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Mutual Transition, Spiral and Evolutionary Development of Single Positive Law and Plural Normative Order Related to the Comparative Normative Order Study

*I. **Pravni monizam** (u pozitivnom javnom i privatnom pravu) ukazuje na to kako bi fizička i pravna lica trebalo da se ponašaju. Normativni pluralizam (normativni poredak javnog prava i privatnog prava) pokazuje kako se organi javne vlasti, fizička i pravna lica ponašaju u stvarnosti. Pravni monizam (kako treba da bude) i normativni pluralizam (ono kako jeste) nikada se ne podudaraju.*

II. Teorija međusobne tranzicije, spiralnog razvoja i evolucije pozitivnog prava i pravnog poretka uzima u obzir sve suprotnosti između njih i čini mogućom mirnu koegzistenciju pozitivizma i sociološkim pravca u teoriji prava, i stvara ravnotežu između javnog i privatnog prava, i javnog normativnog poretka i privatnog normativnog poretka, na svetskom, regionalnom i lokalnom nivou.

III. Teorija "pravnih porodica" uporednog prava zanemaruje fenomen normativnog poretka, te je stoga neophodno uvesti novu granu pravne nauke: Proučavanja upoprednih normativnih poredaka.

*IV. **Ideja pravičnog prava** ukazuje na to koje i kakvo pravo zakonodavci (u romansko-germanskim, to jest, civilističkom sistemu) ili sudije (u anglo-američkom, odnosno common law sistemu) treba da stvaraju, tako da bi pravo bilo pravično sa stanovišta univerzalnih ljudskih prava.*

V. Međusobno preplitanje pravnog monizma, normativnog pluarlizma i ideje pravičnog prava mora se zasnivati na univerzalnom pravu ljudskih prava kao osnovnom subjektu norme, i ovaj proces se mora ponavljati dijaletktički, dakle spiralno, stalno, mora evoluirati, i mora biti neprestan.

***Ključne reči:** pravni monizam, spiralni razvoj, tranzicija, normativni pluralizam, pravično pravo*

"To do just law, makes a dry tree green".
- Shota Rustaveli (XII Century)

I. Introduction

Plato, Aristotle, Kant and Hegel were preoccupied with the question of: not what is the law, but what the law ought to be.

According to Kelsen's Pure Theory of Law, every legal norm is in accord with another "higher" legal norm that authorizes its creation. The "higher" legal norm, in turn, is valid only if it has been created in accord with yet another, even "higher" legal norm that authorizes its enactment. More concretely, the constitution is the basic authorizing norm of the rest of the legal system, and the Basic Norm is the presupposition of the validity of constitution. Furthermore, Kelsen argued that every pair of norms which derive their validity from a single Basic Norm necessarily belongs to the same legal system and, *vice versa*, so that all legal norms of a given legal systems derive their validity from one Basic Norm. It is widely acknowledged that Kelsen erred in these assumptions about the unity of legal systems. However, the role of the Basic Norm in explaining the normativity of law is crucially important. The presupposition of the Basic Norm as the condition of validity of legal norms marks Kelsen's theory as "pure", which distinguishes it from other theories in the legal positivist tradition. Kelsen was convinced that any attempt to ground law's normatively - its "ought" aspect - is doomed to failure if it is only based on facts, whether those facts are natural or social.

Once again, to account for an "ought" conclusion, one needs some "ought" in the premises. Therefore, Kelsen thought, normativity of law, as a genuine "ought" must, ultimately, be presupposed. Kelsen's pure theory of law is an attempt to find a middle way between natural law's dogmatism, and positivism's reduction of law to the social sciences. Kelsen does not claim that the presupposition of the basic norm is a necessary feature, or category, of rational cognition. The Basic Norm is an "ought" presumption and, as such, optional. It is not necessary for anyone to accept the basic norm. The basic norm is necessarily presupposed only by those who accept the "ought", namely, the normativity of the law. The validity of a legal system partly, but crucially, depends on its actual practice: A legal order is regarded as valid, if its norms are by and large effective.

Furthermore, the actual content of the basic norm depends on its effectiveness. However, actual legal practice is characterized by normative pluralism, and the effectiveness of the legal system depends on the normative order, which is free from direct subordination to the single legal system.

II. Canonical jurists – Bentham, Austin, Kelsen, Dworkin, Hart, Rawls – tended to assume that a theory of law is only concerned with two types of law: state law and public international law. For the most part, their theories of law do not purport to give an account of non-state law. More over, classical and contemporary scientists traditionally identify "Law" and "Order". Such identification is mistaken. I consider "Law" as Positive law, while "Order" – as Normative Order. Positive Law and Normative Order compose Normative System of each country. Accordingly, Positive Law as the part of Normative System has single form, while a Normative Order has plural forms.

It is necessary to make distinction between legal pluralism and normative pluralism.

Legal pluralism is connected to the plurality and differences of legal systems of nation-states. Legal pluralism in that sense consist a single world human rights law. A single world human rights law does not mean necessity of existence of world government. Mikhacko Tsereteli (1910), a founder of international law in Georgia, follows Kant (Perpetual Peace, 1795) in rejecting a centralized regime of world government on the grounds that it would either be a global despotism or else an unstable and fragile empire torn by civil strife. This is a quite different point from the very cosmopolitan argument that any domestic political order needs to be set in a wider, transnational or global context. Existence of single world human rights law means only an existence of Code of Universally Recognized Human Rights and appropriately legal mechanism of their protection by the World Supreme Court of Human Rights like the European Court of Human rights and Freedoms in Strasburg.

** A summary of my scientific researches on this issue since 1977 see: Positive Law and Normative Order (1977), Tbilisi, (In Georgian). Normative Order as a self-governing and evolutionary system (1978,*

Tbilisi, (In Georgian). Normative Force of Judicial Practice (1979), Tbilisi, (In Georgian). Normative Order and Judicial Practice, (1981), Tbilisi, (in Russian). Sense of Law and Law in Action, (1990) Tbilisi, (In Georgian). Evolutionary Interaction between Positive Law and Normative Order from the Point of View of Comprehension of Sense of Law. Doctoral Dissertation Essays. (1992) Tbilisi, (In Georgian and Russian). "A Structure of Normative order", in Manual: "Modern Theory of Law", ed. Technical University of Georgia, Tbilisi, (2004), p. 219-239, (In Georgian). Co-existence of Single Positive Law and Plural Normative Order, The Journal Jurisprudence, volume six, trinity term, (April 2010), Published in USA, Charleston , SC, p. 247-258. (In English).

Normative pluralism, first of all, is connected to the plurality of normative orders within each country.

More clearly, on the level of each country legislator ***in abstracto*** distributes mutual rights and obligations among natural and legal persons as potential participants of future normative relations. On the level of each country natural and legal persons as individual participants of the real normative relations distributed mutual rights and obligations thyself ***in concreto***.

Normative pluralism in each country refers to the co-existence of multiple normative orders parallel with a single legal system such as positive law. In other words, in each country we have a **single legal** system (legal monism) and a **plural normative** system (normative pluralism).

Normative orders and normative pluralism are synonyms. Normative pluralism or normative orders is used sometimes to apply to those who advocate plural orders in contrast to state centralism. Positive law is a system of legal rules, which point out how public bodies or private persons of law ought to conduct themselves **ideally** regardless of the functioning of such rules really. The normative orders is a system of established rules, which show how public bodies or private persons act **really** regardless of what rules of positive law point to ideally.

The normative order generally comprises both state and non-state orders. So, there are two fields in the space of normative order in general: official normative order, which includes normative acts, and unofficial normative order, which includes normative facts. More clearly, normative order includes two spaces: individual normative acts of public bodies and individual normative facts of private

persons. Individual normative acts of public bodies in their entity may be nominated as public law or **state law in action**. Individual normative facts of private persons in their entity may be nominated as private law or **non-state law in action**.

An official normative order comprises individual decisions of public (official) bodies. An official normative order has a **vertical character**. An unofficial normative order comprises individual acts of private (unofficial) persons. Unofficial normative order has **horizontal character**. Both also include cross-sectional fields, which reflect a result of the coexistence and interaction of an official normative order and unofficial normative order, and the feasibility of normative acts and normative facts. So, the normative order has legal and non-legal contexts.

In whole, normative order is existence of public law or state law in action and existence of private law or non-state law in action, as well as of their coexistence.

Therefore, positive law is the established by the state entity of general legal rules which regulate civil, political, economic, social and cultural relations among natural and legal official or unofficial persons through the distribution among them mutual rights and obligations ***in abstracto***.

Therefore, normative orders is the established by the individual natural and legal official or unofficial persons entity of individual normative rules which regulate different civil, political, social and cultural relations through the distribution among and by them mutual rights and obligations ***in concreto***.

Normative order in official context we could be consider in whole or as an entity of different sections (orders) of normative order in official context. For assess and clarification of normative order in official context or different sections (orders) of normative order in official context, we could be used the official reviews of authoritative bodies and competent organizations. For example, for assess and clarification of normative order in official context or different sections (orders) of normative order in official context in the field of human rights may be used reviews or reports of Amnesty International, Human Rights Watch, Freedom House and numerous other organizations concerning observation general human rights norms by the different states and regimes. The World Bank, IMF and donor states subject potential recipients to universally recognized standards implied by phrase: “democracy, good governance and rule of law”.

Transparency International develops a quite sophisticated methodology for analyzing the extent of corruption in a given country.

An attempt of subsequent development of theory of normative order we found in the work of W. Twinning "Globalization and Legal Theory" (2000). W. Twinning underlines: "A healthy global general jurisprudence should be able to give a total picture (descriptive/explanatory/normative/analytical) of the phenomena of law in the modern world. Such accounts can be constructed from multiple perspectives. For most purposes, they need to include not only municipal legal systems and traditional public international law, but also global, regional, transnational, and local orderings that deserve to be treated as 'legal' for given purposes and the and the relations between them. This will involve addressing the phenomena of legal pluralism, both within and beyond municipal legal systems and different cultures and traditions. The facts of interdependence cast doubt on any 'black box' descriptive or normative theories which treat legal or other normative orders as self-contained and in particular those which purport to limit the sphere of their application to notionally self-contained nation states, societies or other impervious units." [1] But the author could not differentiate substantially not only positive law and normative order, but legal order and non-legal order in the framework of normative order, "order of orders".

Normative pluralism or normative orders in the framework of normative order in whole ("order of orders" – see below) is the **empirical reality** in Kantian sense which can become a subject of scientific or other research and investigation through the method of transcendental idealism in Kantian sense. [2]

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[1] *W. Twinning, Globalization and Legal Theory, (2000), ed. Butterworths, London, p. 88.*

[2] *Transcendental idealism is a doctrine founded by German philosopher Immanuel Kant in the eighteenth century. Kant's doctrine maintains that human experience of things is similar to the way they appear to us - implying a fundamentally subject-based component, rather than being an activity that directly (and therefore without any obvious causal link) comprehends the things as they are in and of themselves. The best way to approach transcendental idealism is by looking at Kant's account of how we intuit objects, and that task demands looking at his accounts of space and of time (See Transcendental idealism in Wikipedia: "Transcendental Idealism"). Normative character of positive law and normative character of language are coincides as Kelsen saw. (See, H. Kelsen, Eine Grundlegung der Rechtssociologie. Archiv fur socialwisenschsft und socialpolitik, 1919, p. 40. See also, H. Kelsen, General Theory of Law and State, 1946, p. 175).*

III. The notion and functioning of the normative order in official context i.e. the individual decisions of public bodies traditionally have been explored more carefully than the normative order in unofficial context.

The notion of normative order in non-legal contexts refers to certain social facts, which have been named by Prof. George Naneishvili as "normative facts". [3] Normative facts are the coexistence of different norms in the form of mutual individual rights and obligations within the different every-day social relations of private natural and legal persons' lives. [4] Sometimes G. Naneishvili is using the notion "autonomous normative facts". "Autonomous normative facts" in the space of social life nicely catches the imprecision and porosity of the social context of normative order. [5]

More precisely, for the clear illustration of the formation of normative facts in the private space I would like to cite a simple example. Let us assume that any private person publicly expressed free will of readiness to undertake an obligation to act in the specific private space. The readiness to undertake an obligation to act in the specific private space has the normative effect, but that is not a normative fact until the other person or persons will not express its or their counter free will of readiness to undertake an obligation to act in that specific private space. In favorable case, the **expression** (fact) of readiness by both parts to act in specific space and distribution of **mutual obligations** and **corresponding rights** (norm) by both parts is the end of formation of normative fact. If we consider such normative facts and analogous and other normative facts in the private space in totality we shall receive the unity which could be named as normative order simultaneously with legal normative order.

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[3] George Naneishvili, Positive Law and Normative Facts, 1930, ed. Tbilisi State University, Tbilisi. (In Georgian). G. Naneishvili graduated from Freiburg University in 1924. He was an assistant of founder of Psychological theory of Law - Prof. Leon Petrazhitski and follower of Edmund Husserl in Jurisprudence. Prof. George Nanaeishvili is only one scientist who on high creative level develops Reinach's Theory about Social Acts. (See: A. Reinach's major work, "The A Priori Foundations of Civil Law," (trans. John Crosby), Aletheia, 3 (1983).

[4] B. Savaneli, Positive Law and Normative Order, J. "Law", 1977, N3, p. 34. (In Georgian).

[5] G. Naneishvili, op. cit, p. 55. Radical position concerning legal force of contracts was expressed by J. Frank. For him, not only legislator, but also private persons create positive law. (See: J. Frank, Courts on Trial, Princeton, 1949, p.308).

G. Naneishvili's position, which is also mine, may be set forth in summary:

1. The normative facts do not depend on the positive law or its sources.

2. Normative facts are always prior to positive law.

3. We can always imagine normative facts in a space, which is not subject to the regulation of positive law.

4. Positive law cannot increase or decrease the number of normative facts.

5. The notion of normative facts excludes the idea of the free creation of rules of law. Positive law has an artificial, man-made character.

6. Concerning positive law: Because the specific character of positive law depends on the specific character of

external transitional factors we can say that this (but not other) positive laws appeared. Therefore, each instance of positive law is but one of several possible (un-instantiated) positive law alternatives.

7. Concerning normative facts: Because the specific character of normative facts does not depend on the specific character of external transitionally factors, we cannot say that this (but not other) normative facts are

appeared. Each normative fact is not a possible normative fact, because a normative fact is a fact.

8. Normative facts can only be used by positive law for its aims or can institute constraints over the result, which, according to its value, should occur, but positive law can never annul normative facts.

9. In contradiction to the positive law, which always has an authoritative legal source, normative facts have no authoritative source. We always can say that positive law "happens", but we cannot say this about normative facts, because any fact is a history.

10. Normative facts should be investigated irrespective of positive law.

Normative facts (***seinsregel***) reflects the normative pluralism in the day to day lives of individuals' and their groups, and, partially by the 'production' of individual social rules by private persons. The normative lives of private individuals and groups form the independent normative life of society concerning mutual individual

human rights and obligations.[6] The theory of normative facts is based on the idea of contract, treaty, and so on. These include, in particular, private civil contracts, mutual contractual aid, trade and collective commercial agreements as well as the vast range of internal institutional rules, rules of private different units, etc. but not property rights. Property rights have a static, not a dynamic character. Normative facts have a dynamic and not a static character; they reflect factual relations between two or more private natural and legal persons.

Private normative order (normative facts in private space) also refer to the norms of a given group, community, or society or they may refer more broadly to any norm that guides or governs social relations through distribution of rights and obligations. Private normative order (normative facts in private space) out of private space do not refer to distribution of rights and obligations among participants of social relations and they are not the subject of science of law.

The idea that normative facts do not depend on the positive law or its sources based on the **Giant Goethe's** formula***: "Im Aufang war die Tat".*** Instead of "***How to Do Things with Words",*** we suggest the formula: "***How to Do Words with Things***".

Human beings do things without words. The things do words, the words do new things, new things do the new words, the new words do new things and etc. Permanent and cyclical interaction between things and words, inter-substitution of things and words, and permanent and cyclical inter-transition of things and words at global, regional, national and local levels has a trend to comprehend a sense of law of Humankind must be based on the Universally Recognized Human Rights. The aim and goal of such interaction, inter-substitution and inter-transition is to achieve sustainable development of Humankind. Formula ***"New things produce new words"*** means that

[6] *B. Savaneli, Correlation between Fundamental Human Rights and Legal Capacity of the Citizens, 1968, Candidate's Dissertation Essays, Moscow, page 14. (In Russian). See also: "Juridical Forms of the Citizens Position in Soviet Society", 1969, Monograph, ed. "Academy of Sciences of Georgia, Tbilisi, (In Russian). Reviews on monograph see: Prof. Dr. S. S. Alekseev, in J. "Jurisprudence", N 5, 1970, p. 106-107 (In Russian); M. Fridieff, in J. "Revue International de Droit Compare", Janvier-Mars, Paris, 1971, p. 272-273 (In French); Anna Michalska in J. "Ruch Prawniczy, Economizhny i Socjologiczny", Kwartal Trzeci, Warszawa-Poznan, 1971, p. 305-307 (In Polish).*

new facts produce new mutual rights and obligations. The entity of new facts and new mutual rights and obligations create new normative space, which causes necessity to establish new positive law and etc. Generally talking: to claim "ought to be" means that such "ought to be" practically possible. In other words: it is nonsense to claim human action which is not practically possible. "Ought to be" should be based on the possibility.

Developing G. Naneishvili's theory, I underline that mutual rights and obligations of individuals and legal persons are neither psychological entities nor are they mental. The bearers of rights and obligations are related to each other psychologically or mentally but their mutual rights and obligations are related - **logically**.

In other words, using P. Winch's term, normative facts could be described as "rules-governed behaviors". [7] Such rules have been naturally plated into human behaviors and issued from human's knowledge, skills, habits, experience, interdictions, permeations, traditions, ethics, customs, dispositions and etc. Indivisible connection between social rules and individual behaviors is the vital connection ***("Lebenszusammenhang",*** using Dillteis term). The participants of such vital connections disseminate mutual rights and obligations among themselves by which they govern their behaviors. Therefore mutual rights and obligations are the rules through which and together with participants' behaviors have been created "rules-governed behaviors", which in legal theory is known as "normative facts". Theoretically, normative facts divided into norms (mutual rights and obligations) and facts (behaviors), in shorten - normative facts.

The theory of normative facts moves away from questions about the effect of law toward conceptualizing official and unofficial forms of normative order. Only 50 years after George Naneishvili, Sally Falk Moore introduced the term "semi-autonomous social fields", which, as correctly saw W. Twinning, nicely catches the imprecision and porosity of the social contexts of most normative orders. [8] At the same time "Many normative orders do not have discrete boundaries, they tend to be dynamic rather than static, and relations between them are extremely complex." [9] The positive law and the normative order

[7] *P. Winch, The Idea of Social Science, Routledge & Kegan Paul, Printed in Great Britain by the Burleigh Press, London, 1958.*
[8] *W. Twinning, op.cit. p. 85.*
[9] *W. Twinning, op. cit.*

coexist and interact in complex ways. "Sometimes they compete or conflict; sometimes they sustain or reinforce each other through interaction, imposition, imitation and transplantation." [10]

My position concerning normative facts is based on the logical investigations of Edmund Husserl. As is generally known that Husserl developed a thesis advanced by his teacher Brentano to the effect that all mental acts are intentional, that is, that they are directed towards an object. The existence of man is the existence of other existence of permanent choice. Husserl maintained that all intentional experiences are in this sense 'objectifying acts'. Husserl's account of meaning builds upon this theory. All uses of language are, he says, referential. Accordingly, Husserl viewed acts such as questions or commands as masked assertions. The command "sit down on the chair" he interpreted as a statement to the effect that "your sitting down on the chair is my current request." The man is what he is not yet, but what he ought to be.

Plural forms of normative facts are based on the idea that there are many real spaces, which are largely independent of the individual's knowledge of a given world. Normative facts are mainly associated with "non-state law". As is generally known E. Ehrlich, the pioneer of sociology of law, argued that a realistic depiction of the law in action had to account of "the living law" of sub-groups as well as "the official law" of the state. He saw that these could diverge significantly and that sometimes one, sometimes the other would prevail. This was an important step not only in the direction of "realism", but also in deliverance from the idea that the state has a monopoly of law-creation. These ideas were developed in a number of directions. For example, K. Llewellyn saw clearly that within a major group such as a nation-state, society or tribe, the basic functions of law, such as conflict-prevention and dispute-resolution, could be performed at different levels by a variety of mechanisms in addition to rules by education or the threat or use of brute force, and that different bodies of rules could coexist without necessarily being ranked in a clear hierarchical order. [11]

[10] *W. Twinning, op cit.*

[11] *K. Llewelyn, The Normative, The Normative, The Legal and The Law-jobs: The problem of Juristic Method, (1940), 49 Yale Law Journal, p. 1355-1360. Shortened version was reprinted in Llewelyn's Jurisprudence: Realism in theory and Practice (1962), p. 233-262.*

All societies have different normative space, in which positive law does not exist in isolation, and more over is not necessarily the most powerful element thereof. The state has no monopoly of lawful power within a given country, except in criminal law and administrative law, because the normative order does not have discrete boundaries. The normative order is dynamic rather than static, and social relations in each normative order are extremely complex. Moreover, public normative acts and private normative facts coexist and interact in complex ways. Sometimes they also compete or conflict, sometimes they sustain or reinforce each other and often they influence each other through interaction, imposition and transplantation. Often such influence is reciprocal.

Normative Order is the established and stabled order or practice of realization of abstract legal acts by public bodies that particularly and concretely regulate real interpersonal relations through the official distribution mutual rights and obligations among the individual participants of normative relations, and the established and stabled order or practice of realization of free individual wills of private persons that particularly and concretely regulate real interpersonal relations through the unofficial distribution and realization of mutual rights and obligation among the individual participants of normative relations, and in a case of their violations they have been guaranteed by the application of legal force by the just judiciary.

IV. A traditional thesis distinguishes "Law in books" and "Law in action".

My position concerning single positive law is partially based on the H. Kelen's pure theory of law; partially, because - normative acts of public bodies and normative facts of private persons are ***"seinregels",*** but not ***"solenregels"*** which connected with rules of positive law, but not rules of Normative order. Taking out of "Pure theory of law" and simultaneously "Stepped theory of law" means taking out of State's *(sollen)* frameworks which fraught with complete distraction purity of positive law and stepped structure of positive law. More over, that means to run the danger of statehood which is main guarantee of stability of contemporary society.

Hierarchy of state's bodies and officials in it is a result of lawmakers' activity, i.e. general legal model of organization of state's power. Accordingly, hierarchy of state's bodies and officials in it is a

reflection of hierarchy of sources of positive law, in other words "Law in the books".

On the level of positive law ***"sein"*** and ***"solen"*** are not contradicted each other, they coexisted **logically** in the framework of two parts of structure of each legal rule: hypothesis and disposition. On the level of normative order ***"sein"*** and ***"solen"*** are not contradicted each other, they coexist **empirically** in the framework of two parts of structure of each normative fact: fact and rule. (For example, treaty as normative fact consists of two parts: a fact of conclusion of treaty and mutual rights and obligations between participants of treaty).

In other words, normative order embraces factually settled order (practice) of application of legal rules by public bodies (precedent in broad sense) and factually settled order (practice) of application of mutual rights and obligations by private persons. On the level of normative order ***"sein"*** and ***"solen"*** coexistence not logically but factually and they are indivisible.

The positive law and normative order in whole are not also contradicted each other, they exist in the parallel regime, because they are entirely different levels of life of the civil society. Functional asymmetry between them is normal process and that process indicates on the perspective of evolutionary development of society in whole. Particularly, positive law is unempirical space of life of civil society, while normative order is empirical space of life of the civil society. Exposition of contradiction between positive law and normative order is possible only **theoretically** in the process of investigation of their dynamics, using comparative and other methods.

Necessity of exposition of contradiction between positive law and normative order arises when "antientropyan" (self-regulatory and/or self-governing) autonomous mechanisms exhaust their means and resources, and level of disorder in normative order reaches a critical stage. Necessity of exposition of contradiction between public normative acts and private normative facts inside the normative order arises when "antientropyan" (self-regulatory and/or self-governing) autonomous mechanisms exhaust their means and resources, and level of disorder in normative order reaches a critical stage.

When entropy in any space of normative order reaches the stage which threaten the system it's appear an idea of legal reconstruction of appropriate space of positive law. More clearly, when in the process reaches evident contradiction between positive law (ought to be) and

normative order (to be), and between public normative acts and private normative facts inside normative orders, which indicates that positive law inadequately and unjustly regulates relations between natural and/or legal persons, any legislator must began the process of thoughtfully investigation normative order for the elaboration of new positive law which adequately and justly resolved such contradiction between positive law (ought to be) and normative order (to be) generally, and between public normative acts and private normative facts inside legal orders particularly. In other words, the aim and goal of such investigation is to discover the normative disorders inside normative orders, and than elaboration of new positive laws for eradication of normative disorders. Achievement of such aim and goal is the main function of any legislator on the local, internal, regional or global levels.

The purpose of investigation of normative order i.e. investigation of public normative acts of public bodies (public normative order) and normative facts (private normative order) of private persons are to decrease entropy through the improvement of appropriate fields of positive law. First of all, it means the generalization of normative practice of public bodies in the process of elaboration of normative acts by them and normative practice of private persons in the process of distribution of mutual rights and obligation by them, which at the beginning is the obligation not sociologists but professional jurists with the sociological bias.

After that, adequate and just resolution of contradiction between positive law (ought to be) and normative order (to be) in the normative system of the country, and between public normative acts and private normative facts inside the normative order through the creation of new positive law, using P. Ricoeur's general model [12], generally consists of three stages: pre-figuration (anticipation), con-figuration (formalization) and re-figuration (reorganization). Particularly, the process of thoughtfully investigation normative order for the elaboration of new positive law should be based on the normative pyramid of reasoning. In the normative pyramid of reasoning the core sensual variants concentrate in the center and move from the bottom-up to the top while all the marginal ones after checking and filtering remain on the lower levels or strata of the model to form background knowledge to the effect to the cognitive normative concepts. Every

[12] *P. Ricoeur, Le Temp et Recit. Paris, 1983, Vol. I, p. 59.*

previous phase is a preparatory stage to proceed on the follow-up phase until finally the investigator achieves hierarchically top phase to elicit the conceptual information. The process of making predictions includes a certain adaptation. The degree of adaptation depends on the amount of frustrated expectations or justified predictabilities. So that in case of regular goal-oriented movement of above mentioned methods – adaptation the investigator may benefit, elucidating the maximum information at expense of minimum time and effort.

Simultaneously moving up-ward to the top of cognitive-normative pyramid there is top-down sensor checking process as well, which sets up loose associations condensed in our concept. It offers the knowledge and experience of all the previous phases. Otherwise this self-regulated system shows how to achieve the non-finalized decisions made in every phase. Any element that occurs in this system has its own normative structure. Drawing attention to the most important one, the investigator reluctantly receives information about other parameters i.e. we observe constant changing process of analysis and synthesis.

To the end, the cognitive normative concepts assist us the cognize the world, both visible and/or invisible, organizing the surrounding chaos of normative disorder into the "order of orders". (See below). The process of permanent taking of the contradiction between public normative acts and/or private normative facts inside legal orders, and the process of taking of the contradiction between positive law and/or normative order in the frameworks of their permanent inter-transition creates a spiral, sustainable and evolutionary tendency through which any legislator comprehend a sense of law. [13] In philosophical terms: mutual transition, spiral and evolutionary development of positive law and normative order based on the "principle of causality through freedom", but not "principle of causality of the nature".

The aim and goal of such mutual transition, spiral and evolutionary development of positive law and normative order is to achieve the sustainable development of humankind.

V. If the task of legal science is to advance the understanding of law in the modern world, the facts of globalization and interdependence dictate that even the most local phenomenon needs to

[13] *B. Savaneli, General Theory of Law, Manual, 1993, p. 201-205. (In Georgian).*

be viewed in ever-widening contexts, up to and including humankind in general. I agree with scientists in the field of globalization that no one can understand their local law by focusing solely on domestic legislation of single jurisdiction or nation states, that the range of significant actors and processes has been extended, and that the phenomena of normative pluralism is central to understanding system of law in today's world.

Normative order is the system of normative orders ("order of orders" using Rustaveli's term – see below). Normative orders interact to each other in the frameworks of normative order. Normative order and normative orders interact like interact of whole and part, but not like general and single.

More precisely, the normative order of each country is a gamma of normative orders of individuals and groups bound by mutual rights and obligations. Developing A. Reinach's and G. Naneishvili's theories, I underline that the bearers of mutual rights and obligations are related to each other psychologically or mentally but mutual rights and obligations are related - **logically**. Mutual rights and obligations of individuals and groups are neither psychological entities nor mental. Mutual rights and obligations are exclusively normative entities like norms of positive law. Moreover they are always prior to the positive law.

Different levels of normative order are not neatly nested in hierarchies, nor are they impervious, nor are they static. They interact in complex ways. Moreover, to understand the normative order, the study of norms is almost never enough. One also has to take account of values, facts, meanings, processes, structures, power relations, personnel, and technologies.

On the other side the only way to make sense of the overlapping normative orders in the modern world is to take refuge in picturing all states legal systems, international order and other orders in a single monist or pluralist system. Monism and Pluralism are entire process, which establishes a new synthetic system of law building in worldwide scale.

The theory of normative order based on the **justice of equality in fundamental human rights and inequality in private rights.** "Justice based on two pillars: fundamental human rights and legal capacity of each person. Fundamental human rights concerning justice mean that **all persons have equal fundamental human rights**. Individual legal capacity concerning justice means that **all persons**

have equal right to possess unequal private rights. Fundamental human rights and legal capacity in their entity characterize each person as the subject of law, which defines their general position in the society. More broadly legal capacity is a summary expression of those different private (social and economic) rights, which each person could be possess concerning his/her different interests. In other words legal capacity is abstract opportunity to possess individual human rights. Legal capacity includes in its own equal right to possess unequal private (social and economic) rights, because human beings are differed by individual signs such as: physical and mental strength, manual labor, clearness of purpose, resourcefulness, enterprise and other individual characteristics concerning to which the law has no ability to equalize the individuals. The law can and make only one: recognize for all equal chance to satisfy different social, economic, cultural and political interests, in other words equal capacity to possess unequal private rights. As a result all natural and legal persons are distinguished by the particular positions in the society, by the different volumes of private rights on different social and economic benefits. And that is justifiable. In other words inequality in private (social and economic) rights is a condition of justice. Fundamental Human rights is an objective category, but legal capacity is subjective one. Legal capacity is a "right to rights". [15]

It is generally known that Rawls analyze justice in the frameworks of diversity of social, political and economic life of the society. But investigation of social, political and economic aspects of justice is the subject not legal, but social, political and economical sciences. If we operate by the normative correlation between human rights of individual and obligation of states concerning justice, Rawls consider a justice as a basis to provide cooperation in conditions where there are opposing religious, philosophical and moral convictions and this basis is to be found in the idea of overlapping consensus.

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[15] *B. Savaneli, Correlation between Fundamental Human Rights and Legal Capacity of the Citizens, Candidate's Dissertation Essays, Moscow, (1968), p. 4-5. (In Russian). See also: "Juridical Forms of the Citizens Position in Soviet Society", 1969, Monograph, ed. "Academy of Sciences of Georgia, Tbilisi, (In Russian). Reviews on monographs in: "Revue International de Droit Compare", Janvier-Mars, Paris, 1971; "Ruch Prawniczy, Economizhny i Socjologiczny", Kwartal Trzeci, Warszawa-Poznan, 1971.*

If we correctly compare Rawlsian and mine theories, we discover that Rawlsian theory is not strictly connected with the legal theory of justice, but is linked with the political theory of justice, which define moral obligations of political institutions before the principles of justice. Contrary to J. Rawls I am sure that the justice out of human rights is nothing than ideology because criteria of justice have multiple aspects, which depends from different political, social, economic and cultural positions of very different groups of society. Special danger issues from the official authorities, because under the flag of justice historically they excuse any inhuman acts.

Any theory of justice, including highly localized once within families, societies, regional groupings, transnational associations and so on, has to be set in a much broader context, which prescribes background rules for more localized spheres of justice. Such broader context is the future Code of Universally Recognized Human Rights.

Civilized humankind created the legislative, executive and judiciary powers and separated them not for the state but for Human Beings. Consequently, for the future of humankind I suggest a possible structure of World Positive Law. World Positive Law should be stepped organizing (using Kelsen-Merkl's term - ***"Stufentheorie"***). At the top of structure has been stationed Code of Universally Recognized Human Rights, after – not contradicted to it regional positive law, then - not contradicted to it constitution of each country and etc. down to the local. On the global, regional, national and local levels should be created regional, national and local human rights codes and related them human rights courts.

VI. If we compare Positive Laws of different countries inside and/or outside of the contemporary global legal system we will found much more commonality then difference. Principles of Roman law permeate the global legal system. "Law in books" has a cosmopolitan character. Differences between Anglo-Saxon and Francophone legal systems are largely superficial and not substantial. For example, the distinction between written and unwritten law is principally superficial, because each composes Norms. "Written law" however is technically precise.

To counterbalance above mentioned, if we compare legal orders of different countries inside and/or outside of the globalizing ***ius commune*** we will found many more differences then commonalities. In other words "law in action" has an ethnocentric character.

The "comparative legal families" theory ignores phenomena of normative order as well as different normative orders of and in countries, separating jurisprudence from reality. In this respect, it is necessary to restore in transformative form a particular jurisprudence, which will explore the normative order of each country and then compares the normative orders of different countries.

Our construction is based on the following strong fundament.

Positive law as the system of sustainable general norms of each country includes sustainable Public Law and Private Law. Accordingly, Comparative Law as the part of legal science compares sustainable Public Laws and Private Laws (Public Laws) of different countries.

Normative Order as the system of sustainable individual norms of each country includes sustainable practice of execution of Public Law and Private Law by public bodies and sustainable practice of distribution of mutual rights and obligation by individual natural and legal persons. Accordingly, Comparative Normative Order as the part of legal science compares sustainable practice of execution of Public Laws and Private Laws by public bodies of different countries and sustainable practice of distribution of mutual rights and obligation by individual natural and legal persons of different countries.

Thereto it is methodologically helpful to introduce a new branch of the legal science – **"comparative normative order**". Such a point of view is necessary for the strengthening of the European house and the distribution of Democracy in Post-Soviet and developing countries. This approach is at the heart of the research on Human Rights and Intercultural Dialogue carried out at the LAJP. However, when and where it is appropriate to draw sharp distinctions between legal and non-legal orders and other phenomena, or between state and non-state law, or between legal orders, systems, traditions and cultures is context-dependent: that is dependent on one's vantage-point, perspectives and goals. Our early position (1978) independently has been strengthened by W. Twining in his fundamental scientific work, in which he correctly underlines: "I have suggested that normative ordering reflects all levels of human relations (including legal persons, groups etc)... It has the advantage of drawing attention to various levels of non-state ordering and emphasizing the point that these different levels are not nested in a single vertical hierarchy." [16]

[16] *W. Twining, op.cit., p.223-224, 253.*

Accordingly, a duty of scientific research is not only to comment on and analyze laws but also to describe and analyze the normative order in its several forms. The plurality of the normative orders includes the normative order of countries, regions, cities, villages etc, as well as different macro and micro groups in these spaces.

On the global level it is necessary to underline the following.

Great Positive Law's system of the world has sevenfold classification: (1) Romanist-Germanic system; (2) Anglo-American system; (3) Islamic system; (4) Post-Soviet system (excluding Latvia, Lithuania and Estonia); (5) Far-Eastern system; (6) Hindu system; (7) Hybrids.

Great Normative Order's system of the world has threefold classification: (1) Romanist-Germanic and Anglo-American systems; (2) Islamic system, Post-Soviet system, Far-Eastern system, Hindu system, Central and South American system; (3) Customary systems.

Through investigation of normative order on the any level gives to the legislative powers information about the justice and/or injustice of appropriate segments of the positive law. Such information must be scrupulously work up and then "translate" into the language of positive law.

I believe that above-mentioned differences should be serve as starting point for the continuing dialogue among different cultures of West and East (for example, between Christians and Muslims). The constant coexistence of constant positive law and inconstant normative orders is a historical fact. Historically, positive law and normative order never coincided - luckily, because such differences are a precondition of progress and prosperity. But, for sustainable development, it is necessary to create permanent checks and balances between them. If positive law supersedes the normative order, dictatorship results (e.g. the national system). If normative order supersedes positive law, the result is anarchy (e.g., the international system). Positive law, as a monistic phenomenon, consolidates. Yet normative order, as a pluralistic phenomenon, isolates humankind. This is a good balance, like the balance between public law and private law. The goal is to strengthen positive law and to bring normative orders of different cultures closer together, into greater harmony. Looking for isolated differences from the whole is a

dangerous mistake. [14] A function of the legislator and of the administration of justice is to create permanent checks and balances between them on both levels.

The interaction between positive law and normative orders today needs an adequate conceptual framework and meta-language than can transcend national legal culture. Such a function could be undertaken by universal human rights as a coordinator of peaceful and cyclical inter-transitions of positive law and normative order.

VII. I suggest a spirally, evolutionary and endlessly sustainable developing theory of interaction and mutual-transition of Positive Law and Normative Order in global, regional, national and local levels. Permanent and spirally interaction between positive law and normative order on the local, national, regional and global levels presents a trend to comprehend permanently an idea of **Just Law,** which must be based on Universal Human Rights, because: **"To do just law, makes a dry tree green",** as Shota Rustaveli - the famous Georgian philosopher and poet of the XII Century and one of the founders of Neo-Platonism - proclaimed. Therefore a **criterion of Just Positive Law and Normative Order is the Universal Human Rights Law.**

More than 50 years ago before Rustaveli, Georgian King David the Builder (XI-XII c.c.) in the seminal work "Canon of Repentance" in the form of lyrical poetry described just court's decision-making process. Here is an extract:

"When on doomsday the Code is opened
And I shall stand to be condemned,
When the ire of the angels shall be roused,
O judge, pass the just sentence as the Lord.

After the blessed rejoice,
The sinners are cast into the flames,
After will began the triumph of justice,
Then have mercy upon me, o Jesus."

[14] *B. Savaneli, Evolutionary Interaction between Positive Law and Normative Order from the Point of View of Comprehension of Sense of Law. Doctoral Dissertation Essays, 1992, p. 14.*

The aim and goal of interaction between positive law and normative order is to achieve sustainable normative order of Humankind. The moral foundation of Global Order expressed Shota Rustaveli in the following couplet:

"Since deception is the source of whole humankind's misfortunes,
Why I should betray congenial soul dearer to me then brothers?
Not at all! What avails me knowledge of philosophizing of philosophers?
That's why we are taught to be able to join the supernal order of orders."

Prof. L. Jokhadze proposed the following interpretation of Shota Rustaveli's epigrammatic concept's - ***join the supernal order of orders*** - meaning: (1) mystical joining the Lord posthumously; (2) the road to super cognition; (3) personification of super nature which prophesies human's Godly nature; (4) to share super principles of order; (5) to join in living liturgy partaking God's Eucharist; (6) to join the cosmic order through organized behavior and righteous way of earthly life. [17]

I think that if we are not taught to be able to join the supernal order of orders, we will get disorder in the sense of **"paranoid society"**, which is described by great **Thomas Pynchon** in his novel "Gravity of Rainbow".

If we look English concise dictionaries we read that ***paranoia*** is defined as "mental disorder characterized by systematized delusions as of grandeur or persecution". On the "social language" it characterizes society with all attached vices: "1. any abnormal mental state; 2. satanic evil power of distraction and degradation; 3. aimless and false propaganda to "improve" the situation; 4. the atmosphere of fraud and deception created by officials in the state establishments; 5. injustice, corruption and immorality disguised under the mask of kindness and nobleness; 6. devaluated virtues of degraded society; 7. an exclamation of surprise or wonder etc. a euphemism for God, like

[17] *L. Jokhadze, Intercultural Communication and Didactics of Foreign Word Concepts, Aktuel Padagogik und Kulturdidactik, Tbilisi-Stutgart, 2000, p. 14. L. Jokhadze, Literary text as a Stylistic-Conceptual System, Summary in English, 2008, Tbilisi, p. 219.*

Gosh or nonsense that has a kernel of truth. 9. any wrath poured out due fair or just claim of civil society." [18]

Exclusive way out of such dangerous situation is following. A Hierarchy of norms in the World Legal System has to issued from Universal Human Rights as the peak of the pyramid ***(Grundnorm)*** of World law and order. Excessive passion for "Universalization" (excepting Human Rights) is as dangerous as excessive passion with endlessly fragmentation (except the ***rule of law state***). The method must be based on the investigation of the correlation among "a pluralist approaches to positive law" (legal families) and "a pluralist approaches to normative orders" (inside legal families).

We base our study on the well worked out normative methods of synthesis and analysis and present this process in a pyramidal chart where normative variants are step by step concentrated on multi-hierarchical levels. Each stage should be a theoretical rethinking of the above mentioned "approaches" and the elaboration of recommendations towards their rapprochement. In other words, these variants interact and strive to make more complete decision in every phase to gain access to the top of the pyramid, which is the stratum of effect to form a final normative concept – new sense of law.

Therefore pluralist approach also means an investigation of the diversity of normative orders. But that is only the start. The task of such investigation is to discover common and distinctive elements among positive law and the normative order, and then the elaboration of "consensus laws" and ways of rapprochement through "an intercultural approach to law and order" based on the universal human rights. **Universal Human Rights should be the sense and spirit of any Positive Law and Normative Order.**

Prevailing notions of public international law do not appear ill suited to finding adequate solutions for the myriad problems that are transnational in scope. Among these are global warming, ozone depletion, over-fishing, deforestation, marine pollution, corruption, and terrorism, narcotics and contraband armaments traffic, illegal trade in endangered species of flora and fauna, and unregulated financial transfers. These problems exceed the capacities of any individual state or even any block of states to control effectively. To reply on such unprecedented for the history of events in complex that is necessary to reconcile two contradicted theories: Pure Theory of

[18] *L. Jokhadze, op. cit, p. 207*

Law and Sociology of Law. We are suggesting a new theory named by me as ***"Anthropological Normativizm"*** and have an attempt to argue the idea about *Jus Cogens* character of Bill of Human Rights. Bill of Human Rights takes off any distinction between Pure Theory of Law and Sociology of Law. In this respect transformation of International Law into Universal Human Rights Law is a decisive challenge of our time, especially after the September 11. Politics has polluted the Positive Law and Normative Order. Thus it is necessary to purify them. My device in 2001 was the following: "Save the Planet after September 11 through ideological war against several forms of racism. Terrorism is not a cause, but outcome of racism. Accordingly we must fight not only against terrorism, but also and basically against the cause of it. **The cause of terrorism is the tendency toward of formation of Global Government.**"

Human Rights gave the birth not only to the new field of international relations among states regulated by the International Law of Human Rights, but also to the new legal relations among states and individuals regulated by the International Human Rights Law. International Law of Human Rights and International Human Rights Law entail Universal Human Rights Law. In other words, each state-party is responsible to other state-parties, and at the same time, to the each individuals In this sense, **Universal Human Rights Law can be named as *"Two-faced Jahnus".***

In such sense the Universal Human Rights Law is a pick of Pyramid of the Positive World Law, which is based on the Natural Human Rights, and which oblige the member-states in the light of necessity of reconstruction of UN's functions in peacekeeping operation in transition period for the World. In that cense it is necessary to abolish Security Council of UN, because three permanent members of Council are permanent aggressors in the world.

In the modern "globalistics" it is ascertained that today the world is in such a complicate situation that we haven't the possibility of use of one some system or other of values, ideology or culture as a model in order to preserve its existence. The first step that the humanity has to do, is the integration of basic religious trends, because the ***God is one and unique.*** We consider as acceptable this trend, even to act in concert towards the creation of ***new and united environmental religion.*** Actually it means a global substitution of very expensive and dangerous exploitation of Earth's un-renewable resources by using of inexpensive and safety Solar and Wind energy

as a stable guarantee for the sustainable development of humankind.

Above mentioned should be spiral evolutionary and endlessly process of civilization.

Summarizing the above mentioned principles I underline the following:

I. Positive law exposes how **ought to act** subjects of law. Positive law is an entity of "**ideal"** legal rules, which regulate civil, political, economic, social and cultural relations among persons ***in abstracto*** through the recognition, separation and/or protection of mutual rights and obligations by the application of judicial force in case of their violation. Public Law and Private Law are the two branches of Positive law. Public Law regulates public relations between public persons. Private Law regulates private relations between private persons. Public Law and Private Law have fields of junction. Positive law includes a cross-sectional field, which reflects a result of some congruence of public law and private law. Positive law has a vertical hierarchy. Legal theory refers to phenomena of positive law. In short, Positive Law is "**law in the books**".

Normative Order is the established and stabled order or practice of realization of abstract legal acts by public bodies that particularly and concretely regulate real interpersonal relations through the official distribution mutual rights and obligations among the individual participants of normative relations, and the established and stabled order or practice of realization of free individual wills of private persons that particularly and concretely regulate real interpersonal relations through the unofficial distribution and realization of mutual rights and obligation among the individual participants of normative relations, and in a case of their violations they have been guaranteed by the application of legal force by the just judiciary.

II. The normative order censors how **ought to act** subjects of law. Notion of normative order based on the philosophical thesis that there are "multiple realities". The normative order is an entity of "**real**" individual legal acts of public bodies and normative facts of private persons, who regulate civil, political, economic, social and cultural relations among public and/or private persons ***in concreto*** through the recognition, separation and/or protection of mutual rights

and obligations by the application of judicial force in case of their violation. The normative order includes also a cross-sectional field, which reflects the coexistence of the feasibility of legal acts and normative facts. The normative order has a horizontal character.

Legal acts constitute the legal order, which shows the **real** state of public and private relations in society. The legal order can be directly described, because it has documentary forms, is transparent and easily accessible. The analysis of the legal order is not problematic for legislator. The legal order is an official form of the normative order. Normative facts constitute the non-legal order, which shows the **real** state of private relations in the society. Non-legal order can't be directly described, because mainly it has no documentary forms, is latent and often difficult to access. To analyze normative facts is problematic for the legislator: it needs scientific investigation. Normative facts relate to the category of "non-state law". Normative facts are an unofficial form of normative order. The theory of normative facts is an important step not only in the direction of "realism" but also away from the idea that the state has a monopoly of law-creation. [19] Sociology of Law refers to phenomena of the normative order. In short, the normative order (normative pluralism) is **"law in action".**

III. I distinguish positive law on the global, regional, national and local levels, and normative order on the global level from the regional, national and local levels.

Positive law on the global level refers to Universal Human Rights Law, Environmental Law, Public International Law, Humanitarian Law, Private International Law, Trade Law, Trans-national Law, Regional Law, Inter-Communal Law etc., worldwide. Positive law on the local level refers to the single legal system of each state, which should be compatible with the Universal Human Rights Law, Environmental Law, Public International Law, Humanitarian

[19] *"Normative pluralism is generally marginalized and viewed with skepticism in legal discourse. Perhaps the main reason for this is that over 200 years western legal theory has been dominated by conceptions of law that tend to the monist (one internally coherent legal system), static (the state has monopoly of law within its territory), and positivist (what is not created or recognized as law by the state)". See W. Twining, op. cit. p. 232.*

Law, Private International Law, Trade Law, Transnational Law, Regional Law, Inter-communal Law etc.

Normative order on the global level refers to the state of realization of universal human rights law, environmental law, public international law, humanitarian law, private international law, trade law, trans-national law, regional law, inter-communal law etc, which form legal orders and a large space of normative facts in worldwide. Normative order on the local level refers to the state of realization of Universal Human Rights Law, Environmental Law, Public International Law, Humanitarian Law, Private International Law, Trade Law, Trans-national Law, Regional Law, Inter-communal Law and etc, which form legal orders and a large space of normative facts within each country's boundaries.

Description and analyze of normative order on the global and on the local levels along with description and analyze of single positive law on the global and on the local levels give us an opportunity to describe and analyze normative system of each country in whole and the world also in whole.

IV. One of the most fundamental distinctions in legal theory is the interaction and mutual transition between "the theory of positive law" and "the theory of normative order". ***The core idea*** of the distinction between the theory of positive law and the theory of normative order is simply this: ***the theory of positive law seeks to explain what the law is, in other words, what the law claims, whereas theory of normative order tell us what the positive law ought to be, in other words, what the law should be claim.***

If we use the great J. Bentham's terms, from my point of view: the positive law is the subject of explanatory jurisprudence, while the normative order is the subject of censorial jurisprudence.

A bridge between ***what the law claims and what the law should be claim*** is a space of idea of law. Investigation of the legal order in the framework of the normative order gives us an opportunity to assess how positive law (***sollen***) is implemented in practice **(*sein*).** In the process of investigation of the legal order in the framework of normative order, an **idea of law** arises, in other words, claims to what the law should be from the point of view of the Just Law.

In philosophical terms: mutual transition, spiral and evolutionary development of positive law and normative order based

on the "principle of causality through freedom", but not "principle of causality of the nature".

V. **I suggest a spirally, evolutionary and endlessly developing of theory of interaction and mutual-transition of Positive Law and Normative Order on the global, regional, national and local levels.** Permanent, evolutionary and spirally interaction between positive law and normative order on the locally, nationally and globally present a trend to comprehend permanently an idea of **Just Law,** which must be based on Universal Human Rights, because: **"To do just law, makes a dry tree green",** as Shota Rustaveli - the famous Georgian philosopher and poet of the XII Century and one of the founders of Neo-Platonism - proclaimed. The aim and goal of interaction between positive law and normative order is to achieve sustainable normative order of Humankind. The moral foundation of Global Order related to "**the supernal order of orders"** expressed by Shota Rustaveli.

My theory about mutual transition, spiral and evolutionary development of positive law and normative order taking of any contradiction between them and making possible peacefully coexistence of positivism and sociologic directions in jurisprudence, and creating balance between public law and private law on the global, regional, national and local levels.

VI. The "legal families" theory of Comparative Law ignores the phenomenon of the normative order, because it does not explore and compare normative orders of different countries, which are in the same "legal family". The suggested theory takes stock of new comparative law scholarship to compare normative orders of different countries *within* each legal "family", whether Germanic, Romanist, Common Law, Islamic, Post-Soviet, Far Eastern legal families and among them. So it is necessary to introduce a new branch of legal science: **Comparative Normative Orders Study**.

VII. My core argument is that the post-modernity is in crisis. It has exhausted its political potential and is in process of being replaced by a new post-positivist paradigm, which could be built on the emancipator possibilities of the **Rule of Just Law based on the**

Universal of Human Rights. [20] Particularly, in the modern "globalistics" it is ascertained that today the world is in such a complicate situation that we haven't the possibility of use of one some system or other of values, ideology or culture as a model in order to preserve its existence. The first step that the humanity has to do, is the integration of basic religious trends, because the ***God is one and unique*.** We consider as acceptable this trend, even to act in concert towards the creation of ***new and united environmental religion*.** Actually it means a global substitution of very expensive and dangerous exploitation of Earth's un-renewable resources by using of inexpensive and safety Solar and Wind energy as a stable guarantee for the sustainable development of humankind.

Conclusions

I. **Legal Monism** (Public Positive Law and Private Positive Law) indicates how natural and legal persons ought to act **ideally**.

II. **Normative Pluralism** (Public Normative Order and Private Normative Order) shows how public bodies, and natural and legal persons acts **really**. **Legal Monism** (what ought to be) and **Normative Pluralism** (what is) never coincide.

III. **Legal Monism** (what ought to be) and **Normative Pluralism** (what is) never coincide. The "legal families" theory of Comparative Law ignores the phenomenon of the normative order. So it is necessary to introduce a new branch of legal science: **Comparative Normative Orders Study** simultaneously with Comparative Law Study.

IV. **The Idea of Just Law** suggest what sort and kind of law legislators (in Roman-Germanic i.e. "civilianist" legal space) or judges (in Anglo-American, i.e. common law legal space) should make, so that law would be **just** from the Universal Human Rights point of view.

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[20] *Bidzina Savaneli, Jus Cogens Character of International Human Rights Law, Philosophy and Legal Theory for 21st Century, (2003), Tbilisi, Georgia. (In English).). This work was dedicated to the Memory of Giant of Law and International law – Hans Kelsen.*

V. The Mutual-Transition of Legal Monism, Normative Pluralism and Idea of Just Law must be based on the **Universal Human Rights Law as Basic Norms' Entity**, and this process must be repeated **dialectically, i.e. spirally, constantly, evolutionary and endlessly.** [21]

General Definitions

I. Positive Law is the system of abstract legal acts by which have been generally and hypothetically regulated future interpersonal relations among public bodies and/or private persons through the recognition and distribution among them mutual rights and obligations, and in a case of their violations they are guaranteed by the application of legal force by the just judiciary.

II. Normative Order is the established and stabled order or practice of realization of abstract legal acts by public bodies that particularly and concretely regulate real interpersonal relations through the official distribution mutual rights and obligations among the individual participants of normative relations, and the established and stabled order or practice of realization of free individual wills of private persons that particularly and concretely regulate real interpersonal relations through the unofficial distribution and realization of mutual rights and obligation among the individual participants of normative relations, and in a case of their violations they have been guaranteed by the application of legal force by the just judiciary. [22]

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[21] *Review. "Dear Professor Savaneli! Thank you very much for your summary about "The Theory of Spirally and Endlessly Development of Mutual-Transition of Positive Law and Normative Order. We are glad that there is so active academic researcher on legal theory like you in Georgia. Yours sincerely, Dr. Klaus Zeleny, Hans Kelsen's Institute, Vienna, Austria, Thu, October 8, 2009, 1:56:29 PM 20.02.08".*

[22] *Bidzina Savaneli, Normative Order and Judicial Practice, (1981), Tbilisi, (in Russian), p. 22, 41. (In Russian).*

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Mutual Transition, Spiral and Evolutionary Development of Single Positive Law and Plural Normative Order Related to the Comparative Normative Order Study

I. ***Legal Monism*** *(Public Positive Law and Private Positive Law) indicates how natural and legal persons ought to act* ***ideally****.* ***Normative Pluralism*** *(Public Normative Order and Private Normative Order) shows how public bodies, and natural and legal persons acts* ***really****. Legal Monism (what ought to be) and Normative Pluralism (what is) never coincide.*

II. Theory about mutual transition, spiral and evolutionary development of positive law and normative order taking of any contradiction between them and making possible peacefully coexistence of positivism and sociologic directions in jurisprudence, and creates ***balance*** *between public law and private law, and public normative order and private normative order on the global, regional, national and local levels.*

III. The "legal families" theory of Comparative Law ignores the phenomenon of normative order. So it is necessary to introduce a new branch of legal science: ***Comparative Normative Orders Study****.*

IV. ***The Idea of Just Law*** *suggest what sort and kind of law legislators (in Roman-Germanic i.e. "civilianist" legal space) or judges (in Anglo-American, i.e. common law legal space) should make, so that law would be* ***just*** *from the Universal Human Rights.*

V. The Mutual-Transition of Legal Monism, Normative Pluralism and Idea of Just Law must be based on the ***Universal Human Rights Law as Basic Norms' Entity****, and this process must be repeated* ***dialectically, i.e. spirally, constantly, evolutionary and endlessly***

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Key words*:legal monism; mutual transition; just law; normative order*