

The Theory of Natural Law and its Application in Social Work

Philosophico-Theological Points of Departure and Contemporary Practical Application

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Introduction

The present study¹ focuses on the theory of natural law, which it applies as one of the possible ethical theories into practice.² Its ethical concept is proper especially to Christianity (for more detail, see sections 1 and 2) and to social work carried out primarily in a Christian, or religious, context,³ because Christianity conceives natural law as a law imposed by God on the world created by him (see section 1), and that is why 'Christian social work' essentially feels bound also by Christian ethics. With respect to the practice of social work, when many providers of social work are set up by churches or their parts, it is a fairly significant and widespread phenomenon within the practice of social work. This study therefore seeks to point out the significance of natural law theory and the consequences of deciding according to this theory, and its possible application in Christian and secular social work (see sections 3 and 4).

The essence of social work gives rise to its practical and academic orientation. This is also why it is proper for social work, or rather constitutive of it, that it not only creates its theories, but also – *and foremost* – takes them over from other fields and *adapts them to its needs*, so that the associated discussion can develop in a different direction than it would take within the original field. And indeed in that the essence and originality of social work consists; precisely in that way does social work become a distinct field of study.⁴ If the adopted theories were to be handled in social work exclusively in a way corresponding to their original discourse, the very object of social work would ultimately be challenged⁵ – social work would not be looking for a solution to the client's situation but doing what is proper to the field from which it adopted its theory. According to

1 This study is supported by the Grant Agency of University of South Bohemia project no. 157/2016/H.

2 Since this study moves within the discourse of social work, it will perceive the application of ethical theories in the practice of social work in a way similar to Nečasová, Dohnalová and Talašová (cf. Mirka NEČASOVÁ, Zdeňka DOHNALOVÁ – Renáta TALAŠOVÁ, Jak učít etiku v sociální práci?, *Sociální práce / Sociální práce* 3/2011, pp. 77–84), i.e., it specifically means that the theory of natural law is not conceived to be a different paradigm here.

3 Cf. Mirka NEČASOVÁ, Profesní etika, in: *Metody a řízení sociální práce*, Oldřich MATOUŠEK et al., Praha: Portál, 2003, pp. 21–49.

4 Cf. NEČASOVÁ – DOHNALOVÁ – TALAŠOVÁ, Jak učít etiku..., pp. 77–84; Susanne ZELLER, Theorie der Sozialen Arbeit als „emergente Handlungswissenschaft“, *Soziale Arbeit* 6/2009, pp. 213–221. Cf. Pavel NAVRÁTIL, *Teorie a metody sociální práce*, Brno: Marek Zeman, 2001, pp. 25–34; Malcolm PAYNE, *Modern Social Work Theory*, Hampshire: Palgrave, 2005, pp. 72–285.

5 Cf. Wilhelm KLÜSCHE, *Ein Stück weitergedacht: Beiträge zur Theorie- und Wissenschaftsentwicklung der Sozialen Arbeit*, Freiburg i. Br.: Lambertus, 1999, p. 182.

Staub-Bernasconi, such social work would become ‘an empty accumulating category’ for various spheres of practice in which social workers engage, so that another field (economy, sociology, psychology, social policy, ethics, etc.) would be searched for, to which social work ought to be subordinate.⁶

This definition of social work naturally gives rise to the question of how the theories of other fields are to be taken over and modified, i.e., how they are to be transformed into theories proper to social work. That is why Nečasová, Dohnalová, and Talašová point out some reflections of this problem.⁷ There are also highly elaborate and argumentatively grounded methodologies for creating theories proper to social work, drawn up, for example, by Staub-Bernasconi,⁸ or in the case of ethics with conceptions of professional ethics of social work, elaborated in our context on a long-term basis, for example, by Nečasová.

It is worth emphasising that this conception of handling ‘foreign’ theories in social work does not differ with respect to different conceptions of the object of social work. While Nečasová, Dohnalová, and Talašová⁹ state with reference to Navrátil¹⁰ that the theories of other fields are adopted and modified in order for the social worker to help the client in supporting or renewing his social functioning, the German-speaking discourse (presented in detail, for example, by Opatrný¹¹), according to which the object of social work is solving social problems, takes entirely the same attitude to the issue of theories of social work and in social work.¹² Different theories thus serve the goal of enabling the social worker to work with the client – they help him to become acquainted with the client’s world and difficulties, to understand them and the client, and to plan, realise, and evaluate solutions.¹³ Ethical theories play a specific part especially in planning solutions, i.e., when the social worker is deciding which solution of the client’s situation will be good and correct.

1. Natural law

With respect to the necessarily limited extent of this study we will reflect on the conception of natural law in Thomistic philosophy and Catholic theology and briefly also on Hobbes’s conception of natural law. In this way we will provide a certain reference point with respect to the Christian point of view, which will have the advantage of primarily focusing on social contract and social bonds, so that it is a theory with an orientation close to the interests of social work.

The idea that there is a natural law that precedes positive legal norms is found already in classical Greek culture and mythology.¹⁴ In ancient philosophy it was supported by the decisive insight of the Sophists in the 5th century BC that some of the laws observed by them differ and some coincide with the laws of the surrounding cities (*polis*). That brought them to define *physis* (nature) and *techne* (human norms, positive laws). It is natural for humans to do good, which leads to life, and to avoid evil. In the philosophical conception good became the highest value and ‘the ultimate end of all action’, synonymous with the morally valuable. Evil, on the other hand, became

6 Cf. Silvia STAUB-BERNASCONI, *Soziale Arbeit als Handlungswissenschaft*, Bern, Stuttgart and Wien: Haupt Verlag, 2007, p. 157.

7 Cf. NEČASOVÁ – DOHNALOVÁ – TALAŠOVÁ, *Jak učít etiku...*, pp. 77–84.

8 Cf. STAUB-BERNASCONI, *Soziale Arbeit...*, p. 536.

9 Cf. NEČASOVÁ – DOHNALOVÁ – TALAŠOVÁ, *Jak učít etiku...*, pp. 77–84.

10 Cf. NAVRÁTIL, *Teorie a metody...*, pp. 25–34.

11 Cf. Michal OPATRŇÝ, *Sociální práce a teologie: Inspirace a podněty sociální práce pro teologii*, Praha: Vyšehrad, 2013, pp. 154–237, especially pp. 159–163.

12 Cf. Ernst ENGELKE – Stefan BORMAN – Christian SPATSCHEK, *Theorien der Sozialen Arbeit: Eine Einführung*, Freiburg i. Br.: Lambertus, 2009, p. 400; STAUB-BERNASCONI, *Soziale Arbeit...*, p. 536.

13 Cf. NAVRÁTIL, *Teorie a metody...*, pp. 25–34.

14 Cf. INTERNATIONAL THEOLOGICAL COMMISSION, *In Search of a Universal Ethic: A New Look at the Natural Law*, 2008, art. 18.

the negative value of the morally negative.¹⁵ Similarly, the idea of natural law is found in Aristotle: 'By the two kinds of law I mean particular law and universal law. (...) Universal law is the law of nature. For there really is, as everyone to some extent divines, a natural justice and injustice that is common to all, even to those who have no association or covenant with each other.'¹⁶ Anzenbacher further states that, according to most philosophers from Plato to Hegel, natural law is the foundation of every positive law deriving from it.¹⁷

The roots of natural law conceptions can already be found in the Bible,¹⁸ which shows how closely this ethical conception is linked to Christianity. In Christianity the point of departure and core of the doctrine of natural law is constituted by the Decalogue: '*The Ten Commandments, which constitute an extraordinary path of life and indicate the surest way for living in freedom from slavery to sin, contain a privileged expression of the natural law*'.¹⁹ However, the Decalogue already represents an essential element of the religious experience of the Israeli nation as it is grasped by the Old Testament. The individual books of the Old Testament also show that the Decalogue holds not only for Jews, but also for all other nations. The New Testament conception of natural law is explicitly presented especially in Paul's letter to the Romans (2:14–15): 'When Gentiles who have not the law do by nature what the law requires, they are a law to themselves, even though they do not have the law. They show that what the law requires is written on their hearts, while their conscience also bears witness and their conflicting thoughts accuse or perhaps excuse them.' This text, and the entire first, second and seventh chapter of the Letter to the Romans '... had a decisive impact on the Christian reflection of natural law'.²⁰ At the time when the oldest books of New Testament were written, among which the Letter to the Romans belongs, a view of natural law was formed that sees natural law as given by God, whereby the Jews and later also Christians come to know it by the intellect and thanks to their faith as it is captured by the Bible, but other 'nations' – i.e., gentile nations – can come to know it thanks to their intellect and their life practice: 'For it is not the hearers of the law who are righteous before God, but the doers of the law who will be justified' (Rom 2:13).

An important milestone in the Christian conception of natural law is constituted by the work of Thomas Aquinas (1225–1274), who sets natural law into the context of morality deriving from human dignity and acknowledges its ability to distinguish between good and evil.²¹ The knowledge of natural law is grounded in the human intellect, which is capable of an intuitive grasp of the good. This means that we can correctly judge what is good and what is evil even without a clear definition based on practical reason. Good regards the '... objects of natural human inclinations'.²² Even though Thomas Aquinas holds that natural law comes from God, in the sense described above, he nonetheless regards natural law as universally valid for all of humanity, because its basic rights derive from the meaning of humanity, from human nature and from the human being's orientation to life itself.

It is further appropriate to add that natural law was also an inalienable part of the theological conception of Martin Luther. Although the German national-socialist regime attempted to misuse Luther for this reason in the first half of the 20th century, he was eventually vindicated in the

15 Cf. Stanislav SOUSEDÍK, *Svoboda a lidská práva*, Praha: Vyšehrad, 2010, p. 131.

16 ARISTOTLE, *Rhetoric* 1373b, The Revised Oxford Translation, ed. J. Barnes. Princeton University Press, 1984, pp. 2187.

17 Cf. Arno ANZENBACHER, *Úvod do filosofie*, Praha: Logos, 1989, pp. 262–263.

18 Cf. SOUSEDÍK, *Svoboda...*, p. 131.

19 PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *Compendium of the Social Doctrine of the Church*, 2004, art. 22.

20 Cf. INTERNATIONAL THEOLOGICAL COMMISSION, *In Search...*, art. 25.

21 Cf. *ibid.*, art. 37.

22 Cf. Arno ANZENBACHER, *Úvod do etiky*, Praha: Zvon, 1994, p. 89.

Lutheran milieu.²³ Thus, the theory of natural law is an integral part of Christian ethics, or rather its very essence.

In the Christian conception the ‘penalty’ for breaking the natural law is the impossibility to know God, i.e., simply speaking, to approach God in the course of one’s life and enter communion with him after death. On the other hand, respect for the natural law and observing it creates favourable conditions for knowing God even in those who are not Christian. Nonetheless, in the 16th and 17th centuries, theology began to ask whether natural law would be binding even without this penalty, or without God. In this way the door was opened for further, non-metaphysical theories of natural law of the modern era:

Many theories of natural law were conceived in the course of history, but on closer inspection they can be divided into two groups. One comprises theories conceived mostly in antiquity and the Middle Ages. (...) For these it is characteristic that they mostly seek the ultimate justification of social moral norms in some principle transcending the human being. (...) Since the late Middle Ages and then especially in the course of the modern era, a somewhat different type of theories of natural law developed, let us call it ‘enlightened’. Enlightened versions of the theory of natural law are similar to those older, classical versions in many respects, because they had developed from them. However, they differ from them in that the source of the justification of social moral norms in them is the mere human nature or intellect, so that they mostly do not deem it necessary to turn to a ‘higher principle’.²⁴

Another principal difference between the Thomistic conception of natural law and later conceptions consists especially in a different view of the human being with respect to his social nature. While Thomistic philosophy conceived of the human being in the spirit of its Aristotelian roots as of a naturally social being, modern conceptions conceive of him as of a naturally individualistic being. That is why according to these theories the human being enters social bonds only based on a certain contract. Human social life is therefore the consequence of a contract,²⁵ which fundamentally affects the application of natural law theory in social work.

A typically enlightened (in Sousedík’s terms) theory of natural law is the conception of Thomas Hobbes (1588–1679). In his view natural justice (*ius naturale*) consists in the freedom of every human being to apply his power in order to maintain his nature according to his decision. Natural law (*lex naturalis*), or also the law of nature, as it is called by Hobbes, is a general rule discovered by reason, which forbids acts that destroy the human being’s life and prescribes acts that help to maintain it. Thus, natural justice consists in the freedom to act or not to act, while natural law obliges the carrying out of one of these.²⁶ The human being must therefore enter a certain covenant or contract with other people, in order for humanity not to destroy itself. That also implies, among others, subordinating oneself to state power.

23 Cf. Ján LIGUŠ, Lutherovo pojetí přirozeného zákona jako základ univerzální etiky, *Studia theologica* 4/2011, pp. 117–126.

24 SOUSEDÍK, *Svoboda...*, p. 32. However, this distinction holds not only historically, since at present it is also possible to observe various theories of natural law, which differ precisely in whether they ground their reasoning in human nature or derive it from a principle – God – that transcends the human being and from whom the human being originates. It is worth noting that even contemporary Catholic bioethics and social ethics often try to argue in terms of natural law, by means of philosophical, not theological arguments. In other words, they derive their arguments not directly from God, but from human nature. But, in fact, their point of departure is the genuinely theological conviction that human nature is created by God, so that rational arguments elaborating on human nature allow one to reach the same conclusions as the ones reached by purely theological natural law reasoning.

25 Cf. *ibid.*

26 Cf. Thomas HOBBS, *Leviathan aneb látka, forma a moc státu církevního a politického*, Praha: Oikoymenh, 2009, p. 513.

Hobbes's point of departure is thus much narrower than the point of departure of ancient philosophy and Christianity, which sees natural law as the general order of the entire universe and not 'merely' the issue of human relations. This is also why natural justice and natural law are conceived differently within the Christian conception of natural law and the two concepts are in fact not always as strictly distinguished as in Hobbes:

Natural law (*lex naturalis*) becomes the norm of natural justice (*ius naturale*) when one considers the relations of justice among human beings (...) We pass from the anthropological category of the natural law to the juridical and political category of the organization of the city. (...) The norm of natural justice anchors human law in the natural law. It is the horizon from which the human legislator must take his bearings when he issues rules in his mission to serve the common good.²⁷

However, the difference between Hobbes's conception of natural law and the Thomistic one is best expressed by his view that laws are not grounded in truth, but in authority. But a crucial element of the Thomistic, and thus the Christian, conception is the constitutive unity of truth and authority – God is truth, and that is why he is authority. That is why in Hobbes's conception '...all the force of the law resides only in the will of the lawmaker.' As a result, the law is '...divested of its intrinsic intelligibility'.²⁸ According to Soušedík, Hobbes's conception of natural law is also fundamentally doubtful as an ethical theory. From the principle of love of the self as the foundation of natural law in Hobbes, it is not possible to infer what is good and what is evil, unless the contract entered for reasons of self-love is wilfully broken: 'How could one infer from the highest moral principle, which is allegedly the principle of self-love, that an act is evil, if it is done in accordance with the principle without a provable breach of the contract?'²⁹

The main issue for Hobbes is the issue of war and peace, or of peaceful human cohabitation in society,³⁰ just as humanity, solidarity, social functioning or social incorporation is fundamental for social work.³¹ It is therefore evident that his conception of natural law is of fundamental significance for social work. However, it focuses more on the ordering of society, rather than the decision-making of an individual social worker. Thus, the question of how the social worker decides, or what deciding according to natural law means for a social worker in the context of so-called 'Christian social work', is a question that is different from the one regarding how society ought to be ordered according to natural law. We regard this as the decisive justification why in this study, and also in the practice of social work – whether Christian or secular – the concept of Thomistic philosophy is to be preferred, or generally the Christian concept of natural law as the concept of the so-called universal ethic (see also the document *In Search of a Universal Ethic*, referenced many times here).³²

27 INTERNATIONAL THEOLOGICAL COMMISSION, *In Search...*, art. 88–89.

28 Cf. *ibid.*, art. 30.

29 SOUSEDÍK, *Svoboda...*, p. 94.

30 Cf. Emil VIŠŇOVSKÝ, K Hobbesovej koncepcii človeka, in: Thomas HOBBS, *O človeku*, Bratislava: Kalligram, 2010, pp. 155–166.

31 Cf. Oldřich MATOUŠEK, Úvod, in: Oldřich MATOUŠEK et al., *Encyklopedie sociální práce*, Praha: Portál, 2013, pp. 12–14.

32 In the second half of the 20th century Hobbes's ideas were successfully revived by John Rawls (cf. John Rawls, *Theory of Justice*, Cambridge: Harvard University Press, 1971), so that it may seem that they have only now reached their full significance as the most precise expression of natural law issues. But in fact it appears more probable that Rawls 'hit' a fairly convenient moment in human history, or in the history of the Western civilisation, for brushing up Hobbes's ideas: 'Contractualism, despite the precarious foundation on which it is built [meaning the illusion of the natural "non-communal" nature of the human being: authors' note], by elevating the individual who enters social bonds only by freely entering a contract, as by the pathos of the freedom it ascribes to the individual on this basis, is in harmony with a certain conception of capitalist economic principles and with liberalism' (SOUSEDÍK, *Svoboda...*, p. 39).

2. Theory of natural law in the context of contemporary Christianity

As we have pointed out several times, the theory of natural law is closely interconnected especially with Catholic ethics. Controversial ethical issues, which the media generally closely associates with the Catholic Church, such as, for example, rejecting same-sex marriages, forbidding *in-vitro* fertilisation or forbidding all forms of artificial contraception, are closely linked to natural law ethics. From this point of view these are mostly actions opposing the order given at creation by God to the universe, which the human being as a rational being must discover and respect. This might make it seem that the theory of natural law as an ethical theory is not particularly suitable for social work. That is why it is now necessary to point out that the contemporary conception of natural law is in fact even within official Church doctrine much more dynamic, i.e., that natural law is not conceived as a static and unchangeable basis of ethics, as ancient Christian theology was unfavourably influenced by Stoic philosophy,³³ but as a basis that is dynamic and develops.³⁴ Acknowledging the influence of Stoic philosophy on Christianity brought about the need to reformulate the Catholic presentation of the doctrine of natural law. The doctrine revitalised in the course of the second half of the 20th century assumes that

persons and human communities are capable, in the light of reason, of discerning the fundamental orientations of moral action in conformity with the very nature of the human subject and of expressing these orientations in a normative fashion in the form of precepts or commandments. These fundamental precepts, objective and universal, are called upon to establish and inspire the collection of moral, juridical and political determinations that govern the life of human beings and societies.³⁵

The official social doctrine of the Church therefore states that

The transformation of social relationships that responds to the demands of the Kingdom of God is not fixed within concrete boundaries once and for all. Rather, it is a task entrusted to the Christian community, which is to develop it and carry it out through reflection and practices inspired by the Gospel. (...) The dynamics of this renewal must be firmly anchored in the unchangeable principles of the natural law, inscribed by God the Creator in each of his creatures...³⁶

33 The Stoic influence on Christian theology had a long-term impact especially in the sphere of morality and affected also the Christian conception of natural law and justice: 'The basic idea of the doctrine of natural law, endorsed especially by the Stoics, assumes that nature is a statically ordered cosmos. The cosmos, or world order, is perfect and motionless. The human being cannot intervene in it, but merely observe it and admire it. Natural law was also motionless and underwent no development. (...) This concept was then also adopted into Christian theology. However, the Bible speaks differently. The biblical God is creative, creating, he lives with humans' (Libor OVEČKA, Dynamické pojetí přirozeného zákona a česká teologická tradice, *Studia theologica* 4/2011, p. 192). That means that for centuries Christianity was influenced by old Stoic philosophy, as were other spheres, especially ethics, and as a result partially departed from the biblical conception, also in the issue of natural law. The history of Christian theology has therefore seen erroneous directions in the development of natural law thinking, which used natural law arguments to justify anthropological positions that later turned out to be products of their historical and cultural context (cf. INTERNATIONAL THEOLOGICAL COMMISSION, *In Search...*, art. 10). This became manifest especially with respect to the development of modern science, which made it possible to understand the historically conditioned character of many social institutions and the culturally conditioned character of human behaviour. 'The gap between an abstract maximalist theory and the complexity of the empirical data explains in part the disaffection for the very idea of natural law' (INTERNATIONAL THEOLOGICAL COMMISSION, *In Search...*, art. 33).

34 Cf. OVEČKA, Dynamické pojetí přirozeného zákona..., pp. 117–126.

35 INTERNATIONAL THEOLOGICAL COMMISSION, *In Search...*, art. 9.

36 PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *Compendium...*, art. 53.

The disagreement regarding the basic moral principles deriving from natural law that *de facto* exists and can commonly be observed is a fairly logical consequence of human imperfection and of historical and cultural conditioning. Every appeal to the evidence of norms deriving from natural law therefore needs to be done with moderation and care, so as not to impair the principal value of natural law theory, which is its potential to be a platform of broad social and intercultural dialogue working towards a universal ethic.³⁷ Thus the dialogue on ethics gains precedence over the formulation and declaration of final moral judgments and formulas. That is also why the same document states that ‘Christianity does not have the monopoly on the natural law. In fact, founded on reason, common to all human beings, the natural law is the basis of collaboration among all persons of good will, whatever their religious convictions.’³⁸

Contemporary Catholic ethics therefore elaborates on the theory of natural law in four spheres, formulated in a minimalist way:

- Humans are naturally capable of grasping the ethical message contained in being with their intellect and to derive norms of action from it, that will thus accord with nature and thereby also with human dignity.
- The basic norms regulating social and political life, from which positive laws are derived, are of a natural and objective character; they are not merely conventional.
- The active engagement of the Church and individual Christians regarding social issues bearing upon natural law (such as defending the rights of the oppressed, justice in international relations, defence of life and family, religious freedom, and freedom of education) is not essentially a confessional matter but derives from the responsibility all citizens ought to have with respect to the common good in society.
- Positive civil laws are not binding in conscience if they are in opposition to natural law. This exception to obeying the law derives from the principle of obeying the higher law.³⁹

It is worth stressing that the dynamic conception of natural law described above does not mean that it is abolished and replaced with pure subjectivism. Natural law in its dynamic conception remains objectively valid, but different decisions can be formed on its basis with respect to the context and situation. This duly involves the intellect and conscience of the human being, who acts and decides as a moral subject:

Natural law does not dictate what the human being is obliged to do; it provides a fundamental orientation within which the human being decides with her own responsibility. (...) Natural law does not require thoughtless adherence, but one’s own responsible search for an answer to the question what is good, what I ought to do.⁴⁰

Therefore, the theory of natural law does not essentially assume that only general norms will be derived from it. Rather on the contrary, it ought to enable the subject to apply the universal precepts of natural law to the particular conditions of existence in different cultural contexts.

What has been said above makes it possible to state that natural law derives from the assumption

37 Cf. INTERNATIONAL THEOLOGICAL COMMISSION, *In Search...*, art. 52.

38 *Ibid.*, art. 9.

39 Cf. *ibid.*, art. 35.

40 OVEČKA, *Dynamické pojetí přirozeného zákona...*, pp. 204–205.

that nature carries a certain ethical message, whereby it represents a certain implicit moral norm, which is actualised by the human intellect.⁴¹ That is why natural law can be

...defined as *the object of some natural human inclination known by practical reason*. Practical knowledge of a certain object consists generally in formulating the instruction that we are to pursue that object, or avoid it. (...) Accordingly, morality is the relation of accord or discord between a human act and the natural law.⁴²

The basic principle of natural law states that good is to be done and evil avoided. That further implies three natural dynamisms, which are at work in the human person:

- An inclination to preserve and develop one's own existence.
- An inclination to reproduce in order to continue one's kind.
- An inclination to know the truth about God and towards life in society.⁴³

Although, or precisely because, natural law in the Christian conception derives from God, it is understood as a supra-confessional ethical concept deriving not from faith, but from nature revealed in the human intellect, in the order of the entire cosmos. With respect to this, all humans are equal based on their nature, so that their rights and equality do not depend on their relationship to the Christian faith,⁴⁴ and human activity (work, science, culture, bringing up children) derives its special value precisely from being connected to discovering and respecting natural law.⁴⁵

A social worker needs to reflect on his/her practice. 'Reflection based on a familiarity with the philosophical discourse ought to assist the social worker in seeking a position which is always found somewhere between a universal morality that may be reached by reason and the actual state of written and oral norms.'⁴⁶ Nonetheless, partial laws and norms, which are defined by humans and culturally conditioned, ought not to contradict universal nature, because if they did, they would in the long run bring about the termination of humankind: 'Natural laws are naturally general in content, i.e., they are such as not to provide a determinate set of instructions for behaviour in certain situations. Rather, they are "barriers" delimiting the space within which we must rationally determine which way of acting is the most suitable in a given situation.'⁴⁷ Therefore something inhuman and counternatural can today be defined by some law and enforced by state power or merely by social consensus or conformity, but it has a pathological effect on humanity, because it opposes the order of being.⁴⁸

What has been said above implies that the Thomistic conception of natural law, which constitutes the foundation of contemporary Christian and especially Catholic ethic, is essentially a supraconfessional ethical concept and as such can be employed in social work. At the same time, since it

41 Cf. INTERNATIONAL THEOLOGICAL COMMISSION, *In Search...*, art. 69.

42 SOUSEDÍK, *Svoboda...*, pp. 62–63.

43 Cf. INTERNATIONAL THEOLOGICAL COMMISSION, *In Search...*, art. 44–46. 'Certainly, this inclination can be denied by those who refuse to admit the existence of a personal God, but it remains implicitly present in the search for truth and meaning, experienced by every human being' (ibid., art. 50).

44 Cf. ibid., art. 28 and 63.

45 Cf. PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *Compendium...*, art. 37.

46 Oldřich MATOUŠEK, *Filozofická témata významná pro sociální práci*, in: Oldřich MATOUŠEK et al. *Základy sociální práce*, Praha: Portál, 2012, p. 79.

47 SOUSEDÍK, *Svoboda...*, p. 66.

48 Cf. ANZENBACHER, *Úvod do filosofie*, p. 262.

is a conception which is fundamental to Catholic theological ethics, it is to a great extent binding for institutions which regard themselves as Christian. What is 'binding' here is not the static conception of natural law, when it is necessary to carry out clearly formulated instructions and avoid clearly formulated prohibitions. With respect to the dynamic character of natural law, its binding character consists precisely in solving the situations of life in a responsible, rational way based on confrontation with conscience, so that it is in the greatest possible harmony with nature.

3. Natural law and social work

Already in the early stages of the modern era it was typical of natural law theories that 'they are inspired by the need to defend individuals or certain social groups against the excessive demands of a state power possessed by absolutist tendencies'.⁴⁹ Spanish theologians of the 16th century also appealed to natural law, for example, in their criticism of the imperialist policy and ideology of European states and in defending the rights of the non-Christian nations of America, whereby Spanish theology laid the foundation of international law.⁵⁰ Thus the theory of natural law has a certain tradition as a conception and justification of interest in others and of defending them. *Since Christianity does not have a monopoly on natural law, because the very character of natural law implies that it is not knowable only on the basis of the Christian faith, but especially by practical reason (see section 2), natural law theory can very well be utilised not only in Christian or confessional social work, but in fact just as well in 'secular social work'.*

The Thomistic conception and conceptions deriving from it also appear more suitable for use in social work because of the difference, stated by Sousedík, between the conceptions of natural law: while the Thomistic conception views the human being as naturally social, the newer conceptions regard humans as naturally individualistic, entering bonds with other humans only based on a certain agreement or contract (see section 1). For if the human being is naturally social, then it is natural to accept help from others and to provide help for others. The source of social life is in the human person and therefore society cannot deny the position of an active and responsible subject to the person; on the contrary, all expressions of society must be ordered to the human being.⁵¹ *Therefore, if social work claims, on a long-term and stable basis, that it helps all indiscriminately, it corresponds more to an ethic based on the Thomistic conception of natural law than to individualist conceptions, within which every act of helping would be based on a contract of some kind.* The client's agreement to accept the offered help, viz. the arrangement regarding the form of the help between the social worker and the client, naturally is not the contract of contractualist conceptions. This would rather correspond to a social deal as to whether the society ought to be ordered in such a way that help would be offered in it at all or not.

For utilising the theory of natural law (according to the Thomistic tradition) in social work, it is very important that from the point of view of natural law it is not possible for ethics to always and clearly pre-define definite instructions on how to proceed well and correctly in certain particular situations. Only the judgment of the practical reason of the human being as a free and responsible rational subject can formulate the immediate norm of a given action. Similarly, social workers in their practice, when making a decision regarding a solution to the client's situation, cannot rely exclusively on the orders of superiors, legal precepts or the guidelines of the ethical code. They are always placed in situations when they are deciding themselves with respect to the wholly indi-

49 Cf. SOUSEDÍK, *Svoboda...*, p. 82.

50 Cf. INTERNATIONAL THEOLOGICAL COMMISSION, *In Search...*, art. 28.

51 Cf. PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *Compendium...*, art. 106.

vidual situation of their client, what solution to that situation will be good and correct. Thus, the theory of natural law in fact provides the social worker with a basic orientation in such decision-making, and at the same time defends and justifies their freedom in deciding.

Catholic social doctrine places an emphasis on good orientation in natural law, which is to serve as the basic guideline in decision-making, because solutions to particular situations deriving from natural law are expected to react to those situations. And precisely due to the character of these situations the solutions can vary and differ one from another. That is also why this conception of natural law can also be applied in 'secular' social work; at the same time within the Catholic Church – i.e., for example, also in Caritas – its recommendations become all the more binding.⁵²

In the following parts of this study we will therefore assume that while organisations, such as, for example, Catholic Caritas, *must* be guided by the natural law ethic in the practice of their social work, in a different context social workers *can* utilise it. However, with respect to the acceptable extent of a scholarly study we only want to focus on one aspect of natural law and its use in social work. It is freedom and responsibility, which on the one hand are a key element of natural law theory (see section 2), and are intensively employed in social work on the other.⁵³ It is typical of clients of social work that their freedom is limited in some way, internally or externally, and social workers strive to empower them, i.e., to enable them to assume (a greater) responsibility for their life.⁵⁴

The individual inclinations of the human being deriving from human nature (see section 2) first place an emphasis on responsibility to one's own life. From this derives responsibility for 'preserving one's kind' to freedom, the need to live in human community and solidarity with other humans. This responsibility is based on the *principle of individual freedom*: asserting one's freedom comprises a relationship to natural moral law, which is universal in its precepts and precedes all rights and duties.⁵⁵ A free human being is guided by responsibility for his own life towards responsibility for the general – common – good. That is why responsibility and initiative is to be primarily transferred to each individual. If he/she does not cope with the situation himself, it is the task of the primary group (family) to help. The state and professional social help (not prevention) are to be the last option. Thus the common good is to be attained by the *principle of subsidiarity*,⁵⁶ which is traditionally characterised as follows: 'As much own responsibility for individuals and small communities as possible, as much responsibility transferred to larger community and the state as necessary.'⁵⁷ When the principles of freedom and responsibility according to natural law are used in social work, the point is that, for example, individuals and groups ought to be supported to make maximum use of their competencies, whereby their own responsibility is increased.⁵⁸ Natural law theory thus makes it possible to fulfil the profession's mission more deeply, whereby it is not possible to rely merely on social solidarity and at the same time leave aside the idea of growth and realising human potential.⁵⁹ The social worker's task naturally remains to assess the level of the client's ability to decide freely with respect to his dispositions or influences of the social milieu.⁶⁰

52 Cf. Gregory BAUM, La Chiesa: pro e contro la democrazia, *Concilium* 4/2007, pp. 67–79.

53 Cf. David WATSON – Janice WEST, *Social Work Process and Practice: Approaches, Knowledge and Skills*, Hampshire and New York: Palgrave, 2006, pp. 3–7.

54 Cf. Neil THOMPSON, *Understanding Social Work*, Hampshire: Palgrave, 2009, pp. 139–147.

55 Cf. *Veritatis splendor*, art. 51.

56 Cf. PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *Compendium...*, art. 164–208.

57 ANZENBACHER, *Úvod do filosofie*, p. 258.

58 Cf. Michael MARTINEK, Teologický a pastorační aspekt komunitní práce, in: Michael MARTINEK et al., *Praktická teologie pro sociální pracovníky*, Praha: Jabok, 2008, pp. 164–173.

59 Cf. Oldřich MATOUŠEK, Úvod: Cíle a úroveň sociální práce, in: Oldřich MATOUŠEK et al., *Metody a řízení sociální práce*, Praha: Portál, 2013, pp. 11–17.

60 Cf. MATOUŠEK, *Filozofická témata...*, pp. 47–28.

Since natural laws are general in content (see also section 2) a situation can arise when the human being as a subject avoids making a decision and renounces his/her freedom, because she is not prepared or willing to bear the responsibility for his/her decisions, or the necessary freedom is not externally granted to him/her. That is typical of the client's life situation. However, it can paradoxically happen precisely in Church-operated helping organisations,⁶¹ which too often have the character of mechanical, bureaucratic organisations given by the hierarchically conceived authority in the organisation with a minimum possibility of collegial decision-making,⁶² that they may restrict the freedom of their employees in deciding and thus in fact prevent solutions deriving from the principles of natural law as an ethical theory.

4. Natural law and so-called Christian social work

The term 'Christian social work' usually designates social work motivated by the Christian faith and realised within an ecclesial context.⁶³ However, this conception is not unified within theological discourse and has been subjected to criticism,⁶⁴ which points out its factual discord with the way motivation to help the neighbour is conceived in the Bible (Lk 10:25–37) and in later documents of the Church.⁶⁵ The entire problem can be summarised with the question whether Christian motivation for providing (social) help (neighbourly love) is grounded already in human nature or in the Christian faith. However, if it is grounded already in human nature, as implied by Lk 10:25–37, and also explicitly in *Deus caritas est* 31 and *Gaudium et spes* 16, the whole concept of Christian social work is set in doubt. Therefore, the present study, with respect to everything that has been said regarding the theory of natural law (see sections 1–3), also cannot accept it. By 'Christian social work' we therefore mean social work that meets all the criteria of professional social work and is carried out by an organisation operated by a church, or in a secular organisation is carried out by a Christian who regards himself as a member of a church; or both can be the case. Similarly, the view that social work receives some specific character from the motivation of the helping person and its grounding in his/her worldview can also be disputed from the position of social work. The helper's motivation is not the most important factor in social work; rather, its nobility is an important prerequisite for social work. The most important point in social work is the situation when the social worker decides what solution is the most suitable for the client's situation, or what solution(s) he will offer to the client and how he will speak with the client about it. *The specific (for example, Christian) character of social work is therefore not due to the social worker's motivation, but to how he acts and especially to how, and according to what he decides for a certain action.*

This, however, does not mean that motivation to social work and deciding in social work are necessarily disconnected. But the connection is not constitutive in the sense that the manner of deciding derives from the kind of motivation. Not only social workers, but workers in the helping

61 Cf. Michal OPATRŇY, *Pastorační práce u křesťanských poskytovatelů sociálních služeb – mezi interní supervizí a coachingem*, in: Michal OPATRŇY – Markus LEHNER, *Teorie a praxe charitativní práce: Uvedení do problematiky, Praktická reflexe a aplikace*, České Budějovice: TF JU, 2010, pp. 62–72.

62 Cf. NEČASOVÁ, *Profesní etika...*, pp. 21–49.

63 Cf. Jakub DOLEŽEL, *Církevní sociální práce na pozadí encykliky Deus caritas est*, Olomouc: UP, 2012, p. 151. Alois KŘIŠŤAN – David URBAN, *Náboženské interpretace motivující k sociální práci*, *Sociální práce / Sociálna práca* 3/2012, pp. 89–97; Jakub DOLEŽEL, *Co dělá sociální práci křesťanskou*, in: Michal OPATRŇY and Markus LEHNER, *Teorie a praxe Charitativní práce: Uvedení do problematiky, Praktická reflexe a aplikace*, České Budějovice: TF JU, 2010, pp. 24–34; Alois KŘIŠŤAN and Libor MUSIL, *Nezodpovězená otázka vztahu „pozorného srdce“ a „odbornosti“ v křesťansky zakotvené sociální práci*, *Sociální práce / Sociálna práca* 4/2008, pp. 93–99.

64 Cf. Opatrný, *Sociální práce...*, pp. 31–33, 43–54.

65 Cf. *Deus caritas est*, art. 31; *Gaudium et spes*, art. 16.

professions in general can frequently be motivated by various false motives deriving from the so-called helper syndrome.⁶⁶ This desire to help can be due to an inner yearning for recognition, for others' gratitude, or a concealed desire for power.⁶⁷ As a result of the helper syndrome, situations arise when the social worker is motivated by the desire to help, but paradoxically decides so as never to definitively solve the client's situation, i.e., not to help him. The 'meaning' of such decisions is that the client continues to be dependent on the worker and he can continue to 'help' him, because he yearns for recognition or gratitude on the part of the client or simply clings to his power over the client. Paradoxically, the Christian milieu often reinforces these so-called false motives for helping.⁶⁸ As a result, this means that in church-operated organisations workers may be motivated by this desire to help, which is further reinforced by the exemplar of Jesus Christ, which, however, does not necessarily assume an orientation on the freedom and responsibility of each individual,⁶⁹ to which Christian social doctrine grounded in natural law leads. Such 'Christian social work' is also often characterised as philanthropic because it is based mostly on empathy and practical love of the neighbour, but in fact often results in merely securing the present needs of the *human being*.⁷⁰

Conclusion

From the point of view of natural law, freedom and responsibility are principal, albeit not the only characteristics of every human being. A professional social worker, if he/she is guided by the theory of natural law, ought to expect the client to develop his own responsibility and initiative in solving problems.⁷¹ In the spirit of natural law social work also primarily ought to take such measures as will protect human dignity, make it possible to meaningfully fill the life of the individual, and secure his role in society. The theory of natural law can therefore provide significant help as one of the ethical theories by which the social worker is guided in his decision-making.

The theory of natural law substantially reinforces the significance of the social worker's decision-making by its emphasis on freedom and responsibility. For precisely the 'moment' in which the social worker decides imparts to social work its character in the context of the values according to which the social worker decides. Church-operated helping organisations and social workers who think of themselves as Christians are therefore obliged to decide according to the theory of natural law, which makes their social work into Christian social work. However, the theory of natural law is not exclusively Christian and the Catholic Church cannot claim a monopoly to it from its very nature. That is also why natural law as an ethical theory can be utilised in social work even when it is purely secular.

66 Cf. Wolfgang SCHMIDBAUER, *Syndrom pomocníka*, Praha: Portál, 2008, p. 234.

67 Cf. Oldřich MATOUŠEK – Pavel HARTL, Nároky sociální práce a syndrom vyhoření, in: Oldřich MATOUŠEK et al., *Metody a řízení sociální práce*, Praha: Portál, 2013, pp. 49–57.

68 Cf. Jakub DOLEŽEL, Osobnostní rizika pomáhající praxe: Syndrom pomocníka ve světle biblické moudrosti, in: Jakub DOLEŽEL, *Spravedlnost a služba III.: Sborník odborných příspěvků a studijních textů CARITAS – Vyšší odborné školy sociální Olomouc*, Olomouc: CARITAS and VOŠ sociální Olomouc, 2008, pp. 32–47.

69 Cf. Michal OPATRŇÝ, Třináctá komnata vztahu teologie a sociální práce: K problematice negativních vlivů křesťanské víry na pomáhání, *Caritas et Veritas* 1/2011, pp. 44–59.

70 Cf. Libor MUSIL, Různorodost pojetí, nejasná nabídka a kontrola výkonu „sociální práce“, *Sociální práce / Sociálna práca* 2/2008, pp. 60–79.

71 Not every client is capable of being aware of his situation in life and of actively shaping his life. This problem is addressed by transaction analysis, which bases its therapy on becoming aware of one's responsibility and relationship to others, which facilitates self-understanding (cf. Pavel NAVRÁTIL, Humanistické a existenciální teorie, in: Oldřich MATOUŠEK et al., *Základy sociální práce*, Praha: Portál, 2012, pp. 201–216).

The Theory of Natural Law and its Application in Social Work Philosophico-Theological Points of Departure and Contemporary Practical Application

Abstract

The study aims to provide argumentative support for utilising the theory of natural law in social work, because it enables the subject to apply universal values and norms in particular social and cultural conditions. This study conceives the theory of natural law as one of a number of ethical theories relevant for social work, i.e., such as are applicable in solving social problems. It derives its reasoning from the so-called dynamic conception of natural law, which in the case of social work provides the worker with basic orientation and places an emphasis on the freedom and responsibility of the individual. For this reason, this study views the theory of natural law as useful for so-called Christian social work, as well as for social work in general. Based on an analysis of the application of natural law in social work the study also states a partial discord between so-called Christian social work and natural law theory.

Key words: social work, social services, ethics in social work, christian social work, Charity, Caritas, Diaconia, natural law

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