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Old and new interpretations of legal naturalism

Stare i nowe interpretacje naturalizmu prawniczego

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Abstract:

The paper discusses the most important reasons for adopting legal naturalism as well as the relations between legal naturalism and various issues in general philosophy. Furthermore, the following perspectives of this conception of the study of law are investigated: philosophical, psychological, neuroscientific, economic, legal-philosophical and legal-dogmatic. Another discussed issue pertains to the benefits and risks of legal naturalism. The benefits surely include the construction of the models of naturalization of law which open jurisprudence to novel research methods. The risk is connected with the modification of the present standards of interpretation.

Keywords:

legal naturalism, legal philosophy, legal realism, law and psychology

Streszczenie:

W artykule podjęto dyskusję dotyczącą najistotniejszych przesłanek przemawiających za naturalizmem prawniczym, a także wskazano powiązania naturalizmu prawniczego z różnorodnymi problemami ogólnofilozoficznymi. Rozważone zostały również perspektywy tego nurtu refleksji nad prawem, wśród których wyróżnić można perspektywę filozoficzną, psychologiczną, neurobiologiczną, ekonomiczną oraz filozoficzno- i dogmatycznoprawną. Kolejnym wątkiem analiz są korzyści oraz ryzyka związane z przyjęciem naturalizmu prawniczego. Do korzyści z pewnością zaliczyć można stworzenie modeli naturalizacji prawa otwierających prawoznawstwo na nowe metody badań. Ryzyko związane jest natomiast z modyfikacją istniejących standardów interpretacyjnych.

Słowa kluczowe:
naturalizm prawniczy, filozofia prawa, realizm prawniczy, prawo i psychologia

1. Naturalism

Naturalistic conceptions of the world and knowledge are permanently present in the philosophy of the European cultural circle. Not only the European cultural circle, but also the ancient Indian philosophies or ancient Chinese philosophy had a naturalistic branch. Let us focus on the European philosophy though. In antiquity, the concepts of Democritus, Ionians, Epicureans and Stoics were definitely naturalistic. Naturalistic interpretations of certain views of Aristotle could also be included. Although Aristotle's realism was not naturalism, his conception allowed for a better understanding of certain versions of 'moderate naturalism.' The same is true of William Ockham and Thomas Aquinas. The first was a nominalist, the second an Aristotelian, and therefore a realist. However, they certainly were not 'hard' naturalists in the modern sense of the word. There is no doubt about the naturalistic nature of the philosophies of Francis Bacon, John Locke, George Berkeley and David Hume. Natualistic themes can be found in many other philosophical views of the modern period, usually not associated with naturalism (realism), for example, Blaise Pascal[1]. When it comes to contemporary philosophies one should mention Louis Feuerbach, early philosophical positivism, especially August Comte, John Stuart Mill and Herbert Spencer, then the so-called critical empiricism of Ernst Mach and Richard Avenarius, and finally the neo-positivism with its postulate of physicalism and naturalistic approach to ethics, in particular, the ideas of Moritz Schlick and Rudolf Carnap. The twentieth century is also the time of the emergence of naturalistic jurisprudence, which will be discussed in the next section.

It is worthwhile to consider the reasons for adopting. Is it the primordial human cognitive inclination, resulting from the evolutionary process in which some archetypal representations on the subject of being and cognition emerge, or perhaps something else? One way or the other naturalism not only was but still is an alternative to the idealistic approach to existence, cognition and values, an alternative not only to all varieties of metaphysics but also to all, widely understood, 'antinaturalistic' stances. A common premise for defining different varieties of naturalism is reductionism. Adopting a reductionist proposition in the sphere of ontology is equivalent to the acceptance of monism, and in epistemology with the acceptance of an extreme or at least moderate empiricism. On the other hand, I am quite skeptical about the various classifications and versions of naturalism. The most well-known is the classification into extreme (hard) naturalism, which assumes that there are no nonmaterial substances or properties (the ontological thesis) – the consequence of this assumption is the conviction that the only valid methods of acquiring knowledge are the empirical ones (epistemological thesis) – and

[1]Zaluski, W. Realizm Prawniczy Błażeja Pascala (2015), in: Stelmach, J., Brożek, B., Kurek, Ł., Eliasz K. (eds.) Naturalizm Prawniczy. Stanowiska.

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moderate (soft) naturalism, which for some in the field of ontology will mean taking a realistic view while for others a 'philosophy in the context of science'[2]. Next would be the classification of naturalism into ontological and methodological versions, and finally the notion of naturalism as opposed to antinaturalism. There is no doubt that most of these classifications are trivial. The reason for this is that, first of all, such classifications can be appropriately applied to most other philosophical positions. Therefore, I would advise against attributing them a greater role than a mere ordering of meanings.

Naturalism faces many objections. I would like to highlight three which are, in my opinion, the most important. The first one is related with the so-called naturalistic fallacy. This fallacy is discussed by George Edward Moore in the context of 'the open-question argument'. According to this argument, any naturalistic analysis of ethical (or, more broadly, normative) predicates must be somehow inaccurate. We make a naturalistic fallacy whenever we assume that a particular ethical quality is identical to a certain empirical quality on the basis of the premise that if something possesses one property, it also has the other[3]. The antinaturalistic argument, both non-evolutionary (Blaise Pascal, Gilbert K.Chesterton, John B.S. Haldane and C.S. Lewis) and evolutionary (in particular Alvin Plantinga) is based on the assumption that only a dualistic conception of the world is valid[4]. This argument is therefore directed primarily against ontological naturalism which assumes materialism. Finally, the third objection against naturalism pertains to the consequences of the classification into extreme (hard) and moderate (soft) naturalism. It is argued that the extreme naturalism which presupposes a monistic (materialistic) view on what there is does not accept intermediate solutions, and thus, in the view of the opponents of that position, can easily be undermined – by pointing out areas where the hard naturalistic analysis cannot be directly applied. Such a conviction was essentially the foundation of 'the open-question' and 'the suicide of thought' arguments. In turn, moderate naturalism is often

And finally, the reliability of our version of naturalism, regardless of whether it is extreme or moderate, will be determined by the quality and coherence of our philosophical justification rather arguments formulated from different ontological viewpoints.

[2]Heller, M. (1995) Możliwa jest filozofia w nauce?, in: Heller, M., Szczęście w przestrzeniach Banacha, Kraków, p. 17 and in: Załuski, W. Naturalizm jako samobójstwo myśli, article published in this volume.

[3]Stelmach, J. Błąd naturalistyczny i antynaturalistyczny w dyskursie normatywnym, in: Brożek, A., Brożek, B., Stelmach, J., (2013), Fenomen normatywności, Kraków, p. 197.

[4]Załuski, W. Naturalizm jako samobójstwo myśli.

accused of being 'blurry'. The critics point out that it is difficult and even impossible in some cases to indicate the boundary between moderate naturalism and moderate antinaturalism. Probably this is why some modern interpretations deliberately ignore this classification[5].

Ultimately, such disputes can never be resolved unambiguously. The proposed solutions will always be in line with the views of only one side of the argument. Why? Because any participant in this debate, regardless of whether he is a proponent of naturalist or antinaturalist approach, is appealing to different ontological and epistemological assumptions. Naturalism itself has always dealt well with objections, including the ones mentioned above. Extreme naturalism accepting a monistic vision of the world is easily defensible against both the 'open-question' and the 'suicide of thought' arguments[6]. The proponents of extreme naturalism point out that both arguments are based on the arbitrary assumption that the dualistic vision of the world is the only valid one. Opponents of naturalism, taking the perspective of ontological dualism, want to criticize another viewpoint, in this case extreme naturalism which advocates ontological monism. On the other hand, why could not we consider the arguments 'in the other direction', namely the 'antinaturalistic fallacy' and 'idealism as a suicide of thought?'[7] Moderate naturalism, on the other hand, is not controversial and can be relatively easily reconciled with other stances, even those competing with naturalism[8]. And finally, the reliability of our version of naturalism, regardless of whether it is extreme or moderate, will be determined by the quality and coherence of our philosophical justification rather arguments formulated from different ontological viewpoints.

2. Legal naturalism

Now it is time to address legal naturalism. Although it is not, in my opinion, a special case of naturalism as such, we must remember that the object of analysis is not the world as a whole but a certain, undoubtedly specific thing that is the law (the phenomenon of law). Legal naturalism, most often under the label of legal realism, can be described, and such interpretations prevail, as a 'third way' in contemporary philosophy and theory of law, being an alternative to the broadly understood law of nature and legal positivism. Less often legal naturalism is recognized as the 'second way' of modern jurisprudence. In this case, the object of attention is the very definition of law. According to legal naturalism (realism), 'law' is a certain empirical phenomenon (conglomerate of specific facts) and according to the antinaturalistic interpretations (both those referring to the law of nature and to legal positivism) 'law' and its essence is reduced to a ideally existing rule/norm or, what is ultimately the same, to a certain interpretative construct having only normative meaning[9]. Someone might claim that

[5]Eliasz, K. Naturalizm liberalny (2015), in: Stelmach, J., Brożek, B., Kurek, Ł., Eliasz K. eds. Naturalizm prawniczy. Interpretacje.

[6]Stelmach, J. O problemie prawdziwości norm inaczej; Brożek, A. Autorytet deontyczny i epistemiczny w sytuacji imperatywnej; Stelmach, J. A jeśli powinność nie istnieje?, in: Brożek, A., Brożek, B., Stelmach, J. Fenomen normatywności, p. 45, 55, 205.

[7]Stelmach, J. Błąd naturalistyczny i antynaturalistyczny w dyskursie normatywnym, p. 198.

[8]What is also highlighted in the conclusions of W. Zaluski in the article cited earlier.

[9]At the same time, I am aware that the substantial conceptions of the law of nature presuppose the possibility of reducing the norm to objectively existing values and consequently to a real

I make implausible simplifications similar to the previously criticised stigmatization of certain philosophical positions, but I am merely referring to the 'place' of legal naturalism on the map of the contemporary philosophy and theory of law. Particularly, I do not want to derive any further consequences from these distinctions. Therefore I want to limit the discussion on legal naturalism to an outline of views held in the twentieth-century philosophy and the theory of law.

The criterion for recognizing certain legal conceptions as naturalistic may be disputed. The well-defined conception of extreme legal naturalism will not cover all variations of moderate naturalism and vice versa. However, even adopting a broader definition may not be sufficient to determine whether certain legal conceptions may still be considered as naturalistic or not. These doubts include such philosophical positions as the School of Free Law, Critical Legal Studies and the Law & Economics movement.[10] In the legal literature, the term 'legal realism', which was generally given a broad meaning, was finally adopted. This concept denotes not only all naturalistic views on the law, but also at least some 'borderline viewpoints'.[11]

Legal naturalism is associated primarily with the American and Scandinavian legal realisms. However, this limitation seems to be insufficient. In the twentieth century jurisprudence, especially in Europe, the naturalist theme has appeared in many different legal conceptions, not always associated with the legal realism. First things first though.

At first it is worth mentioning that American legal realism can be interpreted in two ways: narrowly or widely. In the first case, we talk about the canonical school of legal realism which began with Oliver Holmes and John Ch. Gray, and whose most prominent representatives alongside those already mentioned, were Jerome Frank and Karl Llewellyn[12]. Considering this line of American jurisprudence more broadly, the sociological jurisprudence of Roscoe Pound can also be regarded as realistic and, taking into account some of the doubts noted above, also Critical Legal Studies and Law & Economics.[13] In both conceptions there are certain assumptions that are characteristic of legal naturalism, but we have to remember that they remained in strong 'ideological' opposition.[14] The former was far left and the second was definitely right-wing.

The number and diversity of conceptions of

existence.

[10]Stelmach, J., Sarkowicz, R. (1998) Filozofia prawa XIX i XX wieku, Kraków, p. 89, 175 and Stelmach, J., Brożek, B., Załuski, W. (2007) Dziesięć wykładów o ekonomii prawa, Warszawa, p. 11, 25.

[11]Of course the term 'legal naturalism' has also been and is used in law (theory and philosophical law) used, though much less frequently. For example: Stelmach, J. (1984) Naturalistyczny i antynaturalistyczny model teorii prawa, Legal Studies, p. 3–4; Leiter, B. (2007) Naturalizing Jurisprudence, Oxford; Woleński, J. Naturalizm w teorii prawa (2010), in: W poszukiwaniu dobra wspólnego. Księga pamiątkowa ku czci Profesora Macieja Zielińskiego, eds. Chodun A., Czepita S., Szeczecin, as well as numerous projects under the project Naturalisation of law.

[12]More on this subject is written by M. Gorazda in the article U źródeł amerykańskiego realizmu prawnego, published in the volume Naturalizm prawniczy. Stanowiska.

[13]Unger, R. M. (2005) Ruch studiów krytycznych nad prawem, Warszawa and Posner, R. A. (2003) Economic Analysis of Law, Aspen Publishers, Wolters Kluwer Company.

[14]First of all, both positions broke with the positivist conception of law as a perfectly valid norm. According to the views of the CLS representatives, law is a social phenomenon, a collection of real relationships, and for L&E advocates the law analysis can be reduced to economic analysis, and with some simplification, law can be interpreted as a set of relations or economic facts.

legal naturalism in European jurisprudence is astounding. Certain assumptions characteristic of legal realism can be found in the aforementioned school of free law, especially in the works of Hermann Kantorowicz and Stanisław Ehrlich[15]. Most often associated with the European legal realism, however, is still the Scandinavian school whose most prominent representatives were certainly Axel Hägerström, Karl Olivecrona and Alf Ross[16]. This is not the place, however, where the naturalistic reflection in the European jurisprudence ends. Attention should be drawn to the realism of the Russian philosophy and theory of law, to Leon Petrażycki's psychological theory, and finally to French and Italian legal realisms[17].

Naturalistic themes can be found in many other philosophical conceptions, which seem to have nothing to do with legal realism. For example, in the case of the positivist Herbert Hart when it comes to his understanding of the rule of recognition, or Arthur Kaufmann, the advocate of legal hermeneutics who considers the case of 'specific law' dependent on the empirical context[18].

According to legal naturalism (realism), 'law' is a certain empirical phenomenon (conglomerate of specific facts) and according to the antinaturalistic interpretations (both those referring to the law of nature and to legal positivism) 'law' and its essence is reduced to a ideally existing rule/norm or, what is ultimately the same, to a certain interpretative construct having only normative meaning.

For some reason, the twentieth-century project of legal naturalism has not been completed. There are probably many reasons for departure from naturalistic positions which where especially popular in the seventies of the previous century. I want to try to list some of them. The first of these is the inconsistency of some con-

[15]In Polish literature the unfortunate term 'free law school' or 'school of free jurisprudence' has been adopted, in German literature Freirechtsbewegung or Freirechtslehre having slightly different meaning were used.

[16]More on this subject is written by K. Eliasz in the article Obowiązywanie prawa w ujęciu skandynawskiego realizmu prawnego published in: Naturalizm prawniczy. Stanowiska.

[17]J. Stanek writes about Russian legal realism in the articles Rosyjski realizm prawny and Teoria Nikołaja Korkunowa – pierwsza próba psychologicznego ujęcia prawa; B. Brożek writes about Petrażycki, Emocje jako fundament prawa. Uwagi o teorii Leona Petrażyckiego and A. Brożek, Leona Petrażyckiego wizja logiki adekwatnej; about the French legal realism in turn W. Załuski in the already mentioned article (ref.1), and about the Italian realism A. Serpe in the article: W perspektywie realizmu. Norberto Bobbio o prawie, polityce i demokracji. All these articles are published in Naturalizm prawniczy. Stanowiska.

[18]Stelmach, J. (2001) Reguła uznania, in: Stelmach, J. (ed.), Studia z filozofii prawa, Kraków, Vol. I, p. 63.; Kaufmann, A. (1986) Vorüberlegungen zu einer juristischen Logik und Ontologie der Relationen. Grundlegung einer personalen Rechtstheorie, in: Rechtstheorie, Vol. 17, p. 258.

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ceptions of legal naturalism. There was no perseverance in the construction of particular theories. I am referring in particular to the proper connection of naturalistic ontology of law and legal epistemology. Even if this condition was fulfilled, as it was the case with Petrażycki's conception, we can see that his understanding of psychology did not stand the test of time. The second reason for the decline in the interest in legal naturalism was the change of the 'existing paradigms', in particular the turn towards the analytical research on law which was made primarily in the European philosophy and theory of law, precisely in the seventies of the last century. The last reason that comes to my mind, perhaps the most important one, is the indifference of 'old naturalism' to new, legally related and naturalistic ideas developed in philosophy, psychology, neuroscience and economics. The few attempts to renew the naturalistic thinking in contemporary Western philosophy and theory of law have not been so successful so far. The best example of this may be the version of legal naturalism presented in a recently published book by Brian Leiter[19].

3. Perspectives of legal naturalism

I would like to discuss five different possible directions of the development of legal naturalism, namely philosophical, psychological, neuroscience, economical, as well as legal-philosophical and -dogmatic perspectives.

First, a brief commentary on the 'philosophical perspective'. It is definitely possible to construct an ontologically and epistemologically coherent conception of law that utilizes the achievements of contemporary naturalist-oriented philosophies. We can imagine at least a few different philosophical variants of such a 'new legal naturalism'. In the first place we can use the so-called 'cognitive philosophies', then all those that use the findings of modern biology and medicine. Let us remember the theories quoted move in areas that are also exploited by the naturalistically oriented psychology and neuroscience. The boundaries between particular types of reflection, here called 'perspectives', are often blurred. And finally, we can also reach for 'postmodernist philosophy' which definitely includes naturalist themes[20].

Another perspective of legal naturalism is the 'psychological' perspective. And in this case we certainly have the opportunity to build a coherent, ontological and epistemological, naturalistic theory of law that refers to findings of modern psychology. Essentially, at least some of such psychologically-oriented conceptions of legal naturalism which will refer either to psychological theories proposed by cognitive psychologists, which also includes evolutionary psychology, or to psycholinguistics and cognitive linguistics[21].

It would also be worthwhile to consider the

[19]Leiter, B. (2007) Naturalizing Jurisprudence. Essay on American Legalism and Naturalism in Legal Philosophy, Oxford. This work is essentially a collection of essays published over the last 17 years. It is difficult to build a coherent conception of legal naturalism on the basis of these essays.

[20]Postmodernism is attributed to Critical Legal Studies which was already mentioned in relation to naturalist (realistic) philosophies of law. In addition to CLS, Morawski also mentions ethnic, feminist, ecological and literary theories of law, and in a broader perspective, also communitarian and neopragmatic positions. At least some of these concepts, such as feminist and ecological ones, can certainly be interpreted in a naturalistic way. See Morawski, L. (2001), Co może dać nauce prawa postmodernizm?, Toruń, p. 35.

[21]We have many different divisions and systematisation of psychological theories. Therefore I would not like to give too much importance to the division proposed in the text.

conception of legal naturalism which takes into account the 'perspective of neuroscience'. In this case we could refer to either one of the two basic approaches to neuroscience, or to one of the three fundamental paradigms within this science. The first approach (narrower) would be used to build a model of the naturalisation of law on the basis of neurobiological theories. On the other hand, the second view (broader) could also take into account findings other than just the ones pertaining to the human brain, particularly philosophical and psychological theories. In addition, we would have to choose at least one of the three basic paradigms of neuroscience, namely the computer paradigm, the evolutionary paradigm and the so-called paradigm of embodied-embedded mind[22]. The computer paradigm includes, but is not limited to, connectionism – which boils down to the modelling of cognitive processes by tools such as artificial neural networks. The next paradigm of neuroscience underlines the role of evolutionary psychology. The last one refers to the 'embodied mind' and the 'mind embedded in culture and social interactions'[23]. When considering the perspective of neuroscience, we clearly see its close relationship with the two previously commented perspectives of legal naturalism, namely the philosophical and psychological. These interrelations and dependencies are very well illustrated in Mateusz Hohol's work cited earlier.

Economy is the another perspective of legal naturalism. In this case we have to deal with a specialized type of reflection on law that will use economic methods. On the other hand, it can be argued whether the methods of the economic analysis of law can be interpreted in a naturalistic way. Probably most of them can, because many of them are connected withthe developments in the field of cognitive psychology. This is the case with the concept of *homo economicus* which is of a fundamental importance for the economic analysis of law[24].

The construction of a naturalist conception of law that takes into account the achievements of contemporary philosophy of law and legal dogmatics means adopting a different perspective than the four preceding cases, namely 'the internal perspective of law.' This does not mean, however, that in attempting to build a naturalistic philosophy of law or naturalistic legal dogmatics we are going to turn down achievements of philosophy, psychology, neuroscience and economics, limiting ourselves to purely legal analysis and research. Not at all! The starting point would just be different. It would always be the valid law, a specific system of law or a specialized legal field. The next steps, pertaining to the construction of the naturalistic model of law, not only could but should take into account relevant findings of the aforementioned scientific disciplines, regardless whether lawyers like it or not. Taking into account the developments in the contemporary philosophy, psychology, neuroscience and economics, I believe that further isolation of jurisprudence from these disciplines is simply impossible.

Finally, I must say that I am referring here to the 'perspectives of legal naturalism', that is the possible directions of the development

[22]More on Paradigms of Cognitive Neuroscience, in: Hohol, M. (2013) Wyjaśnić umysł, Kraków, p. 85.

[23]Ibidem, p. 88–89, 113–125, 125–153.

[24]Similar stance is presented by W. Zaluski in his monograph devoted to the use of game theory in the field of law. See Załuski, W. (2013), Game Theory in Jurisprudence, Kraków, and in particular, Epilogue, Law and Economics and the Project of the Naturalization of Law, p. 289.

of naturalistic conceptions of law and not the existing conceptions. It is worth mentioning, however, that recently Polish philosophers of law have made extremely promising attempts , unlike those undertaken in the West, for example by the critically acclaimed Leiter, to build naturalistic interpretations of law that take into account 'new' perspectives: philosophical, psychological, neuroscientific and economic. I mainly refer to the works of two authors, Bartosz Brożek and Wojciech Załuski. The first studied legal naturalism from the perspective of contemporary philosophy and neuroscience. The second focused his attention on other perspectives of legal naturalism, namely the psychological perspective, more specifically the perspective of evolutionary psychology, and on the economic perspective – especially the game-theoretic one[25].

4. Benefits and risks

First, I would like to discuss two, in my opinion, most important benefits of adopting a naturalistic view of law. The first benefit would be the creation of new specialized models of the naturalisation of law which would allow for a slightly different approach that the standard theories do not offer – a broader legal framework and, consequently, opening of juriprudence to new methods of investigation and interpretation. In the era of further technological and scientific revolutions, in the era of global civilization, holding on to the existing legal paradigms seems to me, as I have already noted, completely groundless.

In the era of further technological and scientific revolutions, in the era of global civilization, holding on to the existing legal paradigms seems to me, as I have already noted, completely groundless.

The second benefit consists in determining the fields of application of these models and thus demonstrating their practical usefulness. This would allow, among other things, to redefine many basic concepts from the legal dictionary such as 'ownership', 'action', 'will', 'responsibility', 'guilt', 'consciousness', 'sanity' and 'error'. Let us note that definitions and concepts developed and adopted at the turn of the nineteenth and twentieth centuries, during the period of great codifications and of fundamental importance for the continental system of law, referred to the findings of the psychological theories of the day, which today are simply considered as false. Sooner or later something needs to be done with this anyway!

It is now time to discuss the potential risks associated with the adoption of new models of legal naturalisation. I would point out at least two such risks.

[25]Brożek, B. (2012) Normatywność prawa, Warszawa; idem, Rule-Following Kraków 2013 and Załuski, W. (2009) Ewolucyjna filozofia prawa, Warszawa, English version: Elgar, E. (2009) Evolutionary Theory and Legal Philosophy and Game Theory in Jurisprudence.

The first of them pertains to a change or a substantial modification of existing interpretative standards. The adoption of a 'new' naturalistic paradigm would, in particular, violate the generally accepted 'principle of interpretive inertia'. This principle states that without important reasons, the previously adopted and applied standards and interpretative practices should not be changed[26]. Lawyers do not like changes; they are, as far as cognitive habits go, an exceptionally conservative group of professionals. Hence the great importance of the 'principle of inertia' in the study and practice of law. Proceeding in accordance with this principle, according to its supporters, ensures both the stability and security of the legal practice as well as the whole of social life. I am convinced that in many interpretative cases which we deal with within the law, we can and even should follow the principle of inertia. However, it cannot be considered as valid in all interpretative situations. The principle of inertia is both an expression of longing for cognitive stability in the legal field, as well as a manifestation of conservatism or even of juridical opportunism. In no case can we, on the basis of this principle, justify indifference to what is novel in comparison to the previously accepted and adopted solutions.

The second risk of adopting naturalism, very closely related to the first one, is the possibility of causing a state of uncertainty in law, resulting from novel naturalistic solutions[27]. Lawyers raising this objection point out that advocating a naturalistic solution could lead to cognitive relativism in the legal field. This state of uncertainty would be primarily a consequence of the redefinition of the basic legal concepts and the opening law to new interpretative methods developed in the fields other than jurisprudence, i.e. philosophy, psychology, neuroscience and economics. In my opinion these are certainly unjustified fears. Enriching legal interpretation with non-legal themes can only bring benefits leading to greater certainty in the area of lawmaking and its application. Particularly today it is necessary to update the legal knowledge. In other words, to adapt it to the data provided by all those disciplines that deal with issues relevant in the legal context. Therefore, perhaps the only way to a real and profound 'modernization of jurisprudence' would be precisely the way which legal naturalism points to.

[26]The 'principle of inertia' was explored by, among others, Chaim Perelman. See Perelman, Ch. (1979) The New Rhetoric and the Humanities. Essays on Rhetoric and its Applications, Dodrecht-Boston- London, p. 131; idem (1980) Justice, Law and Argumentation. Essays on Moral and Legal Reasoning, Dodrecht-Boston-London, p. 159.

[27]Brożek, B. Pewność prawa jako stabilność strukturalna and Stelmach, J. Czy interpretacja prawnicza może być gwarantem pewności prawa?, both articles published in: Forum Prawnicze 2011, No. 6, p. 23 and 17.

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[2] Brożek, A. (2015). Leona Petrażyckiego wizja logiki adekwatnej, in: Stelmach, J.,Brożek, B., Kurek, Ł., Eliasz, K. (eds.), Naturalizm prawniczy. Stanowiska, Warszawa: Wolters Kluwer, p. 266–283.

[3] Brożek, B. (2011). Pewność prawa jako stabilność strukturalna. Forum Prawnicze, 6, p. 23–29.

[4] Brożek, B. (2012). Normatywność prawa. Warszawa: Wolters Kluwer.

[5] Brożek, B. (2013). Rule-Following. From Imitation to the Normative Mind. Kraków: Copernicus Center Press.

[6] Brożek, B. (2015). Emocje jako fundament prawa. Uwagi o teorii Leona Petrażyckiego, in: Stelmach, J., Brożek, B., Kurek, Ł., Eliasz, K. (eds.) Naturalizm prawniczy. Stanowiska, Warszawa: Wolters Kluwer.

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