Law and Morals. Prolegomena (II)

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Abstract: In the pages of this study we have emphasized the relation between Law and Morals, between what is just and in just, talking thus not only about the nature of the Law and of the Morals, but also about the relation between the juridical norms and the moral principles. An evaluation of the historical process of the emergence of Law and Morals – be it brief – has enabled us to notice that the Law has evolved step by step from the Moral norms and from the customs of a moral nature, hence the conclusion that the positive juridical norms should also express, in their content, values of a moral nature. In fact, from an ontological point of view, between Law and Morals could not be a divorce, since the notions of "righteousness" and of "justice" themselves are categories of Morals. That is why the theory of juridical positivism, according to which the rule of Law can exist in the absence of Morals since the state is the only source of Law, has no credibility both from a historical and philosophical and from a juridical point of view. Finally, the increasingly higher interest of the philosophers and jurists of our time to perceive and express the content of the nature of Law adequately and, ipso facto, the relation between this one and Morals, was also determined by the international and European legislation regarding the human fundamental rights and liberties.

Keywords: juridical norms; moral principles; human rights

According to Platon, both the way of governing a city and law and justice can be learnt, hence the obligation of the young people to submit to a „teaching" and educational process. Only „then" – Platon said – that is after we learnt both the way of governing a city and the law, „*Justice itself could no more reproach us with anything and we shall keep the city and its order intact*" (Platon, p. 340).

In the time of Romans, the students acquired their knowledge about law „… in four years of study reading the imperial constitutions …". After finishing their juridical studies, the students were considered „entirely competent" to rule the State „in different missions" they were to be enthrusted (iustinian, pp. 9-10).

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From the last century, within the great Faculties of Law of the world some new branches of Law have started being studied, such as, for example: nuclear Law; spatial Law; religious (Mosaic, Christian, Muslim) comparative Law; community Law; European Law, the Juridical Protection of human rights etc. To these, they`ve added the group of auxiliary or participative subjects, such as: criminality, forensic medicine, juridical statistics, juridical logic etc. Within these Faculties of Law, the juridical phenomenon is usually evaluated in the light of some moral and religious values, of a Judeo-Christian origin, that are often mentioned in the specialised studies and works. Actually, we should not be surprised that in Paris there is an Academy of Moral and Political Sciences and that within some famous Faculties of Law subjects such as Byzantine Law, Canon Law (Christian or Muslim), comparative religious Law (Mosaic, Christian and Muslim) etc. are taught, in the framework of which they also talk about the moral law. But when will this happen in Romania?!

Talking about the relation between Law and Ethics, some philosophers and theoreticians of law have stressed „the priority" of ethics to the law, hence „the necessity of a minimal moral content in the context of the normative juridical system". However, others talked about the „*equal legitimacy of the two normative systems, hence the independence of law to ethics*" (Stăiculescu & Trandafirescu, 2002, p. 186). What should be the Truth?!

Regarding the relation between Law and Ethics, Montesquieu (1958) wrote that „*religious laws have a higher moral value and the civil ones a higher comprehensiveness*".

The statement of Montesquieu is indeed "truer" than all the opinions of some theoreticians of law, philosophy, sociology etc., given that within the laws with a religious content one can find elements with a pronounced moral character.

On the other hand, the same philosopher of law said that these "religious laws", called „the laws of perfection", „*are rather aiming at the moral fulfillment of the man who respects them than at the moral fulfillment of the society in which they are respected", and that „the civil laws, on the contrary, are rather aiming at the moral fulfillment of people in general than at the moral fulfillment of individuals*" (Montesquieu, 1958). But, such a conception cannot be accepted by the ones who consider the man „the measure of all things" and who make from „homo" (the man) „a thing which is holy to the man" („res sacra homini"), given that a law which aims at the moral fulfillment of the man also implicitly pursues the moral fulfillment of the members of the respective society.

Historians of the Romanian Law have stated that this one has evolved „*from the Christian Ethics, combined with the old Roman and Byzantine norms*" (Chis, 2002, p. 5). From the statements of the respective historians, we shall therefore keep into our minds that the Romanian law has evolved from the Christian morals, the values and elements of which are combined with the old Roman and Byzantine norms.

That is why the Romanian law cannot be known and understood without studying its sources, namely the Christian Morals and the old Roman and Byzantine norms, among which the most important are the nomocanonical Law and the canonical Law.

In their turn, some theoreticians of Law also wanted to specify that „*the Morals also appears as a criterion for verifying the correspondence between the positive law and justice, given that the positive law should build itself on the basis of some moral purposes. The juridical norms which contradict the moral principles – they specify - are injust (lex injusta non est lex). Anytime the strict exercise of a right neglects aspects pertaining to human rights (summum jus, summa injuria) the moral principle of equity shall intervene*" (Popa, 2002, pp. 137-138).

Hence, we should evince the fact that Morals is the criterion for verifying the correspondence of the positive law with justice and that positive law must be built on the basis of some moral principles, as any juridical norm – which contradicts the moral principles – is injust, "the injust law is no law" (lex injusta non est lex). Finally, we want to mention that the moral principle of equity should also be taken into account when, in the context of the strict exercise of a law, the human fundamental rights and liberties and their juridical protection are infringed[1]. That is why there should be no juridical norms unbound to the moral principles!

Around the years 307 to 311, Lactantius outlined in his divine Institutions (L. V-VI) the principles of a Christian law. For Lactantius, religion is the one which substantiates the justice. But what religion, given that the justice - based on the politheistic religion – only implied the respect of your fellow man in a certain state of indifference, while the Christian justice – founded on the Gospel of Christ – is based on love, charity and brotherhood. But as the human justice, be it of Christian origin, remains a „pium desiderium" (a pious wish), Lactantius does not succeed in identifying what separates „ius" from „iusticia", that is the "Law" from "Justice".

For the African theologian and philosopher, the Saint Augustine (†430), the real justice is not the conformity with „the civil law" or with „iuria civilia", but with „the Christian equity" (Ep. 153, 26), namely with the moral principle of equity. Of course, for the Saint Augustine, this goes beyond the Roman notion of „aequum" as for him – as well as for Lactantius and Ambrosius – equity is first of all „piety" (pietas), that is a feeling of respect, of devotion to the Divinity and, next to that, of devotion to the people.

According to Saint Augustine, the order of nature is nothing but the divine reason and will which he calls „lex aeterna" (the eternal law) (Contra Faustum, XXII, 27). As regards „the divine law", he says that this was established by Jesus Christ, the Apostles and the ecumenical Synods, guided by the Holy Ghost (Ep. 54, l, 1). That

[1] See *Les Droits de l'Homme. Dimension spirituelle et action civique. Actes du Symposium international* (2000). Iasi, Romania, Septembre 22 – 24.

is why, in his opinion, the divine law can modify the human law, with the purpose of assuring the conformity of the latter with the divine law (the Confessions, III, 8), as only this divine law or justice can give everyone what he deserves.

In order to understand the Romanian feudal law one needs to know about the divine things, that is, in order to understand it, one has to link in to the Divinity, as our Geto-Dacian ancestors have done and also the Daco-Romans and the Romanians up to the modern age. Actually, the knowledge of law and its understanding – in its wholeness - requires not only the knowledge of the juridical, positive reality, not only the knowledge of jus militans or of its nature, but also of the divine and natural law and of the moral law which expresses the Will of Divinity.

This obvious reality was also certified by the jurisconsult Ulpianus, who said that „Jurisprudentia est divinarum atque humanarum rerum notitia, justi atque injusti scientia" (The science of law is the knowledge of the divine and human things and the science of what is just and injust) (Dig. I, 1, 10; Inst. I, 1, 1). Indeed, without knowing these realities, of a divine and human nature, we cannot know what is just and injust and, ipso facto, the idea of law, the onthology (the nature) of Law in its ontological relation both with the Divinity and with the moral Law, which can be regarded as the moral principle of equity.

According to the „responsa prudentium" (the answers of the jurisconsults) – who through their „decisions (sententiae) and opinions (opiniones) have created the Roman Law (Cf. Inst. I, II, 8) – „the rules of law" (iuris praecepta) were the following: „honeste vivere, alterum non laedere, suum cuique tribuere" (to live honestly, to not harm another being and to give everybody what they deserve) (Inst. I, I, 3). Therefore, it is not surprising that these rules of law – created by the Roman jurisprudence as the result of knowing the divine and human things – have „… such an authority that the judge is not allowed, as established through the imperial constitutions, to digress from their decisions" (Inst. I, II, 8).

Thus, for the Roman „jurisprudence", the first requirement of the science of law is related to the knowledge of the divine truths. The second requirement is related to the knowledge of the human things that is the necessity of knowing about the man and his existential nature. The authors of the Romanian feudal law, namely the creators of the old written (Grecu, 1954) (Floca, 1963) Romanian law, mainly represented by those Nomocanons printed in the Romanian language since the XVII-th century, have also taken into account these two conditions which define the law „in an ontological relation with the Divinity".

To sum up, we can say that for the creators of the Roman law, this knowledge of the divine and human things cannot be fulfilled without this science of what is just and injust, that is without the divine Law and, ipso facto, without Ethics, in the light of which we can distinguish, judge and evaluate the two realities, justice and injustice.

As the nature of law is concerned, the knowledge process of the natural and supernatural, of the earthly and of the spiritual cannot be accomplished but by relating what is just and injust to a value of moral origin, to a moral rule. Therefore, not by chance, as the appreciations of a moral nature are concerned (ex. a just man, a just or injust trial or punishment etc.), the word law is associated – in the Romanian language – as an adjective, which first of all defines its moral traits. But, this linguistic reality also confirms the fact that, for the Romanian juridical traditional discourse, the science of law cannot be assimilated without knowing the divine and human things.

Under the impact of the Roman and Byzantine Law and especially of the old Romanian law, some Romanian jurists have also noticed that „not all the rules of social living together, …, have a juridical character, … Other rules of social living together are not juridically established, they are not included in normative acts, as they are rules of ethics, …" (Brezoianu, 1988, p. 37).

In this sense, the Romanians have followed such rules of social living together, of a moral origin, up to the modern age, when laws which were alien to the spirit of this millenary living together have also been transplanted on the shores of the river Dâmboviţa, hence the reaction starting from the XIX-th century of the ones following „the Romanian law" (namely the Romanians of Christian, Orthodox religion) who – tacitly or outspokenly – have rejected the grafts implanted at random and forcibly in their organisms by the rulers of the time, educated in the spirit of the so-called free thinking, of a non-religious or atheistical essence, propagated by the French Revolution and reactivated during the communist regime (1947-1989). As we well know, the age of this horrible regime of sad remembrance also had an „ethics", but one devoid of human or divine principles, known under the name of "ethics" (sic), which was actually reduced to a class struggle and to the initiation and fulfillment of a politics of gulags and of mass-extermination of the ones who did not think and live in the spirit of the party-minded communist and atheistical ideology.

Referring to „the socialist ethics", the same Romanian jurists mentioned the fact that „*in socialism there is a dialectical link between law and morals, an increasing nearness between them, going up to identification of the most important principles and norms of law and the ones of the socialist ethics. This merger* – PhD Professor Dumitru Brezoianu (1988, p. 37) – *represents in the framework of socialism a regularity of the development of law and it prepares the transition to communism, when the juridical laws shall be replaced by rules of morals*". But, again, the same interrogation: what kind of rules of morals? Can there be an „ethics" – is it socialist or communist – without the promotion and the observance of the universally recognised principles?! Do we find in these „rules of communist morals", the moral principle of good, of equity, of the natural law?! Can we talk of the elimination of the subjective, volitive content of the juridical norms to the detriment of the moral norms? To that, it is known that the juridical reflects the human existence on a

social level because it is a component part of the social reality. In this sense, as this social reality cannot vanish, we can conclude that „ubi societas, ibi jus" (where there is a society, there is law) and, as such, the so-called elimination of the juridical rules also remains an utopia, just as the ideology that had generated it.

As it is known, before December 1989 they said that law – as a science or scientific subject – studies the totality of juridical norms which regulate the social relations within a state. As the „ensemble" of these juridical norms is concerned, they`ve also said that these provide „the subjects' equality in their rights …" (Costin, 1980, p.196). The same jurists – from the age of the former „multilaterally developed" (sic) socialist society – wrote that these juridical norms „… express the equity requirements of the socialist society. The criminal socialist law – a penalist of the past society ardently wrote – which draws its inspiration from the principles of socialist morals and is applied by bodies which are tightly bond to the interests of the people (sic), is able to lead to equitable solutions to the concrete cases" (Antoniu, 1988, p. 95).

The so-called mentors of the Romanian civic and cultural conscience of the respective age also wanted to specify that these juridical, socialist norms expressed the will of the dominant class or (in the socialism) the will of the entire people and their observance could be imposed, when needed, through the state`s power of constraint"[1]. The will of the nomenclature of the communist regime – of those times – has indeed been forcibly imposed, in the name of „the entire people", both on matters of legislation and as the administration of punishments in concerned.

That is how we can explain that, through the norms of this legislation, they regulated the penal repression of all the deeds considered dangerous for the rule of law of the socialist State. Through their „judgement activity", the law courts and the court-rooms had to defend, at any price, the „socialist order" (art. 102, the Constitution of 1965, republished in 1986).

We should also mention that in the text of the Constitution of 1965, they explicitly mentioned the „norms of the socialist ethics and equity". Among others, on the occasion of his election, „the President of the Socialist Republic of Romania" swore to act „… for the strengthening of socialism and communism" and for „the promotion of the norms of the socialist ethics and equity in the life of the society" (art. 73) (Muraru & Iancu, 2000, p. 185).

Therefore, „ex lege" (by virtue of the law), we had to deal with norms of the socialist ethics, bearing the mark of the socialist equity and, to quote Voltaire, „un droit porté trop loin devient une injustice" (a right pushed too far shall become an injustice), namely an injustice to the millions of people who only submitted to

[1] The words: drept (just), dreaptă (just), in The Explanatory Dictionary of the Romanian Language), Bucharest, 1975, p. 281.

these norms of socialist ethics out of fear and through the force of constraint, being thus deprived of their liberty. But what is liberty?!

According to the Roman law, „the liberty (libertas), on the basis of which people are born free (liberi vocantur) is the natural capacity of the man to do what he wants (naturalis facultas eius quod cuique facere libet), except for the cases when he is halted by force or by the law" (Institutiones, lib. I, cap. III, 1). The same law specified that „… according to the natural law (jus naturalis) all people were born free in the beginning", but then came the wars and (afterwards) the captivity and slavery, which are contrary to the natural law, …" (Inst., lib. I, chapt. II, 2). Beyond doubt, we can consider as tantamount to captivity or slavery the loss or the infringement of the right to liberty in a society which entitled itself, in an openly manner, „multilaterally developed".

The European Convention for „the Defence of Human Rights and of the Fundamental Liberties" – signed in Rome on November 4-th, 1950 – „which proclaimed the right to liberty" (Art. 5), referred to individual liberty in its classical meaning, „that is the physical liberty of the person" (Voicu, 2001, p. 58), which also implied the elimination of any form of restriction applied to the liberty of thought and of expression, to the liberty of movement, to have a political conviction, a religious faith, etc. In this sense, as it is well-known, in spite of the European proclamation made by means of this Convention, the right to liberty – and especially to religious liberty (Fonta, 1994, pp. 7-14), the liberty of movement etc. – have remained for millions of people during the communist regime in our country (1947-1989) only a „pium desiderium" (pious wish).

The academic Dictionaries and Handbooks of socialist law stated that the ensemble of juridical norms, „which express the will and the interests (sic) of the dominant class or of the entire people", were *„rules established by the state and their observance was assured by the enforcement, if the case, of the constraint measures of the state*" (Brezoianu, 1988, p. 34). Finally, the same Handbooks – written in those times still under the impact of the communist juridical culture of a Soviet origin – stated that the respective governance of the state *„… shall either be enthrusted to the dominant class, in the societies with antogonistic classes or to the entire people in socialism*" (Brezoianu, 1988, p. 34). Of course, in this case any Romanian – who was not part of the system of the respective regime – could ask himself: whose will could the governance of that so-called socialist state express, that of the people or that of the dominant class, namely of the communist oligarchy, with discretionary powers?! Beyond doubt, if those juridical norms or „compulsory rules of conduct", really expressed „the will and interests of the entire people" (sic), why was the enforcement of the coercive force by the repressive bodies of the socialist – police state still necessary? We find the answer in the same doctrine of the ideology of the respective State, according to which *„… the state was born once with the division of society in antagonistic classes, as a result of the*

emergence of private property over the means of production, this being a main instrument for the fulfillment of the will and the defence of the dominant class"[1].

In order to eliminate the so-called „antagonistic classes", the private property was banned. According to the provisions of the Constitution of 1965, in Romania they only assured, supported and protected „the property of the state" and the „cooperative property" (Acc. to Art. 6-9). Actually, as the private property is concerned, the Constitution only referred to the „personal property of the cooperative peasants" and to the „property over the land" worked by the peasants and the families of the peasants who had not had the possibility to associate in agricultural cooperatives (Acc. to art. 9 and 11).

The fact that, in this case, we were only dealing with an exception from the rule, motivated by the impossibility of including all peasants in agricultural cooperatives is also certified by the fact that the legislator of those times wanted to specify that he only „supports and defends" the cooperative „property", not the personal property of the peasants who were not part of the agricultural-cooperative system. The personal property of the peasants – who out of justitfied reasons could not associate „in agricultural cooperatives" – and „the property of craftsmen over their own workshops" were only „assured", not supported and protected (cf. art. 10, 11). But, as it is well-known, this "assurance" provided by the respective legislation has only seldom become a reality and only when it was not contrary to the interests of the exponents of the country`s political regime of those times. Actually, the private proprety itself, which was banned and intensely denigrated in the age of the communist regime was the main instrument for the fulfillment of the will and the defense of the dominant class of the socialist State, different from the rest of the people by virtue of their power and of the possession of a private property of a socialist type, which was beyond the punishments of the law or of the so-called socialist equity.

Facing this past reality in an "aposteriori" manner, we can notice that the purpose and the reason of this socialist legislation was not the defense of the interests of the country`s citizens, that is of the entire people, as the doctrinarians of the respective regime proclaimed and that these laws were not focused on the observance of the principles of equity and of the rules provided by the Morals or by the so-called socialist „Ethics", but on the observance of the ones of a party-minded ruling class, actually alien both to the spirit and the interests of the Romanian people and to the ones of the civilised peoples of the world.

In the text of the specialised literature, we can also notice that some Romanian jurists – who are still enfeoffed to the proletcultist thinking or only tributary to the juridical knowledge gained up to the year 1990 - do not yet understand the notions

[1] Apud *Juridical dictionary*. (1985). Bucharest, p. 161.

of law and justice well or, better said, they understand and express them in the same spirit of the former „golden age". For example, for some penalists – of our days – equity is equal to justice and it implies – in the framework of the material criminal law and of the penal procedural law – „… *an adaptation, an individualization of the criminal liability so that it could correspond to the concrete circumstances under which the respective crimes were committed and to the personal situation of the culprit*" (Boroi; Gorunescu & Popescu, 2004, p. 113). Of course, how far we are from the original meaning of that „aequitas/tis", understood as a value of moral law!

The juridical norms cannot be applied without taking into account the purpose and the reason of the law, which should only pursue the assurance and the protection of human rights and, of course, through this, the accomplishment of the public good through the control of constitutionality[1]. Indeed, without taking into account the purpose and the reason of the law, the most rigurous enforcement of the law can can be tantamount to the greatest injustice, as the old Latin dictum confirms: "summum jus, summa injuria" (the supreme law, the supreme injustice). Moreover, a law the purpose and reason of which are not bound to the principles and the rules of morals is only meant to become an instrument through which the dominant class shall exert its power, imposing it, when necessary, through the coercive force of its bodies of repression and control. Of course, in such cases we can no longer talk about a liberty of conscience of a state`s citizens who, willingly or not become the slaves of the will of those who rule that state – but of the total absence of some moral principles and values. But which morals?! While in the case of the partisans of the class struggle we were dealing with the proletary morals, with the communist morals of the so-called "new man", in the States where the moral values are expressed in the light of the text of the biblical Revelation (Israel, the USA, Greece, Ireland, Sweden, Germany etc.), the very content of individual liberty manifests itself through the act of the moral-religious conscience. Finally, we shall mention that in the States with a communist-atheistical ideology no reference is made to the religious-moral values, but only to the political and juridical ones, hence the wrong idea about law and justice that the rulers and governors of such states get, as they are actually empowered to do "justice" to their servants only if the latter are partisans of the creed of the political ideology of the former.

The first clear distinction between "auctoritas" (authority) and "potestas" (power) was made by the Romans. The power belonged to the people and the autority to the Senate (cum potestas in popula auctoritas in Senatu sit).

The word "potestas-atis" – which is derived from the verb possum, posse, potui = can, to be able to, to have a great power, to be superior, valuable – means power, property, appropriation, mastery, power to dispose (of someting), permission, office etc. Therefore, power means mastery. Actually, as an attribute of the state,

[1] Regarding this control, see Duculescu, V. (1994, pp. 153-156).

"potestas" is synonymous "to force", hence its name of "public force, state power" (Popa, 1998, pp. 104-105). Anyhow, the way how this "force" or "power of the state" is being exerted should also be evaluated by relating it to the moral authority of those who have the power.

The Latin word "auctoritas" derives from the verb "augeo-ere, auxi, auctum = to enable to grow, to increase, to enhance, to strengthen. In other words, we can say that by virtue of exerting its authority, the power of the respective body (individual or collective) shall increase. Anyhow, this authority also needs a system of "moral, religious, political ad juridical" values that would strengthen and enhance its fame, without which its very purpose and reason would disappear.

Therefore, as the exercise of the power and of the state authority is concerned – through which justice should be administered – the respective bodies should not leave aside the principles of the universally recognised morals or to put a wall between "law" and "the moral order", which would, ipso facto, lead to a subjective evaluation of the nature and of the meaning of law in the human society. (Dură, 2003, p. 15)

As regards the rules of law, we should not forget or minimize the fact that these ones do not have the same binding power as the moral norms and the strictly religious norms for the human conscience, hence their constitutive character of orders, of imperative norms. But what do these "potestas" (power) and "auctoritas" (authority) of the moral norms consist in? They consist in the very relation of the man with the Divinity, hence the observation that moral norms are the expression of the divine will and, as such, they have a sacrosanct character.

Initially, the Latin verb "sancio" (ire, sanxi, sanctum) meant to "consecrate", to establish a law, to create, to enact a law. Later in history, "sancio" meant to punish, to forbid, to sanction. Originally, the noun "sanctitas" (atis) (sanctity) – which comes from the verb "sancio" – also had the meaning of "pietas" (piety towards the gods), of "religiosum pietate" (religious piety), and, at last, the meaning of "holiness", of "sacred character", of „„moral probity".

These Latin terms certify, beyond doubt, the fact that at the Romanians the laws were considered the expression of the divine will, whereas the servants of the Altars – the ones who performed the cult "of piety towards the gods" – were the interprets of the will of the latter. With time, anyhow, the word "sanction"[1] (sanctitas/atis) has also lost its initial meaning, that of divine punishment and today it only expresses the notion of punishment provided by the juridical norm. Therefore, today the "divine sanction" is only pertaining to the field of religious

[1] Some theoreticians of law have expressed the word "sancţiune" („sanction") by the word "recunoaştere" („recognition") (Cf. Popa, 1998, p. 57), which obviously shows that they did not understand the initial meaning of the Latin word and that they remained tributary to the French language terminology.

morals (Buddhist, Jewish, Christian, Muslim) and the penal one (repressive, preventive, reparatory (civil, formal, supletive (completive), coercive and afflictive) to the exclusive field of the penal law.

Based on this short survey on the relation between Law and Morals we could notice that at the Romanians, from the beginning, the law was related to the religious Christian Orthodox faith and the law was out in an organical relation with the moral order, of a Christian origin. This reality is certified in a vivid manner both by the old juridical customs of our ancestors and by those Romanian medieval juridical monuments, namely by the Nomocanons of the Country from the XVII-th century (the Nomocanon of Govora, the Nomocanon of Vasile Lupu and the Nomocanon of Matei Basarab). However, an enstrangement from this juridical reality was to take place during the communist regime (1947-1989), when even the idea of law was expressed in the spirit of the materialist and atheistical conception, which has elimiated any reference to the moral, religious law, hence the preeminently party-minded character that the two juridical realities, justice and injustice, have taken up in their manifestation.

The fact that there could be no juridical norms without moral principles and, ipso facto, no Law without Morals, has been testified to us not only by the famous Roman jurisconsults (Celsus, Ulpianus, Gaius etc.) (Molcuț & Oancea, 1995) and by the theoreticians of natural law, from different European countries, but also by the Romanian jurists of our days (Diaconu, 1995, p. 26), who say that the human dignity „… *appears as a personal feeling of moral valuing* …" (Boroi; Gorunescu & Popescu, 2004, p. 95), and that „… *the natural law is present in the Holy Scripts and in the Gospel. Anything that is against the natural law – they write – must be rejected just like those laws that could prejudice the human person`s natural rights*" (Zlătescu & Demetrescu, 2003, p. 12).

Given that the idea of law is a carrier of religious-moral values and that the human dignity (dignitas/tis) itself can only be evaluated and materialised by a moral act, we can conclude that the law cannot exist without Morals, without the assertion of the principiles of a humanistic, healthy morals that would always take into account the good, the justice and the equity, namely of those moral principles provided both by the natural Law and by the Religius (Jewish, Christian, Muslim etc.) law and which were mentioned in the international Charter (Scăunaș, 2003, pp. 26-37) and in the Charter of the European Union (Fuerea, 2003, pp. 230-241) on the human fundamental rights.

To talk about the relation between Law and Morals and, ipso facto, about what is just and injust actually means to talk about the nature and about the content of these rights, out of which the humanity of today had made its constitutional „Charter", hence the increasingly higher interest of philosophers and jurists to understand, as well as possible, the content of the nature of Law and, ipso facto, the relation between this one and Morals in the spirit of the human fundamental rights and

liberties. That is why this interest is also accompanied by a process of awareness – among the European jurists – of the necessity of formulating the norms of positive law in the spirit of some "moral purposes", and with an obvious moral content, since any juridical norm which is contrary to the moral principles is a „lex injusta" (injust law), which in fact prejudices the „dignitas humana" (the human dignity) itself.

Finally, this interest of the philosophy of law is also animated by that „animus corrigendi" (wish of correcting) of the errors of interpretation that have appeared along the time, concerning the relation between Law, Justice and Morals, both at an European and national level.

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