

# Law of Nature as Justification for Reforms

## Polish Political Thought in the Eighteenth Century

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### Introduction

In Polish political thought of the seventeenth and first half of the eighteenth century, a conviction of the excellence of the old political system and laws was predominant. In political treatises, the Polish-Lithuanian Commonwealth was described uncritically as a country of ideal golden freedom. For this reason, new ideas and reforms were feared and the sentence was frequently repeated: „*omnia mutatio nociva*“ (every change is harmful).<sup>1</sup> In the face of growing internal battles and increasing interference of other countries in Polish affairs, in the second half of the 18<sup>th</sup> century, voices calling for reforms were starting to appear.<sup>2</sup> In these political writings there is a clear influence of the thoughts of the Enlightenment, a modern concept of the laws of nature formulated by philosophers such as John Locke, Jean-Jacques Rousseau or French physiocrats – François Quesnay or Victor Riquetti de Mirabeau.

One of the political currents that referred to the concept of law of nature was that defined in modern historiography as the doctrine of compromise between the nobility and bourgeoisie. Andrzej Sylwestrzak pointed out the specific situation of the Commonwealth, in which the ideologists of bourgeoisie did not intend to unite themselves within their social condition, or cooperate with peasantry, but descending from intelligentsia and petty nobility, they sought cooperation with nobility.<sup>3</sup> This gave the Polish political thought of the 18<sup>th</sup> century a special dimension. The most prominent representatives of this trend are Józef Wybicki, Hugo Kołłątaj, Stanisław Staszic.<sup>4</sup> These ideologists believed that to

<sup>1</sup> Bogusław LEŚNODORSKI, „*Ojczyznę moją wszelkimi... sposobami ratować...*“, in: Jerzy Kowecki (ed.) *Konstytucja 3 Maja 1791. Statut Zgromadzenia Przyjaciół Konstytucji*, Warszawa 1983, p. 11. On Polish political thought in the first half of the 18<sup>th</sup> century, see Jan BASZKIEWICZ – Franciszek RYSZKA, *Historia doktryn politycznych i prawnych*, Warszawa 1973, p. 274–275.

<sup>2</sup> One of the first, which was widely commented, was the one by Stanisław Konarski, *O skutecznym rad sposobie albo o utrzymywaniu ordynaryjnych sejmów*, published in Warsaw in 1761–1763. See, Jerzy LUKOWSKI, *Disorderly Liberty: The Political Culture of the Polish-Lithuanian Commonwealth in the Eighteenth Century*, London-New York 2010, p. 77–98.

<sup>3</sup> See Andrzej SYLWESTRZAK, *Historia doktryn politycznych i prawnych*, Warszawa 2013, p. 209.

<sup>4</sup> Obviously, not only these three thinkers referred to the theory of the law of nature. The most prominent representatives of the Polish Enlightenment included, among others Franciszek Salezy Jezierski (1740–1791), who at the time of the Four-Year Sejm (1788–1792) worked closely with Kołłątaj, but was not an advocate for the compromise between nobility and bourgeoisie. He blamed

save the country one would only have to overthrow the magnate oligarchy, strengthen the central power, abolish feudalism and reach a compromise with the rich bourgeoisie who would participate in the legislative and executive power. These reforms were to be based on the eternal and unchangeable law of nature, which by its very nature was just and would ensure prosperity and, above all, the security of the Polish-Lithuanian Commonwealth. A characteristic feature of the writings of these authors, but also other political writers of that time, was the focus on practical solutions regarding reforms. According to Emanuel Rostworowski, this situation resulted from the fact that the Polish noblemen regarded themselves as potential legislators, which is why they wrote their books as „legal projects“.<sup>5</sup> These are the reform projects that are most often discussed in modern Polish historiography. It is also worth paying attention to the theoretical and philosophical aspect of these considerations, especially the construction of the laws of nature. The research goal of this article is the reflection upon the following issues: 1. Did these three thinkers only repeat or creatively develop the ideas of Western philosophers?; 2. What kind of foundations for a strong and safe state did they derive from the law of nature?

### Józef Wybicki (1747–1842)

Józef Wybicki – lawyer, political writer, poet, the author of *Mazurek Dąbrowskiego* (1797), which from 1927 has been the national anthem of the Republic of Poland. In *Listy patriotyczne [Patriotic Letters]* (1777–1778), Wybicki presented a reform project, but also analyzed the social structure taking into account demographic factors. According to Bogdan Suchodolski, Wybicki overcame scholastic conceptions of social life and prompted research into social conflicts, which Staszic and Kołłątaj further continued.<sup>6</sup> Wybicki, compared with other political writers of the 18<sup>th</sup> century, addressed theoretical problems to a greater extent. Rostworowski wrote that Wybicki's book *Mysli polityczne o wolności cywilnej [Political Thoughts on Civil Freedom]* (1775–1776) is „exotic“ in this respect.<sup>7</sup> The entire book is a lecture on what political and civil freedom meant. Wybicki

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magnates and nobility for the fall of the Polish-Lithuanian Commonwealth and, according to him, the people (the third state) were a „complete nation“. However, Jeziński was not the author of philosophical and scientific works, he did not write theoretical political programs. On Jeziński's views, see Janiana WOJNAR, *Ideologia Franciszka Salezego Jezińskiego*, in: Bogdan Suchodolski (ed.), *Z dziejów polskiej myśli filozoficznej i społecznej II. Wiek XVIII–Oświecenie*, Warszawa 1956, p. 247–280. It should also be mentioned that a radical trend of the Polish Jacobins appeared at the end of the 18<sup>th</sup> century, which also referred to the law of nature, see J. BASZKIEWICZ – F. RYSZKA, *Historia*, p. 282.

<sup>5</sup> Emanuel ROSTWOROWSKI, *Mysli polityczne Józefa Wybickiego*, in: Józef Wybicki, *Mysli polityczne o wolności cywilnej*, Wrocław 1984, p. 19.

<sup>6</sup> See Bogdan SUCHODOLSKI, *Rozwój i problematyka filozofii Oświecenia w Polsce*, in: idem (ed.), *Z dziejów*, p. 31.

<sup>7</sup> E. ROSTWOROWSKI, *Mysli polityczne*, p. 19.

was one of the first who „introduced two issues of watershed significance into Polish political discourse: the concept of freedom as a law of nature, and the division between civil and political freedom.“<sup>8</sup>

Wybicki begins his book with the proposition that man is free by nature; however, experience shows that everywhere he is in captivity, he „groans in chains“.<sup>9</sup> Although he repeated the famous quotation from Jean-Jacques Rousseau „*L'homme est né libre, et partout il est dans les fers*“, he did not mention his name at any point.<sup>10</sup> Wybicki concluded that one should consider the reason for this state of affairs in order to be able to change it. He began by presenting a description of the state of nature, in which people lived as equals and completely free. He defined natural freedom as the right to do everything that the laws of nature allow. According to him, it means not being forced to do what these laws forbid. He emphasized that people who have not chosen any civil government live in such a state of freedom. Initially, people lived free and happy, but it ended when, as a result of population growth, appropriation and vices began to proliferate. There appeared property, greed, and as a consequence, inequality and violation. Therefore, development meant a change for the worse. Wybicki emphasized that the law of nature was not able to prevent these changes. The natural tendency to adhere to its principles was overcome by stronger, more expansive emotions like envy, greed, and self-exaltation. The weakness of the law of nature is the lack of sanctions that would be able to suppress people's bad instincts. Due to the constant threat to life, property and fame, people decided to voluntarily bind themselves to perform „civil status obligations“. Under the terms of the agreement, they agreed to be subject to one political power and defend it, if the community were to be threatened by an external enemy. The social contract turns „natural freedom“ into „civil freedom“, which consists in being subject to civil law. It is a more effective instrument of regulation than the law of nature, due to physical sanctions imposed and enforced by political authorities. Civil law protects the lives of citizens, and sets the limits of freedom and property.

Thus, the origin of the state is also connected with the aspiration of those who have more to perpetuate this state of affairs. This is also a repetition of Rousseau's idea that the state is an instrument for maintaining a divided society. The social contract ends the natural equality of all people by sanctioning the division of people into classes that are given different rights. We are dealing here with a paradox, because equality as a law of nature is always superior. Wybicki made it clear that without it, it would be impossible for civil, or rather, political freedom to exist. On the other hand, he added that equality

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<sup>8</sup> Anna GRZEŚKOWIAK-KRWAWICZ, *Queen Liberty: The Concept of Freedom in the Polish-Lithuanian Commonwealth*, Leiden–Boston 2012, p. 93.

<sup>9</sup> J. WYBICKI, *Mysli polityczne*, p. 49.

<sup>10</sup> Jean Jacques ROUSSEAU, *Du contrat social ou principes du droit politique*, Paris 1992, p. 218. On Rousseau's views on the law of nature, see Marta BARANOWSKA, *Marzenie o szczęściu, czyli prawo natury w filozofii Jana Jakuba Rousseau*, *Czasopismo Prawno-Historyczne*, Vol. LXV, z. 2, 2013, p. 55–72.

that knows no bounds destroys freedom. Every large country needs both upper classes and poor classes working in industry. For him, equality means that there is no serfdom, in his *Patriotic Letters* he devoted much space to explaining that „subjugation is against the law of nature.“<sup>11</sup> The authority is to protect the safety and property of each person regardless of their class. It also has to make sure that no citizen is so rich to buy the other citizen or so poor to sell themselves. Such situations would be detrimental to the public good. It would be nothing other than the trade of personal freedom that would evolve rapidly into the trade of country's freedom. Guided by greed, in selling their homeland, traitors do not even realize at first that they are selling themselves.

The social contract also concerns the type of government. According to Wybicki, people renounce natural freedom to the greatest extent by establishing an autocracy and to a lesser extent by establishing aristocracy. Citizens preserve the most freedom where the government is co-dependent, that is, every citizen of the particular class and at the appropriate age is a member of the highest political council, which constitutes laws for the good of the homeland. The authority should also be divided between offices to create a balance between them, which would effectively maintain laws. In such a system the nation rules. For Wybicki, the nation is a group of people with political rights, which are the freedom of thought, presenting opinions on the council and making laws in it. Political freedom he understood as meaning involvement in political power and making state decision.

Political freedom therefore belongs only to those with political rights. At the same time, freedom, which is the law of nature, belongs to every human being, regardless of the form of government or their class. The lowest classes, namely the peasants, are also free. Anna Grześkowiak-Krwawicz pointed out that the situation of the peasants was earlier considered either in the moral context (the abuse of power by the nobility) or in the economic context (excessive oppression caused losses for the country). In turn, Wybicki distinguished, apart from political freedom, also civil freedom, which he recognized as a natural right of every man, regardless of the class. „He was doubtlessly the only thinker in the 1779 who appealed to the concept of natural freedom in political discussions“.<sup>12</sup> Civil freedom did not entail the sharing of power – it is own safety, the ability to do everything that is no prohibited by law and free exercise of ownership under the protection of law.

Observance of the law is a basic condition for civil freedom because freedom is not arbitrariness. Wybicki believed that laws should be collected in three codes: *in codice legum civilium* (which should contain fundamental rights defining the extent and limits of civil freedom and political rights), *in speciali codice* (which should contain laws regarding councils and the parliament, specifying the competences of offices and tax issues), and the third code, which should pertain to treaties with neighbouring countries.

<sup>11</sup> Józef WYBICKI, *Listy patriotyczne*, Wrocław 1955, p. 93.

<sup>12</sup> A. GRZEŚKOWIAK-KRWAWICZ, *Queen Liberty*, p. 96.

According to Wybicki, the highest law is the good of the whole of the state. Pursuing this goal, citizens should choose the most appropriate means in given circumstances. Thus, Wybicki distances himself from Machiavelli's views that the end result, which is the good of the state, justifies the means. However, if anyone incited others to break the law and did it themselves, then the authority must be ruthless and unconditionally eliminate such a man, so that the law of the stronger that would ruin the country could be stopped. Wybicki argued that a sick member should be cut off so that the whole body would not die. He repeated another idea of Rousseau – forcing people to be free. It seems that it is a testimony to the weakness of the state since he was convinced that even one man's failure could lead it to ruin.

Wybicki put forward a controversial thesis that there is neither political nor civil freedom in the Polish-Lithuanian Commonwealth and the erroneous opinion of the nobility of golden freedom must be torn down. In his opinion, it was the Poles themselves who destroyed order; wishing for immoderate freedom, they deprived themselves and others of real freedom, that is civil freedom. It is defined as being subject to laws, whereas the Polish-Lithuanian Commonwealth was dominated by arbitrariness supported by the interregnum or free elections, among others. Wybicki presented the history of Poland as the history of anarchy, a sequence of constant mistakes on the way to freedom. Striving for freedom, Poles continued to move further away from it. Wybicki also stressed that there would be no freedom unless foreign states stopped interfering in the government, which is why it was so important to take care of national power and security. Every citizen was obliged to pay taxes to the army because, caring for the security of the country, they took care of their individual freedom.

In Wybicki's views, one can see the influence of liberal ideas, especially the opinion that freedom is a natural human right and the task of positive law is to protect it. He also believed that without the freedom of the people, the government would transform into tyranny. Simultaneously, Wybicki draws from the republican tradition emphasizing that the most important thing is the good of the state (securing the freedom of citizens is possible only in a free state) and stating the importance of citizens' virtue. The corruption of the nation is the cause of the state's collapse.

According to Wybicki, the pillars of a free state are perfect laws and virtuous citizens. Perfect laws are those in accordance with the law of nature.

### **Hugo Kołłątaj (1750–1812)**

The conviction that there is no freedom without law and that good law protects the country from its collapse was also the basis of Hugo Kołłątaj's views. He was a politician, political writer, educational reformer and priest. He was one of the co-authors of the Constitution of the Third of May 1791 with Ignacy Potocki, the King Stanisław August Poniatowski and Scipione Piattoli. He described the Constitution as „*pacifica*

*revoluzione*“ – he borrowed this concept from Gaetano Filangieri.<sup>13</sup> The Constitution was supposed to introduce the „real Commonwealth“ instead of „the feudal government“. It was bound by the power of authority, which was also based on the fact that its norms were in accordance with the law of nature, that is, the superior legal order. Basing the state political system on the norms of the law of nature was to protect the Commonwealth from collapse as well as make it a free and independent country.

In his reflections on the law of nature, Kołłątaj was inspired by the views of the French Physiocrats who believed that good and justice is the essence of being (i. e. nature). The good means acting in harmony with the laws of nature and accepting the guidance of the physical-moral order. The good is beneficial for the person doing good and for others, and evil results from ignorance. The Physiocrats did not separate morality from the law of nature, which they defined as the most general principles that are the foundation of the social world.<sup>14</sup> Kołłątaj distinguished mathematical, physical and moral sciences, and the latter science encompassed law. The branches of law of nature were political law and the law of nations. It was a „pure moral philosophy“, whereas the science of positive law was „applied moral philosophy“.

Due to the fact that positive legal norms should have a source in the law of nature, the activities of legislators are declaratory, not constitutive. „They declare what they read in nature; their work is similar to the work of scholars publishing the results of scientific research.“<sup>15</sup> Although the declaratory character of legislation was pointed out already in the Middle Ages, what was declared then were divine laws, the source of which was Revelation. In turn, the Physiocrats' doctrine was secular in nature. It is worth noting that Kołłątaj (similarly to Staszic) was a priest, and despite this fact, he separated morality and law from religion. Even though he defined the law of nature as the eternal law of the Creator, he emphasized that man's moral obligations should be sought in his nature and not in the Scriptures.<sup>16</sup> Kołłątaj presented his reflections on this subject in his more significant philosophical treatises entitled *Porządek fizyczno-moralny, czyli nauka o należytościach i powinnościach człowieka wydobytych z praw wiecznych, nieodmiennych i koniecznych przyrodzenia* [*The Physical-Moral Order, or the Science of the Entitlements*

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<sup>13</sup> See Magdalena WILCZEK, *Koncepcja praw człowieka i obywatela w ustawodawstwie Sejmu Wielkiego (1788–1792)*, *Kwartalnik Prawa Publicznego* 3, 2003, p. 57–107, especially p. 86.

<sup>14</sup> It is worth noting that in the 18<sup>th</sup> century French and Polish law science did not separate the legal from morality, contrary to German thinkers (e. g. Christian Thomasius). See Kazimierz OPALEK, *Prawo natury u polskich fizjokratów*, Warszawa 1953, p. 70.

<sup>15</sup> *IBIDEM*, p. 21.

<sup>16</sup> Kołłątaj pointed out that the shift in the perception of the source of morality and the law of nature took place at the turn of the 15<sup>th</sup> and 16<sup>th</sup> centuries, when dogmatic disputes between confessions began. See Hugo KOŁŁĄTAJ, *Porządek fizyczno-moralny czyli nauka o należytościach i powinnościach człowieka wydobytych z praw wiecznych, nieodmiennych i koniecznych przyrodzenia*, Warszawa 1955, p. 248.

*and Obligations of Man Arising From the Eternal, Invariable and Necessary Natural Laws*] (1810). The starting point of the book was a statement repeated by modern philosophers that there is a contradiction between the natural order and the way people really live. This has negative consequences, so order based on the law of nature should be restored. To do this, it is first necessary to get to know this law. Since it is inscribed in human nature, it is examined with the same methods as natural laws. The man is subject to natural laws like all other beings. That what distinguishes him from animals is speech and he also subject to moral laws. The basis of moral laws is freedom, which is not unlimited but regulated by our entitlements (*ius*) and obligations (*officium*). The freedom of man is considered with regard to his needs, energies, entitlements, obligations, relations with other things. Needs arise from man's nature, and some of them can be satisfied only by things. Here Kołłątaj saw the source of natural property rights. He repeated the views of the Physiocrats, that property is the law of nature, and that concrete property is the product of human labor.<sup>17</sup> Kołłątaj emphasized that only work legitimizes property.

Analyzing the nature of man, Kołłątaj came to the conclusion that morality is based on two fundamental values: absolute justice, that is, the obligation to observe the law, and charity, that is, the obligation to help others.<sup>18</sup> The highest form of charity is heroism, that is, putting the good of others above one's own.

Man also has the ability to improve himself, thanks to which, unlike animals, he develops his life and changes the circumstances in which he lives. It is going beyond nature that makes him original and creative. However, this is not something unnatural; quite the opposite – it is the natural potential of a human being. In the opinion of Kołłątaj, getting to know man involves both the knowledge of his physical state and the moral state that mutually condition one another. Suchodolski emphasized that none of the writers of the Enlightenment perceived human at the same time as a biological being and a social being.<sup>19</sup> Kołłątaj showed how people, being a part of nature, are at the same time the creators of their own world. He combined the concepts of Physiocrats with the research of naturalists.

According to Kołłątaj, getting to know man and moral laws also requires putting them into a specific historical perspective. At this point, he disagreed with the views of the Physiocrats who considered history irrelevant and claimed that it is not helpful in learning the eternal and unchanging laws of nature. They did not consider it important to study the diversity of human civilization. In turn, Kołłątaj wondered why the fate of nations was so different. Of course, the main reason for his interest in this subject was the situation of the Commonwealth and the question of the causes of its downfall. He

<sup>17</sup> See Zbigniew FILIPIAK, *Prawo własności w doktrynach polityczno-prawnych XVII i XVIII wieku*, Studia Iuridica Toruniensia 4, 2008, p. 74–75.

<sup>18</sup> See Bogdan SUCHODOLSKI, *Rozwój nowożytnej filozofii człowieka*, Warszawa 1967, p. 527–528.

<sup>19</sup> *IBIDEM*, p. 528.

believed that the answers should be sought in history and he put forward the thesis that philosophical anthropology and social philosophy can not be considered in isolation from history. He was an original thinker in this respect.<sup>20</sup> For this reason, he became interested in historical research and wrote a comprehensive treatise entitled *Rozbiór krytyczny zasad historii początkowej wszystkich ludów* [*The Critical Analysis of the Principles of History at the Beginnings of Human Lineage*], which was published posthumously in 1842.<sup>21</sup> Then, he planned to write the early history of the Polish nation, so that the memory of the history of the Polish-Lithuanian Commonwealth would survive despite the collapse of the state.<sup>22</sup>

In this treatise, he described the state of nature in which people learned the norms of the law of nature through introspection and lived according to these principles. It was a period devoid of history and concreteness. Kołłątaj described it in order to show the image of the world in which the physical and moral order prevails. This state was ended with cataclysm, which was the Flood. He did not refer to the version of the Flood known from the Bible, but indicated that it had natural causes. It was also not a hypothesis, but a fact that could be examined by scientific methods. The Flood in the philosophy of Kołłątaj replaced the idea of a social contract. In this way, he justified the reasons for the ending of a good and just physical-moral order. Thus, it was neither the decision of the people nor their bad will or ignorance. This catastrophe changed people and from then on, the diversity of cultures began. This Flood separated the state of nature from history.<sup>23</sup>

Describing the social world, Kołłątaj perceived it in the context of the unchanging and universal laws of nature as well as historical time. According to Hinz, Kołłątaj's historicism created a bridge connecting the Enlightenment idea with the philosophy of Romanticism.<sup>24</sup> Kołłątaj was convinced that, thanks to the research in the physical and moral nature of man, his potential for self-improvement and the establishment of positive laws based on the laws of nature, it would be possible to restore a just society. Legislation was to be declaratory because only those norms that are compliant with

<sup>20</sup> See Henryk HINZ, *Wstęp*, in: Hugo Kołłątaj, *Rozbiór krytyczny zasad historii początkowej wszystkich ludów*, Warszawa 1971, p. XVIII.

<sup>21</sup> Ferdynand KOJSIEWICZ (ed.), *Hugona Kołłątaja Rozbiór krytyczny zasad historii początkowej wszystkich ludów*, I-III, Cracow 1842.

<sup>22</sup> The theorists of the law of nature, especially Rousseau, emphasized the importance of historical education for human development. On Rousseau's views on this subject, see Marta BARANOWSKA, *O wadze nauki historii. Refleksja Jana Jakuba Rousseau*, *Czasopismo Prawno-Historyczne* 67, 2015, p. 127–142.

<sup>23</sup> Kołłątaj was not the only philosopher in the 18<sup>th</sup> century in whose writing the Flood forms the beginning of the historical cycle. This concept was also presented by Giambattista Vico. Researchers do not know if Kołłątaj knew the work of this thinker.

<sup>24</sup> See H. HINZ, *Wstęp*, p. XXXIII.

the law of nature constitute the law. Conflicting laws are not even law and no one is obliged to obey them. Kołłątaj emphasized that the law of nature is constantly in force and the sanction for non-compliance is unavoidable suffering and damage in private or public life.

Kazimierz Opałek drew attention to one more important thing: rights are an essential element of the law of nature, duties are reflections of rights, which constitute guarantees and conditions for their implementation.<sup>25</sup> The laws of nature are freedom, equality and property. Countries were created to secure people's freedom. Grzeškowiak-Krwawicz highlighted that Kołłątaj reversed the correlation indicated by republicanism, namely that there are no free citizens without a free country.<sup>26</sup> He wrote that there is no free government where there are some people in captivity.<sup>27</sup> It should be added here that he used the categories of civil and political freedom. The former freedom is guaranteed to everyone without exception and is defined as the freedom to dispose of one's person, one's movable property and land, as well as being entitled to rights. The political freedom as meaning involvement in political power and making state decision should be granted to the noble and bourgeois owner-citizens. For this reason, Kołłątaj postulated that the executive power should belong to the Sejm, which would meet all the time. In this way, everyone with political freedom would actually co-rule. Grzeškowiak-Krwawicz stated: „Like probably no other Polish writer he knew how to combine modern concepts of freedom (drawn mainly from the physiocrats) with the tradition of republican freedom, his developing his own proposal of freedom for the Commonwealth“.<sup>28</sup>

Freedom is linked to property and the purpose of a free government is to protect citizens so that they can be the owners of themselves and the property they possess thanks to their work. However, this definition of property makes it necessary to abolish feudalism. After that, natural relations of the superior and subordinate, owner and farmer, and craftsman and merchant will be established. Kołłątaj believed that equality does not contradict the subordination and existence of class divisions, because equality of citizens is equality in obedience to laws. In fact, the concept of the law of nature served Kołłątaj to justify the abolition of feudalism, and at the same time to secure the new system against the peasant revolution.<sup>29</sup> In *Listy Anonima (Anonymous Letters)*, he wrote that

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<sup>25</sup> K. OPAŁEK, *Prawo natury*, p. 25.

<sup>26</sup> A. GRZEŠKOWIAK-KRWAWICZ, *Queen Liberty*, p. 99.

<sup>27</sup> Kołłątaj wrote „All the conditions of free governance come down only to this – for man to be the truly free owner of his own person and property“. Hugo KOŁŁĄTAJ, *Do Stanisława Malachowskiego, referendarza koronnego o przyszłym sejmie Anonima listów kilka*, in: idem, *Listy Anonima i Prawo polityczne narodu polskiego II*, Warszawa 1954, p. 146.

<sup>28</sup> A. GRZEŠKOWIAK-KRWAWICZ, *Queen Liberty*, p. 99.

<sup>29</sup> See Bogusław LEŚNODORSKI, *Hugo Kołłątaj*, in: idem (ed.), *Z dziejów polskiej*, p. 245.

freedom would not be safe if the common people had the same share in the government as the richest citizens. Such views „always introduced disorder, violence, sparked off civil wars, and ended with autocracy.“<sup>30</sup>

It should be stressed again that civil freedom, according to Kołłątaj, belongs to everyone regardless of the class. In this way, he created a new community that embraced all citizens. Kołłątaj used the term „nation“ and understood it as the whole population of the country, including peasants, and it was a doctrine quite innovative at that time.<sup>31</sup> He emphasized that the nation is made up of people speaking one language. Acting within the National Education Commission, he was engaged in attempts to make the Polish language a full-fledged language of scientific expression. He was involved in reforming the Cracow Academy from 1777. Instead of Latin, the Polish language became the language of lectures. The replacement of Latin with the national language in higher education was still uncommon in Europe. Writing *The Critical Analysis of the Principles of History at the Beginnings of Human Lineage* in Polish, he contributed to making the Polish language a language of science.<sup>32</sup> It should be noted that his two books quoted here were published after the partitions of Poland. Thanks to this, Polish was present in the scientific discourse, despite the fact that Commonwealth no longer existed.

Analyzing the views of Kołłątaj regarding the law of nature, it can not be overlooked that he had a huge impact on the development of the science of the law of nature in the Commonwealth. Under his influence, his friend Jan Śniadecki, lecturer at the Cracow Academy, from 1777, changed his lectures on „moral science“ into a lecture on the law of nature. Other lecturers did likewise for they mainly used the French Physiocrats' writings as their source of inspiration.<sup>33</sup>

### Stanisław Staszic (1755–1826)

According to Grzegorz Seidler, the aspirations of people associated with the reform camp are reflected in the most comprehensive way in the works of Hugo Kołłątaj and

<sup>30</sup> H. KOŁŁĄTAJ, *Listy Anonima i prawa polityczne narodu polskiego* I, p. 296.

<sup>31</sup> *Mowa Kołłątaja na Sejmie dn. 28 czerwca 1791 r.*, in: B. Leśnodorski (ed.), *Kuźnica Kołłątajowska. Wybór źródeł*, Warszawa 1949, p. 137–146. On the nation in Kołłątaj's views, see Andrzej WALICKI, *Idea narodu w polskiej myśli oświeceniowej*, Archiwum Historii Filozofii i Myśli Społecznej, vol. 26, 1980, p. 74–94.

<sup>32</sup> „The Critical Analysis value consists, among others, in the fact that it is a document contributing to the promotion of the Polish language to the role of a full-fledged language of science“. H. HINZ, *Wstęp*, p. XLI. Hinz pointed out that in this book Kołłątaj also formulated one of the first definitions of philosophy in the Polish language.

<sup>33</sup> This reform, of course, encountered opposition, for example of the then Rector, who asserted that such lectures are against the government and religion. K. OPAŁEK, *Prawo natury*, p. 64–65. On the reform of the Krakow Academy, see Hugo KOŁŁĄTAJ, *Raporty o wizycie i reformie Akademii Krakowskiej*, Wrocław 1967.

Stanisław Staszic. Seidler called them „ideological leaders of the Polish Enlightenment, which thanks to them acquired its special character“.<sup>34</sup> Stanisław Staszic was a priest, doctor of law, political writer, politician philosopher and naturalist. He presented his views on the law of nature in *Uwagi nad życiem Jana Zamoyskiego* [*Remarks on the Life of Jan Zamoyski*] (1787), *Przestrogi dla Polski* [*Warnings for Poland*] (1790) and *Ród ludzki* [*The Human Family*] (1819–1820).<sup>35</sup> He was inspired by the views by Rousseau, Voltaire, Mercier de la Rivière Constantin Volney, the French physiocrats, Charles de Montesquieu, Hieronim Stroynowski.<sup>36</sup>

According to Czesław Leśniewski, „the basis from which Staszic derives his entire view of the world is the concept of God“.<sup>37</sup> In Staszic’s views, God blends with nature, exists in it, but also manifests himself in the history of the human race. Man received from God a catalogue of rights resulting from the inherent quality of man. These natural rights are freedom, equality and property.<sup>38</sup>

Man’s freedom was to be based on „peace of mind“ in terms of his own life and property and was understood as the free opportunity to use natural rights. Freedom is connected with property. In *Warnings for Poland*, Staszic wrote that the highest lawmaker gave every creature ownership, thanks to which they maintain themselves and their offspring.

He equated freedom with the concept of law, which assumed a twofold form. The first form is natural laws independent of man, that is, the forces of nature and the will of God.<sup>39</sup> The second form of law is the one created by man. It is a moral law that is higher than natural law. Its essence „is the will of all those who have been joined together in life by various conditions. In this sense, the law becomes a factor of freedom.“<sup>40</sup> It is the foundation of happiness, equality, freedom, property, morality and justice. Bogdan Suchodolski, analyzing this issue, stated that the law of nature in Staszic’s views is „a set

<sup>34</sup> Grzegorz L. SEIDLER, *W nurcie Oświecenia*, Lublin 2002, p. 79.

<sup>35</sup> More about Staszic’s life and political views, see Barbara SKARGA, *Teoria i utopia Stanisława Staszica*, Warszawa 1965. On his political views see Włodzimierz BERNACKI, *Mysł polityczna I Rzeczypospolitej*, Kraków 2011, p. 342–357; Anna GRZEŚKOWIAK-KRWAWICZ, *Dyskurs polityczny Rzeczypospolitej Obojga Narodów*, Toruń 2018.

<sup>36</sup> See Maciej STARZEWSKI, *Teoria społeczno – polityczna Staszica a Jan Jakób Rousseau*, Kraków 1926. Ludwik KAMYKOWSKI, *Stanisława Staszica nauka moralna*, Lublin 1926.

<sup>37</sup> Czesław LEŚNIEWSKI, *Stanisław Staszic, jego życie i ideologia w dobie Polski niepodległej (1775–1795)*, Warszawa 1926, p. 154. This thesis was criticized by Ludwik Kamykowski who argued that the above statement does not explain much, because Staszic was a religious man but not always a believer. L. KAMYKOWSKI, *Stanisława Staszica*, p. 9.

<sup>38</sup> See C. LEŚNIEWSKI, *Stanisław Staszic*, p. 164.

<sup>39</sup> *IBIDEM*, p. 165.

<sup>40</sup> *IBIDEM*, p. 165.

of moral postulates defining lasting human duties and responsibilities, but at the same time it is an expression of the necessity according to which truly historical events are to take place in the human world.<sup>41</sup>

As Staszic claims, the ideal is a simple life in accordance with the law of nature. However, it is always necessary to look at a person's life from a collective perspective. Living in the group was considered by Staszic from three different perspectives: psychological – it is the weakness of the human being that necessitates the co-existence with other people, historical – the pursuit of living in the family or larger groups, and the teleological one – implying the attitude of God to man.<sup>42</sup> God gave man the four commandments that Staszic recognized as the laws of nature: be vigilant, grow, multiply and the strong win.<sup>43</sup>

Freedom should be correlated with equality. Freedom occurred in the pre-social period, while equality is „the chief manifestation of social life“.<sup>44</sup> Staszic took the view that in the state of nature, inequality came into being when ownership appeared. At that time, people who could not enjoy their natural right to equality decided to enter into a social contract. The basic element of the social contract was the promise that everyone would renounce the use of „personal power and reason to defend their right“ and would sacrifice themselves in order to defend „the society“.<sup>45</sup> The very fact of concluding a social contract on an equal basis was an expression of human freedom. In the state of nature, man was often dependent on another human being. In turn, in an organized society that operates on the basis of law, this dependence is replaced by subordination to the law. Laws protect the natural rights of every human being. Although the consequence of the social contract was the necessity to limit personal freedom, thanks to that everyone achieved equality and protection of their property guaranteed by law. „Freedom of man is free use of his property in accordance with the law.“<sup>46</sup>

The physical force that governed the community was replaced by moral force, that is, law.<sup>47</sup> The social contract also gave rise to justice. Staszic wrote, that where there is no law, there is no justice. According to Leśniewski, Staszic aimed not only to organize

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<sup>41</sup> Bogdan SUCHODOLSKI, *Stanisław Staszic*, in: idem (ed.), *Z dziejów polskiej*, p. 177.

<sup>42</sup> See C. LEŚNIEWSKI, *Stanisław Staszic*, p. 169–175.

<sup>43</sup> *IBIDEM*, p. 174. Moreover, according to Staszic, God gave man a „reasonable soul and inner feeling“ as well as sent him on an earthly journey. In addition, He did not show the way or purpose of this journey – it was supposed to be man's job. During this journey, an evil was born being an excess of innate properties, given to man by God for the defense of the said natural laws.

<sup>44</sup> L. KAMYKOWSKI, *Stanisław Staszic*, p. 16.

<sup>45</sup> *IBIDEM*, p. 176.

<sup>46</sup> Stanisław STASZIC, *Przestrogi dla Polski*, Kraków 1926, p. 21.

<sup>47</sup> See L. KAMYKOWSKI, *Stanisław Staszic*, p. 178.

the society, but his guiding thought was to create force that would „transform man, as a simple creation of nature, into a moral being.“<sup>48</sup>

Staszic, similarly to other modern philosophers referring to the idea of a social contract, stated that the then present state did not function in accordance with the law of nature. Moreover, he repeatedly emphasized that the law of nature would make the society happy if it were observed. That is why it is necessary to conclude a social contract. It was defined as the „act constituting a society“ and as „a system of the government“. The writer indicated that he discussed both elements at the same time.<sup>49</sup>

According to Staszic, it is necessary to ensure that the state is based on the principles of the law of nature. Staszic stated that freedom should be protected first and foremost by all means, even by despotism of monarchy. He was, however, above all a supporter of republicanism and considered the theory of the separation of powers by Montesquieu as particularly valuable. It is the application of this theory that would best secure freedom. Grześkowiak-Krawicz pointed out, that Staszic „did not draw any distinction between political and civil freedom and did not devote much space to natural freedom either, even though like his master Rousseau he did accept the concept. But it seems that he was the last author to devote much space to the educational role of the law, to cultivating the proper civil attitudes“.<sup>50</sup> It should also be added that Staszic understood the nation as nobles and townsmen, and these states enjoy the freedom understood as the co-government of the country.<sup>51</sup> He did not propose radical reforms, only these two states were to have political rights.

## Conclusion

Characterizing the political thought in Poland in the 18<sup>th</sup> century, Grzegorz Seidler emphasized that Wybicki, Kołłątaj and Staszic made a significant breakthrough in it.<sup>52</sup> When proposing reforms, they did not only present arguments of a utilitarian nature, which was the usual practice at the time, but referred to the indisputable authority of the eternal and unchanging law of nature. For this reason, in their works, theoretical and philosophical considerations regarding the law of nature, the state of nature, the social contract, human nature and a just political community can also be found. These reflections were mostly a repetition of the concepts of Western philosophers. They recognized

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<sup>48</sup> IBIDEM, p. 180. On comparison of views on the social contract Staszic and Locke and Rousseau, see Maria BORUCKA-ARCTOWA, *Wkład Stanisława Stasica do nauki o społeczeństwie*, Studia i Materiały z Dziejów Nauki Polskiej 1, 1953, No. 2., p. 213.

<sup>49</sup> See C. LEŚNIEWSKI, *Stanisław Staszic*, p. 179.

<sup>50</sup> A. GRZEŚKOWIAK-KRAWICZ, *Queen*, p. 98.

<sup>51</sup> „Do one nation of noblemen and townmen youth.“ Stanisław STASZIC, *Przestrogi*, p. 248.

<sup>52</sup> G. L. SEIDLER, *W nurcie Oświecenia*, p. 128–129.

freedom, equality, property, the rule of law, security, education, virtue and patriotism as the pillars of the state which they derived from the law of nature.

Opalek stressed that the legal ideology of feudalism was a system of orders and prohibitions, which promoted submission and renunciation of any claims.<sup>53</sup> The modern law of nature broke with these principles because its norms have a demanding character. Thanks to the concept of the law of nature, Wybicki, Kołłątaj and Staszic gave their political postulates a universal character, although, of course, when they were concretising their ideas, de facto they served the particular interests of their social group. Still, „their“ (peasants’) freedom was different from „our“ freedom.<sup>54</sup> The peasants were to have only civil freedom, while the nobility and rich burghers were to have political freedom. However, they undoubtedly created a new concept of the nation, which included not only nobility, but also burghers and, in a sense, peasants, providing them with legal protection.<sup>55</sup> Jerzy Szacki pointed out that in contrast to the Enlightenment in Western Europe, whose one of the guiding ideas was individualism (of course, it was not uniform), in Polish political thought, the social point of view dominated.<sup>56</sup> The aim of these three thinkers was to expand the nation, make it a community that would be able to protect the country from collapse. They did not prioritize the powers of the individual, which they rather associated with the anarchy of Polish nobility, but emphasized the importance of these laws of nature, which form the foundation of a just social order. The main problem was not the reduction of despotism, but rather the strengthening of power, and the reform of rights, so that the spreading anarchy would not lead to the final collapse of Poland. Their projects were quite conservative, not utopian. The law of nature was their weapon in the struggle for the country. At the same time, they referred to the republican tradition, proclaiming that the fall of Poland would be the fall of freedom. Grześkowiak-Krawicz stated that the major achievement of Polish political thinkers in the second half of 18<sup>th</sup> century „was to combine the liberal understanding of freedom – as the maximal capacity to act within the bounds set by law – with the republican idea of

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<sup>53</sup> K. OPAŁEK, *Prawo natury*, p. 43.

<sup>54</sup> Grześkowiak-Krawicz pointed out that from the late 16<sup>th</sup> century to the 80s of the 18<sup>th</sup> century, political writers, while writing about freedom, used possessive pronouns. Freedom was usually „ours“; the writers did not consider freedom in general terms. Kołłątaj’s statements that „our“ freedom can not mean the servitude of peasants were revolutionary; what is more, he recognized that their freedom is a guarantee of our freedom. A. GRZEŚKOWIAK-KRAWICZ, *Moja, twoja, nasza... Wolność i zaimki w polskiej myśli politycznej XVIII wieku*, *Horyzonty Polityki* 4, 2013, No. 7, p. 95–96.

<sup>55</sup> The first reflections on the nation appeared in the philosophical and political treatises in the 18<sup>th</sup> century. One of the precursors was Rousseau, a theoretist of the law of nature. See Marta BARANOWSKA, *U źródeł nacjonalizmu: Idea narodu w filozofii Jan Jakub Rousseau*, *Studia nad Autorytaryzmem i Totalitaryzmem* 35, 2013, No 2, p. 7–24.

<sup>56</sup> Jerzy SZACKI, *Historia myśli socjologicznej. Wydanie nowe*, Warszawa 2007, p. 129–130.

citizens' active involvement in political life. In so doing, they drew upon certain aspects of modern Western political philosophy as well as the republican traditions.<sup>57</sup>

Studying the views of Wybicki, Kołłątaj and Staszic, one can observe the process of conceptualization of the law of nature on the basis of Polish political thought. The adoption of the Constitution of May 3, which was perceived as being in conformity with the law of nature, was a positivization of these ideas.<sup>58</sup> The implementation of these rights was prevented due to the partitions of Poland.

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<sup>57</sup> A. GRZEŚKOWIAK-KRWAWICZ, *Queen*, p. 100.

<sup>58</sup> Kołłątaj was a co-creator of the Constitution. Wybicki did not draft the Constitution, but was its protector and propagator at the Four-Year Sejm. Władysław ZAJEWSKI, *Józef Wybicki i sprawa Konstytucji 3-go Maja 1791 r.*, in: Anna Grześkowiak-Krwawicz (ed.), *Konstytucja 3 Maja. Prawo – polityka – symbol*, Warszawa 1992, p. 91–98.

Marta Baranowska – Paweł Fiktus

### **Law of Nature as Justification for Reforms. Polish Political Thought in the Eighteenth Century (Abstract)**

The subject of the article is the law of nature in the Polish political thought of the second half of the 18<sup>th</sup> century. This article discusses the views of Józef Wybicki, Hugo Kołłątaj, and Stanisław Staszic (leading Polish politicians of this period), who opposed feudalism by promoting a compromise between the nobility and bourgeoisie. Their views influenced the formation of the Constitution of 3 May, whose norms were not to violate natural law at any point. Analysis of their views will enable us to track the process of conceptualization and then positivization of the law of nature. In modern historiography, there are many works on the subject of political reform programs presented by Polish writers of that time. However, it is worth paying attention to the theoretical and philosophical background of these considerations, especially the idea of the law of nature, state of nature, social contract and the relationship between the law of nature and positive law. This article discusses the following questions: did thinking in terms of the law of nature have a decisive influence on the formation of political solutions, and did Polish thinkers creatively develop the ideas of Western philosophers?

#### KEY WORDS:

The law of nature; Józef Wybicki; Hugo Kołłątaj; Stanisław Staszic; political thought in Polish-Lithuanian Commonwealth