introduced into the intellectual debates the idea of equality, based their ideas on the law of nature, thus conceptualizing the idea of natural law which had had its widespread conceptions already in the works of earlier philosophers. Christianity also picked it up as correlative to the Divine Law. Political philosophy long entertained natural law from ancient Greeks until early modern period. In early modern period it had a strong surge by authors like Hugo Grotius, Pufendorf, Locke, perhaps with Rousseau as the peak of this tide. In political documents as the American Declaration of Independence ("The unanimous Declaration of the thirteen united States of

America, When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.”) or the French Declaration of Rights of Man and of the Citizen (“The representatives of the French people, constituted into a National Assembly, considering that ignorance, forgetfulness or contempt of the rights of man are the sole causes of public misfortunes and of the corruption of governments, are resolved to expose, in a solemn declaration, the natural, inalienable and sacred rights of man, so that that declaration, constantly present to all members of the social body, points out to them without cease their rights and their duties; so that the acts of the legislative power and those of the executive power, being at every instant able to be compared with the goal of any political institution, are very respectful of it; so that the complaints of the citizens, founded from now on simple and incontestable principles, turn always to the maintenance of the Constitution and to the happiness of all.”) we have an obvious reference to Nature clearly treated among others, for instance, by Hegel⁸. Later this reference to Nature was left out of the liberal documents whereas the age of written constitutions came to the fore and usual way of establishing a new political state. Today there is hardly a country without a written constitution, but there is hardly any mentioning of nature as the source of the constitution or the rights or responsibilities derived from it. Thus the modern constitutionalism is also a symbol of how political communities have broken off their relationship with the idea of natural law. Why is that? The answer is to be sought in philosophy, and the new concepts of modern way of life.

J.S. Mill has a less well-known piece which is entitled *Nature*. His central argument was that why we should not follow the ancient command namely “Follow the Nature”, or in Latin, “Naturam sequi”. There are two reasons why you should not follow nature. The one is that it is irrational, and other is that it is immoral. Mill preferred the human consensus about moral issues, rather than any other options. Mill tried to illuminate what nature means by combining the ancient and the emerging new meanings: “Nature means the sum of all phenomena, together with the causes which produce them; including not only all that happens, but all that is capable of happening; the unused capabilities of causes being as much a part of the idea of Nature, as those which take effect”. Thus nature is the comprehensive term for all phenomena of the world, including their driving energies, and intent to achieve their goals. Yet the command “To follow the nature” is false, because morally it is an error to follow a teaching which offers of

⁸ G.W.F. Hegel, *The Philosophy of History*, 2001, especially pp. 461-465.

⁹ J.S. Mill, *Nature*, *The Utility of Religion and Theism*, London: Rationalist Press Association, 1904, p. 8.

“what there is”, instead of “there should be”. Mill writes: “All inquiries are either into what is, or into what ought to be: science and history belonging to the first division, art, morals and politics to the second”¹⁰. Accordingly the concept of nature can only suggest “what there is” but never “what there should be”. Mill argues that the arguers of natural law intentionally confuses the concept of Nature, which is about what there is, with what there should be with declaring that the nature should be the standard of what there should be. It is, according to Mill, untenable and useless. Natural law cannot be the standard of moral decisions because it is about what there is, and has no instrument to judge what there should be. The idea of Nature is only a mere figment to hide human desires, emotions and ideas in order to be able to form the future. Mill argued that nature cannot be the source of moral judgments simply because it is about the current state of affairs, and second, because natural laws may contradict each other, and third, nature needs to be improved and not to be followed. This is another expression of man’s duty and necessity to conquer nature. If it is the case then there is only one resort to human ambitions, which is human reason that is capable of completely ruling and establishing the frameworks of human community life.

10 Ibid., p. 11.

So the liberals of various persuasion managed to destroy natural law and natural right theories. They could achieve that through changing the meaning of nature. So far Western understanding of nature has gone through at least two major changes. The one was its invention, the second its formation into a law (natural law), but now we have been heading for a third understanding or interpretation of nature. This third and new meaning is to be attributed to the more and more robust appearance and grip of virtual reality in man’s life, which in its scope and intensity acts as if the creation of man, i.e. virtual reality, would have the force of nature. It is not unprecedented, only its presentation has shown various images, for money, for instance, being completely a human artifact, acts and behaves like a natural phenomenon among men. Having similar consequences than any natural forces might have, usually unpredictable and if predictable, they cannot be staved off, thus money has a very special status among man’s inventions. Likewise we have been witnessing a rapid, profoundly influential and unavoidable occupation of everyday human life by images, pictures, visual effects that dominate our thought, imagination and emotions more and more. The point of this development is not, however, that old contents or messages have found new channels to reach people, but it is that man has created a brand new reality in which the old rules and suggestions of human wisdom cease to be applicable, what is more, some people can live almost completely in this new realm of virtual reality having its own rules, customs, and first and foremost, assumptions and suggestions how you should live.

Live as if you were the single and only one in the world. If the first and second meanings of nature were developed in order to declare the boundaries of reality, the recently created third realm of nature does not have a limit, because virtual reality as such enjoys infinity. Thus compared to the first two meanings of nature, the third one promises infinite reality almost or completely equal to the unlimitedness of imagination, or using political terms, the final meaning of history whether be it communism or the liberal heaven of individual freedom, often referred to as the end of history. One could remind oneself of Karl Popper's theory of World I, II, and III. But Popper's classification of reality or the world is concerned with how to crown human reason. His World I is concerned with the physical events and objects; World II is with mental processes, and World III with the products of thought. What I am suggesting is not the classification of worlds from the perspective of thought, but the changing character of how we can perceive reality, and how we can create reality with roughly with the some qualities of the reality which had existed prior to man's creation. We must not despise the potential of man's capacity of creating worlds or realities which are mostly the products of human intellect or mind. Even if these realities – innocent looking pictures, films, TV with its endless flow of pictures and information, internet networks and public media, etc. – are simply the products of human intellect, they can or very likely they might replace reality as what we have so far identified it with. All in all nature has a third meaning. But the relationship between the different levels of the understanding of nature, the force of the first and second nature would not seize just because of the allegedly higher status of the third nature.

III. HUMAN LAWS: THE STATE OF MODERN POLITICS

The development of the conception of the third Nature began with the radical reassessment and relativization of laws. The breakthrough occurred with the allegedly scientific justification of the feasibility and necessity of radical changes to be carried out in a political community. Such changes, according to this modern idea, can only be implemented if destruction precedes the construction of any new institution by political means. The desire for radical changes has been focusing on demolishing what there is in the name of what there should be. Radical political means are needed in order to implement any new idea, once this idea takes root, no longer the laws but the novel ideas will dictate what should be done by political means. In the late 18th century Edmund Burke was abhorred by the new political radicalism, whereas Roger Scruton experienced something similar in France in 1968, and became a conservative for a life passionately attacking the radicalism of any kind.

It is unquestioned that it was the French Revolution that brought about the conditions of the decisive modern dominance of human laws stripped of both divine and natural laws. The French revolution deliberately sought to achieve a major change between the relationship of faith and reason realizing complete split between faith and reason claiming absolute priority over all epistemological issues. By creating political conditions, esp. during the period of the Legislative Assembly, for the complete restructuring the French society according to the idea of equality granted to individuals. The representatives truly believed that they can enact any ideas and pass them as laws. Elated and enthusiastic members of the Assembly did not observe the limits of law-making, thus they started transforming the meaning of Law emphasizing the subjective or individualistic perspectives of different issues like divorce. As a result in most European languages developed a dual meaning of the concept of Law. The French *Loi* and *Droit*, the German *Gesetz* and *Recht* etc. were meant to split the original meaning of Law which was more or less preserved in the English concept of Law. But whereas *Loi* and *Gesetz* preserved its general and comprehensive meaning of Law, *Droit* and *Recht* came to be used as expressing the individual and subjective aspect of Law. For comparison Divine law was one, natural laws were few, and now we have many human laws which, at least not intentionally, do not overlap with neither the Divine nor the Natural laws. Today all laws are founded on man's rationality, more precisely, on the development of human reason which proudly bangs its chest – I do not need any outside assistance in order to be able to produce laws. At the beginning of modernity, during the early decades of the quarrel between ancients and moderns, the taken for granted acceptance of Divine Law and the changing meaning of Nature created the conditions for a world in which all laws are enacted on the basis of human consent and compromises.

The rephrasing of the contents of Nature paved the way for a new understanding of human laws as well. The new conception of human law was derived from the idea of an assumption that a law is no more than the consent of human beings, and the strength of a law depends on the legitimacy of the law in question. The symbolic embodiment of modern law is the political constitution. It was conceived from its inception in the 18th c. not only a political document but the product of pure political reason. In other words, peace and other final political goals can be implemented by applying the concept of reason. This was the age of reason. By the very same thought, both Divine Law and Natural Laws were no longer needed to maintain order in the human world. This was the moment when not only faith but experience was also contrasted with reason. John Dickinson in the Constitutional Convention of 1787 said that "Experience must be our only guide. Reason

may mislead us.” How perfectly this statement hits the essence of the core problem: in classical times man resorted to experience which they tried to rationalize afterwards. But from now on, unaided reason claimed the central role what and how to make a decision. In the 18th c. it was just a short distance to argue that historical experience does not have any hold on the imagination of the living generations. Next to the negligence and downright despise of religious believes and old fashioned love of wisdom, i.e. good guidance of how one should live, history was also dumped.

It can hardly be denied that the world we have so far known, is gone. History is gone, customs are gone, wisdom is gone, nature is gone – and God were to be gone before man would be gone. And before man is gone his rationality would be gone, paradoxically, in the name of reason. Today modern Western man believes that he really masters the universe, although he still does not know neither the depth, nor the height of existence. There is no covering theory of existence, only brilliant insights how the universe or the invisible minor particles of the matter are likely to be structured. It is amazing how human mind has been capable of providing newer and newer ideas and theories about the structure of the physical matter. Yet the proportions of the existence are constantly underestimated by modern sciences. And human mind almost completely ignores the structure of the spirit, the reality of things that cannot be empirically described. Phenomenology made an attempt to amend this flaw. But Pascal’s and Nietzsche’s insights about the rising arrogance (the equivalent of the Greek hubris) have had to come to be taken more than seriously. Modern man tends to create conditions in which the basis of his decisions is solely founded on his own mind, understanding and interpretation about what there should be. So man who has an in-between position in existence now tries to discard his original conditions and create his absolutely own world in which everything depends on his will and social compromise favoring individual human rights contrasted with both divine and natural law.

The major issue, politically speaking, is whether natural laws can be applied to human moral law to the same validity than to the natural world. Modern revolt not only questioned its possibility but denied straight to apply natural laws to human moral world as we have seen by J.S. Mill’s arguments. The reason is that nature dictates a hierarchical understanding of existence whereas man has the right and even the strength to challenge the force of natural laws and thus natural right as well. Moral correctness today does not mean an intention to abide by natural moral laws, because they are none, but it implies an abstract or unqualified rationality that dictates what is right and what is not. This rationality is unqualified because this sort of rationality believes that rationality is capable of defining itself, or establishing

his own sphere of validity. But it is a wrong assumption. Nothing in existence can claim a self-justification, unless it is God. The bravest anti-religious arguer could say that even God needs justification thus it is the most noble task is to cut the endless line of respect and subordination to something higher. Where to cut this endless chain depends on man contemporary ever, otherwise we could not establish the necessary rules for man to live together in a particular age. Lowering the standards of what and how to enact laws by man is the core and essence of modernity. Giving up the divine source of the laws simply betrays the nature of modern man and modern regimes, most particularly the so much adored modern democracy, whatever it means. Modern democracy abhors greatness. Modern man does not want moral improvement only moral views or opinions regarded to be equally legitimate and having equal value.

This paradoxically ambiguous or in-between condition of man compels him, among other consequences, all the time hesitating between his reason and his faith. As a result the European man has developed a double nature based on dual sources of wisdom, i.e. insights how we should live: one on the products of his rational inferences, i.e. philosophy or science, and the other is the commands of revealed religion, i.e. the Bible. Both sources of wisdom have developed its own suggestions for the concept of order through the idea of law. We are few, certainly not many who are ready to entertain issues devoted to the hierarchy of law, its relationship with order, and the meaning of human life. Anyone wishing to challenge today's so-called liberal arrangements, will have to fight with a much stronger and more inclusive idea according to which human development has always one option – to serve progress. Progress is less important than the attitude developed towards it: since progress is necessary, one does not have any option. You either serve progress, since it is inevitable and morally sounds positive, or you stop thinking and should only serve the progressivism. Discussing the idea of progress does not mean to catch up with some ideological debates, on the contrary, it is a fundamental philosophical issue in order to find a real foundation of our mindset. In order to achieve this goal we must give a rough but precise picture of what is and where we are at the moment.

First, we live in an age of a radical secularization. It has been pointed out by Charles Taylor that the major feature of modernity is secularization, and not the changing role of reason¹¹. If it is correct, and I believe it is, then we have to overview its additional but relevant consequences. I can add two ones. The one is man's radically changed view on Nature. Before modernity Nature had been regarded as a context of human life and understanding of what life is by the force of creation whether it is from chaos as the ancient Greeks believed, or by the act of God as Christianity professes. After the breakthrough of

11 C. Taylor, *A Secular Age*, Cambridge, Mass. and London: Harvard University Press, 2007.

modern mentality Nature became the enemy of human flourishing or an obstacle of human reason. Nature must be conquered as the modern credo requires it of scientists and politicians. The other is that politics is the final solution to human problems. J.-J. Rousseau is rightly labeled as a dual thinker to initiate and form modernity. As a limitless or unconfined thinker he had several ideas, often contradicting each other, but serving both short and long term political developments. His long lasting impact is rooted in his suggestion and argument that politics or the political should be taken as an antidote against man's botched development. Today talking about politics is practically assumes the context of democracy – it seems to be taken for sure that democracy is good, or even the best regime imaginable if the adjective “liberal” is added or glued to it. There is no grosser mistake than to believe it. But it is the case today: the modern man has found its best political order and from its position it is entitled to denigrate, to say the least, any other views or conception about the good order and governance. Thus we have three serious aspects or dimensions of discussing the current conflicts of modern reason and faith.

If the practice of the relativity of truth dominates modern life, then it is obvious that in modern politics all non-relative ideas are doomed or will be subject to failure. The form of modern government is modern republics or rather modern mass democracies. They depend mainly on the manipulation of the masses which are subject to the manipulation of their elites. In today's mass societies there are only two fields which claim to have absolute freedom. The one is modern science, and the other is modern media or journalism. The previous enjoys its freedom on the common assumption that science is capable of conquering the infinite, there is no obstacle that cannot be overcome by the skills and limitless imagination and sources of modern science. What scientists want to do, there can be no legitimate moral questioning of their needs; likewise, journalists believe that it is their unquestionable right to poke their noses into everything what they want, as if they were the ultimate bulwark of justice. Not truth, but justice. Because most of them are devoted to justice and not to truth. Otherwise anyone's any claim is to be judged on the basis of relativity of truth. Why is that? Because democracy, the will of the masses, is more important than truth. In earlier ages it was divine law and derivative natural law that served as vantage points for judging issues. In modernity, it is only human agreement or consent, and general will that can lay the foundation of law-making. Let me correct myself, according to postmodern political thought, a la Foucault and even more Richard Rorty, democracy, i.e. general will, is to be preferred to philosophy, i.e. truth¹².

Modern law-making is based on the conception of Rousseau's general will. Not technically, but morally speaking he argued that

12 R. Rorty, *The Priority of Democracy to Philosophy*, [in:] *Objectivity, Relativism, and Truth*, Cambridge, Mass. and London, Cambridge University Press, 1990, pp. 175-196.

the majority cannot err, or at least we have no reason to doubt about the wish or will of the people. If his argument is correct then there is no justification of challenging the Law of the People or the Will of the People. Although Rousseau had a number of excellent insights, he was certainly mistaken with his suggestion about the general will. The general will is both logically and historically either wrong or right, i.e. it can err but surely decide directions of human actions. In politics the problem is not the long term result but the short term effect which can devastate the best ideas for ever, and leave space for evil, too. The majoritarian decision is the outcome one of the worst argumentations of political leadership. Majoritarian decision is apt to select leaders, but is silent about the goals and quality of leadership.

Modern man's arrogance has been producing ample examples of his self-conceit. We have in everyday parlance endless suggestions that it is we, men, who created everything around us, so it is us who make the necessary changes. It is man who started the modern program of conquering nature, and now, that climate change seems to be lurking around the corner, every modernist begins shouting that it is us who can stop the unfavorable trends of climate phenomena. Really? Or when the gender propagandists claim that there are some 70 or 80 genders opposed to the natural male/female division. How many? As many as human desires or calculations want to have. And a third example is how virtual reality has been changing man's aspirations to live a good life. Most of us have been using all kinds of gadgets capable of creating virtual reality. Virtual reality promises the availability of knowledge for all of us at any time. Even the less talented would know that if he or she needs some information it is enough to consult the Web. You are no longer required to learn anything, or concentrate on anything for more than a couple of minutes, because the management of knowledge provides anyone with what he or she needs. This new relationship to knowledge has produced a new breed of generations who prefer virtual reality to actual one, and can and would argue that they do not have to study as the members of earlier generations, because education itself is to be conceived differently. Nothing matters that has a binding character neither to the past or to ideas, emotions and decisions which may influence anyone's decision of the day. All these examples are demonstrated in order to be able to claim that modern human reason is a form of self-conceit. There is only one form of knowledge, what is created by human reason, and knowledge is available without making any significant efforts. People prefer living in a virtual rather than an actual reality – they prefer to be elsewhere rather than here and now. And if reason fails or errs, it is reason alone that can respond properly to a new situation. Human laws today are not exemptions but the testimony of arrogance of modern reason of

man which might lead to a never seen concentration in the hand of a very narrow circle of the men of reason.

What we think of Law will certainly betray what we believe about the sources, structure and conditions of Order. Modern conception of Order is rooted in the dominance of human laws based on the negation or negligence of both Divine and Natural Laws. Human laws conceived in at least the last century have gradually crowned the cult of modern reason which triumphs over any other forms of the acquisition of knowledge and what is more, the relationship with reality, like wisdom that is still based on the limited character of human action and thought, and over faith by contrasting it with a compartmentalized conception of reason. Human reason has been amassing more and more knowledge while loosing his self-control and a chance to live freely. Virtual nature may just as well strangle man as Nature independent of human intervention, but the stake has also been increased: shall we remain man, or turn into a being that cannot be characterized by qualities and terms that we have so far used for understanding ourselves.

BIBLIOGRAFIA

LITERATURA:

- » Aquinas, Thomas, *Summa Theologiae*, [*Summa theologiae*, 1265–1272] www.documentacatholicaomnia.eu, access: 16.08.2022
- » Bloom, A., *The Closing of the American Mind*. New York: Simon and Schuster, 1987
- » Hegel, G.W.F., *The Philosophy of History*, Kitchener: Batoche Books, 2001 [*Vorlesungen über die Geschichte der Philosophie* (gehalten 1805/06 in Jena, 1816–1818 in Heidelberg und 1819–1831 in Berlin, aus Notizen und Mitschriften 1833–1836 postum herausgegeben von Karl Ludwig Michele)]
- » Mill, J.S., *Nature, The Utility of Religion and Theism*, London, Rationalist Press Association, 1904
- » Pangle, T.L., *Leo Strauss. An Introduction to his Thought and Intellectual Legacy*, Baltimore, The Johns Hopkins University, 2006
- » Pascal, B., *Thoughts*, [*Pensées*, 1670] <https://web.archive.org/web/20081013231458/http://www.gutenberg.org/files/18269/18269-h/18269-h.htm>, access: 16.08.2022
- » Plato, *Laws*, 624a. <http://www.perseus.tufts.edu/hopper/text?doc=plat.+laws+1.624a>, access: 16.08.2022
- » Rorty, R., *The Priority of Democracy to Philosophy*, In: Objectivity, Relativism, and Truth. Cambridge, Mass. and London: Cambridge University Press, 1990, pp. 175–196.
- » Taylor, C., *A Secular Age*, Cambridge, Mass. and London: Harvard University Press, 2007

ABSTRAKT

Dla większości z nas dzisiaj prawo oznacza regułę uchwaloną przez jakąś władzę ustawodawczą. Jeśli prawo okaże się wadliwe, zastąpi je nowe prawo. Wcześniej prawo było nakazem, którego nie można było dowolnie zastąpić innym prawem. W tym możemy dostrzec różnicę między starożytnym a współczesnym rozumieniem prawa i stanowienia prawa. Wyjaśnienia należy szukać, wskazując na względność prawa w naszej nowoczesnej koncepcji prawa w porównaniu ze starożytnym postrzeganiem tego, jak prawo musi być traktowane po sformułowaniu – ma ono moc nakazu. W dalszej części omówione zostaną trzy aspekty prawa – prawa boskie, naturalne i pozytywne – przy założeniu, że dominująca dziś idea prawa opiera się na koncepcji względności prawa, która najbardziej pasuje do nowo powstającej trzeciej koncepcji natury to zwykle odpowiada potrzebie współczesnego człowieka, by wyprzeć zarówno religię, jak i filozofię. Ten trzeci sens natury najlepiej oddaje pojęcie wirtualnej rzeczywistości. Jest to pojęcie obejmujące całą sztukę współczesnego człowieka, którą stworzył dzięki nowoczesnym naukom i rozwojowi technologicznemu. Tak więc stan religii (prawo boskie) i stan natury (prawo naturalne) należy rozumieć poprzez badanie stanu współczesnej polityki, który zapewnia rzeczywiste warunki współczesnej rzeczywistości wirtualnej i zakłada dominację względności praw.

ABSTRACT

For most of us today a law means a rule that is enacted by some legislature. If the law proves to be a flaw, then a new law would replace it. Earlier a law was a command which could not have been replaced by another law at will. In this we can detect the difference between the ancient and the modern understanding of law and law-making. The explanation must be sought by pointing out the relativity of law in our modern conception of law compared to ancient perception of how a law must be treated once framed – it has the force of a command. In what follows the three aspects of law – the divine, natural and positive laws – will be discussed with the assumption that the dominant idea of law today is based on the conception of the relativity of law which fits most the newly emerging third concept of nature that tends to suit modern man's need to oust both religion and philosophy. This third meaning of nature is best expressed by the concept of virtual reality. It is a covering term for all the arts of modern man that he has been creating by modern sciences and technological developments. Thus the state of religion (divine law) and the state of nature (natural law) are to be understood by exploring the state of modern politics which provides the actual conditions of modern virtual reality, and presupposes the dominance of the relativity of laws.

SŁOWA KLUCZOWE

prawo, przykazanie, prawo naturalne, relatywność, trzecia natura

KEYWORDS

law, command, natural law, relativity, third nature