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**TO THE QUESTION OF THE DIVINE AND NATURAL LAWS
IN JEAN BODIN AND THOMAS HOBBS'
POLITICAL PHILOSOPHY***

SUMMARY. This article deals with the attitudes of Jean Bodin and Thomas Hobbes to theology and to the problem of the correlation of divine and natural laws.

KEY WORDS. Bodin, Hobbes, divine and natural laws, theology.

The idea of natural law in the 17th-18th Centuries turned out to be one of the leading ones in the political and legal thought of the West. Natural Law had been known in the West since Antique times. Aristotle points out: "... kings should follow common rules, and it is better the thing free of passions, than the thing to which they pertain naturally; there are no passions in the law, but any human soul inevitably has them" [1; 123].

Cicero also offers to identify the nature of law: "Law... is higher reason, inherent in nature. It orders us to perform acts that should be performed and it forbids the reverse". At this point, divine law also takes shape [2; 113]. Thus the idea of an interrelationship between natural and divine law influences the works of medieval authors, theologians, and commentators of Roman law.

In the 17th Century, natural law's interpretation considerably changes. The idea develops in the direction of further secularization and rationalization of consciousness. The idea was intensively used during the English Revolution of the 17th Century, when, as S.V. Kondratiev notes, contemporaries evaluated current events in a different way and the idea of power resistance was given priority [3].

Nevertheless, the natural law idea in the 17th Century cannot be imagined without the influence of theological establishment developed in the Middle Ages. Luc Foisneau in this connection states the "importance of theological conditions that stimulate building the natural and legal thought of Bodin and Grotian and allow the highlighting of disputes arising around Hobbes' theology from a new angle" [4; IX].

Bodin touches upon divine law (*lex divina, loi de Dieu*) in practically all his "Six Books of the Commonwealth". What is of particular interest is the notice of divine law in the definition of the natural freedom of a human being: "We call freedom natural when a human being does not obey another person except for God...

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This is the first and the most ancient command that exists, and this is well-known, of the mind over animal instinct (*appétit*)" [5; L. I, 50-51]. Thus, Bodin distinguishes such determinants of the natural freedom of a human being as divine law and human reason.

Divine law defines the terms and conditions of the marriage contract that frees a woman from the complete power of a husband [5; L. I, 60]. It is used for justification of kings' absolute authority and subordination of it to higher laws, for citizens' property reservation and the mutual commitment of kings [5; L. I, 222]; for explaining the fact that male heirs inherit immovable property whereas daughters inherit movables in case of marriage [5; L. VI, 295]. God's law, according to Bodin, is the highest law, ignorance of which will be the worst of all the crimes.

The phrases "divine law" and "natural law" are most often used by Bodin together, and rather rarely separately from each other. Leon Ingber, in this respect, notes that "If Bodin studies the conditions of Kings' election then he contrasts them with the laws of the God and nature; if he defines this Power as absolute and sovereign then he says that it appears as such because it is similar to the laws of God and nature..." [6; 288]. When Bodin expresses his opinion on the problem of dominancy-subordination and denounces unjust acts of Kings, he points out again that "the King oversteps the holy lines of the law of God and nature" [5; L. III, 97]. It seems that the laws of God and of nature are practically indivisible. Such understanding originates from the medieval theological conception of divine law. According to this concept, divine law was global and universal. Natural law, the notion of which had been developed rather well in Roman law, lost its antique importance in the Middle Ages. It may be assumed that nature, as God's creation, resided for Bodin within the sphere of Divine law [5; L. I, 262].

Thus, notwithstanding the fact that the sovereign dominates human, civil law, he is under the laws of God and nature. Bodin's natural law concept is of a theological character.

Hobbes ranks natural law and right first in his essays about human nature and the commonwealth. He devotes several chapters of his major political work "Leviathan" to natural laws. In this connection, contemporaries of Hobbes and then research followers of his works pay attention rather often not only to secular interpretation of the natural law concept, contained in Hobbes's writings, but come to a conclusion about the author's atheism [7; 269]. Versions of the kind are, however, not leading.

Tom Sorell, the researcher, shows his attitude to Hobbes's theology in the dispute that arose between him and his opponent bishop Bramhall, when the latter accused Hobbes of atheism and unbelief [8; 243]. The natural laws for Hobbes are not laws in the proper meaning of this word. He would rather consider them as the result of the natural human mind: "These orders of reason human beings usually call laws, which, however, does not correspond to their essence. For these directions are only conclusions or theorems relating to the point that leads to saving and protecting human beings, whereas the law proper means the order of a person who rules over other people by right. Nevertheless, if considering these theorems as announced by God, ruling over the Universe by right, then they are correctly called laws" [9; 123]. T. Sorell admits that "if taking into account natural laws as the Word of God they are getting clear as laws. Yet, it does not provide them with the law's force since

it is not necessary to regard them as the Word of God for that sake. What is necessary is that God make them understandable" [9; 247]. Thus, the Will of God also predominates for Hobbes when defining laws. God acts as the first cause. It is possible to trace herein a certain similarity with Bodin's concept of God.

In the political philosophy of Jean Bodin, the idea of divine and natural laws turns out to be a key-note on the subject of sovereignty characteristics. Bodin considers the major part of its attributes the prerogative of the king to issue a law [5; L. I, 310]. Bodin's version of the king's powers, undoubtedly, provokes interest from the viewpoint of the king's subordination to anyone — the king is subordinate to no one but God and nature: "So, the nationals obey the king's laws, and the king follows the laws of nature thus the law remains predominant from both sides" [5; L. II, 44].

The influence of Bodin's works can be seen in the attitude of Hobbes to the sovereign laws and to the very person of the sovereign: "And if some people alleged as an excuse for not obeying their sovereigns a new agreement concluded not with people but with God, this is not correct either as the agreement with God can be concluded only through the intermediary of a person, representing the personality of God, who may be only God's vicar on earth, possessing sovereign power under domination of God" [9; 135]. Moreover, according to Hobbes, the sovereign must follow the laws of God and nature [9; 166].

Bodin refers to the restriction of sovereignty in private property. Private ownership is the basis of public property: "As there is not any public thing, if there is nothing in private ownership" [5; L. II, 44]. Therefore no well-established commonwealth may exist without private property [5; L. II, 47]. On the other point we may observe that respect for property rights constitutes a virtue of a true royal sovereign [5; L. II, 43]. In his book Bodin notes: "A sovereign monarch does not have power to cross the borders of natural laws since God, whose representative on the Earth the monarch is, ruled that he might not take property from a person without a justified ground, purchase or exchange or legal confiscation..." [5; L. I, 222].

Hobbes points out as follows: "A Sovereign's obligations ... are determined by the goal for the sake of which he was vested sovereignty, namely, in order to secure people's safety, and to do so he was committed himself by natural law and for which he would answer to God, the Creator of this law and to no one else. However, safety securing means also provision for any human being with all prizes of life, gained by legal labour, safe and harmless for the commonwealth" [9; 193]. The attitude of Hobbes to the sovereign nationals' property is ambiguous though.

Thus, it is possible to contest the statement of T. Sorell who states that "The God in Leviathan does not play a significant role in the political theory of Hobbes. The God's doctrine in Leviathan lies in the philosophy of the God being absent" [8; 244]. The God is still present in its mediaeval hypostasis, acting as the First Cause and even as the God incomprehensible.

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