RESPONSIBLE SOCIETY AND PRIVATE LAW

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Abstract: *This paper deals with the current global situation of and with actual trials arising from it for different branches of human activities. In particular, the paper inquires about the possible role of private law to become the integral part of the process of essential changes of the human society. In authors opinion, the answer to this question should be affirmative. Author considers the relatively broad potential of private law to contribute to the further development of (not only Czech) society towards the achievement of both social and environmental dimension of society, in other words, towards the "responsible society". Subsequently, author considers, how the different parts of the structure of the private law can contribute to the achievement of this goals.*

Keywords: *ecological responsibility; social responsibility; integral ecology; responsible private law; global risks*

1. FROM INDIVIDUALISM AND ANTHROPOCENTRISM TO SOCIAL RESPONSIBILITY, INTEGRAL ECOLOGY, AND UNIVERSAL HARMONY

The present time hardly leaves anyone in doubt that not only society, but the whole world, are in a global crisis that brings severe trials for humanity. At the same time, it seems to be clear that isolated individuals cannot cope with this situation, as it requires joint, coordinated, and conceptual efforts of all. In this way, the paradox of the present time takes on special significance: a highly organized society, interconnected by innumerable existential ties, is built on the principles of individualism, liberalism, and merciless competition. The transition from individualism and anthropocentrism towards integral ecology and universal harmony thus becomes a requirement of the present times.

The process of dealing with this challenge must also take a normative form which will be given to it by the legal order. Therefore, lawyers should be at the forefront of efforts in this process.

Which parts of the legal order are by nature determined to support this process, or at least not to hinder it? Do they include private law? Most experts give public law the role of a possible active regulator active regulator of social and economic changes and refuse to make private law an actor in the possible regulation.[1] However, the situation is changing: an increasing part of society links the possibility of truly effective changes in human behavior towards the outside world with changes in society itself. However, such changes cannot include only the relationship between an individual and the public power, but they also must include a complex reorganization of society and a new adjustment of the

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[1] Cf., among others, an authoritative evaluation of the first five years of the effectivity of the recodified Czech Civil Code in the following article: BEZOUŠKA, P. et al. Pět let poté: Nové soukromé právo v předškolním věku. *Právní rozhledy*. 2019, No. 1, pp. 1–9.

individual and social dimensions of our (co) existence.[2] Thus, private law becomes an active factor in social and environmental changes. These changes necessarily affect the core of legal systems such as private law which forms the basic starting points and goals, values and institutional tools for the implementation of law.

It is a kind of a new look at the everlasting old question. Throughout the history, private law has repeatedly faced the dilemma: Should it be a vector of the development of society or a mere scalar, not defining the direction and not evoking a move forward? In accordance with the logic of the dilemma, two possible directions of development and two "settings" of regulatory functions of private law are reactions to it. These are:

- declaring the inert role of private law (liberalism, individualism: see the Explanatory Memorandum to the Civil Code of 2012);
- examining the stimulating and presently general ecological role of private law (as indicated by some research),[3] and taking real, albeit partial, steps to materialize this role.[4]

It is remarkable how in the current, increasingly heated debate concerning social and environmental threats to the civilization, the private law science and practice are fixed in their liberal and individualistic approaches. Private law holds these positions despite completely different ideas of the current social debate: from a socially oriented response to the depletion of the planet's resources calling for a redistribution of global resources and assets, through ecological global sustainability and saving the planet's ecosystem, to the latest complex ideas of ecological responsibility.

The ideas have been proclaimed, but, as such, they do not have yet identifiable content and scope. Therefore, it is necessary:

(a) to set out the objectives to be achieved; and

(b) to lay down the procedure and means to achieve them.

2. FROM THE SOCIETY OF PROTECTION OF THE GOOD TO THE WORLD OF RISKS

Today's society has been thrown (or better, it has thrown itself) into the very epicenter of global risks. For a long period of the modernity, property structure based on inviolability

[2] Cf. HURDÍK, J. Jsou či nejsou občanský zákoník a občanské právo nástrojem řízení společnosti? (Sind das Zivilgesetzbuch und das bürgerlliche Recht Mittel der Gesellschaftsteuerung oder nicht?) In: M. Jurčová – R. Dobrovodský – Z. Nevolná – J. Štefanko. *Liber amicorum Jan Lazar.* 1st ed. Trnava: Typi universitatis Tyrnaviensis, 2014. pp. 287–302. Cf. also HURDÍK, J. Sociální normy soukromého práva a jejich místo ve struktuře soukromého práva. *Právny obzor.* 2018, Vol. 101, No. 5, pp. 431–454.

[3] Cf., among others, MICKLITZ, H. W. *The many concepts of social justice in European private law.* Cheltenham, UK, Northampton, USA: Edward Elgar, 2011. LAZAR, J., GAJDOŠOVÁ, M. (eds.). *Sociálna funkcia práva a narastajúca majetková nerovnosť (Social Function of Law and Growing Wealth Inequality).* Trnava: Typi Universitatis Tyrnaviensis, 2018, pp. 263-269; the project of the Law Faculty in Trnava APVV č. APVV-14-0061 „Rozširovanie sociálnej funkcie slovenského súkromného práva pri uplatňovaní zásad európskeho práva."

[4] Although not all of them are straightforward and essential: for example, in an interestingly misleading way, the popular mantra of "social responsibility" currently functions in corporate law, used to beautify the view on otherwise essentially selfish behavior of large business corporations. Cf.: Společenská odpovědnost firem a její certifikace. In: *EURO CERT CZ* [online]. [2020-02-06]. Available at: <https://www.eurocert.cz/certifikace/cz/spolecenska-odpovednost?utm_source=seznam&utm_medium=cpc&utm_campaign=certifikace>.

was the basis of society and the protection of various forms of the good was crucial. Protection against risks is still derived from the protection of various forms of the good and it has not its own functional system, protecting the whole society from consequences of enormous risks. However, the state of the present society is in line with studies pointing out threats of increased risks, their perceptibility and analyzability, and the possibilities of solutions based on changing the primary role of the distribution of the good to the necessity of the distribution of the evil. The basic political debate focused on equality in society thus changes on a debated focused on the central role of security.[5]

3. SENSITIVITY OF PRIVATE LAW TO CHALLENGES OF SOCIAL RESPONSIBILITY AND INTEGRAL ECOLOGY

Legal systems, and private law in particular, have traditionally manifested a considerable degree of indifference to the challenges of the present time, and this situation remains the same even in states of the greatest threat: as they say "it surely does not concern private law".

Private law is considered the guardian of permanent values. From the historical point of videw, "permanence" usually means several centuries: the last European set of values was legislatively fixed two centuries ago at the beginning of the period of modernity.

In liberal individualism, these permanent values are mostly considered to be connected with an individual and his individual interests. However, this is a limited view: the content and scope of the operation of private law is defined not by private law itself, but by its systemic classification into the relevant higher level of the legal order. In this sense, private law is an area of regulation in which direct and ex officio interventions of public authorities in regulated social relations are not applied. The private law boundaries end at the boundaries of public law with its regulatory method of direct exercise of public power. In the systemic view, private law does not only include relations among individuals, but basically all relations within a given society, if they do not belong to public law (and at the same time, if from the point of view of the lawmakers, they require legal regulations). It is then a matter of the legal doctrine, the legislator and "the law in action", whether these "non-inter-individual" relations, which appear to be a "by-product" of relations among individuals, will be perceived, respected, and regulated, or whether they will be ignored, or deliberately excluded from the legal regulation.

The recodification of **Czech private law** pointed out:

a) refusal to become a tool for managing social processes[6] and refusal to enshrine the liability of persons towards society[7]

b) to set as its starting points and regulation bases:

a. ideological and economic liberalism;

b. individualism

c. anthropocentrism.[8]

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[5] Cf. KELLER, J. Riziková společnost. *Právo*, 4. 4. 2020, p. 6.
[6] Cf. ELIÁŠ, K. et al. *Nový občanský zákoník s aktualizovanou důvodovou zprávou.* Ostrava: Sagit, 2012, pp. 41–42, 49.
[7] Ibid., p. 49.
[8] Ibid., pp. 49–51.

This is how the system of private law and its functioning is now set. If we want to sense signals or tendencies of change, we will find them in some socially oriented law development projects[9] and in institutions that deal with the social dimension of law.[10] Unfortunately, together with studies and projects dealing with the above-mentioned development there are also trends in law in Europe declaring the demise of the welfare state which has allegedly exhausted its economic and organizational capabilities and proved its inability to have a competitive potential against socially unlimited liberalism in the rest of the world.

It is a kind of paradox that the makers of the Czech Civil Code declared it to be anthropologically based at the same time when the social and ecological teaching of the Catholic Church, especially through Pope Francis, purposefully began to argue against the "despotic"[11] and "perverted"[12] anthropocentrism, justifying "man's greed" for absolute domination of the Earth.[13]

Also, at the same time as the civil lawmakers proclaim autonomy of will as the main pillar of private law, Pope Francis warns that "human freedom can provide its intelligent contribution to positive evolution, but it can also bring new harms, new causes of suffering, and moments of real regression."[14]

At the time when the Civil Code puts individualism on the pedestal, Francis points out: "If we are able to overcome individualism, we can really create an alternative lifestyle and a fundamental change will be possible in society."[15]

It is true that various concepts and studies are being made to cope with the emerging global threats. However, it is also true that few concepts have had a chance of being generally supported. In this spectrum of visions and projects, there is an exception from which we have already quoted above: it is the Catholic church that has long been developing a social conception (including social responsibility) and a following ecological conception, probably most urgently summarized in the already mentioned encyclical *Laudato si'*.

Just as the Civil Code, the social and ecological teaching of the Church (significantly developed from the pontificate of John XXIII, through Paul VI, John Paul II, Benedict VI, to Francis, who developed it into a comprehensive form and, above all, updated it) is based on a certain way of perceiving the world and the place of man in it, projecting them into a set of initial values, on which it is based and which it pursues as the goal and meaning of human existence. Human existence is seen to be deeply integrated in the world order. Although man has a special position in this order, this position is not isolated from the world and its order but is an integral part of it. Human existence is subordinate to the higher order of the world, on which it is based, in which it exists, and which creates the

[9] Cf. the project: SOCIAL JUSTICE STUDY GROUP. Social Justice in European Contract Law: A Manifesto. *European Law Journal*, 2004, Vol. 10, No. 6, pp. 653–674.

[10] For example, activities of the European Institute in Florence, especially those led by H. W. Micklitz, or the project APVV of the Law Faculty, Trnava University, in 2017-19 č. APVV-14-0061 "Rozširovanie sociálnej funkcie slovenského súkromného práva pri uplatňovaní zásad európskeho práva".

[11] *Encyklika Laudato si'*. Praha: Nakladatelství Paulínky, 2015, p. 45.

[12] Ibid., p. 46.

[13] Ibid., p. 49.

[14] Ibid., p. 51.

[15] Ibid., p. 129.

meaning of human existence. "Happiness" and the right of man to pursue it, as enshrined in the modernist concept of private law and in § 3 Para. 1 of the Civil Code 2012, is in this sense an expression of misunderstanding the logic of the world, an expression of reductionism and anthropocentrism. Real happiness is not an end in itself or causa finalis, but man experiences it after being able to understand the world order and fulfill its meaning.

In this sense, the social and ecological teaching of the Church considers anthropocentrism in its "perverted" reductionist form to be wrong: It does not reject the role of man in the world, but it rejects its absolutization, denying the external determinants of human existence. "Misguided anthropocentrism causes misguided lifestyles."[16] "When a person puts himself in the center, he eventually gives absolute priority to his secondary interests, and everything else becomes relative. It should not be therefore surprising that this relativism develops in persons who consider anything irrelevant if it does not serve their own immediate interests. There is a certain logic in that, and it allows us to see how various attitudes, strengthening one other, lead to environmental devastation and social decline."[17]

4. POSSIBILITIES OF PROJECTING THE CONCEPTS OF SOCIAL AND ENVIRONMENTAL RESPONSIBILITY TO PRIVATE LAW

If we want to make private law a space for and an instrument of a change towards a responsible society, it is necessary to understand its image above all: "If we change the image of the world that is in us, we are able to change the world as well."[18]

It would probably be unfair towards private law to say that it generally does not accept calls for changes. In this respect, private law has some outputs aimed at the conceptual identification of itself. During the discussions on the needs of changes in private law, taking place since the first half of the 20th century, several models were introduced, leading to the socially responsible functioning of private law. Even if socialist models are being rejected at present, the beginning of the 20th century was characterized by "socialization" of private law as a whole, expressed for example in the concept of the 1900 German Civil Code (BGB).

During the 20th century, a discussion about modernization private law developed especially in French law, being summarized by authors such as Bruno Oppetit[19] or, in terms of sociology of law, by Jean Carbonnier.[20] In Central Europe, the model of the so-called flexible system developed by Walter Wilburg[21] and its application in the field of private law, which found its use in the current models of some private law institutes, received a great response. It is of considerable importance to us that this system, in a way turning the algorithm of deriving legal (especially legislative) solutions upside down, was reflected

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[16] Art. 80. AAS 105 (2013), 1053 [česky Praha, Paulínky 2013].78.

[17] *Encyklika Laudato si'*. Praha: Nakladatelství Paulínky, 2015, pp. 77–78.

[18] HARMAN, W. *Global Mind Change: The Promise of the Last Years of the Twentieth Century.* Indianapolis: Knowledge Systems, 1988.

[19] OPPETIT, B. *Droit et modernité.* Paris: P.U.F., 1998, pp. 299.

[20] CARBONNIER, J. *Flexible droit. Pour une sociologie du droit sans rigueur.* 8e édition. Paris: L.G.D.J., 1995, pp. 441.

[21] WILBURG, W. *The Development of a Flexible System in the Area of Private Law. Translated by Hausmaniger, H.* Wien: Mansche Verlags- und Universitätsbuchhandlung, 2000, pp. 22.

in the current European concept of private liability, and thus started changes in private law in its currently central point, i.e. liability.

Given the relatively small practical impact of earlier internal reforms of private law, it is primarily necessary to consider whether social, or environmental objectives, which can be achieved by private law as a whole using its standardized tools, may be (re) set to implement conceptual social transformations.

The author has already dealt with this topic in several papers,[22] but it was more general, focusing on the social dimension of private law and not reflecting its highly current modification aimed at building a primarily responsible system of private law, which is the main subject of this study. He takes into account, in particular, the classical types of justice, their potential and use through private law, and comes to this conclusion: out of the possible types of justice, only distributive justice is capable of bringing about a change in the form of redistribution of the good by legal means. However, it is precisely this justice that has only a marginal application[23] in the current private law, and moreover, the redistribution of the good is still a categorically unacceptable tool of reform[24] from the viewpoint of economic science. However, the call for distributive justice, especially in the case of incomes of the population, seems to be gaining a momentum: there are both more comprehensive calls for a jointly responsible society[25] and concretely based projects, already taking shape in some countries, such as the introduction of the basic unconditional income for all people.[26]

5. THE POTENTIAL AND LIMITS OF PRIVATE LAW

The knowledge and challenges of social and environmental responsibility also fundamentally influence the established **starting points and paradigms** on which the whole system of private law is built:

6. THE VALUE BASIS OF PRIVATE LAW

While the current value system in its functional form may be presented as:

1) being based on the pre-legal human freedom, which was not predetermined,
2) restricting human freedom for the duration of its existence only minimally, and if so, only by limits arising from individual interests of other people, and

[22] HURDÍK, J. *Sociální normy soukromého práva a jejich místo ve struktuře soukromého práva.* pp. 431–454.

[23] Ibid. also HURDÍK, J. Spravedlnost občanského práva. In: J. Lazar – M. Gajdošová. *Sociálna funkcia práva a narastajúca majatková nerovnosť (Social Function of Law and growing Wealth Inequality).* 1st ed. Trnava: Typi Universitatis Tyrnaviensis, 2018. pp. 165–180, 16 s.; see also: Trendy pojetí spravedlnosti v soukromém právu hmotném a civilním procesu. In: M. Večeřa – J. Hurdík – M. Hapla et al. *Nové trendy v soudcovské tvorbě práva.* 1. edition. Brno: Masaryk University, 2015. pp. 97-120, pp. 24. Spisy Právnické fakulty Masarykovy univerzity, edition Scientia, Vol. No. 541.

[24] Cf. e.g. ŠICHTAŘOVÁ, M. Budou se rozdávat peníze. Dostane každý! In: *sichtarova.blog.idnes.cz* [online]. 28. 2. 2020 [2020-03-30]. Available at: <https://sichtarova.blog.idnes.cz/blog.aspx?c=746252>.

[25] Cf. DOKUMENT: Bez solidarity není imunity. In: *Reflex* [online]. 15. 5. 2020 [2021-07-14]. Available at: <https://www.reflex.cz/clanek/politika/101222/dokument-bez-solidarity-neni-imunity.html>.

[26] Cf. probably the most important German experiment of the basic unconditional income. Pilotprojekt Grundeinkommen. In: *Pilotprojekt Grundeinkommen* [online]. [2021-07-14]. Available at: <http://pilotprojekt-grundeinkommen.de>.

3) ending with a balanced position of man in society as a member of society, without other connotations and contexts;

then a socially and ecologically responsible system:

1) is based on the order of the world of which man is only a part and which conditions his primary freedom;

2) subordinates the role of man in this world not only to a socially responsible order but to a higher, ecologically responsible order,

3) ends with the fulfillment of the integrally ecological role of man in this world of "people and things".

7. PRIVATE LAW TECHNIQUES

Methods and institutes of private law have seemingly unshakable personal and property foundations, but they are also subject to changes. In terms of the normative impacts of the concept of social and environmental responsibility on the private law regulation, two basic areas are emerging – a new concept of **redistribution of the good** and a new concept of **redistribution of risks.**

Unlike previous calls to build a new private law based on redistribution of property, the current situation calls for a **change in priorities**. The question is whether the life priorities of today's society remain limited by the social responsibility based on redistribution of the good, or whether the environmental responsibility has definitively become an existential issue. If we accept the latter, then it means adopting as the key one such method that will primarily follow the redistribution of risks. In the structure and functioning of the system of private law, responsibility will become its crucial and decisive tool, and not protection of property as before. In this sense, responsibility is the alpha and omega, giving real meaning and content to private law.[27]

8. WHAT IS THE BASIC MODALITY OF PRIVATE LAW LIABILITY – FREEDOM, RIGHTS, OR DUTIES?

Freedom provides space for the person's behavior, but it does not allow the person to assert himself against the will of the addressee. Protection of freedom is mediated. Right is the bearer of power and it allows his bearer to unilaterally demand appropriate behavior from the addressee. Therefore, right is not a systemic tool of the free environment, it is an instrument of the bearer's power superiority over the addressee.

Right can be (secondarily) assumed by the exercise of one's freedom (to commit oneself to an obligation from which the corresponding right derives for the other party).

In private law, right relates to the personality status of a person and protects his area of freedom, primarily against the public power.

[27] Cf. endless discussions about the essence, concept and function of liability in law. From the latest Czech literature, e.g. JANEČEK, V. *Kritika právní odpovědnosti*. Praha: Wolters Kluwer ČR, 2017, pp. 300.

If the (pre-legal) starting point of private law is human freedom, then the meaning of private law should be – in addition to the protection of free conduct and in the logic of the system of principles of private law[28] – a duty as an expression of restriction of (pre-legal) human freedom. In the last century, some thinkers came up with this idea (at the beginning of the 20th century it was Léon Duguit in France, and in the inter-war Czechoslovakia it was Jaromír Sedláček, among others), but it was generally neglected in the society which still resonated with the Roman concept of right as power privilege, asserting itself in a position of the privileged ones against the non-privileged, but above all as the dominance of property, perceived as the primary right.

Regarding possible changes in the principles of private law, the question of the position of duty in private law is reopened. If, in the future, regulation of risk distribution is to take precedence over regulation of the good distribution, or if responsibility, unlike ownership, is to become the dominant institute of private law, then duty should follow this shift and to take the lead among the tools of private law regulation.

9. THE SUBJECT-OBJECT STRUCTURED PERCEPTION OF THE WORLD AS A STARTING POINT OF PRIVATE LAW AND ITS DEFICITS.

After the separation of the methodology of natural sciences from social sciences, which took place in the first centuries of the modern period,[29] the domain of social sciences became the separation of man as an observer as well as a creator of the environment in which he finds himself, and of the outside world, which became a passive object of human observation and transformation. In social sciences, including law where this even became its basis, the subject-object perception of the world thus took an extraordinary position. In law, this attitude went even further: the subject-person was torn from the ties to the outside world (i.e. the object), anthropocentrism achieved extraordinary success, and the subject-person obtained an exclusive position in which the external environment ceased to be sufficiently perceived and in which – as a consequence of individualism to be the goal of legal regulation – not only the "material" but also the social environment ceased to be perceived as a fundamental determinant of the self-realization of individuals. The person and his individual "happiness" has become a unique symbol and meaning of legal regulation.

However, under the pressure of present challenges, this concept – i.e. persons as subjects of legal regulation – needs to be reviewed due to both long-standing and newly emerging issues.

There is no doubt that questioning the meaning of similar considerations is both relevant and topical as two-hundred-year-old theoretical concepts[30] based on Western economic ideas became a thing of the past, the research into the meaning, essence and real

[28] Cf. HURDÍK, J., LAVICKÝ, P. *Systém zásad soukromého práva*. Brno: Masaryk University, 2010, pp. 116–117.
[29] Cf. e.g. DUFOUR, A. *Droits de l'homme. Droit naturel et histoire*. Paris: P.U.F., 1991, especially p. 91 and futher.
[30] Cf. e.g. COLLIER, P. *The Future of Capitalism*. London: Penguin Books, 2019, pp. 256.

goals of law meets inadequate reactions,[31] the work of European private lawmakers is dominated by pragmatism, and practical, especially institutional, comparative studies, pursue the immediate goals of the economic-political global struggle.

Political bodies raise questions for solutions which are taken out of the context of the system of law, from the logic of its social determination, and from the logic of its development. We deal with the legal subjectivity of animals, machines, artificial intelligence, various organizational units, all without a sufficiently solid basis in understanding the concept of person, a subject of law, in his existence and in his integration in the environment.

But what deserves more attention in law than a person as (a) the lasting basis of all legal concepts, and, (b) as the ruler of the universe, who is, however, confronted with signals that this may be his greatest historical self-deception? It is too long ago when we stopped talking to trees, stars, and nature in general, and when we followed the order of nature. The culmination of pride and self-centeredness of each of us has become a right to our own (individual) happiness, which we, as individuals, enforce against the whole living and inanimate world, putting the external world to the position of "things."[32]

Let us now to perceive the traditional concept of man, expressed in law in the concept of person, in the light of various signals that things are different, and let us try to recapitulate them.

10. THE LEGAL CONCEPT OF PERSON

The very **concept of person** requires our initial attention. Originally, the concept of person in law was separated from the concept of person as used in general speech or in philosophy or religion.[33] Regarding all present doubts a new question arises: is it right or wrong? Should we respect developments in other sciences dealing with person as the main category? If the law reflects social reality, then the answer is positive. If we add that law should be an abstract/schematic, model, and normative reflection, then the answer becomes modified, and person may or may not be a faithful reflection. In addition, if we pose a genetically oriented question, which for example was asked and answered by the makers of the current Czech Civil Code, i.e. whether the law should be an expression of stability of social order or a factor in the dynamics of social change,[34] then the result will be modified according to the answer to this question.

[31] Parts of reform-oriented projects aimed at the essence of legal regulation, such as the Common Core project, failed to draw sufficient attention of the legal community; others failed at the very beginning due to lack of interest of the leading law experts (cf. the fate of the SIG General civil law within the structure of ELI research in the years 2016–2019).

[32] Cf. § 489 Civil Code.

[33] BROZEK, B. The Troublesome "Person". In: V. A. J. Kurki – T. Pietrzykowski (eds.). *Legal Personhood: Animals, Artificial Intelligence and the Unborn.* Cham: Springer International Publishing AG, 2017, p. 10 and further.

[34] ELIÁŠ, K. et al. *Nový občanský zákoník s aktualizovanou důvodovou zprávou a rejstříkem.* p. 49.

A person is perceived as *terminus technicus*:[35] A legal person as an abstraction[36] has been transferred to a natural person as an abstraction – one human being can be the source or the creator of more than one person.[37]

When considering the validity of the starting points and concepts of persons in law, we find that the present period is dominated by the concept whose basis relates to modernity prevailing in the Western European society since the beginning of the 19th century. The conceptions of persons in Western thought draw on anthropocentrism. Anthropocentrism has its direct reflection in Czech law, where it is conceptually enforced by the Civil Code.[38] Another dominant concept of the period of modernity – individualism[39] – also finds an explicit support in the Czech Civil Code.[40]

What is still common to the use of the concept of person in both social sciences and law, is the fundamental distinction of a person and a thing.[41] In law, the subject-object concept prevails, based on the creation of sharp boundaries between man, or his schematic reflection in the form of a person/subject as an active bearer of development, and the external world of things as his object.

The third millennium, with its concepts of change, whatever they are called, postmodernism or otherwise, introduces different points of view on the concept of person (but it is questionable whether these views are quite new).

This is related to the following question: should we go back to our roots or look for new solutions? The answer will probably be based on a synthesis of both approaches.

Anthropocentrism and individualism in social sciences, including the law of the 19th and 20th centuries, are the culmination of the exclusive position of man towards society and the "material" world: going further is the path of self-destruction and global destruction. Urgency of this question is manifested even by the Pope, who, as a representative of Christian teaching based on the principle of predestination, calls for changes in the relationship of man and the world.

This form of perception of man has its historical sources. One of the (apparently) erroneous steps of the methodology of sciences at the beginning of the modern period was the thesis of incompatibility of natural and social sciences. Although there have been currently efforts to return to a unified science and a unified methodology of science, the effects of this separation still persist and prevent social sciences from finding answers to a number of basic questions that the natural sciences have already answered.[42]

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[35] BROZEK, B. *The Troublesome "Person"*. p. 8.
[36] Ibid., p. 15.
[37] LINDROOS-HOVINHEIMO, S. Private Selves – An Analysis of Legal Individualism, In: V. A. J. Kurki – T. Pietrzykowski (eds.). *Legal Personhood: Animals, Artificial Intelligence and the Unborn.* Cham: Springer International Publishing AG, 2017, p. 49.
[38] ELIÁŠ, K., et al. *Nový OZ s akt. důvodovou zprávou a rejstříkem.* p. 51.
[39] LINDROOS-HOVINHEIMO, S. *Private Selves – An Analysis of Legal Individualism.* p. 29.
[40] ELIÁŠ, K., et al. *Nový OZ s akt. důvodovou zprávou a rejstříkem.* p. 49.
[41] BROZEK, B. *The Troublesome "Person"*. p. 10.
[42] Cf. DUFOUR, A. *Droits de l'homme. Droit naturel et histoire.* Paris: P.U.F., 1991, p. 91 and further.

An example may be the achieved state of perception of the objective reality. Science has reached a practically absolute degree of integrity in describing the objective reality as an energy continuum: everything that exists on earth is its manifestation. Man exists in several energy levels: with his senses he perceives only his material, physical body, and part of the external world of which he is also a functionally interconnected integral part. This relativizes the subject-object perception of ourselves and of the outside world.

A general conclusion can also be drawn from the previous partial conclusion: Man is part of a highly organized continuum and within it he is a relatively independent internally organized unit. His ties to the outside world and to other people are existentially pre-determined.

11. RELATIONSHIP AS AN INTEGRATING FACTOR OF THE WORLD CONCEPTION

In this sense, the basis of human existence, not only in the human community but in the universe, is **relationship**. Pope Francis comments on it in the encyclical Laudato się: "Divine persons are subsisting relationships, and the world, created according to the divine pattern, is a web of relationships. The creatures are directed to God, and at the same time each living entity has its own gravity toward another, so that in the womb of the universe we can find innumerable constant relationships that are mysteriously intertwined.[43] This encourages us ...to discover the key to our own realization. The human person grows, matures and is sanctified the more he enters the relationship. … Everything is interconnected and that invites us to develop the spirituality of global solidarity."[44]

These views on the world and man based on the "subsistent, or subsisting, relationship has been deeply rooted in the Christian teaching for centuries and provide a comprehensive picture of the world and its individual components as the unity of subject and object. After all, man is perceived as a subject and an object at the same time – towards himself and towards the outside world.

To a large extent, and to their own detriment, many concepts created or associated with the Catholic doctrine are seen to be detached from the contemporary thought and marginalized in both natural and social sciences, including law. The modern secularized world has embarked on its own path, lacking the contribution of European Christianity, i.e. the moral teaching of the Church,[45] and also the development of some basic institutes of private law separated itself from the teachings which it originally drew on. Law is still based on anthropocentrism and contrasts man and the surrounding "outer" world, drawing on man's dominance of the outside world and considering man to be the only active creator and at the same time an addressee of "legal" rules.

[43] Cf. AKVINSKÝ, T. *Summa Theologiae.* I, q. 11, art. 3; q. 21, art. 1, ad 3; q. 47, art. 3.148.

[44] *Encyklika Laudato si'.* pp. 147–148.

[45] Cf. e.g. KROPAJ, M. *Právnofilozofické východiská práva duševného vlastníctva.* Bratislava: VEDA Vydavateĺstvo Slovenskej akamémie vied, 2013, pp. 137–143.

This reasoning has implications for the complex thought about law, but it also has possible implications of an immediate practical nature. In (private) law, this means returning to the issue of **multi-meaning entities** and moving towards a more consistent and sophisticated interconnection of entities that may be legally defined in several different ways.[46]

12. THINGS AND PEOPLE IN THE CONCEPTION OF INTEGRAL ECOLOGY

In addition to the calls for the change mentioned above, there is also a change in the interconnection of **subject and object**. Unlike human personality values, **things are values** in an ecologically integrated system, not as an end in themselves, as a *causa finalis*, but through their functional integrity, through contributing to the functioning of the world as a whole, and therefore through their very existence.

An example of this shift in the definition of the subject-matter of private law regulation is waste to be a thing in the legal sense. It can be a thing if it is different from a person and serves human needs (§ 489 of the Czech Civil Code). Thus, "unnecessary" waste would not meet the criterion of a thing, as it does not serve any need.

The integral ecological approach is completely different. It is based on a comprehensive concept of the whole world and also includes those components that – economically speaking – are neutral, invaluable or economically burdensome, such as waste that cannot be processed. This leads to elimination of the criterion of human need from the definition of a thing. Waste is also an integral part of the world.

A change in the subject-object paradigm could lead to the conclusion that this affects the basic building block of private law, which is the **relationship**. In fact, this is not the case: on the contrary, the relational basis of the functioning of this world in its inter-subject form has been preserved: in relations, however, the balance of all its elements has been strengthened. The exclusive dominance of the subject over the object, its rigidity and the sharpness of the definition has been changing in favor of the balance of positions of human subjects and the external world, which people have hitherto been influencing when satisfying their needs and interests. As Czech poet Jiří Wolker said: things become "silent comrades" and it is appropriate to "love" them (at least to have respect for them).

13. RELATIVIZATION OF SUBJECT AND OBJECT

As part of the strong opposition of the person and the thing, entities that tend to cross this divide have clearly become a problem.

An example is the concept of a **living animal**, whose problematic legislative exclusion from the category of things signals an effort to respect beings outside the category of persons and to embrace the greening view on private law, but at the same time it systemically and paradigmatically proves groping in the dark and a tendency to half-hearted solutions. This approach includes a contradiction of two concepts: on the one hand (a) the progres-

[46] Cf. for example, ideas about the role of a person as the creator of a legal entity, or the inconsistent conception of foundations as a legal action, property for specific purposes, legal entity, etc.

sive greening, transcending anthropocentrism in the concept of persons and things, and on the other hand (b) the lasting subject-object basis of private law.

Addressing the emerging trend to provide non-persons with the legal status of persons is within the intentions to overcome anthropocentric barriers between entities of this world, and this solution could be part of the legal interaction between subjects and non-subjects, leading to a legal regulation based on the idea of a relationship continuum.

After all, the current state of affairs already suggests another direction: to achieve a certain degree of permeability of the hitherto insurmountable boundary while maintaining the fundamental subject-object starting points.

The Church also comments on this question through Pope Francis: "But it would also be a mistake to think that other living beings must be taken as mere objects that are subject to the arbitrary domination of man. If nature is understood as a mere object of profit and interest, it has serious consequences also for society. Such an approach, which reinforces the will of the stronger, has led to immense inequalities, injustice, and violence against most of the mankind because resources become the property of the first ones to come or the more powerful ones, and the winner took it all. An opposite of such a model is the ideal of harmony, justice, brotherhood and peace…"[47]

14. LEGAL ENTITIES AS A SOURCE OF RESISTANCE TO A CHANGE AND AT THE SAME TIME A POTENTIAL FOR A CHANGE

The paradigm shift and the corresponding parametric changes in private law call for an answer to the **question of the material and immaterial worlds** as part of reality and as the inner "reality" of law. This requires distinguishing the virtual concepts of the "external", non-legal world, from the virtual conceptions of private law itself. Undoubtedly, they are all part of the universe. However, legal conceptions as ancillary tools show the need to make them more rigorously subject to the requirements of social and environmental responsibility. This applies to the goals for which they are built (business companies, various other interest groups, especially foundations, institutes, etc.) and which are often mainly or exclusively focused on the goals of companies based on profit maximization.[48]

Legal entities have a special role, often the key one, in the process of reassessing the goals, concepts and institutes of private law. Their conception has been, since their origin in the 16th–18th centuries and their legislative grounding in its current form, stabilized in its foundations which are nevertheless subject to parametric changes, ranging from their transition from subordination to the absolute state power, through their ongoing liberalization and liberation from the remnants of the regulative influence of the state power, in which they have registered offices or under whose law they are incorporated, up to the current tendencies connected with the social responsibility of legal entities (see also above).

[47] *Encyklika Laudato si'*. p. 53.

[48] KORTEN, D. *Keď korporácie vládnu svetu (When Corporations Rule the World)*. Košice: Vydavateľstvo Mikuláš Hučko, 2001, pp. 66-68.

In terms of the socially and environmentally responsible concept of humanity, legal entities are still the bearers of the features they have been carrying since their origin and which they are still entrenched. As R. L. Grossman and F. T. Adams put it, "the current companies are artificial creations that protect not only owners and managers from liability, but also protect the privileges and existence of these companies."[49]

The role of legal entities as a tool for the economic-organizational power manipulation of social values and their redistribution in society is well-known and has been criticized for a long time. As defense mechanisms, campaigns or projects have been created to reduce the most visible features of legal entities: from the care of the proper manager as a standard of conduct of company bodies, through *piercing of the corporate veil* and the introduction of criminal liability of legal entities, to social responsibility of legal entities. However, it is always only a partial parametric setting of standards aimed at responsibility and their essence remains the same.[50]

The question of the essence of a legal person cannot be dealt with in simple terms: a legal person as part of comprehensive integration of a person in the external world is subject to a comprehensive concept of the functioning of the world and the place of man and his auxiliary legal instruments in it. This concept must be followed when dealing with the question of whether (a) the legal person is a mere soulless instrument of the will of man (auxiliary legal concept) through which man acts and will act as the sole bearer of mental and will abilities, and whether it is an ability to apply them in external relations, or whether (b) the legal person is undergoing a long-term development towards a comprehensive image of man, during which the legal person not only acquires the ability to perceive the external world and to create and exercise its will externally but also acquires all the rights that man has.

The choice of a certain solution has a critical significance and implications: a legal person as an auxiliary legal concept will remain connected with man, and its activities will necessarily be projected into the sphere of man who acts through it. In the area of liability, this approach would call into question steps already taken such as criminal liability of legal persons, the (albeit partial) granting of fundamental rights to legal persons, and the like. Conversely, a legal person, getting closer to relatively independent thinking and active persons, could be the aim or an approximate solution of organizational units based on advanced technologies (from automated control systems, through robots and autonomous vehicles, to artificial intelligence), equipped with an ever-improving ability to perceive the external world and to be active in it based on autonomous decision-making processes.

It is worth noting that the most important issues of legal regulation of these systems currently include the solution of liability that can be placed on these systems. For this reason, too, the complexity of the solution of the approach to legal entities connected with the setting of functions of private law is so significant.

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[49] GROSSMAN, R. L., ADAMS, F. T. *Taking Care of Bussiness: Citizenship and the Charter of Incorporation.* Cambridge (Massachussets): Charter, Inc. 1993, p. 6.

[50] This will last as long as legal entities (large corporations) are part of the process in which they will replace the crumbling structure and potential of civil society and its democratic institutions, and their democracy, in which the majority maximizes its profits, will ignore the collective goals of society. Cf. GREIDER, W. *Who Will Tell the People? The Betrayal of Americal Democracy.* New Yourk: Simon and Schuster, 1992, s. 331.

15. OWNERSHIP

When the capitalist system was being built, ownership gained a specific position, based on extreme individualism and liberalism. Unfortunately, this approach to ownership as an exclusive and unlimited dominion, as the right to concentrate the values of this world in one's hands and to exclude anyone else from participating in it, is deeply rooted and considered especially by economists or lawyers to be the only possible model of attitude to property values, eternal and inviolable.[51]

However, it is opposed by the Christian conception, which even being founded two thousand years ago, may be viewed to be quite topical: "The principle of private ownership being subject to the general determination of the good, and so the general right to its use, is a 'golden rule' of social conduct and 'the first principle of the whole social-moral order.'"[52] The Christian tradition never recognized the right to private property as absolute or inviolable and emphasized the social function of any form of private property. John Paul II pointed out this teaching very emphatically, saying that "while the Church defends the legitimate right to private property, it also teaches that every private property is always burdened by a social mortgage, because the good has a general purpose…"[53] Therefore "it does not conform to God's plan to administer this gift in such a way that only a few benefit from it."[54] He sees the social teaching of the Catholic Church to be a standard precondition of ownership in the form of "the good or a sum of various forms of the economic, material and spiritual good."[55] Its social role is to be played in the social Catholic doctrine by social and state ownership which is "a requirement arising from natural law, and especially from the principle of the common good."[56]

Unlike the concept of ownership accepted by modern private law, the current Christian concept of ownership draws attention to: (a) its temporal (historical) limitation; (b) its link to the existing construct of the capitalist system; (c) its unacceptability in the light of European values; (d) its unacceptable anti-social character.

However, one of the biggest challenges for private law is a comprehensive approach to its basic concepts, especially **ownership and responsibility**: "The environment is the collective good, it is property of all mankind and responsibility of all. If anyone owns a part of it, he is only supposed to manage it for the benefit of all."[57]

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[51] Towards the prevailing economic and legal concept of ownership of the modernity period, see HURDÍK, J. Když se zákonem obchází zákon. In: T. Dvořák et al. *Pocta prof. JUDr. Přemyslu Rabanovi, CSc., k 70. narozeninám.* Plzeň: Západočeská univerzita, 2019, pp. 145–152.

[52] JAN PAVEL II. *Encyklika Laborem exercens* (14. 9. 1981), 19: AAS 73 (1981), 626 (Sociální encykliky 1891–1991). Praha: Zvon, 1996, p .61.

[53] Address to the indigenous and rural people of Mexico, Cuilapán (29. 1. 1979), 6: AAS 71 (1979), p. 209.

[54] Homily at Holy Mass celebrated for farmers in Recife, Brazil (July 7, 1980), 4: AAS 72 (1980), p. 926.

[55] Cf. KROPAJ, M. *Právnofilozofické východiská práva duševného vlastníctva.* Bratislava: VEDA Vydavateĺstvo Slovenskej akadémie vied, 2013, pp. 124–125.

[56] PIWOWARSKI, W. et al. *Slovník katolíckej sociálnej naúky*. Trnava: Dobrá kniha, 1997, p. 214.

[57] *Encyklika Laudato si'*. p. 62.

16. IURA IN RE ALIENA (ENCUMBRANCES)

When discussing the concept of changes in relation to **encumbrances**, we may assume their ability to play a strong, and to some extent, natural role in the reform of private law, especially due to their strong relationship to objects of the "external world". Encumbrances are based on a relationship (being called a relationship "to a thing" before anthropocentrism established itself in law in all its terminological consequences), in which the thing, not the person, plays a decisive role. This strengthens a more balanced functional interconnection of the world and emphasizes the functional role of the elements of the world hitherto seen as a passive object of inter-subject relations.

17. SUCCESSION AS A BEARER OF CHANGE

It would be unfair to succession in private law not to see it as a possible source of change, even of a conceptual nature. In the area of succession of values, the applicability of distributive justice for the purposes of a more efficient distribution of the good has repeatedly manifested itself in various forms (the reform of inheritance law in post-revolutionary France in the early 19th century created a strong middle class by dividing the estate among the testator's descendants, which continues even in the 21st century).[58]

At the same time – as another criterion for setting its goals – inheritance law included various projects which in many cases were bearers of highly progressive and socially highly responsible conceptual ideas (the most important legal tools being various foundations, trusts and similar projects).

Thus, even succession of values and inheritance law may be tools that significantly contribute to the setting of private law in the interests of a responsible society.

18. OBLIGATIONS FROM LEGAL ACTS (CONTRACT LAW)

Relational rights play an important role as a traditionally recognized source of legitimacy of the relational paradigm of private law. However, the obligations arising from legal acts are subject to the commutative method in their functioning, and from the social viewpoint they serve primarily to preserve the social status quo, not to redistribute the good.[59] Between the individualism of the current Civil Code and solidarity, or social responsibility, there are paradigmatic differences in methods of legal regulation. The application of the liberal individualistic concept through the commutative type of justice is based on the regulatory method of active non-interference in the obligations of private law entities. However, a society based on solidarity and social and environmental responsibility requires an active method of regulation, associated, among others, with enabling a more frequent legal regulation of private law relations, but also with the regulation of the necessary types of social cooperation of such significantly more organized relationships. Both

[58] CARBONNIER, J. *Flexible droit. Pour une sociologie du droit sans rigueur. 8e édition.* Paris: L.G.D.J., 1995, p. 277.

[59] HURDIK, J. *Sociální normy soukromého práva a jejich místo ve struktuře soukromého práva.* pp. 431–454.

goals of legal regulation are, by their use of different regulatory tools, not only in a doctrinal but also institutional and functional opposition, and it is very difficult to put their legal regulation into a functioning and indisputable system.

In contrast to the individualistic concept of the 2012 Civil Code, socially oriented regulatory activities of the European Union law are reflected quite considerably in the area of contractual obligations. Contractual law of obligations is affected by these activities rather indirectly, through consumer law. The idea of the weaker party, originally attributed and addressed in the field of consumer protection and connected with the tendency towards the creation of a European Civil Code, made use of the principle of the weaker party protection[60] to interconnect the existing consumer protection law and the law of contractual obligations as a whole.[61] This trend has been going on since the 1990s and has enjoyed a consistently strong political support, especially by the European Parliament, although there are some critical voices to be heard.[62, 63]

This activism has become one of the starting points for more general projects within contract law aimed at systemic changes in the entire law of contractual obligations and promoting a socially responsible setting of legal regulation in this area, which would make the law of exceptions a systemic basis of all contract law.

This path leads to systematization and institutionalization of the weaker party as not the law of exceptions, but as a pillar of contractual obligations. It must be stated that the Czech Civil Code, by legislatively institutionalizing consumer protection,[64] ideologically opened the way to other systemic levels of the weaker party protection, but at the same time it posed legislative and technical obstacles to it.[65]

The above-mentioned reform efforts of contract law have some obvious deficits. One of them is their particularism and the lack of complexity of the solution. If these reform steps are to work synergistically towards the concept of responsible private law, they should follow this concept and not go their own way. Otherwise, there is a real danger that the two paths will differ in objectives, methods, and regulatory tools.

19. RESPONSIBILITY – THE CORE OF PRIVATE LAW

Responsibility will necessarily play – of course with tortious obligations – one of the key roles in changing the approach to private law. In the discussions of the past decades, the notion of responsibility has been significantly strengthened. The concept of active responsibility has ceased to be rejected and responsibility tends to be seen as *seriality* – an awareness of normatively understood causal connections, permeating private law as

[60] Expressed in the form of the Acquis Principles.

[61] Expressed in a very similar form as the Draft Common Frame of Reference.

[62] Cf. speech of the author of these lines at a conference held on the occasion of the Acquis Group meeting: Perspectives for European Consumer Law – Towards a Directive on Consumer Rights and Betone. Praha, Faculty of Law, Charles University, 18.–19. 2. 2009.

[63] See HURDÍK, J. *Sociální normy soukromého práva a jejich místo ve struktuře soukromého práva*. pp. 450–451.

[64] Cf. § 419 Civil Code and the whole system of private consumer protection built on its basis.

[65] The application of the possible analogy of the weaker party for other potential holders of this status is problematic under the given legislative conditions.

a whole. Responsibility conceived in this way also absorbs the preventive obligations that are part of the primary normative patterns of conduct of persons, operating even before a breach of a rule. Responsibility thus exceeds the framework determined by the legislative regulation of tortious obligations and becomes (together with prevention) a value and normative starting point of all private law. As a result, responsibility ceases to be only a few types of tortious obligations and becomes the dominant feature of private law.[66]

Prevention, as part of a broad-based responsibility, faces new challenges in the context of private law. It is clear that a society of responsibility, focused on preventing, spreading of and compensating for the increasingly higher risks of the present times must have, above all, highly ambitious prevention tools as one of the pillars of the process of legal elimination of risks.

Omission of ecological damage from the list of areas of operation of the general preventive obligation in the Czech Civil Code may signal two things: does that mean including this kind of damage in the area where it is not possible to trace a specific person on whom a preventive obligation could be imposed and draw legal consequences from its violation, or is it general resignation to the relevance of environmental issues in private law? In any case, these are serious signals requiring a conceptual response that would answer the following questions: (a) How (or how seriously) does private law address environmental responsibility? (b) How to set up a functional concept of private environmental prevention and environmental responsibility in a narrower sense? (c) How to interconnect the goal, legal nature and function of the concept of ecological prevention and ecological responsibility (in a narrower sense) with the changed concept of ecological responsibility in a broader sense as a pillar of private law as a whole? The current private law is not equipped for these changes, not even prepared for them. No wonder: its goal so far has been an individual. The purpose of private law is the balance of interests. The starting point of the solution is to identify what groups of interests and what basic contradictions are at stake and where to start when newly setting up the system? What obviously needs to be abandoned is searching for this in the opposition of two or more individuals as persons in the legal sense, i.e. isolated and cleared of the influences of the "external" environment. It is this externality that becomes the dominant factor in life, including those aspects which private law tries to regulate.

When dealing with changes in the concept of liability, it is suitable to review the **role of tortious obligations**. As mentioned above, due to the concept of social and environmental responsibility, their effect changes from a passive to an active concept of responsibility, permeating private law as a whole. Thus, tortious obligations go beyond their scope established in the Civil Code, Part Four, and their function changes, too (this function being established by their placement in the Code). Responsibility, including prevention, becomes a general principle, eliminating the structural principle of specification and by accepting the function of the key principle, it is generally applied throughout the area of private law.[67]

[66] On the concept of responsibility from the point of view of strengthening the social dimension of private law, cf. HURDÍK, J. *Sociální normy soukromého práva a jejich místo ve struktuře soukromého práva*. pp. 450–452.
[67] Cf. HURDÍK, J., LAVICKÝ, P. *Systém zásad soukromého práva*. Brno: Masaryk University, 2010, pp. 61–62.

However, it has been suggested above that **responsibilities in private law need to be given a new paradigmatic basis**. On the one hand, this is due to the above-mentioned need to change the concept of liability, which aims to shift responsibility to the central position in the system of private law regulation. On the other hand, other shifts cannot be overlooked, such as changes in the nature of the risks that society will have to face more and more in the coming period. These risks are global, their sources and impacts increasingly *ubiquitous*, and their originators remain anonymous.[68]

How can private law respond to these changes? If it accepts this challenge, it means a reassessment of the current responsibility conception in the following: (a) to address comprehensively the distribution of the good and the distribution of risks; (b) to project the distribution of risks into the concept of liability for damage by distributing the effects of the damage among direct tortfeasors, indirect tortfeasors, holders of political responsibility, bearers of economic and other risks with which the damage is, or may be, linked, but also among the persons affected by the damage; (c) this means shifting the conceptions of liability for damage from liability for fault and breach of a specific legal obligation towards objective liability for a result; (d) however, this will soon be insufficient in terms of the extent of the damage and it will be necessary to consider inclusion of entities on which the burden will be transferred to the extent of non-compensable damage; (e) regarding the nature and impacts of the damage resulting from the above-mentioned risks it becomes illusory in many situations to stick to traditional forms of remedies: measures that will be required to eliminate or at least mitigate impacts of risks are not compensable, and will be still less so in the future, by these forms of remedies and it will be necessary to create preconditions for such ways of combating risks that correspond to their nature.

20. THE CONCLUSION

Private law is largely inert to signals about the need for a new regulation of the functioning of society. It does not respond conceptually to new challenges, and if so, it argues by reference to its subject-matter which is relations between individually defined persons, moreover, between persons as holders of private law status, i.e. without a real power position capable of influencing the external world through direct interventions in social relationships.

This is only part of the truth. Private law is above all the basis and even the "first floor" of the system of legal regulation as a whole: it represents the value, methodological and institutional foundations of the setting and functioning of the entire legal order. What is encoded in private law has undoubtedly implications for the whole legal order and all other sectors. If not, the legal order would lose the attribute "uniform" with all its implications.

At present, numerous politicians, commentators and publicists can be heard, being carried on the wave of "pandemic challenges", calling for a change of society into a society of responsibility (meaning an individual and his behavior towards the whole). However,

[68] KELLER, J. Riziková společnost. *Právo*. 4. 4. 2020, p. 6.

all this is happening in the heart of the society which is still sticking to the liberal concept of its organization, based on individualism, human rights, and freedoms.

It is necessary, above all, to accept the fact that the balance of interests pursued by private law as its main objective implies a balance between the individual and the society. By taking the social dimension of private law, we will only point the way to a real and comprehensive balance in society. However, it will mean to reconsider our approach to anthropocentrism and individualism with its tools, including the unilateral invocation of human rights and freedoms and their unilateral implementation into private law, and to limited liability, especially for damage caused to society and the world. All that means that embarking on the path to a participatory, truly solidary, socially and environmentally responsible society cannot take place without the participation of private law.

It is a pity that after so many warnings, from nature and from many persons, a tiny little creature had to come to make us think about the real context of the being of individuals, the whole human race and the whole planet and the universe, by directly, mercilessly and instantly punishing any our mistake in the conduct towards the whole.