

THE LAW IN A SOCIETY OF THE PERIOD OF SYSTEMIC CHANGE

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1. Contemporary science unanimously confirms the thesis that the law has become an instrument of social change. This common belief, despite being based on observations of twentieth-century legislative practice,¹ can lead to easy generalisations. In this field, our century has seen four - diametrically different - types of experiences: the evolutionary modernisation of the capitalist system towards social market economy and democratic society; the formation of totalitarian and monocentric systems; the commencement of economic and social progress in civilizationally underdeveloped countries and, finally, the beginning of the process of systemic transformation in post-communist systems.

Each of those experiences took place in different conditions, which determined both the properties and aims of the law and the properties of the society in which they occurred. Consequently, the knowledge obtained therefrom is, by its nature, untranslatable and, for the same reason, fragmentary. Literature on this subject is dominated by analytic studies of particular types of experiences relating rather to partial changes or changes of an innovative nature than to total, systemic changes. The integrating factor of all those analyses has been the question: to what extent can the law independently influence social changes?² This question is complemented by the reflection, extensively discussed in socio-legal literature, about long-term consequences - for the law and the society - of actions as a result of which the law becomes the main instrument of change. This is, however, too wide a problem to be treated in our article. We will limit ourselves to the observation that such practice significantly strengthens the relationship - characteristic for legal sciences, as R. Cotterrell writes - between knowledge and authority, but at the same time provokes critical reflection and induces to seek new ideas concerning the formula of the social utility of the law.³

Together with conceptions promoting a new image of law as an instrument of social change, theories of active society were developed, opening the way towards a reflection on the nature of the relationship between legal and social systems. To

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¹ See R. Cotterrell: *The Sociology of Law*, London 1984, p. 48.

² See *ibid.*, p. 49-72.

³ R. Cotterrell: "Prawo i socjologia" [Law and Sociology], *Colloquia Communia* 1989, no. 1, p. 232-252.

a great extent, those theories were introduced into Polish literature by G. Skąpska.⁴ The theories of active society opened the way towards rejecting conceptions of autopoietic systems, where both law and society were perceived as autonomous beings, capable of intra-systemic controlling.

The extensive theoretical basis for the development of theories of active society consisted of: humanistic orientation in sociology, sociology of knowledge and a sociological conception of the social creation of the world. According to those twentieth-century sociological trends, it is the individual and socially created groups that bring about real social changes. Such completion of the theoretical conceptions of active society ascribes new social utility to the law, as an important instrument of the stimulation of social changes. The mutually creative coexistence of the law and the society has become a fundamental principle of knowledge and practice.

As a result, one is compelled to state that present knowledge has defined more precisely the meaning of the thesis about the law as an instrument of social change, and has enabled us to formulate the statement that no social change can occur without the participation of the society. As in the case of any statement of a high level of generality, there is a tendency to see such participation of the society in the introduced change in an uniformizing way. In practice, this usually means a certain anticipation of mechanisms of action of a developed democratic society in post-communist societies, which are only beginning to shape as democratic ones. In this approach, an immature society becomes a real barrier to systemic changes; moreover, such society becomes a scapegoat bearing responsibility for the lack of success of the reforms introduced by the political system.

2. The process of a transformation of state organisation in our country, being closely linked with the political aspirations to enter into European structures, results in the problems of legal reforms acquiring paramount importance in scientific analyses. As a consequence, analyses concerning the conditioning of an effective legal change by the features and properties of the society are considered to be much less important. This tendency can be read clearly in literature on this subject, where, in spite of the rapidly growing number of publications concerning legal reforms and modifications, there are still very few publications dealing with social expectations as to the law in the period of systemic change.

This situation is objectively conditioned mainly by obligations resulting from the ratification of the Europe Agreement (S. Sołtysiński refers to them as “following the evolving legal order of the Fifteen”⁵) and has some negative consequences for study processes and practice.

⁴ G. Skąpska: “Prawo i społeczeństwo. Teorie systemowe w socjologii a koncepcje społeczeństwa aktywnego” [The Law and the Society. Systemic Theories in Sociology and the Conceptions of Active Society] [in:] *Prawo w zmieniającym się społeczeństwie* [The Law in Changing Society], Kraków 1992; idem: *Prawo a dynamika społecznych przemian* [The Law and the Dynamics of Social Transformations], Kraków 1992.

⁵ S. Sołtysiński: “Dostosowywanie prawa polskiego do wymagań Układu Europejskiego” [Adjusting Polish Law to the Requirements of the Europe Agreement], *Państwo i Prawo* 1996, no. 4-5, p. 33.

In this context, it must be borne in mind that the permanent process of adjusting our law to the European Community standards may lead to a situation where reforming the law becomes an objective in itself, and not an objective serving the shaping of an active society, without which there can be no private market economy or democratic order.

Another inevitable consequence of such an orientation must be the domination of technocratic rationality over the rationality of individuals and the rationality of group actions. Social consequences of the domination of technocratic rationality in developed democratic societies were thoroughly analysed by J. Habermas.⁶ From those analyses we may draw a conclusion that although "law as the controlling medium" assaults and destroys the symbolic sphere of social reality, it creates, at the same time, a particular sense of order and safety guaranteed by structures of the state. Thus, we can say that in societies which have established social structure and a political scene, the positive and negative consequences of "law as the controlling medium" are, to a certain extent, balanced.

The same phenomenon is going to function differently in a post-communist society, with its unstable social structure and cultural system and changing political scene. In such an arrangement, technocratic rationality - due to various competing political options - easily becomes a conflictogenous factor, provoking different social disturbances. One of its manifestations is the formation in social consciousness of the feeling that social order is missing, which leads to increasing criticism of the law by the society, to a lack of confidence in its regulative power, and, consequently, to lowering the prestige of law. The low prestige of law - inherited from real socialism - is further stimulated by the process of systemic change.

Systemic transformation of a post-communist society is, thus, burdened with both experiences of the previous system and social perception of the normative disorder, which always accompanies radical systemic changes. The awareness that such a burden does exist may become a factor correcting the practices of state structures. However, in reality it does not. To prove the aptness of this thesis it is enough to look at the customs in our public life and at the changes occurring in our legal system and legal practice.

Works on reforming the law, undertaken in order to make it an instrument of systemic change, head in two directions. The first is to bring back to the law such instruments of the functioning of the market, forgotten in the previous system, as commercial law, exchange law or banking law. The second is the harmonisation of Polish law with European standards. This field of activity poses particular difficulties, both as regards legislation and the pro-European functional interpretation. Analysing those difficulties, S. Soltysinski concludes that: "Union patterns are sometimes transplanted to our legislation prematurely and without proper reflection".⁷

⁶ J. Habermas: *Theorie des kommunikativen Handelns*, Frankfurt a/M 1981, *idem*: "Law as Medium and Law as Institution" [in:] *Dilemmas of Law in the Welfare State*, Berlin-New York 1985.

⁷ S. Soltysinski, *op. cit.*, p. 38.

The recommended far-reaching actions, intended to modernise the existing legal system, inevitably cause such a system to be unclear, incoherent and unfinished. At the cognitive level, we can discuss whether such a condition of the law meets the fundamental requirements of a system. From the point of view of social behaviour it undoubtedly causes significant perturbations as regards, for example, legal consequences of the undertaken actions, which may, in turn, result in a feeling of insecurity.

Similar effects can be brought about by the non-cumulativity of the systemic changes which are being introduced. In our country, this is manifested in such phenomena as the irregularity of privatisation reforms (which suddenly stop or gain momentum) and a lack of normative decisions concerning the reform of local self-government - both those phenomena are connected with the principle of depoliticising the economy and decentralising the authority, a basic one in the context of systemic change; the temporariness of legal solutions, usually justified by economic and fiscal needs, as well as the inefficiency of institutions applying the law; the inconsistency of actions relating to the rights acquired by individuals; attempts to restrict human and citizens' rights (tapping telephone conversations, surveillance, passport restrictions); making use of the law in political games.

3. The conducted analyses lead to the conclusion that the transformation of a post-communist society is a particular kind of a natural social experiment, where the process of the autonomisation of the society coexists with the controlling action of the law, with all its imperfections.

In the light of the conceptions analysed above, there arises the fundamental question: to what extent is such a controlling action of the law accepted by the society, and to what extent does it meet the requirement of the providing the society with an opportunity to participate in systemic transformations.

The importance of those questions is even greater if we remember that, within just fifty years, Polish society underwent two systemic transformations, diametrically different from the viewpoint of axiology, which not only caused fatigue of the social material, but also evoked resentment connected with creating a new order. In this context, one should also be aware of the danger of the re-appearance of the habits, developed in times of real socialism, of contra-system activity or passive adaptation. Contra-system activity had two basic forms: a political opposition fighting for certain systemic axiology - even when the issue in question was so-called "socialism with a human face" - and actions undertaken in everyday life, modifying or breaking the existing law in force. This kind of a social creation of law was a particular method for defending oneself from the expansion of official law, created by a state that was gaining less and less authorisation from the society. According to such actions, the society defined illegal actions, rejecting asymmetrical control administered solely by the state political apparatus and demanding democratic social control over actions judged as illegal. The problems presented above enable us to conclude that Polish society in times of real socialism was, to a great extent, an active society, albeit its actions were directed against the system. Beyond any doubt, this kind of activity is not the right one for social participation in systemic changes.

The cognitive orientation presented above is evidently in opposition to the conceptions - frequently promoted in western literature - of post-communist society as "an anti-system" or "institutional and social vacuum".⁸ Those conceptions are complemented by an evaluation of economic transformations effected in Poland as "political capitalism",⁹ which suggests that it was designed, organized and implemented by a reformatory elite.

This evaluation is in contradiction to obvious facts of the active participation of Polish society in creating a market economy. Such social activity occurred even in conditions of real socialism, initially as quasi-market relationships, and later in a purely market form. Thanks to commercial tourism, developed on a large scale, and to profit-gaining work abroad, private capital was accumulated, remaining, in great part, beyond state control. The opposite process occurred as well: under state control, a conversion made by the nomenclature consisted in turning political resources into economic ones. W. Wasilewski writes: "The communist nomenclature managed to privatise itself, while controlling spontaneous and formalised processes of privatisation, dominated the emerging private sector and entered into the post-communist system as an economically privileged group".¹⁰ The above mentioned forms of economic activity, which occurred at the end of the period of real socialism in Poland, considerably weaken accusations - formulated in particular on the grounds of liberal conceptions - of creating a market economy *ex nihilo*.¹¹ The lack of a middle class in the social structure left by the communist system is not, in itself, a sufficient argument to justify the thesis that the transformations, discussed above, occurred solely as a result of legislative actions undertaken by subsequent political groups which modernised the existing system. The process of marketizing and privatising the economy in Poland began with spontaneous and organized actions of various social groups, and was much ahead of legislative work.

4. The theoretical problems and realities outlined above, concerning the law and the society in the period of systemic change, evoke the question: what kind of law do the Poles need in the process of the formation of a new reality? The said question has been formulated by the members of a Scientific and Research Team operating in the Institute of Sociology of Law at the Faculty of Law and Administration at the University of Warsaw.¹²

⁸D. Stark: "Od systemowej tożsamości do organizacyjnej różnorodności. Przyczynek do analizy zmiany społecznej w Europie Wschodniej" [From Systemic Sameness to Organizational Diversity. A Contribution to the Analysis of Social Change in Eastern Europe], *Studia Sociologiczne* 1992, no. 3-4.

⁹C. Offe: "Kapitalizm jako projekt demokratyczny? Teoria demokracji w obliczu potrójnego przejścia w Europie Środkowo-Wschodniej" [Capitalism as a Democratic Project? Theory of Democracy in Confrontation with Triple Transition in Central and Eastern Europe], *Studia Socjologiczne* 1992, no. 3-4.

¹⁰J. Wasilewski: "Formowanie się nowej elity. Jak wiele nomenklatury pozostało?" [Formation of a New Elite. How Much Nomenclature Remained?] [in:] *Ludzie i instytucje. Stawianie się ładu społecznego* [People and Institutions. The Making of Social Order], Lublin 1995, vol. I, p. 410.

¹¹J. Szacki: *Liberalizm po komunizmie* [Liberalism after Communism], Warszawa 1994.

¹²The members of the team, headed by A. Turska, are: Z. Cywiński, A. Kojder, T. Kozłowski, E. Łojko, W. Staśkiewicz, and M. Tyszką.

The question: what kind of law is needed by the society has a long tradition in the sociology of law; however, its meaning is ambiguous. Different answers were given, depending on the theoretical conceptions on whose grounds the question was formulated.

In the trend of the sociology of law, which studies the relationships between the law and the society, the answers indicated social factors of effective legal regulation and, consequently, processes of gaining social authorisation by the law in force. In this approach, the society is not an autonomous subject, but rather one that corrects the content of official law.

On the grounds of functionally oriented sociology, the same question was treated as aimless, since in this approach every society has such a law which it needs.

The systemic transformation in our country gives us a unique chance of ascribing new meanings to this question, meanings fundamentally different as to the cognitive nature of the provided answers. The society, as a co-originator of systemic change, is treated as an autonomous being. Having adopted this research intention, it was necessary to reject the classical analytical categories of the sociology of law, such as the intuitive law of the society, its sense of law, awareness of law or attitudes towards the law. Those commonly accepted research categories are an inadequate instrument for examining the perceptions of, and expectations as regards the law in the circumstances of systemic transformation. Such categories focus attention either on conditions fixed in the past, or on conditions pertaining to the distant future, instead of focusing it on the reality of an emerging new system.

Embarking on this survey project, we assumed that the answer to the question: what kind of law do the Poles need, requires an empirical identification of what an average Pole expects from the law, and of the needs of various social and professional groups. Such a conception of the survey made it possible to establish the content of the social perception of the existing law in force, and expectations as regards the law, connected with individual and group activity in the circumstances of systemic change.

The initial assumptions influenced the conception of a choice of survey samples and the content of individual survey instruments. The survey was conducted on a representative nation-wide sample of 1 000 respondents and three sub-populations: business-people, journalists and deputies (equal samples of 150 respondents each). The basic questionnaire was addressed to the nation-wide sample. The questionnaires for sub-populations contained a set of complementary questions that concerned expectations as regards the law, resulting from social and professional roles. In this set, we focused on the question whether the existing law in force made it easier or more difficult to function in a given role. The survey was conducted from 1994 to 1996.¹³

The conception of the survey presented above assumed that the society undergoes sudden differentiation in the first phase of systemic transformation. In public awareness, an overall manifestation of differentiation is the division into beneficiaries of the introduced change and those who bear its costs. We took this socially realized aspect of

¹³ In these analyses we are not going to present empirical data obtained from the questionnaire addressed to deputies, to be found in the statistical study.

differentiation into consideration as one of the factors conditioning both innovative potentials of various social groups and expectations as regards the law. The survey took account of such phenomena connected with the formation of a new social stratification as: the establishment of capital groups and a new middle class, and the process of re-defining the hitherto existing social and professional roles, whose vital consequence was moving up and down the social ladder. By way of example, we can mention the promotion of journalists as a so-called "fourth" power and the degradation of the working class - particularly that of big industry - measured in losing the previous economic, ideological and symbolic position.

Our survey assumed the ongoing structurogenic processes to be important factors conditioning the emergence of a greatly diversified world of values and interests, understood as objectives of activity. The research problem was, therefore, an attempt to answer the question how those objectives determine needs and expectations as regards the law as an instrument of systemic change.

4.1. The survey confirmed that the society expected the law to be an instrument in the hands of an individual striving to achieve his objectives determined by his social and professional roles, and an instrument used by the state in order to establish social order. As far as those two questions are concerned, the law in force received highly critical evaluations from the surveyed populations, although there were some enclaves of positive evaluations of the law as an instrument of introducing systemic changes, such as freedom of economic activity, freedom of speech or, broadly speaking, growing respect for human and citizens' rights.

In the findings we could ascertain the existence of areas of common needs as regards the law, so universal that it was possible to treat them as *communis opinio*. They included: the belief that the fundamental aim of the law is combating criminality and preventing it; disapproval of using the law with bad intentions, particularly by people in power and by the political elite; opting for such a model of the Constitution as to guarantee common availability of constitutional complaint; a highly critical evaluation of the efficiency of the law and a similar evaluation of the individual's influence on what is happening in the country. Those opinions were shared by 70 to 90 per cent of the surveyed populations.

The outlined area of *communis opinio* justifies the conclusion that in social consciousness the law has not lost the position of an important instrument of creating social order and safety. However, its present condition and methods of using it fall drastically short of the expectations of Polish society. One can even ascertain that the existing legal order is perceived as in a state of confusion, and evokes a sense of insecurity.

Comparative analysis of the distribution of the answers of the surveyed populations enables us to establish the possible relations between the type of adaptation to the introduced systemic changes and the nature of expectations as regards the law. Having identified two types of adaptation: active and passive, we will be able to look for such relations in further, deeper analyses. However, even at the stage of comparative analysis, we could establish visible differences between the type of adaptation and the disposition for ethos or pragmatic expectations as regards the law.

By comparing the answers of respondents from the nation-wide sample and those of business-people to the question: whose interests should be protected by the law in the first place, we established that an average Pole points out the sick, the poor, the unemployed or not very resourceful people twice as often as a businessperson. Yet, in both cases, the prevailing opinion is that the law should protect the interests of all citizens equally. A similar tendency can be observed as regards choosing such objectives of the law as teaching kindness and respect in interpersonal relationships. More than twice as many average Poles as business-people choose this objective from among other options. Another important finding is that in the hierarchy of the main objectives of the law, teaching kindness and respect in interpersonal relationships ranks third among the choices of an average Pole and sixth (last) among the choices of business-people. In the light of those data, we can state that such a purely ethos objective of the law finds definitely more supporters in the nation-wide population than among business-people. The latter, on the other hand, choose much more often such pragmatic objectives of the law as: teaching discipline and responsibility, resolving interpersonal conflicts, enabling the society to exert some influence on what is happening in the country.

When interpreting the findings, we should pay attention to the sense of insecurity of that part of society which did not manage to adapt to the new situation, a feeling which accompanies systemic changes. In such situations, there always appears the need to reduce anxiety. One may assume with high probability that fair law, based on autonomous values, fulfils this function.

What is the scale of this sense of insecurity in our society? It follows from the data obtained from the survey that every second respondent in the nation-wide sample, when asked about the chances of people adjusting to the new situation of Polish economy, either declared the lack of such chances or did not have any opinion. Business-people felt insecure much less often, since three-quarters were convinced that such chances existed; hardly any journalists suffered from a sense of insecurity: 90 per cent were optimistic in this respect.

Respondents from the nation-wide group were asked how people coped with the new economic situation. Their answers indicated predominantly various active and, at the same time, legal ways of finding additional sources of income; sometimes, different criminal methods were indicated and, to a very limited extent, passive forms tightening one's belt.

4.2. Diversification of the world of values and interests - determining needs and expectations as regards the law - is particularly visible in answers concerning an evaluation of the law from the point of view of the respondents' social and professional roles. The influence of social and professional roles is reflected, for example, in making choices between wide or limited legal regulation. According to our findings, all the surveyed populations opted for a wide scope of legal regulation, but there were marked differences among them. Nearly 80 per cent of respondents in the nation-wide sample were for wide legal regulation; among business-people this opinion was slightly less popular (63 per cent for, 25 per cent against), and among journalists the opinions evidently varied (40 per cent for, 37 per cent against). Apparently, an average Pole has

a much stronger tendency to accept wide legal regulations than the other surveyed populations, a fact which can be interpreted in the previously adopted convention as the result of a sense of insecurity and a hope that the law can reduce it.

The variable, which can explain opinions of business-people on the issue in question, is their attitude to the legal regulation of economic activity, closely connected with their social and professional role. When asked about the scope of a legal regulation of economic activity, 70 per cent opted for such a regulation to leave much freedom for arrangements between business partners. This prevailing option occurs together with a critical evaluation of existing legal regulations in the field of economic activity. According to 62 per cent of the surveyed business-people, the regulations in force make carrying on such activity very difficult; less than 20 per cent hold the opposite view. Thus, one can say that the preference of business-people for wide legal regulation is concerned with the global functions of the law in organising social life and, to a limited degree, with the regulation of economic activity.

An analysis of the evidently varied preferences of journalists concerning the issue in question, must take into account two factors. Firstly, functioning in this role does not require them to use the law on an everyday basis. One-third of the surveyed journalists claimed that the law did not have any influence upon their professional activity, and that it did not pose obstacles to performing their profession. Secondly, the journalist profession is traditionally connected with observing the principles of professional ethics and the ethos of serving the society, which explains great reluctance as regards wide legal regulation.

This interpretation finds confirmation in the distribution of the answers of journalists to the question about their behaviour in a situation of a clash between legal norms and the norms of professional ethics. The majority (47 per cent) of the surveyed journalists were in favour of observing the norms of professional ethics in such situations. On the contrary, the majority of business-people (46,7 per cent) opted for obeying legal norms in the same situation. This finding undoubtedly proves the influence of the variable connected with the social and professional role of the respondents.

The effect of this variable in the case of business-people is also manifested in justifications for choosing the option of observing norms of the law in force. The overwhelming majority (77 per cent) of those who chose that option argued that the law binds everybody and, therefore, has to be observed, and that it gives equal opportunities to the parties of a dispute. Much less frequently (13 per cent) they indicated missing or indefinite rules of professional ethics, as a result of which the law has precedence in the case of a clash. An interpretation of this preference should refer to Weber's analyses of the role of the law in the formation of capitalist economy, where he concluded that the formalism of the law and its overall nature set up a safe framework for effective economic activity. Paradoxically, the dominating view among business-people (86 per cent) is that the law in force cannot guarantee fast and successful execution of one's claims and, according to a vast majority (69 per cent), it does not guarantee safety and continuity of economic activity; yet this group discloses a need for the precedence of legal norms over the norms of professional ethics. Our findings

indicate the emergence, in the business environment, of a type of rationality typical for private market economy. This kind of rationality influences also the choices of a relatively stable law (45 per cent) or a frequently revised law, more adequate for the changing situation (38 per cent).

5. The direction of the systemic change towards a private market economy and democratic order requires the society to absorb a new type of rationality, motivating individual and group behaviour. The empirical material obtained from our survey gives us sufficient grounds to formulate the conclusion that such a social process has been started.

Social perception of the existing legal disorder - both as regards axiology and its instruments - forces Polish society to make continuous choices regarding at least three dilemmas: more or less law; relative stability of the law or its frequent revisions; a legalist attitude towards the law or a purposeful and manipulative one. The conducted analyses show that those dilemmas are particularly visible in the opinions of business-people, since functioning in that role requires the constant use of the legal regulations in force.

What conclusions follow from the presented analyses of empirical data? In an answer to this final question, I would like to first emphasise the two legible tendencies, which comprise social needs-expectations as regards the law. The first tendency is characterized by a pragmatic approach, although not deprived of axiological content, and concerned with the social usefulness of the law. The findings of our survey show that Poles are in favour of effective yet, at the same time, subjectivised law. Such pragmatism, not deprived of axiological content, corresponds well to G. Skąpska's analysis concerning the criticism of instrumental law. According to Skąpska, "if the law is to provide the basis for a dynamic social organisation, satisfy the social demand for freedom of the activity of social subjects, and guarantee safety and security of social relationships, then it cannot be simply an instrument in the hands of state organs".¹⁴ Such a form of pragmatic social attitudes as regards the law is far from pure instrumentalism. Analyses of the processes of the pragmatization of the consciousness of Polish society argue that the attitude towards the authorities depends increasingly upon their purely instrumentally understood efficiency.¹⁵ If the same does not apply to the law, then this can indicate that in social consciousness the law has remained a value in itself, and not only an instrument of action.

The second tendency displays ethos expectations as regards the law, conditioned, as we believe we have grounds to assume, by the phenomena of disorganisation, which always accompany profound systemic changes. In such circumstances, the inherent human tendency to look for universal values finds its expression together with the need

¹⁴ G. Skąpska: "Społeczna podmiotowość, ochronna funkcja państwa, autonomia prawa - trzy warunki demokratycznych przemian" [Social Subjectivity, Protective Function of the State, Autonomy of Law - Three Conditions of Democratic Transformations] [in:] *Filozofia prawa a tworzenie i stosowanie prawa* [Philosophy of Law and the Creation and Application of Law], Katowice 1992, p. 449.

¹⁵ M. Ziółkowski: "Pragmatyzacja świadomości społeczeństwa polskiego" [Pragmatization of the Consciousness of Polish Society] [in:] *Ludzie i instytucje* [People and Institutions], *op. cit.*, vol. 2, p. 42-43.

to diminish the sense of insecurity. In the circumstances of a society undergoing systemic change, this kind of expectations is characteristic for the individuals and social groups that could not find their place in the new situation. Such conditioning, resulting from a systemic change, does not allow the treatment of ethos attitudes in terms of an ideational attitude, as understood by F. Znaniecki.¹⁶ However, such attitudes undoubtedly fulfil important functions as a normative point of reference for critical evaluations of the content of the law and legal practice. Thus, they are an important element of reflections about the law in times of systemic change.

As a result, the two tendencies indicated above, which comprise social needs-expectations as regards the law, express the same trend of a subjectivisation of the law or, in other words, its autonomy in the political system. That leads us to a conclusion about the existence of a social need to “depoliticise” the law, in a meaning most primary and universal for legal culture, namely, that the law does not belong to the state or political elite, but is a value shared by all citizens who, within the framework of fair law, can successfully achieve their aims.

¹⁶ F. Z n a n i e c k i: *Nauki o kulturze* [Lessons on Culture], Warsaw 1971, p. 451.