

HUMAN RIGHTS IN THE ANTHROPOCENE EPOCH AND PHILOSOPHY

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ABSTRACT

The subject of this article is the issue of human and civil rights in the context of the Anthropocene. This is a multi-faceted, complex, and highly relevant issue. The origins of human rights date back to Antiquity and the natural law concept, flourishing during the Enlightenment. Nowadays, human rights have evolved into a generational framework. The advent of the Anthropocene epoch (referred to as the human epoch) has made mankind aware of its domination over nature. Human activity has led to unprecedented threats and the degradation of the natural environment, which is the material foundation of human existence.

In order to mitigate the effects of the ecological crisis, it is proposed to adopt a different way of thinking – an alternative human attitude shifting from anthropocentrism to anti-anthropocentrism. The classic concept of the ‘common good’ has been revisited. Planet Earth is the common good of all of us and embodies the highest good for the individuals who constitute the political community. Human rights should provide the legal framework for environmental law, including climate law.

Keywords: human rights, environmental/climate law, common good, Anthropocene, postmodernity, anti-anthropocentric attitude

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I. INTRODUCTION – EVOLUTION OF THE RIGHTS OF MAN AND CITIZEN

Human rights are among the most important issues in contemporary constitutionalism and the philosophy of law. Although they are one of the youngest concepts in the dictionary of politics and societies, they constitute a breakthrough social and political value.¹ Four stages of the evolution of human rights and freedoms can be clearly identified: prehistoric (from Ancient Greece to noble privileges at the end of the Middle Ages); statutory (in which parliaments and statutes were to guarantee rights and freedoms); constitutional (when rights and freedoms became a constitutional matter); and international (since 1945, when rights and freedoms began to receive international protection).²

Doctrinal inquiry into the origins of the concept of human rights leads to political thought in Ancient Greece. It was in the Mediterranean cultural sphere that trends in natural law emerged, seeking the natural order of all things not only in nature but also in society. However, there was no ideology of freedom rights in Greece.³ The concept of citizens' rights, particularly the right to participate in political life and the right to property, did not appear before Aristotle's philosophy. Stoicism was the first philosophical system to make the human individual an object of philosophical reflection, freeing them from socio-political conditions and emphasising their status as an independent part of the social order. At the same time, Stoicism became the most significant legal and natural trend of Antiquity, shaped by philosophical thought and Roman *iuris prudentia*.⁴ The foundation of natural law-based concepts of human rights is the idea of protecting individuals and groups against the abuse of power by authorities. It was only in Roman jurisprudence (under the influence of Cicero⁵ and Seneca⁶) that an individual was recognised as having the ability to act freely within designated areas protected by the state. Following Stoic principles, freedom came to be considered an inherent feature of human nature.

In the political thought of the Middle Ages, the legal status of an individual depended on many factors. A person's belonging to a particular social class was most important, and rights were usually granted not to individuals, but to communities.⁷ Medieval rights and immunities were privileges, not rights in their

¹ W. Osiatyński, *Wprowadzenie do praw człowieka*, Helsinki Foundation for Human Rights Report, Warszawa, 2000, p. 1, <https://hfhr.pl/publikacje/wprowadzenie-do-pojecia-praw-czlowieka> [accessed on 19 March 2024].

² See S. Sagan, *Prawo konstytucyjne Rzeczypospolitej Polskiej*, Warszawa, 2001, pp. 58–64.

³ J. Lande, 'Historia filozofii prawa', in: Lande J., *Studia z filozofii prawa*, Warszawa, 1959, pp. 452–454.

⁴ K. Sójka-Zielińska, *Drogi i bezdroża prawa. Szkice z dziejów kultury prawnej Europy*, Wrocław–Warszawa–Kraków, 2000, p. 97.

⁵ T. Banach, *Res Publica est Res Populi. Myśl polityczno-prawna Marka Tulliusza Cyserona*, Łódź, 2023, pp. 99–105; J. Zajadło, *Cyzeron dla prawników*, Gdańsk, 2019, pp. 105–122, 135–156.

⁶ R. Brague, *Mądrość świata. Historia ludzkiego doświadczenia wszechświata*, Warszawa, 2021, pp. 247–249, 253–254.

⁷ T. Jurczyk, 'Geneza rozwoju praw człowieka', *Homines Hominibus*, 2009, No. 1(5), pp. 29–44; K. Sójka-Zielińska, *Drogi i bezdroża...*, op. cit., pp. 99–101.

modern sense. Only with the emergence of egalitarianism could the privileges of particular individuals or social groups evolve into universal rights.⁸

In modern times, there was a breakaway from the medieval universalistic and hierarchical worldview. The Renaissance rediscovered man and the world around him, while the Enlightenment gave birth to the idea of freedom, which liberated man from religious superstitions, feudal rights and privileges, and all restrictions on economic entrepreneurship.⁹ It gave rise to the idea of individualism. For this trend, it is important to highlight the role of the individual in relation to society. An individual's values are higher than those of all collectives, such as the state, nation, class, or race. Individualism made human dignity supreme. Society and the state exist only to serve the individual good, but a man can never be a means to an end for another man.¹⁰

Based on the above considerations, it can be stated without doubt that the issue of human rights has a long history. However, in 'the evolution of the understanding of the individual's position in society and the state, it is only the events associated with the era of great social revolutions that hold groundbreaking significance – when constitutional documents emerged, guaranteeing fundamental human rights derived from natural law.'¹¹ It should be emphasised that there was no systematic theory of natural rights until the 17th century. Michael Freeman was right to indicate that 'the concept of natural rights in the 17th and 18th centuries was associated with: (1) opposition to absolute monarchy; (2) the emergence of capitalism; and (3) dissident Protestantism or the secularisation of political thought.'¹²

The breakthrough came during the Enlightenment, when the ideals of the French Revolution – freedom, equality, and fraternity – began to be implemented. These principles became the foundation of democratic and liberal states. This era can therefore be characterised by the following features: optimism, individualism, and scepticism. Reason enables a human being to shape their own personality, environment, and socio-political system, as well as reject irrational ideologies and concepts. Individualism expresses the idea of inherent natural rights, which are universal to all humankind. In turn, the sceptical attitude demands the verification of all statements, assumptions, and opinions (including scientific ones). The era rejected existing cognitive values and Christian spiritual experiences, instead aiming to establish the Newtonian scientific method as the primary means of discovering truth.¹³

The above-mentioned assumptions formed the basis of the modern concept of human and civil rights. This is the foundation on which, as Ernst Cassirer rightly stated, 'the edifice of the doctrine of human and civil rights was built in the form

⁸ W. Osiatyński, *Prawa człowieka i ich granice*, Kraków, 2011, p. 26.

⁹ G.L. Seidler, *W stronę nowożytności*, Lublin, 2002, pp. 62–65.

¹⁰ G.L. Seidler, *W poszukiwaniu idei ustrojowej*, Lublin, 2000, pp. 39–41.

¹¹ A. Pułło, *Zasady ustroju politycznego państwa. Zarys wykładu*, Gdańsk, 2014, p. 113.

¹² M. Freeman, 'Prawa człowieka w dwudziestym pierwszym wieku', in: Zajadło J. (ed.), *Antologia tekstów dotyczących praw człowieka*, transl. Fronia M., Warszawa, 2008, p. 747.

¹³ See E. Voegelin, *Od Oświecenia do rewolucji*, Warszawa, 2011, p. 13.

in which it developed in the 18th century'.¹⁴ He sought in these rights 'a spiritual centre' where all aspirations towards moral renewal and towards social and political reform converge.

In paragraph 1 of The Declaration of Rights, adopted on 12 June 1776 by the Convention of the People of Virginia, we read: 'All men are by nature equally free and independent and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety'.¹⁵ It was in this normative act that the concept of human rights was used for the first time.¹⁶ According to Georg Jellinek, the act served as a prototype for later constitutional legislation and became a model for the French Declaration of the Rights of Man and Citizen, adopted on 26 August 1789.¹⁷ This Declaration was based on the thought of John Locke, Montesquieu, American constitutions, and the liberal concept of human rights. Article 1 states directly that people are born and remain free and equal in rights, while Article 2 declares that the aim of every political association is the preservation of the natural and imprescriptible rights of Man. These rights are Liberty, Property, Safety, and Resistance to Oppression. Article 4 defines Liberty in a negative sense, i.e., as the ability to do anything that does not harm others and is not against the law. This was directly related to the marginalisation of equality law,¹⁸ which later appeared in the drafted Jacobin Declaration of the Rights of Man and of the Citizen, dated 24 June 1793. Article 2 of the draft stated that the basic rights of man and citizen are: equality, liberty, security, and property. The social egalitarianism postulated here is presented as the basis of society's happiness (Article 1), while all men are equal by nature and before the law (Article 3).¹⁹ As a result, the right to property ceased to be a natural right. Property no longer belonged to man by nature but was considered a social institution created and regulated by the state. These Declarations focused on personal and political freedoms and marked the first modern stage of human rights. This shift involved a departure from natural-law constructions (both theological and secular) and a turn towards legal positivism.

In the second half of the 19th century, there was a paradigm shift: the former cult of nature was replaced by the cult of statute, which had a direct impact on the understanding of human and civil rights. As is commonly known, legal positivism (in its model approach) is based on two fundamental theses. The first thesis states that law has its sources in certain types of social facts (usually a convention adopted

¹⁴ E. Cassirer, *Filozofia Oświecenia*, Warszawa, 2010, pp. 227–228.

¹⁵ 'Deklaracja Praw Wirginii z 12 czerwca 1776 r.', in: Sarnecki P. (selection, translation, and introduction), *Najstarsze Konstytucje z końca XVIII i I połowy XIX wieku*, Warszawa, 1997, p. 11.

¹⁶ M. Piechowiak, 'Pojęcie praw człowieka', in: Wiśniewski L. (ed.), *Podstawowe prawa jednostki i ich sądowa ochrona*, Warszawa, 1997, p. 12.

¹⁷ G. Jellinek, *Deklaracja praw człowieka i obywatela*, transl. Libkind-Lubodziecka Z., Warszawa, 1905, pp. 5–10.

¹⁸ See 'Deklaracja Praw Człowieka i Obywatela z 26.08.1789 r.', in: *Najstarsze Konstytucje...*, op. cit., pp. 18–19.

¹⁹ 'Konstytucja Francji z 24 czerwca 1793 r.' and 'Deklaracja Praw Człowieka i Obywatela', in: *Najstarsze Konstytucje...*, op. cit., p. 69.

in a given community that determines which facts are considered legal). The basis for the validity of law is not of a metaphysical nature and is not derived from any 'nature' understood in any way. The second thesis asserts the absence of a necessary link between law and morality. In order to be valid, law does not need to meet any moral criteria, although the 'soft' (inclusive) version does not deny the practical connections between these rules of social control.²⁰ Based on this, it can be concluded that the sphere of individual rights (a citizen's rights) became part of the legal order established by the state. Since the adoption of the first constitutions, fundamental rights have been incorporated into them, leading to their designation as fundamental rights.²¹ As every individual, by the very fact of existence, has the right to demand that other citizens and the state behave in a specific way towards them, the applicable law contains the idea of inherent natural rights.²² This assumption still embodies the principle of universalism, according to which there is: one universal law of nature, universally recognised human rights, one universal political system suitable for all, and one universal truth.²³ Positivism remained in the mainstream of universalistic rationalism. Therefore, it can be questioned whether this attitude was truly a novelty and established an undeniable new trend.²⁴

II. TOWARDS POSTMODERNITY²⁵

According to Isaiah Berlin, it is not universalism but diversity and pluralism that have determined and continue to determine the directions of contemporary change.²⁶ Cultural diversity is an undeniable feature of modern societies in which a number of objective and knowable values function. They are 'goals that people pursue for their own sake, with other things as means. (...) There are different forms of life, and there are numerous goals and principles. But not infinitely many – they must be within the limits of human experience, otherwise they fall outside the human

²⁰ See A. Dyrda, 'Pozytywizm pochowany żywcem? W obronie miękkiego pozytywizmu', *Studia Prawnicze*, 2010, Vol. 184, No. 2, pp. 5–36; J. Woleński, 'O pozytywizmie prawniczym', in: Pawlica J. (ed.), *Etyka a prawo i praworządność*, Kraków, 1998, pp. 9–16; M. Zirk-Sadowski, 'Pozytywizm prawniczy a filozoficzna opozycja podmiotu i przedmiotu poznania', in: Stelmach J. (ed.), *Studia z filozofii prawa*, Kraków, 2001, pp. 83–95; T. Pietrzykowski, "'Miękki" pozytywizm i spór o regułę uznania', in: Stelmach J. (ed.), *Studia z filozofii prawa*, Kraków, 2001, pp. 97–121.

²¹ K. Sójka-Zielińska, *Drogi i bezdroża...*, op. cit., p. 121; see R. Alexy, *Teoria praw podstawowych*, Warszawa, 2010, *passim*.

²² G.L. Seidler, *W poszukiwaniu...*, op. cit., p. 41.

²³ I. Berlin, 'Upadek idei utopijnej na Zachodzie', in: Hardy H. (ed.), *Pokrzywione drzewo człowieczeństwa*, Warszawa, 2004, pp. 31–33.

²⁴ See T. Gizbert-Studnicki, A. Dyrda, A. Grabowski, *Metodologiczne dychotomie. Krytyka pozytywistycznych teorii prawa*, Warszawa, 2016, pp. 41–78; A. Dyrda, *Spory teoretyczne w prawnoznawstwie. Perspektywa holistycznego pragmatyzmu*, Warszawa, 2017, pp. 80–96, 458–478.

²⁵ Considerations in article by D. Minich, A. Moskwa, 'Wolności i prawa człowieka w dobie ponowoczesnej', in: Haczkowska M., Tereskiewicz S. (eds), *Europejska konwencja o ochronie praw człowieka – praktyka stosowania i funkcjonowania w przestrzeni europejskiej*, Opole, 2016, pp. 235–250.

²⁶ I. Berlin, 'Apoteoza woli romantycznej: bunt przeciw mitowi idealnego świata', in: Hardy H. (ed.), op. cit., pp. 181 et seq.

sphere.²⁷ This is reflected in the emergence of a new approach to the issue of human rights – the so-called ‘dynamic approach’. According to this stance, human rights are fluid and undergo transformation in relation to social and legal development. They are also influenced by cultural diversity, the evolution of civilisation, and the transformation of the material basis of human existence. The principle of constitutionalism, understood as a system of assumptions and values respected in the operation of the state, represents a specific legal structure. It is based on the priority role of the constitutional act, with all the resulting consequences. The principle of constitutionalism directly defines a democratic constitutional state in the material sense, reinforcing the principle of the supremacy of the constitution and the inalienability of fundamental rights. It is the Constitution that secures and protects the rights of man and citizen, thereby setting boundaries of the legal order and establishing the axiological foundation of political community life.²⁸

In the era of postmodernity, the belief in the possibility of achieving an ideal political system was abandoned. Thanks to the constitutionalisation of social life, we have become masters of our own fate. Postmodern society is created and functions through the process of shaping individual identities and mutual relations between them. ‘Individualisation’ means the transformation of human ‘identity’ from ‘given’ to ‘assigned’ and making individuals responsible for the performance of the tasks and all the consequences (and side effects) of this performance. In other words, it means the establishment of *de jure* autonomy (regardless of whether it is accompanied by *de facto* autonomy).²⁹ However, law should not be equated with the adopted positive legal text. It should be understood as textualism justified by political morality and the rationality of law-making by political authorities. Legal acts are always interpreted within a context, including, where possible, the context of ‘natural law’ (with its variable content), general and fundamental legal principles, and the law of nations.³⁰

This led to the distinction of another typology within the category of human rights: the generations of human rights, as defined by Karol Vasak. According to Vasak, first-generation rights encompass personal and political freedoms, reflecting the idea of liberty. Second-generation rights cover social, economic, and cultural rights, expressing the idea of equality. Third-generation rights are group rights and are based on the idea of fraternity (now referred to as solidarity).³¹ It can be stated

²⁷ I. Berlin, *Dwie koncepcje wolności i inne eseje*, Warszawa, 2001, pp. 32–33; see B. Polanowska-Sygulska, *Filozofia wolności Isaajacha Berlina*, Kraków, 1998, pp. 47–80; B. Polanowska-Sygulska, *Pluralizm wartości i jego implikacje w filozofii prawa*, Kraków, 2008, *passim*.

²⁸ For more on the issue see D. Minich, ‘Konstytucjonalizm a rozumienie prawa’, *Roczniki Administracji i Prawa*, 2019, Vol. XIX, No. 2, pp. 35–48; D. Minich, ‘Konstytucja – konstytucjonalizm – neokonstytucjonalizm’, *Przegląd Prawa Publicznego*, 2018, No. 12, pp. 68–75; D. Minich, ‘Konstytucjonalizm – autorytaryzm. Tak daleko a tak blisko’, *Przegląd Prawa Publicznego*, 2022, No. 9, pp. 23–38.

²⁹ Z. Bauman, *Płynna nowoczesność*, Kraków, 2000, pp. 49–50.

³⁰ A. Vermeule, *Common Good Constitutionalism. Recovering the Classical Legal Tradition*, Cambridge, 2022, pp. 7–8.

³¹ K. Vasak, ‘A 30-year struggle. The sustained efforts to give force of law to the Universal Declaration of Human Rights’, *The UNESCO Courier. A Window Open to the World*, 1977, No. 11, p. 29; M. Maciejewski, ‘Teoretyczne aspekty ochrony wolności i praw jednostki’, in: Bator A.,

without doubt that there has been a shift in value priorities concerning protection against the exclusion of individuals (or social groups) based on nationality, gender, race, beliefs, sexual preferences, etc.³² Therefore, these rights also serve as a safeguard against governmental arbitrariness. The dynamics of social life, driven by individualistic personality development, combined with the negative impact of individuals, groups, and communities on the material basis of human existence (both animate and inanimate nature, whose resources enable human survival), has led to the emergence of fourth-generation human and civil rights.³³

The arrival of the 20th century and the events that took place during this period and after World War II revealed the crisis of modernity (modernism) and were the main factor in the emergence of a new era constituting its opposite, i.e., postmodernity.³⁴ The very construction of the term expresses a definite break with the past.³⁵ There was a transition from the 'solid' to the 'soft' phase of modernity. It became evident that the social forms typical of modernity, such as structures that limit individual choices and institutions that uphold routines and patterns of acceptable behaviour, could no longer exist in the same form. The erosion of the nation-state and the emergence of global space led to a separation and split between authority and politics. The foundations of solidarity, traditional social structures, and community life – which were previously based solely on the state – became weakened and began to disappear. Such strongly emphasised individualism led to the breaking of all community ties.³⁶

III. ANTHROPOCENE AND ITS IMPACT ON THE UNDERSTANDING OF HUMAN AND CIVIL RIGHTS

Nowadays, mankind faces new challenges that cannot be tackled individually. These are changes resulting from human actions that affect the entire Earth's ecosystem. The rapid growth of the human population, the progressive food crisis, lack of access to water, accelerated melting of Antarctic ice (leading to sea level rise), extinction of flora and fauna species, and rising carbon dioxide levels have resulted in significant losses of arable soil resources.³⁷ These changes are evident in the depletion of non-

Jabłoński M., Maciejewski M., Wójtowicz K. (eds), *Początki koncepcji oraz regulacji praw i wolności człowieka do czasów oświecenia*, Wrocław, 2013, pp. 10–11.

³² See A. Kalisz, 'Prawa kolektywne na tle klasycznego ujęcia praw człowieka', in: Kalisz A. (ed.), *Prawa człowieka. Współczesne zjawiska, wyzwania, zagrożenia*, Vol. I, Sosnowiec, 2015, pp. 23–47.

³³ M.E. Rodríguez Palop, *La nueva generación de derechos humanos. Origen y justificación*, Madrid, 2010, *passim*; J. Alvear, 'Los derechos humanos en el constitucionalismo contemporáneo', in: Ayuso M. (ed.), *El problema de los derechos humanos. Historia, filosofía, política y derecho*, Madrid, 2023, pp. 111–141.

³⁴ G. Vattimo, *Koniec nowoczesności*, Kraków, 2006, *passim*.

³⁵ G. Dziamski, 'Ponowoczesna świadomość estetyczna', in: Zeidler-Janiszewska A. (ed.), *Trudna ponowoczesność. Rozmowy z Zygmuntem Baumanem. Część I*, Poznań, 1995, p. 147 (147–160); Z. Bauman, *Plynne czasy. Życie w epoce niepewności*, Warszawa, 2007, p. 7; Z. Bauman, *Ponowoczesność, jako źródło cierpienia*, Warszawa, 2000, *passim*.

³⁶ Z. Bauman, *Plynne czasy...*, op. cit., pp. 7–10.

³⁷ P. Kingsnorth, *Wyznania otrzeźwiałego ekologa*, transl. Sikora T., Kraków, 2024, pp. 9–13.

renewable natural resources, the decline of biodiversity, progressive deforestation and desertification, increasing soil, water, and air pollution, and huge amounts of waste. The consequences of the environmental crisis affect every person, both individually and socially.³⁸ It was only in the 1970s that we began to recognise that 'human activity is significantly changing the physical and biological functions of the planet, leading to a transition to a new period in the geological history of the Earth, i.e., the Anthropocene.'³⁹ As a species, we have modified – and continue to modify – many parameters of our planet. Through exploitation, our activities have become comparable in scale to geological processes that have occurred over millions of years. One could go further and argue that it took only a single species to destabilise the entire Earth's ecosystem. The role of mankind itself has also changed: it is now seen as a global agent of environmental change. We are facing unprecedented ontological threats and potential eco-social breakdowns that we must confront.⁴⁰ Such perspectives reflect an anthropocentric attitude. Man, occupying the highest position in the hierarchy of living creatures, treats animate and inanimate nature as a 'thing' to be exploited and used for his own purposes. Notably, the very act of naming this epoch the Anthropocene, due to the transformation of geological strata, serves as the proverbial 'final nail in the coffin of mankind'.⁴¹

It should be kept in mind that the Anthropocene is not only a geological epoch. It is believed to be a narrative through which eternal dilemmas (including philosophical ones) relate to the nature of the Anthropocene and its socio-political and legal aspects.⁴² Despite all claims about the 'twilight of philosophy',⁴³ these ideas must be reconsidered and revised.⁴⁴ Bruno Latour rightly noted that, until recently, for all of us, the world consisted only of things and was devoid of agency. On the other hand, there are 'living things' – the subjectivity of people who perceive and imagine the world in various ways. That is why this epoch has a metaphysical dimension. 'The metaphysical essence of the world, in which we exist, consists of a world of living creatures composed of everything that lives'.⁴⁵ The Anthropocene has been described as 'the second Copernican revolution', based on the argument

³⁸ R.F. Sadowski, 'Ekologia integralna', in: Janeczek S., Starościc A. (eds), *Filozofia społeczna. Część II – Problemy i dyskusje*, Lublin, 2022, p. 367.

³⁹ R. Dun, *Historia naturalna przyszłości. Co prawa przyrody mówią o losie człowieka*, Kraków, 2023, p. 133; E. Pietrzak, *Antropocen. Pytania z zakresu ludzkiej sprawczości i odpowiedzialności*, Blog Politechniki Łódzkiej – nowa strona technologii, Łódź, 2021, <https://blog.p.lodz.pl/nauka-i-badania/antropocen-pytania-o-zakres-ludzkiej-sprawczosci-i-odpowiedzialnosci>, [accessed on 20 March 2024].

⁴⁰ N. Oreskes, E.M. Conway, *Upadek cywilizacji zachodniej. Spojrzenie z przyszłości*, Warszawa, 2018, p. 27.

⁴¹ P. Tryjanowski, 'Przedmowa. Wyprawa bardzo sentymentalna', in: von Brackel B., *Świat, który nadchodzi. Jak wielka wędrówka przyrody wpływa na nasze życie*, Kraków, 2024, p. 10.

⁴² M. Zirk-Sadowski, 'Wprowadzenie', in: Chmielnicki P., Minich D. (eds), *Prawo jako projekt przyszłości*, Warszawa, 2022, pp. 17–22; see S. Langella, M. Damonte, A. Massaro, 'Sulla filosofia e l'Antropocene', in: Langella S., Damonte M., Massaro A. (eds), *Antropocene e Bene comune tra nuove tecnologie, nuove epistemologie e nuovi virus*, Genoa, 2022, pp. 11–26.

⁴³ J. Hartman, *Zmierzch filozofii*, Kraków–Budapeszt–Syrakuzy, 2023, *passim*.

⁴⁴ E.C. Ellis, *Antropocene: A Very Short Introduction*, Oxford, 2018, pp. 75–102.

⁴⁵ B. Latour, *Zamieszkać na Ziemi. Wywiady z Nicolasem Truongiem*, transl. Marczevska K., Warszawa, 2023, p. 24.

that it represents the potential for a fundamental shift in the approach to and understanding of humanity and nature.⁴⁶

We have been living in the Anthropocene biosphere since prehistoric times. However, for most of history, researchers have focused only on the period of the Industrial Revolution, as this was when humanity began exploiting the Earth's full potential for its own short-term benefits.⁴⁷ The anthropocentric attitude made humans aware of their ability to use and exploit the Earth's resources for the benefit of mankind. This also stimulated the development of science and technology and the potential to influence the environment. However, it has also led to domination over nature and the emergence of destructive ways of interacting with the environment.⁴⁸ It is humankind that is making the Earth an increasingly dangerous and insecure place. People have become the main drivers of planetary change, radically altering the Earth's biosphere. We are facing a development-related paradox, where, as the level of trust decreases, the sense of uncertainty increases.⁴⁹

In order to avoid the effects of the ecological crisis, it is proposed to adopt a different way of thinking – an alternative vision that will not lead us back to the starting point.⁵⁰ We are thus facing the need to shift our attitude to an anti-anthropocentric one, focused on the good of our planet. The Earth and its resources constitute the 'material substrate', and as humankind, we form an integral part of nature while also being dependent on it. The material foundation secures our physical existence, and its resources are obviously limited. It is worth referring to Józef Lipiec's conception, in which he assumes that social existence is structured in three layers: a set of individuals and the relations between them, the material foundation, and culture. The function of the material and symbolic cultural layer is to protect the 'human world' (protection of man against himself) and the 'world of nature' (both animate and inanimate) from human devastation. This protection is implemented through law, which is backed by state coercion.⁵¹

The climate crisis is disrupting the balance of life across the entire planet. Climate change, driven by anthropocentric forces, is bringing serious and even catastrophic consequences to non-human species on Earth.⁵² Their disappearance negatively affects the 'human layer' of social existence. The fundamental existential question has shifted from asking what it means to exist as beings to asking what

⁴⁶ E.C. Ellis, *Antropocene...*, op. cit., p. 4.

⁴⁷ E.C. Ellis, J.O. Kaplan, D.Q. Fuller, S. Vavrus, K. Klein Goldewijk, P.H. Verburg, 'Used Planet: A Global History', *Proceedings of the National Academy of Sciences*, 2013, No. 110(20), pp. 7978–7985.

⁴⁸ M. Adams, 'Welcome to the Anthropocene', in: Adams M., *Ecological Crisis, Sustainability and the Psychosocial Subject, Beyond Behaviour Change*, London, 2016, pp. 11–38.

⁴⁹ For more on the issue see H. Tapia, P. Conceição, *New Threats to human security in the Anthropocene. Demanding greater solidarity*, United Nations Development Programme, New York, 2022, pp. 45–62.

⁵⁰ See M. Zirk-Sadowski, *Wprowadzenie...*, op. cit., pp. 28–36; D. Minich, 'Antropocen w świetle filozofii bytu społecznego oraz prawa', *Przegląd Prawa Publicznego*, 2023, No. 9, pp. 28–36.

⁵¹ J. Lipiec, *My – ludzie. Studia z filozofii społecznej*, Kraków, 2022, pp. 132–135.

⁵² S. Vanderheiden, *Atmospheric Justice. A Political Theory of Climate Change*, Oxford, 2008, p. 9.

prevents beings from existing.⁵³ The inevitability and disorienting nature of the Anthropocene should mobilise humankind to increase its ecological commitment.⁵⁴ The guarantee of our survival is a 'healthy' planet in James Lovelock's sense. He referred to the Gaia hypothesis, a concept rooted in myth that envisions the planet as a self-regulating system maintaining the composition of Earth's atmosphere in a state of dynamic balance. Lovelock hypothesised that 'If only organisms could influence this composition, they would probably be able to regulate the climate on Earth so that it was conducive to life.'⁵⁵ The global atmosphere is a finite resource that belongs not only to humans but also to all non-human life forms. It is crucial for the survival of life across the planet and serves as the foundation for human flourishing.⁵⁶ We are currently in a situation where Gaia's ability to regenerate the atmosphere alone is insufficient. Humankind must support her. Ewa Domańska rightly argues that the Anthropocene, understood as Gaiocentrism, signifies a fundamental change in the human condition: 'The recognition of climate change as being fundamental to the future of the Earth and its inhabitants constitutes the epochal consciousness (...) of our times.'⁵⁷

The advent of the Anthropocene era has further expanded the responsibilities of humankind, society, and the state in terms of empowering all non-human life forms.⁵⁸ The inclusion of human rights within the legal system (as part of the Constitution) has changed the state's role in this area. Individuals' rights oppose the omnipotence of the state, advocating for the status of the individual and the respect for dignity, needs, and aspirations.⁵⁹ An important role is also played by regulations that clearly limit the scope and power of the state, derived from the species-like nature of humankind, which is now being discovered and extended to non-human life forms. The role of law is evolving, and 'It will have to meet the challenge posed not only by the modernising state but also by the situation of the emancipated individual and the position of humankind, increasingly aware of its specific qualitative global unity.'⁶⁰ One can observe processes characteristic of supra-specific opposition, aiming to undermine the supremacy of political structures, for example, in favour of ecological movements. This marks a departure from the traditional understanding of the state, which is no longer an end in itself.

⁵³ J.V. Stein Pedersen, B. Latour, N. Schultz, 'A Conversation with Bruno Latour and Nikolaj Schultz: Reassembling the Geo-Social', *Theory, Culture & Society*, 2019, Vol. 36, No. 7–8, pp. 215–230.

⁵⁴ N. Schultz, *Land Sickness*, Cambridge, 2023, *passim*.

⁵⁵ J. Lovelock, *The Vanishing Face of Gaia a Final Warning*, New York, 2009, p. 163; see B. Latour, *Zamieszkać na Ziemi...*, op. cit., pp. 35–40; D. Chakrabarty, 'Humanistyka w czasach antropocenu', in: Domańska E., Sugiera M. (eds), *Humanistyka w czasach antropocenu*, Kraków, 2023, pp. 228–240.

⁵⁶ Cf. S. Vanderhaiden, *Atmospheric Justice...*, op. cit., pp. 79 and 104.

⁵⁷ E. Domańska, 'Dipesh Chakrabarty: Od subalternizmu do planetaryzmu', in: D. Chakrabarty, *Humanistyka w czasach...*, op. cit., p. 379.

⁵⁸ See K. Gurczyńska-Sady, W. Sady, *Antropocen. Szanse i zagrożenia*, Warszawa, 2022, *passim*; D. Minich, *Antropocen w świetle...*, op. cit., pp. 28–36.

⁵⁹ Cf. J. Zajadło, 'Jaka aksjologia praw człowieka?', *Państwo i Prawo*, 2019, No. 11, pp. 3–29.

⁶⁰ J. Lipiec, *My – ludzie...*, op. cit., p. 189.

These changes are reflected in a balanced stance on ecological protection adopted by the Polish constitutional legislator. Article 74 of the Constitution of the Republic of Poland stipulates:

- '1. Public authorities shall pursue policies ensuring the ecological security of current and future generations.
2. Protection of the environment shall be the duty of public authorities.
3. Everyone shall have the right to be informed of the quality of the environment and its protection.
4. Public authorities shall support the activities of citizens to protect and improve the quality of the environment.'⁶¹

In the postmodern world, the idea of freedom, based solely on the human individual, is of fundamental importance. This creates difficulties in constructing a constitutional system for postmodern society. Thanks to the constitutionalisation and internationalisation of fundamental rights in the sphere of freedom, equality, and solidarity (fraternity), we can protect human beings. Nowadays, it is particularly important that these rights are also applied to the natural world, whose ability to regenerate is severely limited due to human activities. Following the anthropocentric perspective, we should support both animate and inanimate nature because, for now, it is the only environment in which we live and function. It must be acknowledged that: 'A proper attitude towards the environment is almost a model example of a true common good, which concerns everyone equally, while also constituting a good for every individual and probably for the enjoyment of other goods.'⁶²

Human rights, which include the right to live in a state governed by law and the right to a democratic system of power, 'constitute a meaning-creating horizon'.⁶³ In this case, it refers to the right to membership in a political community living on the same planet and equally responsible for it. Planet Earth is our common good. It has even been stated that: 'We live in the times of the religion of human rights.'⁶⁴

Since the 16th century, human knowledge about the natural environment has been steadily increasing. Circumstances have also been changing objectively. A proper attitude towards the environment has become a model example of the true common good. Contemporary environmental protection law is permeated with individualistic premises, which, although inconsistent with the constitutionalism of the common good, in essence, reflect the doctrine of public trust. Already in the past, in one form or another, the state was granted both the right and the obligation to manage key environmental resources for the benefit of society. Even in Justinian's

⁶¹ The Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws No. 78, item 483); M. Florczak-Wątor, 'Komentarz do art. 74', in: Tuleja P. (ed.), *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa, 2023, pp. 267–269; R. Mędrzycki, *Zasada solidarności społecznej w prawie samorządu terytorialnego*, Warszawa, 2021, pp. 180–181.

⁶² A. Vermeule, *Common Good...*, op. cit., p. 173.

⁶³ B. Wojciechowski, *Tożsamość narracyjna jako warunek autentycznej podmiotowości prawnej*, Łódź, 2023, p. 158.

⁶⁴ M. Merkwa, *U źródeł idei praw człowieka: kształtowanie prawnych i filozoficznych podstaw koncepcji praw człowieka*, Lublin, 2018, p. 10.

Institutions, one can read that: 'The air, running water, the sea, and the seashore are common resources, available to all by natural law.'⁶⁵ The development of this doctrine assumes expanding this group to include the natural environment and climate. The principle of the common good can therefore be considered fundamental for the 'administrative state',⁶⁶ while also emphasising that environmental management should be based on public trust.⁶⁷ From a constitutional perspective, the common good is the flourishing of a well-organised political community. It is not a collection of individual benefits, but rather uniform and indivisible, embodying the highest good of the individuals constituting the political community. This is an expression of a return to the classic principle of legal justice: 'Act honourably, do not harm others, and give them what is justly theirs.' Nowadays, the triad of peace, justice, and wealth corresponds to health protection, public safety, and economic security.⁶⁸

IV. CONCLUSIONS – HUMAN RIGHTS IN THE FACE OF ENVIRONMENTAL PROTECTION

The above-presented changes in the functioning of environmental processes, resulting from the advent of the Anthropocene epoch, have caused unprecedented climate changes. This has a direct impact on the ecosystem and the functioning of human civilisation. It is mankind that is both the cause and the victim of these processes. Nowadays, counteractions by individuals and states have proven to be insufficient and ineffective. This issue represents the greatest challenge ever faced by humankind, as climate change is a matter of global concern. Therefore, changes in all environmental processes require regulation and reflection in public international law.⁶⁹ Undoubtedly, these changes pose a threat to the full enjoyment of human rights. Human counteractions in this area must be consistent with the obligations arising from these laws. The Paris Agreement, which should be considered the first international environmental treaty (adopted on 12 December 2015, ratified by 192 parties, and entered into force on 4 November 2016), is an expression of this recognition.⁷⁰ It represents the acknowledgment by the international community that climate change is an unacceptable threat to the full enjoyment of human rights. Actions aimed at combating climate change must be consistent with obligations

⁶⁵ T. Palmirski (ed.), *Institutiones Iustiniani*, pp. 106–107 (2.1.1. *et quidem naturali iure omnium communia sunt illa: aer, aqua profluens, et mare, et per hoc litora maris*), Warszawa, 2018.

⁶⁶ C.R. Sunstein, A. Vermeule, *Law and Leviathan. Redeeming the Administrative State*, Cambridge, 2020, *passim*.

⁶⁷ A. Vermeule, *Common Good...*, op. cit., pp. 177–178.

⁶⁸ *Ibidem*, pp. 164–169.

⁶⁹ See K.J. Marciniak, 'Zmiany klimatu jako wspólna sprawa ludzkości: współczesne uwarunkowania międzynarodowo-prawne, ze szczególnym uwzględnieniem Porozumienia Paryskiego', in: Cała-Wacinkiewicz E., Menkes J. (eds), *Wspólne wartości prawa międzynarodowego*, Warszawa, 2018, pp. 105–125.

⁷⁰ Paris Agreement – Status of Ratification, <https://unfccc.int/process/the-paris-agreement/status-of-ratification> [accessed on 20 March 2024].

concerning human rights.⁷¹ The Agreement recognises and treats human rights as part of the legal framework for the protection of the natural environment. It perceives climate change as the common heritage of humankind, thereby obliging all countries to take specific actions to protect the environment. It is worth emphasising that the Agreement departs from the clear differentiation of obligations between developed and developing countries.⁷² Climate and environmental protection law is subject to negotiations at the national, EU, and international levels. Understandably, while human rights agreements are the result of negotiations, they define fundamental rights that must be strictly respected, even during negotiations on environmental and climate regulations. In this way, a normative connection is established between two legal regimes – environmental protection and human and civil rights protection – which previously developed independently but in parallel.⁷³ Such a connection serves to strengthen these two legal orders.

The broadly understood security of humankind in the Anthropocene epoch must go beyond securing individuals and their communities. It must take into account human interdependence and the relationship between people and the planet. It is worth emphasising that the Covid-19 pandemic, overlapping with the unprecedented Anthropocene context, has exposed the fragility of modern civilisation's progress.⁷⁴ The state of the pandemic, as an extraordinary legal situation, required maintaining the effective and efficient operation of public authorities and the functioning of the state under special conditions. The restrictions on individual rights, justified by the protection of basic human rights (protection of health and life), resulted from the implementation of the main value of the state's political system, which is the constitutional principle of the common good.⁷⁵ The Covid-19 context of the Anthropocene is an example of interconnected threats to human security. This issue is not limited to relationship between people, but also includes the relationship between the planet – which constitutes our existential foundation – and human activity. As J. Lipiec rightly observed, only a person equipped with extraordinary rights and dispositions is capable of 'carrying forward the course of creative evolution' in two directions: by changing the world and by changing oneself.⁷⁶ Humanity faces serious undertakings on a global scale: the creation of a comprehensive programme to counteract not fully recognised threats to future generations.

⁷¹ M. Stoczkiewicz, *Prawo ochrony klimatu w kontekście praw człowieka*, Warszawa, 2021, p. 213.

⁷² See S. Maljean-Dubois, 'Zmiany klimatu jako wspólna sprawa ludzkości: współczesne uwarunkowania międzynarodowo-prawne, ze szczególnym uwzględnieniem Porozumienia Paryskiego', in: Cała-Wacinkiewicz E., Menkes J. (eds), *Wspólne wartości prawa międzynarodowego*, Warszawa, pp. 151–159.

⁷³ D. Bodansky, 'Climate Change and Human Rights: Unpacking the Issues', *Georgia Journal of International and Comparative Law*, 2010, Vol. 38, No. 3, p. 516.

⁷⁴ H. Tapia, P. Conceição, *New threats...*, op. cit., p. 142.

⁷⁵ J. Karp, 'Rola zasady dobra wspólnego w okresie pandemii', *Przegląd Prawa Publicznego*, 2023, No. 12, pp. 30–34.

⁷⁶ J. Lipiec, *Drogi życia. Studia z filozofii człowieka*, Kraków, 2020, p. 18.

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