

*Marcin Merkwa** <https://orcid.org/0000-0001-7288-4552>

REFERENCES TO VIOLENCE AND WAR IN THE PROCESS OF SHAPING THE CONCEPT OF NATURAL RIGHTS

Abstract. The article attempts to analyse the selected doctrines of natural rights from the perspective of references to the problem of violence. The first part takes into account late medieval consideration, as part of which the first conceptions of natural rights were formulated. In the deliberations of thinkers of this period, violence allows to argue in favour of certain conceptions. The second part depicts violence as a direct impetus shaping intellectual pursuits of the representatives of the School of Salamanca. The last part refers to Hobbes' and Locke's doctrines, in which violence is already an inherent component used in the framing of the natural rights conception, which involves, among other things, the formulation of certain visions of human nature.

Keywords: natural rights, violence, war, modern theories of rights, natural law

ODNIESIENIA DO PRZEMOCY I WOJNY W PROCESIE KSZTAŁTOWANIA KONCEPCJI UPRAWNIEN NATURALNYCH

Streszczenie. W artykule podjęta została próba analizy wybranych doktryn uprawnień naturalnych z perspektywy odniesień do problemu przemocy. W pierwszej części zwrócona została uwaga na późnośredniowieczne rozważania, w ramach których wyartykułowane zostają pierwsze koncepcje uprawnień naturalnych. W rozważaniach myślicieli tego okresu przemoc pozwala argumentować na rzecz określonych koncepcji. W drugiej części ukazana została przemoc jako bezpośredni impuls kształtujący intelektualne poszukiwania przedstawicieli Szkoły z Salamanki. W ostatniej części przywołane zostają doktryny Hobbesa i Locke'a, w których przemoc jest już integralnym elementem budowania koncepcji uprawnień naturalnych, co wiąże się m.in. z formułowaniem określonych wizji natury ludzkiej.

Słowa kluczowe: uprawnienia naturalne, przemoc, wojna, nowożytne teorie uprawnień, prawo naturalne

* University of Rzeszów, mmerkwa@ur.edu.pl



INTRODUCTION

One might ask whether the idea of natural rights (the inalienable rights of an individual) could be conceived at all without any reference to violence. The very conception, as most frequently defined (Beitz 2009, 7), includes nothing that would require any reference to the issue of violence or war in order for such a conception to be framed. Irrespective of whether we are talking about natural rights or human rights, each of these two conceptions is built on the assumption that an individual is entitled to a certain characteristic, a certain feature, nowadays most often referred to as dignity. However, asking about the nature of a given idea is not the same as asking about the reason why it emerged, the conditions under which it was formed, the triggers that led to its development, or the arguments that were raised in its favour. And this is where the problem of violence occurs. It is a truism to say that the world was and is full of this form of human activity. As a matter of fact, it appears at every stage of known history. Researchers argue whether violence and war were a motive for development or rather its inevitable outcome, whereas philosophers had been involved for centuries in disputes as to whether violence is an immanent element of human nature. It should be enough for us to say that violence is a fact, and therefore references to this issue occurred, or even had to occur, in the course of forming the conception of natural rights. This fact was shaping the conception under discussion in various ways; we may begin with a general statement – that the world in a specific form must influence, to a greater or lesser degree, the ideas that grew in the minds of individuals, and – finally – focus on the direct impulses that served as the motives for taking certain views.

Assuming that the idea of natural rights gained its most influential form in the works of John Locke, I will limit my considerations to the late Middle Ages and the early modern period. I will begin by presenting the earliest arguments related to the issue of violence, which were put forward by medieval thinkers. They emerged as part of scholastic debates and were an instrument that allowed the creation of language needed to express the idea of natural rights. In the second part, I will refer to the apprehension of violence as the catalyst that enabled the development of the idea in question. What is of vital importance here is the role that the discovery of America had and its further consequences. Without practical questions about the legal status of American Indians (and in particular the fact whether they could be considered owners) the idea of natural rights might not have become a conception having such profound significance (Tierney 2004, 10). The last part will centre around the attitude to violence (and therefore the vision of human nature) as having a key role in the formation of natural rights doctrines.

I

The late Middle Ages saw, if not the formation of the conception of subjective rights, then at least attempts to give the term *ius* a new character. However, those times were a “semantic minefield” – twelfth-century thinkers discovered multiple meanings of *ius* and began to combine this term with such concepts as *dominium* or *potestas*, and their arguments started to encompass the problem of extreme situations. Questions were raised about whether, for example, a person sentenced to death has the possibility, right or perhaps even the duty to save their own life. These examples made it possible to build foundations for arguments in favour of the rights that every human creature would have.

Around 1160, Rufinus, analysing the condition of humans after their expulsion from paradise, indicates that they were in an animal-like state. However, they were able to find something that allowed them to join together to form communities. That something was a natural *ius*: “a certain force instilled in every human creature by nature to do good and avoid opposite” (Tierney 2001, 62). B. Tierney points out that combining *ius* with the concept of force was very successful: it appeared repeatedly in definitions offered in the late Middle Ages. The aforesaid author considers this to be a crucial point in the development of the idea of natural rights – because, although similar expressions can already be found in the Stoic thought, ancient analyses were steeped in determinism, and *ius* was seen as an element of cosmic order. Whereas in the standpoints adopted by thinkers of the late Middle Ages, one can notice a subjective element, *power* or *force* become something that belongs to a human creature, its characteristic. Consequently, the idea of *ius naturale*, which had been known for centuries, began to take on a new meaning.

The thinkers who shaped the foundations of the new way of defining *ius* often referred to the problem of self-preservation as part of their arguments. The issue of violence, whether it originated from the state or was not governed by law, allowed for developing and supporting the arguments that became part of the scholastic way of thinking from the 13th century onward. Thus, for example, Henry of Ghent, using the example of a person sentenced to death, considered the limits of the right to self-preservation. He asked: is there an inalienable right to life, and therefore the right to self-preservation, which is absolute in its very nature? Does the person sentenced to death have the right, or even the duty, to attempt to escape or is he obligated to accept the sentence and punishment? Henry of Ghent argued that the sentenced person has a superior right to preserve his life. The fact that the judge has the “right to the body” of the sentenced person does not preclude the existence of the “right to escape” that the sentenced person has. The superiority of the right that the sentenced person was supposed to have is related to the fact that failure to exercise it is tantamount to suicide, however, the same cannot be said about the right which the judge had (Tierney 2001, 78). This issue was tackled by many scholastic authors and was considered, among others,

by Saint Thomas Aquinas. However, Aquinas analysed the issue in question using concepts rooted in the theory that was centred around the existence of objective moral order. While pondering over the above topic, Henry uses well-known concepts and gives them new meanings, using the language that can be described as “a sort of rights language” (Tierney 2001, 87). His considerations may evoke associations with the theories that will be proposed centuries later by modern thinkers considering self-preservation both as a right and as a duty.

This problem is also evident in works written by Godfrey of Fontaines, who recognised the existence of rights which people have in extreme situations and cannot be renounced. Godfrey found that since an individual has a duty to preserve their life, in extreme situations they are entitled by virtue of natural law to dominion and a certain right (*quoddam ius*) to common exterior goods. This was, according to some researchers, probably the first time when an individual right to subsistence was coined (Mäkinen 2004, 176–178).

We can further point to Jean Gerson, who, according to some contemporary authors, is one of those thinkers who made the greatest contribution to the generalisation of language – rights were defined as a certain ability, capacity or power (O’Donovan 2009, 201). Gerson’s conception is sometimes referred to as the first theory of natural rights; in *De Vita Spiritualis Animae*, Gerson writes that there is a natural *dominium*, which is a gift from God, an *ius* to use things with a view to preserving oneself (Quillet 2008, 511). Gerson uses the term *dominium* as a combination of ownership and freedom. *Dominium* refers, first, to an individual’s right to take steps for self-preservation – ownership appears as an effect of the natural state. Second, *dominium* is related to freedom (Shortall 2007, 58).

The language Gerson used will become the basis for the terminology which Conrad Summenhart will employ while developing his theory of rights in *Opus septipartitum*. However, in his attempt to systematise Gerson’s views, Summenhart will formulate the theses that were not presented in the works of the former at all. Recognising that a right is direct power or ability grounded in justice (Varkemaa 2006, 131), Summenhart will elaborate on Gerson’s thought, claiming that the divine law is the source of all possibility. According to Summenhart, humans have a *prima facie* right to actualise possibilities and abilities given by God, however, the ability to act contrary to the dictates of right reason cannot be considered a right. This is depicted by Summenhart’s comments about a hypothetical looter. The ability to commit a murder is based on the natural powers and abilities that originate from the ultimate (and therefore divine) dictates of reason and justice, however, according to the principles of justice, the outlaw has no right to kill. Thus, he has no right to actualise his natural potential if this would entail taking an innocent person’s life in a deliberate and unjust manner. Summenhart suggests that the precepts of right reason exclude unlawful actions from the scope of rights. Jussi Varkemaa perceives the theory formulated in this manner as a conception of

rights which is based on freedom – for Summenhart, freedom (*libertas*) is a type of a right, a free person is entitled to act in a manner consistent with their own will, unless it would be against the law (Varkemaa 2006, 131).

The consideration of late medieval thinkers presented above shows the reference to the issue of violence as an argument deployed relatively often, which allows to frame the theses in which *ius* was given new meanings. An analysis of the situation of a person sentenced to death, being an extreme situation, lays emphasis on those elements of the conception, in which a right will cease to be grounded only in the moral order that is exterior to humans, will become an immanent feature of a human creature. However, medieval discourse on natural rights might have disappeared from intellectual history had it not been for the events of the fourteenth and especially the fifteenth centuries, during which violence and war came to shape individual doctrines, and reflections on *ius* increasingly emerged as reactions to the violence of the surrounding world.

II

The problem of violence, war, compulsion is evident in the so-called Polish school of *ius gentium*. Paweł Włodkowic advanced the theory of a fair war and argued that faith does not result from compulsion, and no one should be forced to it. Stanisław of Skarbimierz, in his *Sermon on Fair and Unfair War*, held a brief discussion on the law of public war, echoing the theses of Innocent IV (Ehrlich 1963, 58). And although the importance of these thinkers is worth appreciating, from the perspective of the development of an individual's inalienable rights conception, deliberations presented as part of the so-called Second scholasticism seem to be better known, despite the fact that the ideas of Polish thinkers were later repeated by Vitoria and Grotius, and Stanisław was directly referenced by, among others, Erasmus of Rotterdam and Thomas More (Marszał 2004, 64). The significance of Paweł, writes Jasudowicz, stems from the consistent manner in which it is presented and its open criticism of the Teutonic Order, but above all from the fact that it was heard before “the highest court of the world at that time” (Jasudowicz 1995, 33).

The natural rights doctrine, according to B. Tierney, when limited to a scholastic play on words and is far from the problems of everyday life, could be “wiped out” in the world of Renaissance humanism. The discovery of America, however, posed problems for thinkers that centred around the issue of natural rights (Tierney 2004, 10). The question is whether these rights are universal in nature and thus are also vested in those who could be described, as argued by Aristotle, as slaves by nature. Does a barbarian have a right of ownership? Can freedom be given only to specific people? These and similar questions required an answer going certainly beyond a purely academic discussion. These issues

bothered representatives of the School of Salamanca, nevertheless, both their achievements and the assessment of these achievements are extremely varied. On the one hand, the School is seen as a genuine return to the Thomist-Aristotelian tradition based on the assumption that objective order exists, while on the other hand, some researchers argue that this return was ostensible, and that rights are seen by the School's thinkers in a spirit of the scholastic consideration outlined above, as an individual's power or freedom (Brett 2003, 1).

The diversity of assessments is easily noticeable when analysing the works of Francisco de Vitoria, who is perceived as a thinker faithful to Thomas' vision of the natural law, or as the one who, by accepting the existence of American Indians' rights, "betrayed" what Aquinas was teaching. Vitoria elaborated on the issue of American Indians' status primarily in *De Indis* (1539), where he begins his analysis with an interesting trick (Vitoria 1991), namely, he states that he will omit the past attempts to define *dominium*, which allows him to avoid the intricacies of scholastic distinctions. To decide practically about the paramount importance of the Spaniards' demands relating to the New World, it was enough for Vitoria to assume that *dominium* was the right to exercise power and ownership (Tierney 2001, 266). Vitoria's rationalist arguments, which may one make accept contradictory – but only at first glance – claims about the subjectivity of American Indians and the presence of Spaniards in the New World, was based on a distinctive philosophical anthropology assuming the equality of human beings equipped with reason, which is the source of, among other things, the *ius gentium*.

The ultimate objective of the *ius gentium* understood in the above manner is the universal good of mankind, similarly as the objective of the positive law of individual societies is the good of the state. This good includes, according to Vitoria, peace and harmony among people (Noreña 1975, 144). There is no consensus on whether Vitoria taught natural law. Some scholars argue that he remained faithful to the Thomistic tradition and analysed *ius* only in an objective sense (assuming that only such a sense can be derived from Thomas's writings). Villey, on the other hand, claimed that Vitoria "betrayed" Thomas's teaching by granting subjective rights to the American Indians (Tierney 2001, 257).

The problem of violence and war, while not unfamiliar to Vitoria, shaped works of Bartolome de la Casa to a greater – and certainly more pronounced – degree: He saw some of the atrocities taking place in the New World, and later condemned them in numerous pieces of writing, filled with passion and directness, which distinguishes them from the typical texts of Spanish scholastics. This is the reason why his role in history was assessed differently: he was seen as the creator of the black legend of Spanish atrocity, but also as a representative of the Spanish conscience (Tierney 2001, 272). The central point of Las Casas' theory was the perception of freedom as a natural right, which led to the conclusion that the conversion of American Indians to Christianity was only possible using peaceful measures. This view was contradictory to the prevailing belief expressed, among

others, by Sepúlveda, namely, that American Indians-barbarians were inferior in terms of prudence, virtue or humanity to Spaniards, who ruled over them completely legally.

Similarly, as in the case of Vitoria, it is difficult to make an unambiguous assessment of Las Casas legacy, researchers do not even agree on whether he established any natural rights doctrine at all. However, an analysis of his works demonstrates the key fundamental importance of freedom as the most basic right enjoyed by all human beings, which has its origins in the assumption of the rationality of human nature. Hence, power was seen as something which came from and was controlled by people. Las Casas did not reject the Spanish presence in the Americas, nevertheless, it could not, as he expected, violate the rights of American Indians, who had to consent to it (at the end of his life, being aware of atrocities and the inability of the Crown to stop them, he rejected the lawfulness of Spanish authority in the New World). Despite the fact that the Dominican's doctrine contains many intriguing solutions, its importance is primarily related to the fact that it did not just simply echo, or even developed, earlier arguments but they were used for completely new problems of considerable practical significance.

III

In modern doctrines, the issue of violence became a fully-fledged element of the discourse; not only because modern writers had to face the changing international situation where modern states were emerging, but primarily because they took a certain attitude to human nature and the world which defined the shape of developed conceptions.

Human nature, in Hobbes's view, is violent, which stems from his view of the nature of reality, in which there is constant and endless motion. However, the vision of a state of nature, i.e. where people live without fear-inducing authority (Hobbes 2009, I, XIII, 8), is not only a hypothesis about the origins of humanity nor a philosophical assumption to build a theory, but also a possible consequence of war (Kuniński 2010, 113). The vision of the state of nature which is a kind of a calculation showing whether it is worth using violence (Foucault 1997, 63) is based on experience (Chmielinski 2015, 487). However, this is not a simple reference to the Galilean or the Cartesian description of reality, but its negation, at least to some extent. Cartesian nature is a place of clashes, not conflicts, resistance, but not adversity. Conflict and violence, well-known elements of the world in which we live, can be hardly based on the Cartesian vision of nature. Machines may be subject to changes, but cannot suffer from a loss (Herbert 2002, 89).

Hobbes did not reject Cartesianism in its entirety, however, he rejected the philosophical consequences of the Cartesian understanding of motion or inertia.

As a matter of fact, it is natural that there is continuous motion, even the body – namely something that is not dependent on thinking, which fills space (Hobbes 1956, XV, II), can be reduced to a sum of individual movements, the smallest of which is *conatus*. *Conatus* plays a key role in Hobbes' philosophy by allowing him to reduce all physical interactions to the phenomenon that is motion. The resistance of a body which can be seen when another body interacts with it is a reaction – an action that is a form of a local movement of body parts resisting the movement of another body (Leijenhorst 2002, 201). Hobbes' claim that every movement, even the smallest one, is not made on its own but is always triggered by another body that is moving, is crucial to assess the meaning of motion (Hobbes 1956, XV, II). In the Hobbesian world, there is nothing that could escape constant opposition and conflict of movements (Herbert 2002, 92). Such perception of motion and nature must lead to the conclusion that each thing can be affected by another – the existence of individual objects and their characteristics depend on the nature of the things with which they are in relationship. Life itself, in which there can be no absence of desire or fear, is nothing more than motion (Hobbes 2009, I, VI, 58).

There is no consensus in the literature on how such a view on physical reality shaped the Hobbesian conception of the rights of nature. L. Strauss argued that Hobbes' turn toward Euclid and naturalism was not the basis for his political philosophy, it was the philosophy itself that was the motive behind that turn, and while one may underestimate the importance of the mathematical perception of the world for the shape of the political theories put forward by Hobbes, it must be remembered that it was not the turn toward materialism that came first, both in terms of time and meaning (Strauss 1963, 170). A completely new perception of a human, juxtaposed with the image derived from the Aristotelian-Thomist tradition, is a key component of Hobbes' conception. According to Hobbes, a human does not strive for peaceful and harmonious coexistence with others, although such a thesis was widely accepted by his contemporaries (Dubel 2001, 147). If nature has made all people equal, then everyone can hope to achieve objectives set on their own – striving to attain these objectives leads to rivalry and distrust, which, along with a lust for fame, are the main causes of conflicts (Hobbes 2009, I, XIII, 6–13). Violence, the oppressive activity of the state, is the source of inequality, which is no longer wearing a divine or natural halo – it is a derivative of the existence of the state (Wudel 1971, 199). Natural equality leads to the definition of the right of nature which he defines as “the liberty each man hath to use his own power as he will himself for the preservation of his own nature; that is to say, of his own life; and consequently, of doing anything which, in his own judgement and reason, he shall conceive to be the aptest means thereunto” (Hobbes 1965, I, XIV).

Seen in this way, a right is a characteristic of individual subjects; it is not only a force or power, but the power that is vested in each individual. What is

significant, understanding a right as freedom, force or power, as assumed by Hobbes, is intended to reflect physical reality, and as such, a right cannot be the basis for determining morality or justice, it is the equivalent of motion, similarly to *conatus*, it becomes “the irreducible will to live” (Goyard-Fabre 1987, 154–155). The right of nature is no longer rooted in the duty to do what is correct, but in the freedom that enables individuals in the state of nature to do whatever is necessary for the protection of life (in the state of nature, humans have the right to every thing, including the body of another person) – the subjective element of *ius* starts to occupy a pivotal role and as such assumes superiority over the other elements of justice or law (Shortall 2007, 84).

Hobbes’ concept, his understanding of the state and the individual, seems to be unique in the tradition of the development of natural rights; even today, it does not fit in with contemporary concepts of human rights, notes Piechowiak, as it is based on the recognition of mutual cooperation between individuals, rejecting the assumption that they are capable of it only when it benefits them (Piechowiak 1999, 101). Nevertheless, Hobbes’ vision, although often referred to as a separate branch of thinking about natural rights, did not address the problem that mainstream thinkers considering the issue of natural rights could not leave unsolved. John Locke also “inherited” from Hobbes the problem of the transformation of rights at the time when a political community such as the state was created. It was necessary to formulate a theory emphasising the peaceful transition from the state of nature to a form of organised society. To formulate the conception that would not lead to Hobbesian consequences, Locke had to provide a new definition of human nature that would not exclude the fact that in the state of nature humans are limited by natural duties that would not, however, lead to a rejection of the concept of natural rights. The interpretation that is today most widely accepted is that Locke, in order to confront the problem raised by Hobbes, had to revise the pre-Hobbesian tradition of natural law, especially with regard to the importance of human reason (Herbert 2002, 105).

The state of nature becomes the state of total freedom within the limits of the natural law (Locke 1992, II, II, § 4). Violence is an aberration. Due to the fact that all people are united by a community of nature, they should refrain from violating other people’s rights and causing them harm. In Locke’s state of nature there is – as in the case of Hobbes – equality, however, it is comprehended very differently: it is a state of equal power and jurisdiction, as creatures having the same abilities and facilities of nature are equal, and there is no subordination or submission between them except where they agree together and voluntarily that one person will have power over the other (Locke 1992, II, II, § 6). The state of nature is not the state of absolute freedom; actions of a rational individual are limited by natural law. And although humans have the freedom to decide on themselves and their property, they cannot, for example, annihilate themselves

(unless doing so would let them achieve an objective of higher importance than an individual's life).

The community of nature makes it obligatory to refrain from violating other individuals' rights (Locke 1992, II, II, § 6), which limits, to a large extent, the acceptance of violence that can occur in the state of nature (which is not a state of war, but the opposite of the social state, since people live in that state without anyone above them) (Locke 1992, II, II, § 19). Violence, in contrast to Hobbes' vision, is in Locke's case encapsulated in reason and natural law. In Locke's state of nature, there may be power of one person over another, but it is not absolute, not grounded in force. In fact, people have the right to punish, as well as the right to deter and prevent crime, since a person who violates the principles of natural law, not only declares that they reject the principles of reason, but pose a danger to the entire human race, as they violate or ignore the bonds whose function is to protect against violence (Locke 1992, II, II, § 8). Locke's state of nature is not the time of violence that is not based on law. This stems from the fact that Hobbes constructs society in an ethical vacuum, while Locke never had to face such a challenge, since the absence of such a vacuum is the central tenet of his conception (Dunn 1982, 79).

The interpretation that is today most widely accepted is that Locke, in order to confront the problem raised by Hobbes, had to revise the pre-Hobbesian tradition of natural law, especially with regard to the importance of human reason (Herbert 2002, 105). In addition, given the theological nature of the foundations on which Locke's theory is built (Forster 2005, 2), the relationship between an individual and God is also important; this problem provides a starting point for Locke's discussion in *Two Treatises of Government* (1690), *An Essay Concerning Human Understanding* (1689) and *Essays on the Law of Nature* (1663–1664). The manner Locke perceives a human – that is to say, when he assumes that a human creature is created by and remains under the control of God – gives the basis for determining the relationships that exist both among individuals, and between civil society and civil government (Rau 1992, XXVI).

God and reason are the two pillars that allow Locke to eliminate Hobbesian violence – hence the natural law is a decree of the divine will that may be discovered through the light of nature, and which indicates what is and what is not in agreement with humans' rational nature (Locke 2002, 82). The consequence of God's creation of a human is that nobody is allowed to take their own lives and has a positive duty of self-preservation, which is a fundamental law of nature, namely, to preserve the human race (Locke 1992, II, § 135). No one may, as a consequence, take another person's own life or restrict it, or anything that can be used for the preservation of life (liberty, health, body or other goods) (Locke 1992, II, § 6). As pointed out by Z. Rau, the duty of self-preservation, although it appears to be a duty that is egoistic by its very nature, harmonises with the relationship that in Locke's conception connects human beings with God – self-preservation is not

only an action that is in line with what humans desire, but is, first and foremost, the realisation of God's will (Rau 1992, XXXII). What follows from the first natural law, i.e. the duty to preserve the human race, is the second law, which dictates that society must be preserved. Indeed, for the preservation of the human race, people must join together to form a community, a moral community, which can be established if people follow the biblical principle: "Love your neighbour as yourself," which is the most fundamental truth that brings order to a community and would be sufficient to settle all doubts pertaining to moral and social issues (Locke 1955, § 43).

Z. Rau emphasises that incorporating the biblical principle into the natural law system enables Locke to be considered a Christian moralist, characterised by "anthropological optimism," as a result of which one can admit that humans are capable of forming a moral community. However, when Locke deliberates about government, he is no longer a moralist but rather is a realist recognising that government is not always an integral part of that community – hence the very existence of government is not grounded in duties but in individuals' rights, which are the source of government's duties (Rau 1992, XXXIII). It seems that Tuck's view, according to which Locke's work is the culmination of the classical period of the development of the idea of rights, is justified. According to Tuck's division, the classical period, beginning with the writings of Grotius and finding its full expression in Locke's thought, is preceded by a period dating back to the Middle Ages, when the language in which rights were later expressed began to develop (Tuck 2002, 2).

CONCLUSIONS

As presented above, the selected approaches to the idea of natural rights, either dating from the period when the foundations of the conception were laid or from the modern times – when it was in its heyday, show violence as an integral part of consideration relating to an individual's inalienable rights. However, the role of violence varied greatly. Initially, when late medieval thinkers gave new meanings to such concepts as *ius*, references to violence were made as part of arguments. Within its framework, well-known problems were discussed in a new manner, some issues also emerged, which will for ever become part of the discourse on natural rights. The Spanish conquest of the New World, together with reports of atrocities reaching the inhabitants of the Old Continent, provided a direct impetus for thinkers of the School of Salamanca to revisit the largely forgotten doctrine of natural rights. As a result, scholastic reflections – and especially the concepts developed to analyse these problems – entered the mainstream of early modern European philosophy, where natural rights came to be discussed in connection with broader conceptions of human nature. Locke's and Hobbes's

views of violence – its sources, role, and justification – laid the foundation for modern doctrines of natural rights.

Recapitulating the main points of this paper, there is one more issue that deserves attention. Assuming that an individual's inalienable rights exist requires the existence of humans who will be seen as individual beings capable of independent moral reflection. In 1892, T.H. Huxley said during one of his lectures that ethical progress is not the result of imitating cosmic progress, but of fighting against it (Dawkins 2014). The changes that occurred in the 18th century, not only in philosophy and politics but also, for example, in terms of access to literature, made it possible to delve into other people's lives and mental experiences. In his 1776 *The Wealth of Nations*, Adam Smith wrote about sympathy that allows for identifying with the victim of suffering, Beccaria put forward arguments for the humanitarianism of law, the trial of Jean Calais prompts Voltaire to write letters in his defence (Hunt 2007). Many contemporary authors (e.g. S. Pinkert) argue that we live in the most peaceful and non-violent times. One may ask whether the conception of natural rights – and today, human rights – can be understood as a manifestation of moral progress, conceived as the extension of moral and legal subjecthood to an ever-growing number of individuals and the gradual eradication of violence from human relations. In this view, related to the real world in which the conception in question emerged, it – that is the very conception – can no longer be comprehended separately from violence.

BIBLIOGRAPHY

- Beitz, Charles R. 2009. *The Idea of Human Rights*. Oxford–New York: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199572458.001.0001>
- Brett, Annabel S. 2003. *Liberty, Right and Nature. Individual Rights in Later Scholastic Thought*. Cambridge: Cambridge University Press.
- Chmieliński, Maciej. 2015. "Kosmopolityczny realizm oświeceniowej koncepcji Immanuela Kanta." In *Filozofia Oświecenia. Radykalizm – religia – kosmopolityzm*. Edited by Joanna Miklaszewska, Agata Tomaszewska. 485–516. Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego.
- Dawkins, Richard. 2014. *Kapłan diabła. Opowieści o nadziei, kłamstwie, nauce i miłości*. Gliwice: Helion.
- Dubel, Lech, Jarosław Kostrubiec, Grzegorz Ławnikowicz, Zbigniew Markwart. 2011. *Elementy nauki o państwie i polityce*. Warszawa: Wolters.
- Dunn, John. 1982. *The Political Thought of John Locke. An Historical Account of the Argument of the "Two Treatises of Government"*. Cambridge: Cambridge University Press.
- Ehrlich, Ludwik. 1963. *Rektor Paweł Włodkowic. Rzecznik obrony przeciw Krzyżakom*. Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego.
- Forster, Greg. 2005. *John Locke's Politics of Moral Consensus*. Cambridge: Cambridge University Press. <https://doi.org/10.1017/CBO9780511498114>
- Foucault, Michel. 1997. "Society must be defended." In *The Essential Works of Michael Foucault*. Vol. 1. *Ethics. Subjectivity and Truth*. Edited by Paul Rainbow. 59–65. New York: The New Press.

- Goyard-Fabre, Simone. 1987. "Metamorphosis of the Idea of Right in Thomas Hobbes's Philosophy." In *Hobbes's Science of Natural Justice*. Edited by Craig Walton, Paul J. Johnson. 3–20. Dordrecht: Martinus Nijhoff Publishers. https://doi.org/10.1007/978-94-009-3485-6_11
- Herbert, Gary. 2002. *A Philosophical History of Rights*. New Brunswick–London: Transaction Publishers.
- Hobbes, Thomas. 1956. "O ciele." In *Elementy filozofii*. T. I. Translated by Czesław Znamierowski. Warszawa: PWN.
- Hobbes, Thomas. 1965. *Leviathan*. Oxford: The Clarendon Press.
- Hobbes, Thomas. 2009. *Lewiatan czyli materia, forma i władza państwa kościelnego i świeckiego*. Translated by Czesław Znamierowski. Warszawa: Fundacja Aletheia.
- Hunt, Lynn. 2007. *Inventing Human Rights. A History*. New York–London: W. W. Norton & Company.
- Jasudowicz, Tadeusz. 1995. *Śladami Ludwika Ehrlicha: do Pawła Włodkowica po naukę o prawach człowieka*. Toruń: Comer.
- Kuniński, Miłowit. 2010. "Problem stanu natury i stanu politycznego w teorii umowy społecznej Thomasa Hobbesa." In *Umowa społeczna i jej krytycy w myśli politycznej i prawnej*. Zbigniew Rau, Maciej Chmieliński. Warszawa: Wydawnictwo Naukowe Scholar.
- Leijenhorst, Cees. 2002. *The Mechanization of Aristotelianism: The Late Aristotelian Setting of Thomas Hobbes's Natural Philosophy*. Leiden–Boston: Brill. <https://doi.org/10.1163/9789004475045>
- Locke, John. 1955. *Rozważania dotyczące rozumu ludzkiego*. Vol. 1, 2. Translated by Bolesław Józef Gawęcki. Warszawa: PWN.
- Locke, John. 1992. *Dwa traktaty o rządzie*. Translated by Zbigniew Rau. Warszawa: PWN.
- Locke, John. 2002. *Political Essays*. Edited by Mark Goldie. Cambridge: Cambridge University Press.
- Mäkinen, Virpi. 2005. "The Franciscan Background of Early Modern Rights Discussion: Rights of Property and Subsistence." In *Moral Philosophy on the Threshold of Modernity*. Edited by Jill Kraye, Risto Saarinen. 289–323. Dordrecht: Springer. https://doi.org/10.1007/1-4020-3001-0_8
- Marszał, Maciej. 2005. "Stanisław ze Skarbimierza." In *Leksykon polskich myślicieli politycznych i prawnych*. Edited by Ewa Kundera, Marek Maciejewski. 191–194. Warszawa: C.H. Beck.
- Noreña, Carlos G. 1975. *Studies in Spanish Renaissance Thought*. The Hague: Martinus Nijhoff. <https://doi.org/10.1007/978-94-010-1673-5>
- O'Donovan, Oliver. 2009. "The Language of Rights and Conceptual History." *The Journal of Religious Ethics* 37(2): 193–207. <https://doi.org/10.1111/j.1467-9795.2009.00382.x>
- Quillet, Jeannine. 2008. "Community, Counsel and Representation." In *The Cambridge History of Medieval Political Thought c. 350 – c. 1450*. Edited by James Henderson Burns. 520–572. Cambridge: Cambridge University Press.
- Piechowiak, Marek. 1999. *Filozofia praw człowieka. Prawa człowieka w świetle ich międzynarodowej ochrony*. Lublin: Towarzystwo Naukowe KUL.
- Rau, Zbigniew. 1992. "Wstęp." In *Dwa traktaty o rządzie*. John Locke. Translated by Zbigniew Rau. V–XLVII. Warszawa: PWN.
- Shortall, Michael. 2007. *Investigation by Way of Three Theorists and Their Respective Traditions of Enquiry: John Finnis, Ronald Dworkin and Jürgen Habermas*. Rome: Pontificia Università Gregoriana.
- Strauss, Leo. 1963. *The Political Philosophy of Hobbes*. Chicago: University of Chicago Press.
- Tierney, Brian. 2001. *The Idea of Natural Rights*. Grand Rapids–Cambridge: Wm. B. Eerdmans Publishing Co.
- Tierney, Brian. 2004. "The Idea of Natural Rights – Origins and Persistence." *Northwestern Journal of International Human Rights* 2(1): 1–10.
- Tuck, Richard. 2002. *Natural Rights Theories. Their Origin and Development*. Cambridge: Cambridge University Press.

- Varkemaa, Jussi. 2006. "Summenhart's Theory of Rights: A Culmination of the Late Medieval Discourse on Individual Rights." In *Transformations in Medieval and Early-Modern Rights Discourse*. Edited by Virpi Mäkinen, Petter Korkman. 223–245. Dordrecht: Springer.
- Vitoria, Francisco de. 1991. "On the American Indians (De Inidis)." In *Vitoria: Political Writings*. Edited by Anthony Pagden, Jeremy Lawrence. 231–292. Cambridge: Cambridge University Press. <https://doi.org/10.1017/CBO9780511840944>
- Wudel, Witold. 1971. *Filozofia strachu i nadziei. Teoria społeczna Tomasza Hobbesa*. Warszawa: Książka i Wiedza.