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The development of the idea of the natural rights as a part of the process of creating the Enlightenment idea of human rights

Summary

The basic purpose of the dissertation is an attempt to present the significance of the idea of *natural rights* for the development of the Enlightenment concept of human rights. An achievement of the goal required two basic assumptions. The first is the recognition that the idea of human rights, which was expressed in the Enlightenment declarations, did not appear *ex nihilo*. And although the term itself appears in the Enlightenment Age, yet the Enlightenment human rights have their "sources" and "origins". The second assumption concerns the role of the idea of natural rights for the development of the Enlightenment idea of human rights. It was assumed that this concept was the basis for the development of Enlightenment human rights; that the preparation of the legal-philosophical language, definitions and concepts described in this dissertation was a necessary precondition both for the formulation of the Enlightenment concept and for its incorporation into legal acts.

Like the idea of human rights, the underlying idea of natural rights is linked to concepts that have (at least to some extent) been shaped since the dawn of history. Of course, the relationship of both the concept of natural rights and the Enlightenment idea of human rights with the ideas preceding it raises a number of controversies. Researchers, when formulating the whole spectrum of opinion, perceive human rights sometimes as directly rooted in the output of ancient civilization, sometimes as a result of bourgeois revolutions. Between these extreme positions one can point to the ones according to which St. Tomasz expressed, though not explicitly, the idea of human rights. Natural law is, according to some authors, the legacy of Grocius. Yet, others emphasize the overwhelming influence of a scholastic discourse.

The research assumptions and the objectives intended to be achieved, have shaped the research issues. In Chapter I an attempt to show the role and significance of the ancient thought output for the development of the idea of natural rights as an element of the Enlightenment idea of human rights have been shown. Particular attention has been paid to the legacy of the Stoics, which is often referred to as the inspiration for human rights, *inter alia* for the aforementioned cosmopolitanism. In Chapter 1, consideration has also been given

to the role of Roman law that is perceived as a bridge between the ideas born in Greek culture and the later European thought, especially the Middle Ages.

Chapter II begins with the discussion on forming a guarantee of protection of personal freedoms in medieval Europe. Particular attention was paid to the role of *The Great Charter of Freedom*, as justified in the influence of this document on the Enlightenment concept of human rights. The next section of the chapter attempts to discuss the meaning of Saint Thomas Aquinas' achievements. The analysis was made from the perspective of the influence of the thinker's ideas on the idea of natural rights. The justification for taking up this issue is related to the theses which assume that the notion of human rights is expressed indirectly in St. Thomas' achievements, but also in the views according to which the Enlightenment concept of natural rights was born as a breakaway with the Aristotelian-Thomistic perception of the world, the man and his relationship with God. In the next part of the dissertation the reflection on the birth of the concepts of subjective rights has been made. The thinkers of the twelfth century discovered the multiplicity of meanings of the *ius naturale* term.

Looking for an early use of the term *ius naturale* for the designation of natural rights, the first commentators of the Decrees has been indicated. In Chapter III, modern concept of natural rights has been analyzed. Considerations started with the presentation of the issue of ownership. An approach of Grotius has been shown where he combines historical narrative with *rational natural law*.

In addition, these elements related to the idea of the state of nature, which play a fundamental role in the recognition of natural rights by modern thinkers, are indicated. Chapter IV provides an analysis of the modern concept of natural rights from the perspective of their influence on the Enlightenment of human rights. The innovation of Grotius, in which the concept of *ius* ceases to be a coincidence of, for example claims with natural law, but it is becoming a thing of the individual. The attention has been paid to the importance of Pufendorf, for whom natural law, being an order of God recognized by human reason, is the basis for rights because they are the consequence of the absolute obligations inherent in natural law. A special place in this chapter took the idea of the natural rights expressed in the works of Hobbes and Locke. This analysis has been conducted in such a way that an attempt can be made to compare the ideas presented by the above thinkers and to define these elements of doctrines that played a key role in development of the Enlightenment idea of human rights.

Chapter V of the dissertation is complementary to the discussion in the preceding chapter. Different ways of perceiving the natural rights that were presented in the

philosophical-legal thought after Locke has been discussed. In addition, it has been determined how the philosophical tradition that is discussed in this paper reflected in the legal acts of the English, American and French Revolution.

Due to the fact that the purpose of the work has been defined as an analysis of the development of the idea of natural rights from the perspective of their influence on the Enlightenment concept of human rights, it was necessary to attempt to compile the Enlightenment idea with the contemporary idea of human rights.

Research conducted within the framework of the work, including the critical analysis of the items presented in the literature of the subject, allowed to formulate a number of conclusions concerning the issue of the dissertation. First, it was stated that in antiquity and early Middle Ages dominated the issues, which, from the perspective of the subject of work, can only be regarded as the "primacy" of human rights. The late Middle Ages and early modern years brought the emergence of the idea of subjective rights, often inconsistent and closely related to the concept of natural law, and the preparation of a conceptual apparatus that allowed full formulation of the doctrine of natural rights. The new way of perceiving *ius*, was of particular importance. The theoretical attempts to define *ius*, leading to the formulation of the concept of right as a specific potency, power or freedom, became a *sine qua non* for the emergence of modern concepts of natural rights. In modern times the development of different conception of natural rights took place, which, by interacting with one another, influencing on the language of speaking of law and perceiving the relationship between the individual and society, God and the world, found expression in the Enlightenment of human rights. For example, by analyzing the meaning of Hobbes' doctrine, it was shown that, despite the difficulties involved in evaluating the meaning of the acumen of the thinker, the doctrine formulated by him is crucial for assessing the meaning of the idea of natural rights. Locke's analysis of the concept showed that it was directly visible in the Enlightenment declarations, giving rise to the Enlightenment concept of human rights.

The considerations taken at the dissertation have enabled to achieve the objective, to present the development of the idea of natural rights from the perspective of the influence of this concept on the Enlightenment concept of human rights. The assumptions made at the beginning of the work were further verified. It has been rightly acknowledged that the concept of human rights that the Enlightenment period brought, grew out of the philosophical and jurisprudence of past epochs, with the idea of the natural rights being the key.