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The formation of presbyters for the work with non-believers in Poland

The article presents the ways of preparation of priests for the work with non-believers. The author enumerates the dimensions of the priestly formation: human, spiritual, intellectual and pastoral. Human and spiritual formations require deepening of the presbyters' spirituality as well as the formation of the humanistic attitude which is the basis for establishing and leading a dialogue with non-believers. The implementation of intellectual formation requires studying the contemporary philosophical currents which constitute the basis of the current cultural changes as well as of the social transformations. In the pastoral formation presbyters are to gain new pastoral skills which are adequate to the current challenges as well as deepen the skills of making proper use of the pastoral experience which they had gained.

Keywords: formation of presbyters, ongoing formation, formation of priests, dialogue with non-believers, atheism.

The presence of non-believers in the traditional societies is not a novelty. The Second Polish Plenary Synod of Bishops paid attention to their presence and indicated the necessity to take special care of them.

The Synod encourages priests to particularly refer to non-believers whom they meet in the parish office or during a pastoral visit or in any other everyday situations. Non-believers usually want the priest to listen to them, try to understand them and not try to convert them at once. Every non-believer has his own theory or reasons for losing his faith but these are often irrational or primitive. However, in most cases the theories are just covers for many dramatic experiences, for their individual thoughts and decisions, especially in case of those who used to believe in God. These people often suffer because of the long-established sense of injustice which was unfortunately a priest's fault.

While talking to such people priests should always remember about the inalienable role of one's own testimony of faith and of life in faith¹.

Since the end of the Second Polish Plenary Synod, the attitude of non-believers towards the Church has changed. Many non-believers are not friendly towards priests or towards the secular members of the ecclesial community. The origin and the results of atheism have also changed. Atheism and the negative attitude towards the Church are often inherited from the ancestors and in such families the basis of atheism is more often rationalized. Non-believers become more and more aggressive towards the faithful, especially in public. This probably results from secularization processes which are developed in Western Europe and which are more often present in Poland.

Regardless of the origin of atheism in Poland and of its characteristics, the Synod's indication which regards the need for pastoral concern for non-believers is still advisable. And as the number of non-believers who live as if there was no God and far from the Church, has increased, this indication is even more urgent than it used to be.

Pope Francis teaches that meeting non-believers requires courage and "taking the initiative"². It also requires proper preparation, especially of the clergy who are mainly responsible for the pastoral care, for the new evangelisation and for the dialogue with non-believers. The preparation is a part of the ongoing formation of presbyters. It is not limited to teaching them certain methods of dealing with non-believers in certain situations but it consists in all the aspects of the formation process: the human, spiritual, intellectual and pastoral ones.

Human and spiritual formation

The Second Polish Plenary Synod indicates the importance of the personal testimony of faith given by priests. Therefore, their spiritual formation is of such an importance. It is based on the ongoing maintenance of a deep relationship with God, which helps to sanctify the priest and make him resemble Jesus Christ the Good Shepherd. John Paul II taught that

The Spirit, by consecrating the priest and configuring him to Jesus Christ, head and shepherd, creates a bond which, located in the priest's very being, demands to be assimilated and lived out in a personal, free

¹ *Potrzeba i zadania nowej ewangelizacji na przełomie II i III Tysiąclecia Chrześcijaństwa* nr 58, in: *II Polski Synod Plenarny (1991-1999)* (Poznań: 2001), 26.

² Francis, *Encyclical Evangelii gaudium* nr 24, (Kraków: 2013), 17-18.

and conscious way through an ever richer communion of life and love and an ever broader and more radical sharing in the feelings and attitudes of Jesus Christ³.

According to Pope John Paul II, the testimony of the priest's life affects non-believers in many dimensions. The priest shows them Christ, introducing His true nature to them. He shows Christ as a Shepherd Who is good and Who cares about them because they are important for Him, he proves that He cares about their worldly life and wants them to attain their eternal life in the community with Him, with the Father and with the Holy Spirit. The Pope's teaching also indicates that the effects of the priest's inner unity with God are of great importance for non-believers. What is more, the positive impact of this unity particularly influences: the priest's personality, his attitude towards people, especially those who are far from God, and his attitude towards the realized vocation. It reflects whether the priest believes in what he does and if he remains faithful to his decisions and is consequent in realizing his mission⁴. The two most important features of the priest's testimony of his ministry are: transparency and faithfulness. Transparency does not draw the attention of non-believers solely to those who minister but it draws their attention to Christ Who leads the priest in his life. For others, especially for non-believers and for those who distance themselves from the Church, the priest who tries to draw people's attention only to himself is an obstacle in the attempt to discover Christ and to establish a bond with Him⁵. Faithfulness allows to discover God's action in human life, that is: to discover God not as a concept but as a living Creature and to notice His positive influence on human life, especially the impressive faithfulness to God which results from this bond regardless of any obstacles⁶. Such an attitude which is close to heroism can be convincing for non-believers who are often focused on themselves and on their own experiences and who mainly aim at their own particular good.

³ John Paul II, Apostolic exhortation *Pastores dabo vobis*, 72, in: *Adhortacje ojca świętego Jana Pawła II* (Kraków: 1996), 519-520.

⁴ The letter of Polish bishops to the Polish presbyters about the ongoing formation of priests *Abyśmy nie ustali w drodze*, (8.03.2006), www.episkopat.pl/abysmy-nie-ustali-w-drodze (30.12.2020).

⁵ K. Bardski, "Naśladowanie Chrystusa w miłości do Kościoła", *Pastores* 4 (2003): 14-16.

⁶ The Congregation for Catholic Education, *The Gift of the Priestly Vocation. Ratio Fundamentalis Institutionis Sacerdotalis*, 81, (Watykan: 2016), 42.

Maintaining the open approach towards contemporary non-believers is a difficult task for many reasons. Contemporary non-believers often openly show their distrust or even aggression. Meeting such people and taking actions which aim at their conversion often require certain qualifications. These include pastoral and intellectual qualifications as well as the human and spiritual ones. They mainly involve the courage to maintain the attitude of openness, to be able to establish a dialogue and to consequently lead it in order to succeed. However, this attitude is not promoted by the public opinion which is mainly shaped by liberal media which are managed by non-believers and by those who distance themselves from the Church. These media mainly favour non-Christians and non-Catholics, supporting them and giving them a privileged place in the public. They also deprecate Christianity and everything which is connected with it and, what is more, the faithful, particularly priests, are often ridiculed. This results in the attitudes of withdrawal and anxiety among Christians and the clergy⁷.

The attitude of courage and openness which is encouraged by Pope Francis, requires proper spiritual and human formation of priests. The shape and form of the formation are indicated by the Second Polish Plenary Synod. These are effective and widely practised forms although they are not only meant for use in dealing with non-believers but more universally. The synodic indications include:

- everyday devout celebration of Eucharist and the personal meeting with Christ in the Blessed Sacrament
- sacrament of penance and reconciliation, spiritual direction, everyday examination of conscience and forms of compensation to God and to people
- the integral celebration of the liturgy of hours
- everyday 20-minute meditation, its form and time
- Marian piety (the Rosary, putting oneself in the care of Virgin Mary, internal conversation)
- the time of the doctrinal or hagiographical formation
- the renewed resolution of practical implementation of the bishop's indications, verification of one's definite adherence to the Magisterium of the Catholic Church, transmission of the ecclesial discipline
- care for the friendship and communion of priests
- the due rest⁸.

⁷ See R. Jaworski, "Psychiczna kondycja współczesnego księdza", *Dobry Pasterz* 22 (2002): 229-243.

⁸ *Kapłaństwo i życie konsekrowane jako wspólnota życia i posługi z Chrystusem*, 68, in: *II Polski Synod Plenarny*: 178-179.

The courage which is necessary for coping with fears and anxiety as well as the openness in dealing with non-believers come from God, as the Synod indicates, just like the motivation which is necessary for accepting such a challenge. The more negative the attitudes towards the Church, especially towards the clergy and their ministry, the more courage it requires from them to realize their mission⁹. This clearly indicates the necessity for even greater commitment into the relationship with Jesus Christ the God Shepherd and for becoming like Him, and through that, the need for even more zealous use of the means of formation indicated by the Synod. This involves both the supernatural means which create a bond between the presbyter and Christ as well as the natural forms which provide him with the support of the priestly community.

Intellectual formation

The aim of the intellectual priestly formation is to enable priests for more harmonious openness to the mystery of Christ Who acts in the world through His priests realizing His saving ministry¹⁰. The process of preparation of presbyters for the work with non-believers requires a thorough study of philosophy. This need for the study with particular regard to the formation of those who are being prepared for the sacrament of holy orders was indicated by the Second Vatican Council:

The philosophical disciplines are to be taught in such a way that the students are first of all led to acquire a solid and coherent knowledge of man, the world, and of God, relying on a philosophical patrimony which is perennially valid and taking into account the philosophical investigations of later ages. This is especially true of those investigations which exercise a greater influence in their own nations. Account should also be taken of the more recent progress of the sciences. The net result should be that the students, correctly understanding the characteristics of the contemporary mind, will be duly prepared for dialogue with men of their time.¹¹

In the light of the changing social situation which mainly results from the liberal ideology, based on the neo-Marxist philosophy, it is very important to get to know philosophy and all the contemporary philosophical currents which exert serious influence on people's

⁹ See K. Dyrek, *Formacja ludzka do kapłaństwa* (Kraków: 1999), 95–98.

¹⁰ The Second Vatican Council, Decree on priestly training *Optatam totius*, 14.

¹¹ *Ibidem*, 15.

conscience, on public opinion and on the shape of the social life, as it is a necessary demand for the ongoing formation of priests. Studying contemporary philosophy allows for a better understanding of the contemporary social processes but, what is more important, also of their background. It also helps to notice the influence of various social groups on the shape of community life, internationally and within the state. This particularly concerns political elites and the people from the media who have specific views which result from their assumed philosophical concepts¹².

Learning about contemporary philosophical currents and their influence on the lives of particular people and on the shape of the social life, enables presbyters to form a critical view on the current events and helps them to find proper pastoral means which can effectively influence the negative impact. The awareness of new threats and social mechanisms based on the present philosophical currents helps to get rid of anxiety and fears: anxiety appears when you face something unknown and incomprehensible. Better acknowledgement and better understanding of the background of the contemporary changes makes it possible to get the courage and to become more open. Furthermore, it motivates for taking up the challenges which result from contemporary threats.

Getting to know contemporary currents enables formulating strategic plans for the pastoral care within the local Church and within the particular Church. It is a proper action for the episcopal conferences and for the diocesan bishops, however, the awareness of the social processes which are currently taking place enables particular bishops for better understanding of pastoral programmes, for accepting them and for implementing them. It also helps in the acquisition of the abilities to prepare tactical plans for the parish pastoral care¹³.

The Second Vatican Council also indicated the need for gaining knowledge in sciences. It is also important because of the dynamic development of sciences and their influence on contemporary people. Priests should be aware that:

Account should also be taken of the more recent progress of the sciences. The net result should be that the students, correctly understanding

¹² See P. Mazurkiewicz, "Polityka jako roztropna troska o dobro wspólne", *Pastores* 1 (2018): 28-30.

¹³ See D. Lipiec, *Formacja pastoralna młodych prezbiterów w diecezjach w Polsce. Studium teologiczno-pastoralne*, [Pastoral formation of young presbyters in the Polish dioceses. Theological and pastoral study] (Lublin: 2020), 137.

the characteristics of the contemporary mind, will be duly prepared for dialogue with men of their time¹⁴.

It is not to require from priests to become specialists in the fields of these sciences and not to make them lead professional discussions, however, they should know the latest scientific achievements and the influence they have on particular people and on social life. In the current reality of social life in Poland, the development of medicine, biological and technical sciences is of greater and greater importance as they influence people's worldview. This influence seems to be even greater in case of non-believers¹⁵.

The intellectual formation of the clergy necessary in dealing with non-believers, requires learning about the achievements of social sciences. Similarly to the acknowledgement of the current philosophical currents, deepening the knowledge of the achievements of social sciences allows priests to understand the changes which are taking place in the lives of particular people and in their communities. The awareness of the processes which are taking place in the contemporary social life as well as their results allows for a better understanding of the phenomenon of atheism and of the ways of thinking of non-believers¹⁶.

It seems that the achievements of social sciences and of sciences play a greater role in creating the worldview of non-believers than of the faithful. The attitude towards oneself, towards others, towards the world and towards God is shaped by medicine, psychology, pedagogy and sociology and by other social sciences to a greater extent in the case of non-believers who totally or partially reject the Christian vision of man and of the world. The acknowledgement of the scientific achievements allows clergy to get to know the inner world of non-believers and their worldview. It also helps to notice the individual nature of the phenomenon of atheism.

Study of the issues of social sciences enables priests to assume a more adequate attitude towards the phenomenon of atheism and, in particular, towards particular people who consider themselves to be atheists. Understanding the origins of their atheism, the mechanisms

¹⁴ The Second Vatican Council, Decree on priestly training *Optatam totius*, 15.

¹⁵ See J. Grzybowski, "Czy psychologia komunikacji wystarczy?", *Pastores* 3 (2010): 45-49.

¹⁶ J. Mariański, *Kondycja religijna i moralna młodzieży szkół średnich (1988-2017)*, in: *Duszpasterstwo młodzieży w Polsce wobec współczesnych przemian*, ed. P. Ochotny, M.J. Tutak, T. Wielebski (Warszawa: 2018), 147.

which led to it, helps to take proper pastoral action which aims at converting them.

Pastoral formation

The pastoral dimension of the formation of presbyters is strongly connected with its spiritual, human and intellectual dimensions. Particularly, the spiritual and human aspects lead to deepening the pastoral charity of priests, which is a servitude for those the priests were sent to. Enriched with intellectual dimension, the pastoral formation

impels the priest and stimulates him to become ever better acquainted with the real situation of the men and women to whom he is sent, to discern the call of the Spirit in the historical circumstances in which he finds himself and to seek the most suitable methods and the most useful forms for carrying out his ministry today¹⁷.

The Second Vatican Council teaches that the major aim of the pastoral formation of presbyters is to motivate and develop their pastoral zeal. Non-believers are the addressees of the pastoral zeal, indicating that undertaking pastoral efforts towards them results not only from the personal zeal of priests but also from their mission which is universal and inalienable¹⁸. It is therefore obligatory to approach non-believers with the attitude of openness and it is the basic duty of presbyters, just like the zealous service for the faithful who are in constant connection with God and with the Church. The main aim of priests is to find such people among those who were entrusted to them and take proper action for the effective pastoral influence.

Pastoral formation of presbyters influences pastoral zeal and the attitude of the effective openness towards non-believers. The effectiveness of the undertaken actions results, according to John Paul II, from the greater pastoral experience and from the new forms and methods of evangelizing activity¹⁹. Pastoral experience, especially the one useful in working with non-believers, is much more effective than the remembered pastoral events and interiorised experiences which accompany them. Pastoral experience consists in the acquired philosophical, theological, scientific and social knowledge, which is strictly combined and correlated with pastoral needs. With regard to

¹⁷ John Paul II, Apostolic exhortation *Pastores dabo vobis*, 72,

¹⁸ See The Second Vatican Council, Decree on priestly training *Optatam totius*, 19.

¹⁹ John Paul II, Apostolic exhortation *Pastores dabo vobis*, 72.

the work with non-believers, pastoral experience means correlation of the previously gained experience with currently acquired knowledge and skills of presbyters in dealing with non-believers as well as with the phenomenon of atheism in the current specific reality.

The pastoral formation of presbyters for the work with non-believers is also connected with self-reflection over the past experiences and with the development of the ability of drawing constructive conclusions²⁰. One of the most common conclusions resulting from such meetings is the reluctance to maintain further contacts with non-believers and resignation from their influence on them. However, this reflection should not lead to discouragement but to the rational overcoming of the emotional obstacles and to perceiving the possibility to influence such people²¹.

Pastoral formation also consists of theoretical and practical abilities which are necessary for the work with non-believers. It is important for presbyters to participate in various workshops, courses, trainings and other such initiatives. It is not only important to acquire the knowledge and skills connected with dealing with non-believers. It only leads to the automatic use of them, which is ineffective. It is necessary to gain knowledge and skills which regard broader social and cultural context and the religious context in dealing with non-believers so that priests could learn to use all their experience and make use of all the available means of impact²². It is also important for them to independently make proper use of their knowledge in certain conditions and with regard to certain challenges. Learning independence in making proper use of their pastoral experience is necessary because there are no universal means or pastoral tricks which will ensure the effectiveness of their impact.

Conclusion

The preparation of presbyters for the work with non-believers regards all the dimensions of the ongoing formation. The spiritual and human dimensions aim at enabling them to assume the attitude of openness, which is indicated by Pope Francis, as well as at drawing

²⁰ Francis, The Speech during the meeting with the Episcopal Council of Brazil “Duszpasterstwo to realizowanie macierzyństwa Kościoła Pastoral care is the realization of the motherhood of the Church” (São Sebastião do Rio de Janeiro, 27.07.2013), *L’Osservatore Romano* [Polish edition] 44 (2013) nr 10: 19-24.

²¹ See R. Jaworski, “Trudności w pracy księdza”, *Pastores* 3 (2003): 25-30.

²² See J. Maciąg, “Naucz się, czego będziesz nauczał”, *Pastores* 4 (2011): 117-122.

attention and at the consequent preaching of the Gospel to those who distance themselves from it. The aim of the intellectual and of the pastoral dimensions of the formation is to acquire the ability to understand pastoral needs and to formulate conclusions which concern working with non-believers. It is important to acquire knowledge and skills which concern new forms and methods of working with non-believers.

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Theological arguments of Hubert Hayer

Hubert Hayer, an eighteenth century French Catholic theologian, waged a theological battle against anti-religious sentiment of his times. He presented a massive, elaborate treatise proving that the soul is an incorporeal entity endowed with attributes and faculties that cannot be explained in purely materialist terms. In addition, he presented arguments showing the immortality of the soul. However, these arguments relied to a large extent on the attributes of God and so he also presented several proofs of the existence of God.

Key words: Hubert Hayer, the immateriality of the soul, the immortality of the soul, the existence of God.

Jean Nicolas Hubert Hayer (1708-1780), a French Catholic priest, was a member of the Order of Friars Minor Recollect, or simply the Order of Recollects. He taught theology and philosophy among the Recollects and was one of the strongest defenders of the Church in his time¹. One topic he extensively discussed was the infallibility of the church. He had an exchange of letters on the topic with David Renaud Boullier (1699-1759), a French émigré, a Calvinist pastor in London, Utrecht, and Amsterdam². Unbeknown to Hayer, Boullier published these letters with his comments. Hayer responded with a three-volume

¹ *Dictionnaire historique ou biographie universelle* (Paris: 1836), vol. 9, 197; F.X. de Feller, *Biographie universelle ou dictionnaire historique* (Paris: 1848), vol. 4, 330.

² *Le Pyrrhonisme de l'Église romaine, ou Lettres du R. H. B. D. R. A. P.* [Révérend Hayer bibliothécaire des Récollets à Paris] à Mr.** avec les *réponses* [de Boullier], Amsterdam: J.J. Jolly 1757.

work³ which received very high praise from several bishops and even from the pope Clement XIII⁴. A short version of this work followed⁵.

His largest work co-authored with a lawyer Jean Soret is a twenty-one-volume collection of polemics with atheistic, deistic, and Protestant authors and their works of the day⁶.

Except for spiritual and devotional books⁷, Hayer also addressed the two large theological issues, the existence of God and the immortality of the soul. Considering the emphasis placed on rationality by the opponents of religion of the day, Hayer, addressed the problem of the use of reason in theological manner as well.

³ H. Hayer, *La Règle de foi vengée des calomnies des protestans et spécialement de celles de M. Boullier, ministre calviniste d'Utrecht* (Paris: 1761).

⁴ See several letters from bishops included in Hubert Hayer, *L'Apostolicité du ministère de l'Église romaine* (Paris: 1765). One letter even says that all bishops of the Catholic world applaud the solidity of the principles against the Protestants shown in *Le Règle*, xvii.

⁵ H. Hayer, *L'Apostolicité*.

⁶ [Hubert Hayer, Jean Soret], *La Religion vengée, ou Réfutation des auteurs impies* (Paris: 1757), vols. 1-3, 1758, vols. 4-6, 1759, vols. 7-9, 1760, vols. 10-12, 1761, vols. 13-15, 1762, vol. 16-18, 1763, vols. 19-21. These volumes are really bounded pamphlets issued monthly. An advertisement of the *Spiritualité*, by one of the authors of *Religion vengée* in vol. 2, 367, points to the co-authorship of Hayer. The content: vol. 1: Bayle; vol. 2: Bayle, reason, and mysteries; suicide; vol. 3: Bayle, reason, and mysteries; vol. 4: various authors and Bayle on mysteries including the eucharist; vol. 5: tolerance, putative truths, princely authority; vol. 6: tolerance; Manicheism; atheism; Bayle, [Helvétius], *De l'Esprit*; vol. 7: [Helvétius], *De l'Esprit*; Voltaire; vol. 8: Voltaire, Marcus Aurelius, Julian the Apostate, Vanini; vol. 9: Voltaire; vol. 10: Voltaire; *L'Encyclopédie*; vol. 11: *L'Encyclopédie*; vol. 12: *L'Encyclopédie*; [Frédéric-Guillaume de La Broue], *L'Esprit de Jesus-Christ sur la tolérance* [1760]]; vol. 13: [Diderot], *Pensées philosophiques*; vol. 14: [Diderot], *Pensées philosophiques*; [Shaftesbury, Diderot], *Principes de la Philosophie Morale ou essai sur le merit et la vertu*; [Simon Bigex], *Oracle des anciens fidèles*; [Diderot], *Pensées sur l'interprétation de la nature*; vol. 15: [Diderot], *Pensées sur l'interprétation de la nature*; [Diderot], *Lettre sur les aveugles*; Panage [François-Vincent Toussaint], *Moeurs*; vol. 16: Montesquieu, *L'Esprit des loix*; his *Lettres Persannes*; [Jean Baptiste de Mirabaud], *Le monde et son origine. De l'âme et de son immortalité*; de la Mettrie, *Oeuvres philosophiques*; vol. 17: De la Mettrie, *Oeuvres philosophiques*; [Étienne-Gabriel Morelly], *Le code de la nature*; [Benoît de Maillet], *Telliamed*; vol. 18: [Jean-Baptiste de Boyer d'Argens], *Lettres Juives; Lettres Caballistiques; Lettres Chinoises*; vol. 19: Rousseau, Émile; vol. 20: Rousseau, Émile; *Du contract social*; vol. 21: Rousseau, *Du contract social*.

⁷ H. Hayer, *Jésus consolateur dans les différentes afflictions de la vie* (Paris: 1767); seventh edition came out in 1882; *Pensées évangéliques, avec des prières pour le matin et le soir, pour la messe, la confession, la communion, et autres* (Paris: 1772); included can be here *L'Utilité temporelle de la religion chrétienne* (Paris: 1774), and *La Conformité à la volonté de Dieu* (Paris: 1777).

Faith and reason

Two lights direct human steps, reason and revelation, reason leading to revelation and revelation perfecting and ennobling reason (S 3.145)⁸. God, the Author of nature, speaks to people through the light of reason and, as the Author of grace, through the light of revelation and the proofs obtained by reason and revelation should be equally appreciated (149).

As to the exact nature of the relation between reason and faith, Hayer vacillated on the topic. He stated that faith illuminates the soul, not reason, since, instructed by faith, the soul knows more truths than without this instruction. Reason gives the soul only the light of intelligence and the soul does not know these truths through reason. Reason does not know these truths since it only can know truths it can conceive and mysteries are above its grasp (*conception*); they are incomprehensible by reason (R 3.208). And so, reason does not need faith to do what it can do. There are some revealed dogmas that touch upon the order of nature and appear to be based on reason. Reason can prove that the soul survives the death of the body, but for how long? The revelation speaks about the eternal existence of the soul, whereby, by the double light, the soul firmly believes in its immortality (209). Thus, faith does not illuminate reason, but reason also does not illuminate faith. There is also a talk about illuminated faith to distinguish it from simple faith. In that sense, faith can develop its own principles with the help of reason based on the truths of revelation (210-211), which is not the creation of truths but the generation of them by deriving them from other truths (307). What exactly is the difference between creation and generation in this context? It rather appears that reason does illuminate faith if the latter uses the former for extending and clarifying the scope of its truths.

Reason is a divine light and any religion that combats reason is false, dishonors humans, and sets God in contradiction to Himself. “Reason is an essential base of the true Religion” by proving the truth of religion, whereas religion illuminates reason⁹. Reason and revelation are two lights and they cannot be opposed to one another; rather, they support one another (R 5.20).

⁸ References are made to the following books by Hayer:

E – *L'Existence de Dieu* (Paris: 1769).

S – *La Spiritualité et l'immortalité de l'âme, avec le sentiment de l'antiquité tant sacrée que profane, par rapport à l'une et à l'autre* (Paris: 1757), vols. 1-3.

R – *La Religion vengée*.

⁹ H. Hayer, *L'Apostolicité*, 179-180.

Not entirely consistent about the mutual level of illumination, Hayer at least was clear about the nonbelligerent relation between reason and faith. Religion is not opposed to sane reason (R 2.136). Mysteries of religion are not opposed to reason (144). “Faith can never establish its empire on the ruins of Reason” (146). Reason and faith have their own domains and they do not want to encroach into one another’s sphere of influence. Reason should be followed in all that is accessible to people and being independent, it does not reject the authority of God (R 1.339). Reason also states that people should believe in incomprehensible things if they are based on the divine authority¹⁰.

The immateriality of the soul

The approach frequently favored in Hayer’s days to the problem of the soul was very close to or an outright materialism, “a system which has delirium as its principle and all passions for its support is proper only for the society of monsters and of public pests” (S 1.xix). Since, in Hayer’s assessment, “materialism is a tissue of revolting absurdities which are favored only with the help of unintelligible galimatias” (xvi), he wanted to bring some order to the issue. In his view, the immateriality of the soul was often presented in an abstract fashion (xvi). For example, Augustine gave a great presentation of the soul, but it was insufficient (xvii).

Hayer accepted as obvious the principles that an effect is not more perfect than its cause, and that there is no effect without a cause; he also accepted a common notion that the sensitive faculty is a perfection surpassing any perfection of a machine (S 1.4). If matter could sense/feel, all matter could sense (6). Matter has extension; feelings don’t: they have no length, no form; feelings are modalities, i.e., ways of existence of the substance they modify and are present in all of this substance. Matter is infinitely divisible and none of its parts has feeling (10). If each of these parts could feel, the combined feeling of the infinity of parts would be infinite; thus, the soul, if it were material, would have an infinite feeling (11-12). The argument is not altogether correct: in the same way it could be argued that if each part has some size, then the size of the combination of such parts would be infinite; Zeno’s bipartite argument could be used to see that this does not have to be the case.

It is claimed that parts in separation do not have feeling, but only in combination (S 1.12). But how could these parts give to the whole what

¹⁰ H. Hayer, *L’Utilité temporelle*, 218; cf. R 8.17-18.

they don't have? (13), asked Hayer. However, chemical compounds do have properties which their parts don't have, which alchemists and chemists of the day knew well.

Seeing and tasting are mechanical processes, but when I see light, I don't see my eye, the seeing itself is not in this mechanism (S 1.18). The mechanism of vision and seeing are not connected by necessity; one can exist without another (19). If matter can sense, why does not all matter sense (23)?

No effect is more perfect than its cause, so, sensation cannot be caused by matter. Also, cause and effect should be of the same proportion, type, and order. Each material cause causes only material effects (S 1.31). There must be some relation between cause and effect (31); thus, it is ridiculous to think that a sensation would be the result of some combination of shapes and of motion along the straight line and along a curve (35). Consider the sensation of hearing pleasant music: there are vibrations of air, the membrane in the ear is stuck and I hear a sound; there are connections between the events and matter and the sensation, but I am looking for the efficient cause (36). How are mechanical events resulting in a sensation (37)? Sensations are the result of a incorporeal substance; is it God? the soul? But often there are sensations the soul experiences in spite of itself, unpleasant ones (38). Some Christian philosophers attributed sensations to organs, but this was not quite correct (42). A modality cannot be attributed to a subject without grasping its relation which determined this attribution (45). If the soul were made from atoms, each image would be repeated in each atom. If each atom (at least, each atom related to vision (*atome visif*)) sees only a portion of an object, how would the entire image be created? (48, 50). People simply confuse an organ with sensation (52). The human body is as much devoid of sensation as a cadaver. Plato said that the soul sees, not the body (55), and so did Aristotle, Cicero (eyes are the window of the soul) (56), Lactantius, Augustine (57), and John Damascene (58). It is worth mentioning that the problem of *qualia* is still debated today and remains largely unresolved.

When a child begins to sense his existence, he has two primal ideas: the idea of his existence and the idea of the certainty that he does exist (S 1.64). “No one teaches someone else that *what exists, exists*”; such knowledge comes from the voice of nature. This voice is perfected by reflection and experience (67). Sensation signifies only a sensory (*sensible*) idea: colors, smells, sounds, etc. (74). It is interesting to read that Hayer is berating the peripatetic and scholastic epistemological principle stating that there is nothing in the intellect which was not

before in senses, because it degrades humans by limiting them to sensations only and removes intelligence.¹¹

Sensory qualities are spiritual modifications residing in the soul, not in objects (S 2.77). A sensory object is an occasion to remind a person of an idea of an intelligible object in which all imperfections are absent. Seeing an imperfect circle reminds one of a perfect circle, the essence of the circle (S 1.77). Proportion pleasantly affects the sense and imagination, but neither sense nor imagination can say what proportion is or what is the relation of proportion with pleasure it causes. The sense can perceive and imagination can represent similar things, but they cannot say what is similarity. Thus, senses and imagination would be insufficient to create art; intelligence is also needed (81-82). Moreover, only intelligence can grasp the concept of a number and all truths that result from combinations of numbers (83).

An idea is a perception of the essence of an entity. Matter being imperfect cannot produce ideas (S 1.114), the most perfect kind of cognition. Matter is perfect inactivity, an absolute inertia. Changes in it are caused by outside causes, so, how could such matter generate ideas and reason? Operations of the soul are not caused by matter (115). Ideas are not generated by motion since motion produces only motion – but also, possibly, the change of form, the change of temperature, etc. – or, rather, a body communicates motion to another body, the production of motion being above the forces of motion (116). Ideas are of an infinite variety that can succeed one another in an instant, too suddenly to be caused by physical motion (118). Locke denied the possibility that motion of matter can generate thought and cognition (119). Matter is not a subject of ideas since ideas would have extension and form and ideas, i.e., perceptions of essences of things, would be in matter, i.e., they would be images with their upper, lower etc. parts. Also, I can grasp very well spiritual objects through ideas: virtue, truth, God; for such ideas, I consult reason, not senses or imagination (120-121). If the idea of God is not spiritual/mental, it consists of some fixed mechanism (123). Where is it? and why, for instance, various names for God in various languages invoke the same idea and the word “God” is just a sound for those who know no English (124)?

Senses are limited to sensory objects, and imagination deals only with objects with some form; senses perceive; imagination represents. It is reason that judges, examines, and makes decisions (S 1.132). If

¹¹ Rather uncharitably, Hayer stated that the Scholastics often used incorrect concepts, mysterious language, and obscurities and that they explained immateriality in barbaric terms (S 2.297).

I consult only my senses, the sun is a small circle. Reasoning based on laws of optics, astronomical operations, etc. (133) says otherwise. The decision is made by reason, a spiritual entity (134).

Memory is reduced to impressions on the brain, traces of ideas – and thus not ideas themselves – which the soul discovers; but that is an admission that there is a substance different from these traces and from the brain (139). The neighboring traces supposedly invoke the ideas they represent (140), but that would mean that ideas with traces far apart can only be connected through the sequence of intermediaries as if the idea of Paris could not be immediately associated with the idea of Rome after the voyage since the ideas of cities passed along the way were imprinted in the succession dictated by the voyage and the long chain of these cities would have to be invoked in between (141). How about associating the idea of Paris with the idea of any other city whose traces on the brain could be far apart (142)?

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The faculty of judgment proves the immateriality of the soul (S 1.147). What would be a mechanistic explanation of the judgment of the beauty of a poem (152)? Also, to judge, “A is B,” the ideas of A and B would have to be in some material parts, the action of judging in some part C, so, how could this part C arrive at the connection between parts A and B? A materialist would say that judgment is the impact of two material parts, which is “such an obvious folly that it deserves only our compassion” (154). Generally, reasoning proves the immateriality of the soul (167) since it does not operate on words, which are just sounds, but on ideas (174).

Doubt proves the immateriality of the soul (S 1.161), since, if the motion of matter should determine elements of knowledge (164), then what would be the difference between motions determining doubt and certainty (163)? I cannot be at the same time in doubt and in the state of certainty, but one material part could be in doubt, and another could be certain. What would be the physical mechanism of the change from doubt to certainty (164)? I am in doubt about many things but certain about some aspects of these things. How can two mechanisms in the same part of matter accomplish this in man-machine (165)?

Attention and distraction prove the immateriality of the soul (S 1.176), since motion requires continuity; thus, how can motion explain an ability to change attention from one object to one completely opposed to the first? (178).

Dreams prove the immateriality of the soul (S 1.180): the soul in dream reasons, desires (181), loves, which are hardly operations of a mechanical nature. Images of impossible and nonexistent objects

are created (182). Images and emotions in dream change very quickly and they are often opposed to one another (184); what material mechanisms can account for this (185)? Sometimes reasoning is even better in a dream than in the waking state, which even materialists recognize (188), and even some discoveries are made in a dream (190), which means that the soul in sleep is less affected by the body (193).

The will proves the immateriality of the soul (S 1.202), since the soul acts by and of itself, whereas matter is inert (203). The soul's action of willing and loving are in the soul itself; actions of matter are outside of matter (204). The act of willing occupies the entire soul; thus, the soul is not a compound substance, since in a compound soul each part could will different things. How would it be possible to assure a necessary agreement of such partial wills (206)? Moreover, the swiftness of the change of will shows that mechanical movements cannot cause them (209).

Freedom proves the immateriality of the soul. I have an inner conviction of my freedom (S 1.211), whereas mechanical laws don't change (214). There are desires of the body and of the soul, sometimes opposed to one another. In a machine, there would be a perfect harmony between the two (217). The soul rules over the body according to its freedom; the influence of the body on the soul is not proportional to the former; the body is basically inactive and insensitive; it does not command (227). A mechanical cause such as the temperature of the blood can cause in one person a rush reaction, but in another person it will not lead to an outburst, so the soul is not a machine (235) and it can counter the mechanism of the body thereby showing the soul's freedom (238).

Desires, hope, and fear prove the immateriality of the soul (S 1.243). A material desire would be some motion and would have some shape (244). A person desires without any mechanical impression. Some idea suffices (245). A desire of an impossible object should be impossible (247). Hope is a longstanding feeling often with no prospect of fulfillment. "Is this conduct (*marche*) of the soul the conduct of a machine? This state that everyone feels and that no one can define, what relation, what resemblance does it have to parts of matter which move in a thousand different ways, without aim and without destination?" (251)

The love of pleasure proves the immateriality of the soul. It would be foolish to measure pleasures in inches or consider them round or square (S 1.261). All pleasures are spiritual even those that originate in senses (262). Pleasures that stem from wisdom and virtue are superior to sensory pleasures, more perfect than the body and are separable

from it; they are pleasures of the substance superior to matter (268). These pleasure “never taste better than when elevating myself above the body I impose silence on sensations and passions, when I force myself to act as though I had no body and as though I were absolutely independent of all bodies that surrounds me” (269).

Heroism proves the immateriality of the soul (S 1.309), because just one word, one act may suffice to undertake a heroic task, which is out of proportion between the cause and the effect (314).

Envy proves the immateriality of the soul (S 1.322). The same success produces in one person joy, in another sadness and jealousy; how can it be explained mechanically? In some, the prosperity of others and also their adversity cause sadness. How (327)? Cicero said that philosophy is a medicine of the soul (329). “If philosophical maxims could mechanically inspire the temperance in Socrates and Polemon, they could also mechanically destroy the odious passion of envy in the soul of any possible Mutius [a Roman citizen famous for his envy (327)]” (330).

Hypocrisy proves the immateriality of the soul (S 1.333): a hypocrite is not a machine because of his constant experience of the exterior hiding the interior, one being opposed to another, e.g., hidden impiety and the appearance of piety. What would be a mechanical cause of such a contradiction (335)? If there are two mechanisms, how come they are in agreement in the impious and in opposition to one another in the hypocrite (336)? A hypocrite is not a machine, he is even superior to it since he can “make it bend to his views to follow his steps.” On that note, the voice of conscience proves the immateriality of the soul (340). Regrets, sometime reawakened, oppress a person, but they are more and more distant from the object that caused them and thus should become weaker and weaker, and yet they don’t, so, they are not caused mechanically (347).

The union of the soul and the body proves the immateriality of the soul (S 1.371). The command of the spirit over the body proves it. This command can be even tyrannical when the body becomes a victim of passions (375). One word can lead to the action of the body (376). Philosophically, the battle of the body against the spirit is really the battle of the spirit against itself: the battle of the sensory faculty against the intellectual faculty (379). Although the body and the soul form a union in this life, the nature of the cooperation of the two lies beyond human ken; it “is a mystery of nature whose impenetrable profundity prepares me to respect and believe the mysteries of Religion without being willing to probe them” (S 2.162).

The immortality of the soul

This long array of arguments given by Hayer shows that the soul is an incorporeal substance, that is, it has no parts, thus, it is indestructible (S 3.3), although its existence depends on God (4). The immortality of the soul is guaranteed by God's attributes (6). Could God create the soul, this noble substance, only to animate such a vile entity as the body? This union is the soul's first destination, but not its ultimate end since the union with the body does not correspond to the dignity of the soul, it rather degrades it (21). It is impossible to imagine that the soul could be annihilated after the life almost always filled with afflictions and misery. God created humans for His glory; how would the annihilation of the soul, which can glorify God, contribute to this glory (30)? Also the soul's homage paid to God on earth is so weak that another life is needed for them to contribute to His glory (24).

The desire of knowing the truth proves immortality (S 3.62). Human knowledge is imperfect, and many things are inaccessible to humans (63). All truths are, in a way, emanations of the eternal Truth. After this life, the eternal Truth will show itself to people without a veil (65).

The love of glory and the desire of immortality are proofs of immortality (S 3.66). The superior cause imprinted this desire in humans (67), God who put in the heart desires that lead to Him. To participate in God's immortality people should imitate God's perfections (68).

The desire of perfect happiness is a proof of immortality (S 3.72), also, the testimony of conscience (77). The voice of conscience is regarded as the voice of God, a testimony announcing that God will be our judge who metes out rewards and punishments (80). Humans have been always the same as to their nature. They always believed in the respectability of virtue (138), they believed that virtue should be rewarded and injustice should be punished. From this it was concluded that the future life exists (139). Also, God punishes vices and rewards virtues, which is an immutable law of God and this immutability guarantees immortality for this law to take effect (26-27). Moreover, God is holy and thus happy and reason tells us that observing the laws that lead to God's happiness should also lead to our happiness, and the eternal observation of these laws will lead to eternal happiness. God, who is goodness itself, cannot annihilate people who devoted their lives to Him (37).

The body is often in the way of the progress of the soul, so the Providence prepared for humans a blessing superior to the terrestrial objects where they can reach a destination worthy of them, where they can enoble their reason by new gifts of God that have only God as

their object. The present life is the life of enjoyment of sensory objects and the life of trial (S 3.111-112). The advantages that animals have over humans on earth indicate that humans are destined to higher blessings (113). Animals have better senses, they are more agile, stronger, they live longer (116), they don't worry about the future, do not ponder on the past (118), they are not torn about the battle of their passions and the law (119).

Incidentally, the belief in and the desire for immortality has social and political consequences. People want to be governed by a sovereign who believes in the immortality of the soul; they consider him to be an image of God and an homage to him is an homage to God and disobedience of him is a rebellion against God. They can sacrifice themselves to the king if need be believing in the recompence in the afterlife (S 3.97). The immortality of the soul is "a truth essential to the happiness of society, as the only reason capable of serving as a brake on the passions which disturb public order, as a necessary encouragement to lead to heroism in the services that we owe to the Fatherland; from which it follows, it seems to me, evidently, that God, the author of society, gave to man an immortal soul" (107).

The existence of God

A major argument for the incorporeal nature of the soul and for its immortality is the nature of God and His attributes; in particular, God's goodness would not allow such a magnificent creation as the human soul endowed with rational faculty to go through a brief earthly life filled with suffering and misfortune to be annihilated. It appears that this had awakened Hayer's theological realization that the problem of the existence of God has to be directly addressed.

When people consult their reason, heart, the benefit of the humankind, the heaven, the earth, the physical nature, the morality – all of them tell them that God exists (E xv). We know nothing perfectly, but, to prove the existence of God, it is enough to show that an eternal being exists, infinitely wise, infinitely powerful and free who conserves and governs the universe created out of nothing (3), a being existing of itself that is absolutely independent (9), unchangeable, thus immutable (10) by being unable to acquire or lose any perfection (11). The being that exists of itself is perfectly free (12). Eternally free, God eternally made decrees and He cannot change them since He is immutable. He created the world for His glory, but this creation was not necessary since God is sufficient for Himself (22). The being existing of itself is

infinitely perfect, since each imperfection is a degree of nonbeing (23). In a being existing of itself, all perfections are necessarily in harmony. This being should have all perfection compatible with the necessity of its existence; it is essential for this being to have all these perfections (28). God is all being, or He has the plenitude of being in the sense that He is the source of all other beings (32-33).

Being should not be multiplied beyond necessity, good sense says as much. One infinitely perfect being suffices. Multiplying one thing would indicate that this thing is limited. What purpose would be served by the existence of two infinitely wise beings (E 33)? Would their wisdom be the same? There would be two causes of the same thing, a contradiction. It would be absurd to say that two omnipotent beings caused one universe. One such being would be useless (34).

God is a substance that exists by itself (E 59). The being existing by itself is infinitely powerful (63). What would be the use of this being's infinite intelligence if its power did not match it? Omnipotence does not mean making contradictory things, such as a circular triangle (64). In fact, if God could make a triangular circle possible, He could make a circle impossible (S 2.106).

God is the author of natural laws. Some laws depend on His will, as sanctifying the seventh day; it could have been the first (R 10.194). Some laws are independent on God's omnipotence, since, in a way, they precede it in the sense that He could not legislate laws contrary to them (195). God could not make the just act of worshiping Him to be unjust. This does not limit His omnipotence which should not contradict His wisdom. God does not submit Himself to some eternal laws (196). God cannot oppose Himself (2 Tim. 2:13), that is, "He necessarily acts according to the views of his wisdom and there would not be any God if he could battle against his views. It is evident that this is not to submit God to Laws, but rather to erect/raise (ériger) his wisdom into an inviolable Law" (197), in which statement there is more than a touch of hair-splitting argumentation.

The being existing by itself can create (E 70). In nature, there is no effect similar to its cause (74). The being that exists by itself created matter (75) and organized it (97). In matter there is no connection between the present existence and the past and the future, so matter is not eternal; it does not exist by itself since all moments of an eternally existing being are inseparable from one another (76). The existence of God is an absolute necessity; everything else exists by hypothetical necessity (83).

These proofs are of a rational nature, in a way, proofs of existence of God from the concept of God belonging to the same category as the ontological proof. However, Hayer included a series of proofs of more experiential nature.

The existence of God is proven by the union of the soul and body: it is a mystery of nature how entities of such different natures are united (E 114). In fact, even today the exact nature of the interaction between mental life and the physical nature of the body is not exactly fathomed.

The proof of the existence of God from the preservation of the universe by maintaining the order established when creating it: what other connection would be between the present state and the past and the future (E 119)? Would accident be the cause of such a marvelous entity? Would it maintain the order in the universe? Only an infinitely powerful being assures that this orderliness persists (120).

The proof from an impossibility of bodies to self-move (E 121): experience tells us that the body at rest remains at rest; the body is in motion in proportion to the level of imprinted motion to the level of resistance (122); the cause of its motion has to come from the outside (123). For atheists, motion is an essential property of matter (128). Rather, the motive force in bodies is due to God (130).

Proof from the spectacle of the universe (E 131): this was the proof most prominently used in the eighteenth century, and Hayer mentioned two major promoters of physico-theology, Nieuwentijt and Derham (136). Calling this a proof from the spectacle of the universe seems to be a reference to Pluche's massive *Le spectacle de la nature* (1734-1750). The order that rules in various parts of the universe indicates the existence of an infinitely wise, powerful, and free Being (140, 201, 206), particularly "a constant order and an admirable order" (202). The detection of orderliness is so compelling that Hayer believed that an isolated individual who would not receive any education could conclude that the earth and the heaven are necessarily the work of a supreme Being (R 19.163). The Epicureans refer to the randomness of the motion of atoms which, given enough time, can arrange themselves into orderly entities. However, as Montaigne asked, why don't these atoms create a house today? Also, no one believes that an infinity of Greek letters would form the *Iliad* (E 89). Moreover, consider a watch which eventually will get out of order since its parts will become deficient because of the constant use (162). The machinery of the universe, however, works constantly the same way due to the arrangement made and maintained by the divine Artist and His wisdom (163).

Orderliness is intertwined with purposiveness; for instance, the sun was created to give humans light and warmth (E 142). God created for humans the heaven, the sun, the moon, the stars, and the earth that nourishes them.¹² Everything in nature has its purpose; however, because of the human limited knowledge not always can this purpose be obvious (144).

The proof from the faculties of the human soul (E 156), as proposed by Hayer is at best controversial. First, human knowledge is limited, each individual can know only a limited number of truths, and the human mind is dissatisfied with this limitation, from which Hayer jumps to the conclusion that there must be a Being who knows all truths (157).

Hayer believed that there is no causal relation between sensory organs and sensations perceived by the soul. The states of sensory organs are only occasions of sensations. God is the primary and efficient cause of sensations, not the soul, “and this is where Reason leads us” (E 160); needless to say that only the reason of the follower of occasionalism of Malebranche can be satisfied with this argument.

The existence of God is indicated by the ability of making choices (E 164): human freedom is “an incontestable fact” (165) about which convinces us “the intimate sense seconded by the sane reason”. People did not give this freedom to themselves; it comes from the force that is powerful enough to give it to them and also free itself since could God make people free not being free Himself (166)?

The proof from the natural law: there is an eternal and immutable law engraved in people that commands goodness and prohibits evil and turning away from evil and doing good is the first natural law and the base of other laws.¹³ The law is based on the divine wisdom rather than on the divine power. From this wisdom comes eternity and immutability of this law, but this power engraved this law in human hearts. This law allows people to see the difference between virtues and vices and even the worst villain can detect in his heart the presence of the silver rule: don’t do to others what you don’t want to be done to you (E 168, 183-184). The natural law “subsists in our hearts regardless of the effort we make in order to destroy it,” and thus, it can only be the work of the power of God (169). Natural law tells people that there is a supreme Being, infinitely wise, powerful, and good who governs the universe (204), to whom humans owe submission and who should be worshiped and loved (R 10.205). Natural law lets people hear its voice through conscience which torments people when they defy this

¹² H. Hayer, *Pensées évangéliques*, 48.

¹³ H. Hayer, *L'Utilité temporelle*, 9.

law by their misdeeds done in secret (175). The usefulness of natural law and the virtue it addresses is only meaningful when humans are free, since if there is no freedom, then there is no virtue or vice. This has eschatological consequences, since the existence of freedom and objectivity of virtue points to the existence of an infinitely wise Being who rules over the universe and who rewards virtue and punishes vice (172).

The proof from the Gospel history (E 176): consider only Christ's prediction of the destruction of Jerusalem and of His resurrection – if these facts are real, then God exists (177), and they have been proven as true (178). To a limited extent, Hayer used a frequently utilized proof not only of the existence of God, but also – and even more so – the truth of the Christian religion by reference to Biblical prophecies and miracles.

The proof of the existence of God from the ease with which this existence is accepted (E 180): if someone's attention is turned to the wonderful makeup of the universe, people can easily see that just as a work of art cannot exist without an artist, so the world can hardly be considered to be made by itself or by accident. This would lead directly to another, frequently used proof from the universal agreement (183): in each corner of the world on each level of the development of a particular society there has always been some religious belief in some power beyond the level of humankind (185). Even idolaters recognize the existence of the Divinity, but "they disfigure it in the most peculiar way" (193).

If there are so many proof of the existence of God, whence atheism? The number of atheists is small and they want to immortalize themselves by their teachings that are accepted by imbeciles or by people who gave themselves to pleasures and it is in "the drunkenness of pleasures when the Divinity disappears" (E 207). Importantly, pleasure is not forbidden; people need it; only excessive pleasures are condemned, because they can blind people and lead them to perdition.¹⁴

In all Hayer's undertakings, his main concern was of a pastoral nature: bringing people to the Christian faith since departure from this faith has catastrophic eternal consequences. Preaching itself was not enough in the age of a strong anti-religious movement that also affected believers. Hayer tried to use the opponent's stress on rational means to bolster religious claims. He used them to an appreciable extent in his expansive work on the immaterial nature of the soul and to much less impressively in his proofs of the existence of God. He listed some

¹⁴ H. Hayer, *Pensées évangéliques*, 14, 25.

fourteen of them, in many cases overlapping one another. In his view, it is all right to present new proofs of the existence of God without rejecting old proofs. One good proof should suffice, but because of differences between people, the same proof may not have the same convincing power (R 10.316). However, the old proofs did not always come out strongly. The need for the first cause is given in the context of the passivity of matter; no reference was made to the *first* cause to cut the prospect of an infinite causal chain. The ontological proof is altogether absent and the teleological proof made a rather weak appearance. The most strongly investigated proof of the day, physico-theological, is barely touched upon. However, the list of proofs Hayer did provide could speak to many readers, as various convincing power as they could have.

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Epistemological bases of the dogma of the Immaculate Conception of Mary

The dogma of the Immaculate Conception of Virgin Mary refers to the ontological condition of God's Son's Mother Who was preserved from the effects of the original sin. The direct action of God incarnated into a human is not limited of the categories of the natural order and it does not exclude the possibility of the rational cognition and conceptualisation of them. The article directs into the epistemological bases of the defined truth of faith which regards Virgin Mary as to the true information which matches the criteria of the assured faith.

Key words: faith, reason, cognition, epistemology, Immaculate Conception.

Introduction

Epistemology (from Greek *episteme* – knowledge, skill, understanding) presumes getting to know the reality which is prior to cognition, but about which can be known only to the extent which is available on the way of cognition¹. Kant indicated that any philosophy which does not begin its reflection with the consideration on cognition and on the exploring subject, but which straightforwardly reveals the explored reality, is dogmatic². And although the lecture concerns the reality which is independent from the exploring subject, and which therefore is dogmatic – according to Kant, at the very beginning I want to ask about the value of cognition.

¹ J. Galarowicz, *Na ścieżkach prawdy. Wprowadzenie do filozofii* (Kraków: 1992), 151.

² I. Kant, *Krytyka czystego rozumu*, vol. I, (Warszawa: 1986), 11.

What makes people seek the truth? What is the role of faith and of knowledge in the cognition? Which method in recognising and defining the truth is more effective: *credo ut intelligam* or *intelligo ut credam*³? Is personal experience, empiria of faith in life, the best way to recognize the truth? And what is the role of knowledge in justifying the empiria of faith?

The answers to these questions will constitute the contents of the discussed topic: epistemological bases of the dogma of the Immaculate Conception of Mary, and according to the Lexicon of analytical philosophy concepts, it will be an attempt to justify the foundation based on three conditions. Firstly, it is a statement formulated as the true knowledge. Secondly, the edited truth convinces a person to accept it on the basis of the defined arguments. Thirdly, the basis for convincing does not result from the ability of speculative reflection of the cognitive subject but it is constituted in the cognitive object due to the epistemic modalities of the truth contained in it⁴.

All sciences tend to discover the truth. They do it fragmentarily, according to the assumptions of methodology, to the given object and to the research methods. The scientist's authority is an important reference point in acknowledging the defined information which appears as a partial truth about reality. Like in any other field of science, also in theology, seeking of the truth and the ability to provide rational arguments are helpful in the acceptance of it. In case of theology we reach for God's authority as He reveals this particle to the man. The man's task is to properly define it.

Mariology constitutes a part of the variety of theological enquiries. Which possibilities of argumentative justification of the truth about the Immaculate Conception of Mary can Mariology use? Saint Thomas Aquinas (+ 1274) did not manage to prove the Immaculate Conception of Mary. Today this truth has a particular place in the life of the Church. Does that mean that Saint Thomas Aquinas in his way of thinking was not orthodox? Not really, he simply lived in the times when the lively discussion on the subject did not cope with the evidence at that stage. XIII century recognised as the golden age of scholasticism, on the one hand, turned out to be the period of debates which led to negation of

³ The philosophical statement, the motto of Saint Anselm of Canterbury, formulated by Saint Augustine from of Hippo, I believe in order to understand. It expresses the primacy of faith over reason and it means that the doctrine of catholic faith can be understood only after granting the act of faith. The second question can be explained – I understand therefore I can believe.

⁴ P. Prechtl, *Epistemologia*, in: P. Prechtl, *Leksykon pojęć filozofii analitycznej* (Kraków: 2009), 86.

the privilege of the Immaculate Conception of Mary, but, on the other hand, according to Królikowski, “without any exaggeration 12th and 13th centuries can be called the centuries of Virgin Mary⁵.

Throughout many centuries the Church debated on the Immaculate Conception which did not result in turning it into a dogma. Only in the half of XIX century the situation was ready to be solved and the concept on the Immaculate Conception of Mary in the dogmatic formula was finally defined. Pope Pius IX with his bull *Ineffabilis Deus* from December 8th 1854 announced the dogma:

We declare, pronounce, and define that the doctrine which holds that the most Blessed Virgin Mary, in the first instance of her conception, by a singular grace and privilege granted by Almighty God, in view of the merits of Jesus Christ, the Saviour of the human race, was preserved free from all stain of original sin, is a doctrine revealed by God and therefore to be believed firmly and constantly by all the faithful⁶.

The three lexical conditions of the epistemological structure of knowledge and convictions contributed to composing the three points for presentation

Guiding intuition: faith and knowledge expressed in the dogma

From the beginning the dogma provoked various associations. In some people's awareness there still exists the abstract expression which departs from the existential language. It evokes reminiscences of the inquisition and the persecution as the consequence of not adjusting to respect and realize the dogmatic truth. It evokes associations about the Church which doctrinally guards the revealed truth, which is expressed in the dogma as a calcified and conservative institution, strict and far away from today's progressive life conditions.

Perceiving reality which the faith tries to conduct and theology tries to put under discussion from the epistemological point of view, requires argumentative and discursive certainty: whether religious truths interpreted by the man from God's Revelation are convincingly defined? What is the role of expressing them at the stage of dogmatic definitions?

The history of the Church's announcement of the dogma of the Immaculate Conception of Mary poses questions and doubts: how should

⁵ J. Królikowski, *Maryja w pamięci Kościoła* (Tarnów: 1999), 42.

⁶ Pius IX, *Bulla “Ineffabilis Deus”*, *Dogmat o Niepokalanym Poczęciu NMP*, sanctus.pl (access from December 2nd 2020).

we understand that only in 19th century of the Church's existence a proper conviction was assumed on the basis of the arguments of faith and reason that the reality of Mary's grace revealed by God is the truth which is supposed to be dogmatized? Has the Church manipulated the truth in Her own interest? Pius IX *ex cathedra*, formally announced this dogma as one of the truths of faith⁷. The knowledge of faith is the knowledge discursively verified and it is not identical with empirical knowledge⁸. Therefore, it required time to justify it properly and to announce it to the public in proper time. How was the epistemological attitude towards dogma developed?

According to the Catholic Encyclopaedia, the word *dogma* comes from Greek and it means opinion, teaching, judgement⁹. Dogma as a concept is prior to Christianity and the Church. It means an established and specified doctrinal opinion which specifically enforces its observance. It was used in statutes and decrees of the state authorities. In the dictionary of the basic theological concepts abp Edward Ozorowski adds: dogma means what happened to be true¹⁰. In the Bible the most common means to determine something are a decree and an edict. In the New Testament Saint Luke in the Gospel calls the emperor's edict a dogma (Lk 2, 1; Acts 17, 7), the decision of the ecclesial authority (Acts 16, 4); Saint Paul: God's Word and the commandments addressed at people (Eph 2, 15; Col 2, 14). With the development of the Church, the concept is used in the preaching of Apostolic Fathers (*Didache*, Saint Ignatius Antioch). In the ancient Christianity the interpretation of the truths of faith was acknowledged as the highest degree of knowledge. Therefore, the apologists of the first centuries such as Tatian the Syrian (born in 120) or Tertullian (155-230) had a negative attitude towards the pagan philosophical thought, and rejected the possibility of rational argumentation of faith. Pope Gregory IX, in his official letter to the theologians from the University of Paris on July 7th 1228, forbade to use philosophical systems in interpreting the Holy Scripture and the truths of faith. However, he emphasised the value of all sciences but only if they were of use for theology¹¹. Then the concept for these sciences in relation to theology as *ancillae theologiae* (the handmaiden of theology) was born. This definition was

⁷ Niepokalanie Poczęta, pch24.pl, (access from December 2nd 2020).

⁸ J. Werbick, *Wprowadzenie do epistemologii teologicznej* (Kraków: 2014), 72.

⁹ B. Pylak, *Dogmat*, in: *Encyklopedia Katolicka*, vol. IV, (Lublin: 1983), 6.

¹⁰ E. Ozorowski, *Słownik podstawowych pojęć teologicznych*, (Warszawa: 2007), 62.

¹¹ See E. Gilson, *Etudes de Philosophie medievale*, (Strasbourg: 1921), 44-46.

particularly assigned to philosophy which should have been subjected to theology. The meaning of this relation with regard to the Middle Ages is a perfunctory way of dealing with the problem because we must remember that the history of the relation of philosophy as *ancilla theologiae* is older than the Middle Ages. It reminds the time of the flourishing of the spiritual culture of Europe when theology was considered the highest science. The times of Charles the Great from VIII/IX centuries connected with foundation of schools and introducing the two-stage teaching, confirm that. The lower stage was the so called liberal arts (*artes liberales-trivium*) that is: grammar, rhetoric and dialectic as well as quadrivium- arithmetic, astronomy, geometry and music while theology constituted the higher stage. The school in Chartres (between X and XII centuries) developed this category of thinking focusing the great philosophers, naturalists and humanists.

Schools lost their meaning when they were replaced by Universities from 1200s in Paris until the end of XIV century in Bologne, Oxford, Cambridge, Padua, Naples, Toulouse, Montpellier, Siena, Salamanca, Rome etc. Theologians, since that period, using the logic of philosophical knowledge, used the proper method to interpret God's mysteries revealed to the man. Human reason supported by grace, with the power of words and sentences, maintains the revealed truths. Reading God's Revelation in a rational way, using philosophical terms and concepts, an attempt to explain it due to the possibility of getting to know, drawing conclusions by means of reasoning – constitute the scientific method which a theologian tries to use while interpreting God's truths.

At the starting point the dogma referred to all the truths contained in God's Word. It was connected with the teaching of faith. While clarifying the deposit of faith, dogma started to be used to determine the speeches *ex cathedra* of the Pope and of the Magisterium of the Church, the unmistakable and unchanging in its essence, as obliging to believe¹².

Dogma is the result of faith as the straightforward way of discovering through reason. It remained the truth from the Revelation and inspired for scientific research which contributed to the development of theology.

The scientific theology based on the data of tradition, on the Bible and on the Magisterium of the Church, establishes and justifies the contents of dogmas. Good knowledge of the historical and philosophical background in which the dogma was created, allows for the

¹² E. Ozorowski, *Słownik podstawowych pojęć teologicznych*, 62.

speculative intrusion into reality which it concerns. Theories of positive and speculative theology do not remove the dimension of mystery from the Revealed Truth but they make it more obvious and understandable, enriching our knowledge.

Catechism of the Catholic Church teaches that revelation which was done in Jesus Christ is full and definite – there will be no other revelation which could add something to the one. Therefore, we cannot imagine that there is some new dogma announced as a new revelation appeared from somewhere. The Catechism adds that although “ Yet even if Revelation is already complete, it has not been made completely explicit” (CCC 66)¹³. And as it is so “it remains for Christian faith gradually to grasp its full significance over the course of the centuries. (CCC 66). The dogma of the Immaculate Conception of Mary is the result of such gradual penetration, supported by God’s grace, into the meaning of what was given to us at the beginning in the person and history of Jesus Christ’s Mother. And for example it took time to understand better the words of Angel Gabriel to Mary: “Hail, favoured one ...” (Lk 1,28), that is “the favoured one” also meant that she was free from the effects of the original sin. The Catechism indicates this process of attempting to learn the truth: “ Through the centuries the Church has become ever more aware that Mary, “full of grace” through God, was redeemed from the moment of her conception” (CCC 491).

Faith and theological reflection were attempting to get to know the truth which in its contents was beyond the earthly human existence¹⁴, in this case it concerned Mary.

Theological cognition as a process of confrontation with its object: locus theologicus

It is obvious that the concept of cognition of the truth is well-known to theology. The dogma of the Immaculate Conception of Mary, although it has not been a space for competing and rivalry with arguments which would justify its object, it was the focusing point of various views of theologians who confronted it. Scholastics of XIII century were convinced of the particular holiness of Mary. Many of them repeated after Anselm that “it was proper that the Virgin beams

¹³ *Katechizm Kościoła Katolickiego* (Poznań: 1994).

¹⁴ A. Proniewski, *Współczesne spojrzenie teologa na dogmat*, in: J. Zabielski (ed.), *W tym, który umacnia* (Białystok: 2004), 256.

with the purity which is the greatest apart from God's one”¹⁵, and after Bernard they believed in the limitless holiness of Mary but only from the moment of her birth. The debate on the Immaculate Conception of Mary was conducted with the opposition of such greatest 13th century theologians as: Saint Thomas Aquinas, Saint Bonaventura, Alexander from Hales, Saint Albert the Great. Two trends were created at that time: the followers and opponents of the Immaculate Conception of Mary¹⁶. The dominating trend was against the Immaculate Conception. It was represented by Dominican theologians and the University of Paris. Their opponents in the theological debates were Franciscan theologians and the Oxford University which were in favour of the Immaculate Conception. Such a distribution of power was confirmed by the studies on the subject which present the attitudes of both Convents¹⁷.

Saint Bonaventura († 1274) – who delivered 24 sermons on the Mother of God¹⁸, claimed that God Who had absolute power over sin, could have liberated Mary from its power also at the moment of her conception. He claimed so because he could not cope with, on the one hand, redemption of people and on the other, with the sanctification of Mary. He claimed that the fullness of sanctifying grace was bestowed on Mary at the moment of Incarnation and not of Conception. He emphasised Her complete dependence on the coming of Her Son, thus showing that She was the first among the redeemed. This way of thinking will later be developed in further academic studies.

¹⁵ *Decens erat ut ea puritate qua maior sub Deo nequit intelligi, Virgo illa niteret*, Saint Anselm, *De conceptione Virginis*, in: J. Domański, *Niepokalane Poczęcie*, in: B. Przybylski (ed.), *Gratia Plena. Studia Teologiczne o Bogurodzicy* (Poznań – Warszawa – Lublin: 1965), 213.

¹⁶ The concepts “the supporters of the Immaculate Conception of Mary” [imakuliści] and “the opponents” [makuliści], come from the Latin name macula (spot, stain) and mean the opponents (makuliści) and supporters (imakuliści) of the science on the Immaculate Conception of Virgin Mary. They appeared just after Duns Scotus, in the literature on the subject, however, they are used anachronistically, also to determine the previous attitudes of various authors, similarly to the name “Immaculate Conception”, which is assigned to the authors who claimed the corresponding contents although they did not use the proper name. See P. W. Sotowski, *Wkład świętych i teologów zakonów franciszkańskich w ogłoszenie dogmatu o Niepokalanym Poczęciu*, 57 in: bm08_07sotowski.pdf (access from December 4th 2020).

¹⁷ See B. Kochaniewicz, “Średniowieczni dominikanie a niepokalane poczęcie Matki Bożej”, *Salvatoris Mater* 6,1 (2004): 199.

¹⁸ T. Słotwiński, “Niepokalanie Poczęta Maryja w tradycji franciszkańskiej”, *Salvatoris Mater* 6,1 (2004): 65-66.

Doctor Seraficki paved the way for Duns Scotus claiming that Mary in a particular way was taken away from sin. "Others are risen from the fall, and Virgin Mary in Her fall was upheld in order not to fall"¹⁹.

Saint Thomas Aquinas († 1274) did not present his teaching on Jesus' Mother in his sermons or ascetic works but he contained them in his scientific works. He did not change Mariology a new treaty. He mentioned the issues concerning Mary as a side note of Christology. And although Thomas did not explain the aspects concerning the acceptance of the Immaculate Conception, he had a great contribution into the proper directing and understanding of this truth, as was emphasised by Pietkun (a lecturer of the Seminary in Białystok in Słonimska Street, a professor of the Faculty of Theology). Talking about two alternative directions: liberated from the sin or preserved from, redeemed or Immaculate, the Angelic Doctor made the greatest synthesis of these concepts: "She was Immaculate in such a way that She was particularly redeemed"²⁰.

In the academic textbook on Mariology Elżbieta Adamiak hypotheses as follows: "Thomas did not solve the problem which concerned agreement on the study on the Immaculate Conception of Mary with proclaiming the universal need for salvation. If he had done it, he would have probably closed the way to dogmatizing this science. He was rather convinced to confirm that Mary was cleared of the results of the original sin which was done after Her conception but before She was born"²¹.

Szymon Drzyzdłyk²² considers Elżbieta Adamiak's opinion as too bold and while painstakingly studying the issue of sanctification of Mary in theological Summa in the third part in issue 27, art. 1-6²³, he emphasises that Thomas's view is the following:

Original sin is transmitted through the origin, inasmuch as through the origin the human nature is transmitted, and original sin, properly

¹⁹ Saint Bonaventura, In III Sent., d. 3, 1, a. 1, q. 2, in: E. Chiettini, *La prima santificazione di Maria S. ma nella scuola francescana del sec XIII*, in: *Virgo Immaculata*, vol. VII (Roma: 1957), 36; quoted after: P. Sotowski, *Wkład świętych i teologów zakonów franciszkańskich w ogłoszenie dogmatu o Niepokalanym Poczęciu* (Częstochowa – Niepokalanów: 2005), 64.

²⁰ W. Pietkun, *Maryja Matka Chrystusa. Rozwój dogmatu maryjnego* (Warszawa: 1954), 96.

²¹ E. Adamiak, *Mariologia* (Poznań: 2003), 75.

²² S. Drzyzdłyk, "Niepokalane Poczęcie Maryi jako problem teologiczny w okresie scholastyki", *Teologia w Polsce* 3,1 (2009): 72-73.

²³ Saint Thomas, *Summa theologiae*, vol. 25, *Bóg – Człowiek, Syn Maryi*, III, q. 16-37 (London: 1964).

speaking, affects the nature. And this takes place when the off-spring conceived is animated. Wherefore nothing hinders the offspring conceived from being sanctified after animation: for after this it remains in the mother's womb not for the purpose of receiving human nature, but for a certain perfecting of that which it has already received²⁴.

Mary could not be as holy as Christ, but none of the Saints could be as holy as Mary was. The effects of grace in Mary are wider. Saints committed sins, Mary was free from the least evil. "The result of the grace, apart from being cleared from the sin, was also the sanctification of the Blessed Virgin"²⁵. The fullness of grace bestowed on Mary is strictly connected with the mystery of incarnation. Aquinas referring to Saint John: "grace and truth came through Jesus Christ" (J 1, 17) wrote that the Holy Virgin Mary became the closest of all people to Christ because He assumed the human nature from Her. Therefore, this particular bond caused that Mary became "full of grace" (Lk 1, 28), exceeding angels²⁶. We notice some graduality on Thomas's work. "God choosing someone gives him the grace which is proportional to the tasks. As Christ, as a man, was chosen and predestined, "but established as Son of God in power according to the spirit of holiness through resurrection from the dead, Jesus Christ our Lord." (R 1, 4), it was proper for Him to receive the abundance of grace which was then bestowed on all other people (see J 1, 16).

Whereas the Blessed Virgin Mary received such a fulness of grace that she was nearest of all to the Author of grace; so that she received within her Him Who is full of all grace; and by bringing Him forth, she, in a manner, dispensed grace to all²⁷.

As we can see in such an approach Mary takes the role of the intermediary between Christ and other people. We can see the same graduality also in the concept of sanctification. Christ as the only one did not need to be cleared from the sin. The other people needed sanctification. However, there is a difference in the holiness of Mary and of Jeremiah and John the Baptist. In her sanctification Mary received double grace – being cleared from the original sin and the performance of *fomes peccati* (the tinder for sin), that is disorder of the senses of the soul to the powers of the reason was neutralized but not removed.

²⁴ Saint Thomas, *Summa theologiae*, III, q. 27, a. 1, ad. 4.

²⁵ Saint Thomas, *Comment. ad Ps. 45*, in: B. Kochaniewicz, "Średniowieczni dominikanie a niepokalane poczęcie Matki Bożej", *Salvatoris Mater* 6,1 (2004): 214.

²⁶ See Saint Thomas, *Summa theologiae*, III, q. 27, a. 5.

²⁷ Ibidem, III, q. 27, a. 5, ad. 1.

Therefore, Mary was not submitted to any desire, as a result of which She remained sinless. In case of other saints the grace did not cause the cease of *fomes peccati*, therefore, in many cases they did not avoid sins. The whole theological system of Saint Thomas Aquinas is built in such a way that nothing diminishes Christ's dignity and His saving mission. This allowed for reconciliation of the universality of the original sin with the universality of redemption done by Christ the only Saviour of all people.

For Thomas the recognition of the Immaculate Conception would result in anthropological and Christological consequences. It would mean placing at the same position the two perfect humanities: of Christ and Mary. Such an attitude would not be accepted by Saint Thomas²⁸.

William of Ware († 1305) initiated the trend of the defenders of the Immaculate Conception of Mary at Oxford University²⁹. He posed the thesis that was later thoroughly developed by Duns Scotus (†1308), that Mary was preserved from the original sin by the power of the Passion of Christ. William of Ware opened the path of separating the obligation of sin – *debitum* from *factum* getting under control of the original sin. According to some authors he was the creator of the principle: *potuit, decuit, ergo fecit*, which stated that God could do it, it would be appropriate that God granted this privilege to Mary.

Duns Scotus prepared the crucial arguments which allowed to overcome the difficulties in the development of the dogma of the Immaculate Conception of Mary³⁰. He referred to the concept of the preventient grace. He wrote:

The common statement is, yes [that Mary was conceived in original sin], because of the authorities taken up, and because of arguments from two middle terms: One of these is the excellence of the Son himself; for, as universal redeemer, he opened the door for everyone; but if blessed Mary had not contracted original sin she would not have needed a redeemer and her Son would not have opened the door for her, because it would not have been closed to her (for it is only closed because of sin, and especially original sin)³¹.

²⁸ B. Kochaniewicz, *Średniowieczni dominikanie a niepokalane poczęcie Matki Bożej*, 216.

²⁹ See T. Słotwiński, *Niepokalanie Poczęta Maryja w tradycji franciszkańskiej*, 67; K. Kowalik, *Virgo immaculata – historia dogmatu* (Lublin – Częstochowa: 2004), 18.

³⁰ Duns Scotus, *Ordinatio* (aka *Opus Oxoniense*) III, d. 4, q. un, n. 12.

³¹ Duns Scotus, *Ordinatio* (aka *Opus Oxoniense*), 124.

Duns Scotus, as opposed to the followers of the Immaculate Conception, did not determine Mary's position as excluded from the redeemed, but as a person redeemed in the perfect way. Placing God's Mother in the centre of the saving act of Her Son, he introduced the concept of prior redemption – *praeredemptio*. In this way he solved the greatest difficulty which the scholastics could not cope with³². Duns Scotus, claiming that the Mother of the Son of God, despite that she was deprived of the original sin, still was redeemed in a perfect way, and thus he reconciled the truth of the universality of redemption done by Christ with the truth about the Immaculate Conception³³.

Epistemological status: dogma in the selected treaties³⁴

Francis Suárez (1548-1617) was the first to raise the lecture on Jesus' Mother to the dignity of the theological science. In the years 1584-1585, teaching in the Roman College, he broke the scholastic custom of talking about Mary in a short way and, on the one hand, remaining faithful to Thomism, he combined the lecture on Mary with the mysteries of Christ in a more organic and complete way, therefore, he raised such questions as: the immaculate conception, Assumption and the cult of Mary³⁵.

Placido Nigido (around 1570 – around 1640) is the first theologian who *ex professo* dealt with the epistemological status of Mariology" already in the first chapter of his book: *Summae sacrae Mariologiae pars prima* [Sacred Mariology: what it is and what it includes?]³⁶. Beginning with the Bible, and in particular, with the truth about Mary as the Mother of God-human, which contains all the other truths, Placido Nigido shaped Mariology in a systematic way, according to the four causes of Plato/Aristotle: efficient, material, formal and the goal of an object³⁷.

In more than 120 treatises on Mariology published in the last four centuries, we can notice, with few exceptions, the same methodology of textbook theology: symbiotic with scholastic philosophy, adapting

³² Sz. Drzyżdżyk, *Niepokalane Poczęcie Maryi jako problem teologiczny w okresie scholastyki*, 83.

³³ Ibidem, 87.

³⁴ S. de Fiores, "Status epistemologiczny mariologii", *Salvatoris Mater* 3, 1 (2001): 281-310.

³⁵ Ibidem, 282-283.

³⁶ P. Nigido, *Summae sacrae Mariologiae pars prima* (Panhormi: 1602), 3.

³⁷ S. de Fiores, *Status epistemologiczny mariologii*, 285.

the deductive process in the way of internal logic and drawing conclusions from the obvious assumptions, the primacy of objectivism and the basic categories. Generally speaking, Mariology also uses the method of reasoning which consists in posing theses and proving them: the clearly formulated claims and the given arguments based on the Holy Scripture, on the tradition of the Church and on the human reasoning³⁸.

The Second Vatican Council, opting for the historic-redemptive principle, introduced Mariology theologians into the mandatory path of the Bible³⁹. The post conciliar Mariology theologians use the historic-redemptive key to understand the mystery of Mary, that is they put the Mother in Her position inside God's plan. According to the directions set by the Fathers of the Second Vatican Council, Mariology theologians do it presenting Mary in Her relation with Christ and the Church. Sometimes the very title of the Mariology treaty presents the relation between its contents and the history of salvation⁴⁰.

The independent treaty on Mary as a New Dictionary of Mariology⁴¹ or the dictionary-like latest version of Mariology edited by Stefano de Fiores, Valeria Ferrari Schiefer, Salvatore M. Perella entitled *Mariology*⁴² (2009) assumes the internal structure which refers to the global context of Revelation.

The authors of the post conciliar theological treaties, commenting on the issues from the field of Mariology, use the historic-redemptive key, referring to the Biblical circle, to the relation of Mary and Christ, the Holy Spirit, the Church or the eschatological perspective. Many of those who deal with solving the Mariology problems were able to present their research in the series *Mysterium Salutis*, published since 1965 as a new lecture of dogmatic theology based on the theology of the history of salvation. Johannes Feiner and Magnus Löhrer extensively

³⁸ Ibidem.

³⁹ Ibidem, 288.

⁴⁰ S. de Fiores, *Status epistemologiczny mariologii*, 289. Also: G. M. Roschini, *Maria Santissima nella storia della salvezza. Trattato completo di mariologia alla luce del concilio vaticano II* (Isola del Liri: 1969); R. Laurentin, *Maria nella storia della salvezza* (Torino: 1972); C. Pozo, *María en la obra de la salvación* (Madrid: 1974); J. Auer, *Maria, Christi Mutter in Heisplan Gottes* (Regensburg: 1988).

⁴¹ S. de Fiores, S. Meo (ed.), *Nuovo dizionario di mariologia* (Cinisello Balsamo: 1986).

⁴² S. de Fiores, V. Ferrari Schiefer, S. M. Perella (ed.), *Mariologia* (Cinisello Balsamo: 2009).

explain the meaning of the history of salvation⁴³. Its Mariology section attains maturity thanks to which it withstands the comparison with other disciplines⁴⁴. The Conciliar “novum”, which concerns methodology and the Mariology contents, was assumed internationally e.g. in the works of René Laurentin (1917-2017), Alois Müller (1924-1991), Xabier Pikaz Ibarrondo (born 1941), Johann Auer (1910-1987), Bruno Forte (born 1949), Stefano De Fiore (1933-2012), Stanisław Celestyn Napiórkowski (born in 1933)⁴⁵, in some works about Mary the more or less broad appreciation of God’s word and opening to the contemporary culture are manifested.

After the conciliar decision to withdraw from the independent document on Mary and introducing the issues concerning Mary as a part of the Constitution on the Church, some theological treaties qualified Mariology as a chapter of ecclesiology, Christology or anthropology. Thus Mariology was to be redirected to the general theological treaty from which it was taken by Suárez – Nigido due to the need for the organic overview of it. It was more in accordance with the spirit of the Second Vatican Council and with the interdisciplinary principle, replacing the independent Mariology treaty with the introduction of the necessary Mariology references to some other treaties⁴⁶. One of the typical examples of this option was the previously quoted monumental course on dogmatic Mysterium salutis, which contains Mariology elaborations of A. Müller and R. Laurentin, placed respectively in Christology and ecclesiology⁴⁷. This solution is not a perfect one because both authors do not preserve the regard with the issues and perspective of the disciplines in which Virgin Mary was supposed to be placed. Another example, which is partially successful, is *Synthèse*

⁴³ J. Feiner, M. Löhrer, *Introduzione*, in: *Mysterium salutis* I/1 (Brescia: 1967), 13-14.

⁴⁴ S. de Fiore, *Status epistemologiczny mariologii*, 297.

⁴⁵ R. Laurentin, *Breve mariologia* (Brescia: 1988); A. Müller, *Discorso di fede sulla madre di Gesù. Un tentativo di mariologia in prospettiva contemporanea* (Brescia: 1983); X. Pikaza, *La Madre de Jesus. Introducción a la mariología* (Salamanca: 1989); J. Auer, *Jesus Christus – Heiland der Welt. Maria – Christi Mutter in Heilsplan Gottes* (Regensburg: 1988); B. Forte, *Maria, la donna icona del mistero. Saggio di mariologia simbolico-narrativa* (Cinisello Balsamo: 1988); S. De Fiore, *Mariologia nella teologia contemporanea* (Roma: 1991); S. C. Napiórkowski, *Matka Pana* (Niepokalanów: 1998).

⁴⁶ S. de Fiore, *Status epistemologiczny mariologii*, 297-298.

⁴⁷ A. Müller, *La posizione e la cooperazione di Maria nell’evento di Cristo*, in: *Mysterium salutis*, vol. VI (Brescia: 1973), 510 ; R. Laurentin, *Maria prototipo e modello della Chiesa*, in: *Mysterium salutis*, vol. VIII (Brescia: 1973), 390-415.

dogmatique of J.-H. Nicolas⁴⁸, a homogeneous work which elaborated on the Divine maternity, holiness, the immaculate conception and Mary's intercession in Christology and the spiritual maternity in ecclesiology. Generally speaking, the post conciliar Christology and ecclesiology do not raise Virgin Mary to the proper dignity even though She is the Mother of Christ and neither is the type of the Church raised⁴⁹.

In the post conciliar period, particularly on the occasion of the Marian year 1987-1988, there was a noticeable development of the independent Mariology treaty, which was rarely introduced into the systematic course of theology⁵⁰.

⁴⁸ J.H. Nicolas, *Synthèse dogmatique. De la Trinité à la Trinité* (Fribourg – Paris: 1985).

⁴⁹ See S. de Fiores, *Maria nella teologia contemporanea* (Roma: 1991), 159-200.

⁵⁰ This is an index of selected Mariology treatises: E. Adamiak, *Traktat o Maryi*, in: *Dogmatyka* vol. 2 (Warszawa: 2006); J. Auer, *Gesù il Salvatore. Soteriologia-Mariologia. Piccola dogmatica cattolica*, 4/2, (Assisi: 1993) (the original edition: *Jesus Christus – Heiland der Welt. Maria – Christi Mutter im Heisplan Gottes*, Regensburg: 1988); J.L. Blastero de Elizalde, *Maria, Madre del Redentor* (Pamplona: 1995); W. Beinert (ed.), *Glaubenszugänge. Lehrbuch der Katholischen Dogmatik*, Band 2 (Paderborn – München – Wien – Zürich: 1995); D. Bertetto, *Maria la serva del Signore. Trattato di mariologia* (Napoli: 1988); A.M. Calerò, *Maria en el misterio de Cristo y de la Iglesia* (Madrid: 1990); U. Casale, *Benedetta fra le donne. Saggio teologico sulla mariologia e la questione femminile* (Leumann: 1989); G. Colzani, *Maria. Mistero di grazia e di fede* (Cinisello Balsamo: 1996); F. Courth, *Mariologie* (Graz – Wien – Köln: 1991); F. Courth, *Maria, die Mutter des Herrn* (Vallendar: 1991); S. de Fiores, *Maria Madre di Gesù. Sintesi storico-salvifica* (Bologna: 1992); J. Esquerda Bifet, *Mariologia per una Chiesa missionaria* (Roma: 1988); B. Forte, *Maria, la donna icona del mistero. Saggio di mariologia simbolico-narrativa* (Cinisello B.: 1988); J. Galot, *Maria. La donna nell'opera della salvezza* (Roma: 1984); J.C.R. Garcia Paredes, *Maria en la comunidad del Reino. Síntesis de mariología* (Madrid: 1988); J.C.R. García Paredes, *Mariología* (Madrid: 1995); I. Gebara, M.C. Bingemer, *Maria madre di Dio e Madre dei poveri. Un saggio a partire dalla donna e dall'America latina* (Assisi: 1989); B. Gherardini, *La madre. Maria in una sintesi storico-teologica* (Frigento: 1989); G. Girones, *La Humanidad salvada y salvadora. Tratado dogmático de la Madre de Cristo* (Valencia: 1987); C.I. Gonzalez, *Mariología. María madre e discípula* (Casale Monferrato: 1988) (original edition: *Maria evangelizada y evangelizadora*, Bogota: 1988); A. Gonzalez Dorado, *De María conquistadora a María liberadora. Mariología popular latino-americana* (Santander: 1988); M. Hauke, *Introduzione alla mariologia* (Lugano: 2008); J. Ibanez, F. Mendoza, *La Madre del Redentor* (Madrid: 1988); A. Kniazeff, *La Madre di Dio nella Chiesa ortodossa* (Cinisello Balsamo: 1993); R. Laurentin, *Breve mariología* (Brescia: 1988); R. Laurentin, *Marie, eie' du mystère chrétien* (Paris: 1994); A. Martinez Sierra, *Mariología* (Burgos: 1988); L. Melotti, *Maria, la madre dei viventi, Compendio di mariologia* (Torino – Leumann: 1989); A. Müller, *Discorso di fede sulla Madre di Gesù. Un tentativo di mariologia in prospettiva*

In the post conciliar Mariology, the question of the epistemological status remains unnoticed (it is not enlisted in the contents of volume VIII of *Bibliografia mariana* of G.M. Besutti, neither in volume IX edited by E.M. Toniolo in 1998), with a few praiseworthy exceptions. One of the exceptions is the excellent book of A. Müller, *Discorso di fede sulla Madre di Gesù. Un tentativo di mariologia in prospettiva contemporanea*. In this book Mariology is open to the new ways of thinking: linguistic-analytical, sociocratic, hermeneutic⁵¹. A similar style is represented by the book of A.A. Napiórkowski, *Maryja jest piękna. Zarys mariologii i maryjności*⁵².

In the range of the contemporary epistemological status of Mariology, we can notice some similarities. On the theoretical level there are two poles of this status: historic-redemptive and hermeneutic. It regards the irreversible methodological breakthrough which implies the rejection of deductive method which was popularised in the systematic Mariology since the time of Suárez-Nigido until the Second Vatican Council. It is the return to the way of presenting Jesus' Mother by the New Testament:

It is easy to indicate [...] the apparent convergence between the beginning and the current moment of discussion about Mary. It can be stated that after many various experiences through centuries, the cycle is now closed, reaching the starting point again. Mary Who is the origin of the history of salvation with Christ in the centre, is being contemplated once more in the mystery of Christ and the Church, that is in the view of the history of salvation⁵³.

contemporanea (Brescia: 1983); A.A. Napiórkowski, *Maryja jest piękna. Zarys mariologii i maryjności* (Kraków: 2016); X. Pikaza, *La Madre de Jesus. Introducción a la mariología* (Salamanca: 1989); M. Ponce Cuellar, *Maria, Madre del Redentor y Madre de la Iglesia* (Barcelona: 1996); C. Pozo, *Maria en la Escrittura y en la fe de la Iglesia* (Madrid: 1985); L. Scheffczyk, *Maryja Matka i Towarzyszka Chrystusa. Podręcznik mariologii* (Kraków: 2004) (the original edition: *Maria. Mutter und Gefährtin Christi*, Augsburg: 2003); J.P. Torrell, *Dziewica Maryja w wierze katolickiej* (Poznań: 2013) (the original edition: *La virge Marie dans la foi catholique*, Paris: 2010); V. Zoccali, *Maria di Nazaret la Vergine Madre. Saggio sistematico di mariologia*, (Reggio Calabria: 1990); S. Vergés, *Maria en el misterio de Cristo* (Salamanca: 1972); W. Wołyniec, *Maryja w pełni objawienia* (Wrocław: 2007).

⁵¹ A. Müller, *Discorso di fede sulla Madre di Gesù. Un tentativo di mariologia in prospettiva contemporanea* (Brescia: 1983), 27.

⁵² A.A. Napiórkowski, *Maryja jest piękna. Zarys mariologii i maryjności* (Kraków: 2016), 5-40.

⁵³ S. de Fiores, *Il discorso mariologico nella storia della teologia*, 7.

At the same time, the contemporary epistemology assumes using the actual hermeneutic methods which are necessary for Mariology. They concern the hermeneutics of the language, the connection with philosophy and humanities, narrative theology, using symbolism, the aesthetic approach. These instruments help to adapt the lecture of Marian truths to the contemporary times, raising Virgin Mary to a higher theological and life position.

At the level of practice, the dissonance is highly noticeable. And as it seems that while Mariology assumed the history of salvation perspective of chapter VIII of *Lumen gentium* and it preceded other theological disciplines in this scope, however, it does not concern the use of the present hermeneutic instruments in Mariology. Therefore there is still a lot to do in this field. The stage of contemporary Mariology is the stage *status nascendi* of the lecture on the Lord's Mother⁵⁴, the vocation of Whom in the Church is to serve the mystagogical role which consists in introducing into deeper cognition of the transcendent mystery of God and influencing the better quality of the evangelical life of the Church⁵⁵.

Conclusion

The dogma of the Immaculate Conception of Mary, although it implies the attitude of faith full of grace which Mary possessed due to the contribution of Her Son, it does not deprive of the assumed scientific reflection which allows to understand the logic of the content included in it. The epistemological bases, that is on the rational path in the orderly way and with justified principles, the lectured contents reveal that requiring the truth provides the man with cognition which is true as it is contained in the learned conceptual object.

The history of salvation key used to read the presence of Mary in the relation with Christ and the Church seems to be the most helpful in the rational consideration and expressing its acting in the mystery of God's Revelation. However, it requires humbleness and courage in confrontation with the Mystery which will never be fully reached by the powers of reason or the ability of performing the act of cognition. And although the basis axiom of the contemporary epistemology is comes down to emphasising that the definitely objective cognition

⁵⁴ S. de Fiores, "Palingenesi della mariologia", *Marianum* 55 (1990): 201-209.

⁵⁵ *Polska bibliografia mariologiczna*, collected by Stanisław Gręs can be helpful in discovering new directions of Mariology in Poland. See S. Gręs, *Polska bibliografia mariologiczna (1945-2003)* (Niepokalanów: 2004).

can be attained only in the field of mathematical and life science and religion as such and theology as a scientific branch belong to the subjective category of emotions, as was indicated by Ratzinger against the position of Schleiermacher, faith is not an emotion for eternity but it is “entering the common ground where one side can easily understand the other, where they can interpret life and build a community”⁵⁶ that is something which goes far beyond the subjective boundaries of an individual.

The Immaculate Conception of Mary drawn from faith, with its rational cognition, brings the man closer to the truth about him and directs to the mystery of the life in relations with God. The used argumentation cannot be only of scientific nature as in the theological scope, according to Hans Urs von Balthasar, the “pure science” will never be the foundation of theology because only faith can guarantee the full, objective cognition of things the way they are⁵⁷, as the whole truth constitutes the essence of God’s identity: I am the way, and the truth, and the life (J 14,6) therefore the truth is a person.

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Relationships between parents and children and the child's affiliation in the provisions of the family codes in the former and contemporary Republic of Poland

Contemporary legislation which regards the legal relations between parents and children has been undergoing transformation. At the beginning of the People's Republic of Poland the legislation regarding the regulations was unified during the years 1945-1946, then there were codifications from 1950 and 1964 and the law amendments from 1975 and 2008. Moral and customary elements were particularly significant in the family law as they exerted crucial influence on the contents of the regulations. It should be emphasised that Father Michał Sopoćko devoted a lot of his work and attention to these very regulations. Contemporarily we cannot disregard the whole range of nuances of the term "contemporary family". This term significantly differs from the meaning which functioned in the period of creating the Family and Guardianship Code from 1964. In that period the concept of the family was based on the foundation of marriage. Currently the alternative forms of family life are being developed and civil unions are becoming more and more popular. Thus the family outside marriage is also recognized in different relationships.

Key words: Father Michał Sopoćko's teaching, family, child, child's affiliation, child's welfare, mother, father, family law.

Introduction

Polish family law contained in the Family and Guardianship Code was transformed in the People's Republic of Poland in the 1930s,

including the unification from the years 1945-1946, subsequent codifications in 1950 and 1964 and amendments from 1975 and 2008.

The unification was performed as a part of the unification of the civil law because there were no plans with regard to the divisions in the family law legislation. The unification was conducted through the introduction of four executive orders, that is:

- Marriage law (executive order from September 25th 1945),
- Family law (executive order from January 22nd 1946),
- Guardianship law (executive order from May 14th 1946),
- Marital property law (executive order from May 29th 1946).

While introducing the executive orders, the legislator used the projects of the family law prepared by the Codification Commission in the years 1931- 1937. The authors of the executive order from 1946 used the wide range of the projects of the law on relations between parents and children written by Professor St. Gołąb of Jagiellonian University¹.

The unified family law withdrew the religious nature of marriage, which thus remained solely secular and based on the principle of equality of the duties and rights of the spouses in their mutual relations. The unification executive orders partially eliminated the discrimination of an illegitimate child, whose father was recognized by the court. The child was only entitled to maintenance payments, however, he or she would not have any other rights which resulted from the kinship in relation to the father or his family. The regulations concerned the contractual form of adoption and the adoption of persons of legal age.

The executive orders were considered inadequate to the needs of the society who was building socialism and to the principles of the new regime. This resulted in merging the executive orders in the Family Code in 1950 which was genuinely a socialist code, as it was emphasised – it was the first such code of the Polish People's Republic. It implemented the Soviet doctrine of the family law, as a branch separated from the civil law. However, it was unreasonably laconic, which resulted from the difference of opinions of the Polish and Czechoslovakian lawyers who were working on it. It consisted of 93 articles of law instead of the 246 unification articles. However, the solutions which broaden the protection of the child's interests, the equal rights of an illegitimate and

¹ J. S. Piatowski in *System Prawa rodzinnego i opiekuńczego* (Warszawa: 1985), 8, more on the subject see P. Fiedorczyk, *Unifikacja i kodyfikacja prawa rodzinnego w Polsce (1945-1964)* (Białystok: 2014), 601 and next., ibidem: *Projekt Kodeksu rodzinnego na tle wcześniejszych polskich projektów prawa rodzinnego w ostatnim stuleciu*, in: *O potrzebie nowego Kodeksu Rodzinnego i jego podstawach aksjologicznych w 30 Rocznicy uchwalenia Konwencji o prawach dziecka*, ed. S.L. Stadniczenko, M. Michalak (Toruń: 2019), 169 and next.

of a legitimate child, allowing for adoption only of minors, replacing the contracting form of adoption with the court's decision and introduction of the regime of statutory community, deserve approval. The negative aspect concerned the submission of the existing marriages to the new statutory regime. While among the advantages there was the possibility to formulate the solutions through judicial decisions. And thus the gaps in the code were completed with the guidelines of the judicial system, with the resolutions of the whole Civil Division and with the resolutions prepared by 7 judges².

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The subsequent codification actions in the discussed issues, which also concern the Family and Guardianship Code from 1964, were prepared by the Codification Commission established in 1956 to develop the Civil Code of the Polish People's Republic. The family law was contained in book IV of the Code. However, in the end the Commission excluded the family law from the Civil Code in 1960 and put it into a separate act as the Family and Guardianship Code³.

In order to characterize the family law in the Polish People's Republic we could quote Professor T. Smyczyński, according to whom "in the Polish People's Republic the family law was never infused with the communist ideology, neither in its interpretation nor in the application by courts, and apart from occasional cases, it never served the communist authorities as a weapon in the fight for the new society. Both the family (parents), and the judiciaries deciding on family matters, remained significantly independent"⁴.

The presented reflection provides the basis for the thesis that moral and customary elements exerted influence on the contents of the regulations contained in that law. These elements regulate the formation of the relationships between parents and children, the rights and duties of spouses, the circumstances of the disintegration of marriage. The relation between the family law and morality originates in the historical development of the institutions of marriage and the family. It should be noticed that the legislator, while entering the sphere of rights and duties in marriage, does it with moderation and introduces the changes only when he thinks it is necessary from the point of view concerning the customary model of the family. Interfering into the family relations

² J.S. Piątowski, *System Prawa rodzinnego i opiekuńczego* (Warszawa: 1985), 8 and next., P. Fiedorczyk, *Unifikacja i kodyfikacja prawa rodzinnego w Polsce (1945-1964)* (Białystok: 2014), 698-714.

³ J. Winiarz, "Socjalistyczne Prawo rodzinne PRL", *Studia Prawnicze* 1974: 92-97.

⁴ See T. Smyczyński, "Kierunki reformy kodeksu rodzinnego i opiekuńczego", *Kwartalnik Prawa Prywatnego* 1999, nr 2: 299.

and the paternal authority (items 109-112) is an exception. Namely, he does it only when he gets to know from any possible source that the children in the family are suffering.

The regulations of the family law developed and implemented fundamental principles concerning family relations based on the standards of the Family Law from 1950 and on the Family and Guardianship Law from 1964, and are expressed in the Constitution of the Polish People's Republic from 1952 (art. 5 pkt. 7, art. 67 section 2, art. 78, 79, 82 section 1). Legislative extracting of the family law in these codes does not authorise the conclusion that it constitutes a separate branch of the Polish law system.

The extracting resulted in the fact that the Family and Guardianship Law should be treated as *lex specialis* with regard to the Civil Code. I share the opinion of Prof. P. Fiedorczyk, that it is worth to consider a more proper title for the Family and Guardianship Law from 1964 and to break with any connection with Stalinism⁵.

The Family and Guardianship Law constitutes a part of the Civil Law with particular features for this field of regulations. It reinforces the fundamental principles concerning marriage and established family, which were indicated in the Constitution of the Republic of Poland from 1997.

Generally speaking, it can be claimed that the Family and Guardianship Code is a fundamental legal act which regulates the relationship within the care and guardianship. This code was subjected to a greater revision with the Act from December 19th 1975 (Journal of Laws Nr 45, item 234) and with the Act from November 6th 2008 (Journal of Laws Nr 220, item 1431).

The regulations of the Family and Guardianship Code which refer to the legal situation of the child and to the relationship between parents and children were not submitted to the amendments of the Family Code before the introduced Act from November 6th 2008 amending the Act – The Family and Guardianship Law and some other Acts (Journal of Laws Nr 220, item 1431). **This amendment comprised the regulations which regard the child's affiliation, parental authority, contact between parents and the child, maintenance of the relations between parents and children, custody of the child.** The need for the change resulted from the international agreements ratified by Poland, from the provisions of the Constitution of the republic of Poland and from the submitted postulates *de lege ferenda*, in the legal doctrine

⁵ P. Fiedorczyk, *Projekt Kodeksu rodzinnego na tle wcześniejszych polskich projektów prawa rodzinnego w ostatnim stuleniu....*, 169 and next.

and in the jurisprudence and in the statements of the Commissioner for Human Rights and the Ombudsman for Children.

Relationships between parents and children

The Family and Guardianship Code regulates the relationships between parents and children in Chapter II in art. 87-113 of Family and Guardianship Code, the title of which is specific because the regulation of these relationships is broader and it comprises:

- 1) the child's descent from his parents (art. 62-86);
- 2) adoption (art. 114-127);
- 3) the maintenance obligation between parents and children (art. 114-127);
- 4) the obligation for mutual support of parents and children (art. 87-91);
- 5) the child's family name which remains in close relations with the surname of the parents (art. 88-90);
- 6) the personal contact of children and parents (art. 113).

The regulations in this chapter are appropriately applicable for the relationship between a minor child and people who take care of the child and his or her assets as a substitute for the parents. By explicit provisions, it occurs in case of the care exercised by a guardian or by the foster family (art. 109 and 146) and without any explicit statutory regulation – e.g. in case of upbringing the child by a stepfather or a stepmother.

Regulating the relations between parents and children in Chapter II, the Family and Guardianship Code does not define the term “the family”. While using this term in other regulation, it regards only the spouses and their children. Furthermore, the obligation of maintaining the family, defined in art. 27 of FGC concerns the family of the spouses. And although it favours the family based on marriage, it rightly equates the position of the legitimate children with the illegitimate ones'. It is obvious that there is an integral relationship between marriage and the family. The unity of spouses is aimed at the family and constitutes it. “The family” is usually created through contracting marriage. It consists of parents and children. Being the foundation of the family community, marriage maintains its identity⁶. However, the parents are connected with the child by the family and legal relationship, regardless of the fact whether they are married. According to J. Smyczynski, the Family and Guardianship Code does

⁶ See J. Szymczak, “Definicje rodziny”, *Studia nad Rodziną* 2002, vol. 2: 11.

not exclude an informal family. A non-matrimonial family is also under the protection of the Republic of Poland, which is expressed in art. 18 of the Constitution.

We cannot miss the ambiguity of the term of “contemporary family” because this concept significantly differs from the one which was functioning in the time of creating the Family and Guardianship Code from 1964 that is in totally different social, economic and political relations. In that period the concept of the family was mainly based on the foundation of marriage. Currently the new alternative forms of family life are developing and cohabitation, that is an informal relationship, is becoming more and more popular. Thus the family outside of marriage is created also as other relationships. If parents are not formally married but they are connected with a bond of cohabitation and the common household just like in case of married couples, and the children are brought up in the common household with the parents, analogically such relationships should also be submitted to the regulations of the Code and the principles concerning the family.⁷

The regulations of the Family and Guardianship Code do not contain the definition of the child. **The legal definition of the child** is contained in art. 2 paragraph 1 of the Act from January 6th 2000 on the Ombudsman for Children (consolidated text Journal of Laws from 2020 item 141), according to which: “as defined in the Act, the child is a human being from conception to maturity”. While according to the Convention on the Rights of a Child art. 1: “a **child** means every human being below the age of eighteen years, unless when under the law applicable to the child, the maturity was attained earlier”.

The wording of Art. 87 of FGC was assigned by the amendment from November 6th 2008 and it has been applied since June 13th 2009. This provision, just like the previous one, regulates the personal relationships of parents and children and the change in the wording consists in extending these relationships with the duty of the mutual respect by parents and children and with the introduction of the order to respect the child’s dignity. In the previous legal status it had a pedagogical value and not the normative one. The fact that the legislator did not include any condition for the parents to fulfil, indicates that it concerns all parents, regardless of the fact whether they are married or whether they remain in the cohabitation or whether they exercise

⁷ See more T. Smyczyński, *Prawo rodzinne i stosunki rodzinnoprawne*, in: *System Prawa Prywatnego*, vol. 11, 52 and next.

parental custody or are deprived of it and whether the child lives with the parents⁸.

Art. 87 – as opposite to the regulations on the parental responsibility which mainly concern the minor children – does not regulate the duration of the duties contained in it. However, the source of this relationship is the biological bond between the parties of these responsibilities, it is obvious that these responsibilities in relations to a child appear at the moment of conception, and between the child and the parents – depending on the age and the degree of discernment. They expire at the moment of death of the parents or of the children.

The concept of the mutual respect and support between the parents and the children is general as much as very inclusive, which allowed for inclusion of various forms of respect and the means to help properly for the life conditions of the person whom it regards and who needs the help. Although the duties described in art. 87 are not to be directly executed, the respect for the child's dignity constitutes one of the criteria of the evaluation of proper exercising the parental responsibility. Generally speaking, the mutual support can be expressed as:

- a) material aid,
- b) psychological and moral support in suffering, sickness or disability,
- c) intellectual aid when taking important decisions or settling important life matters,
- d) physical aid with performing certain activities.

The mutuality of support consists in the fact that both parents and children are obliged to provide support in the broader sense and at the same time they are entitled to it. However, as opposed to the mutual obligations which have their source in the legal actions, the mutual obligations do not have to be objectively equivalent nor equal. The moral pattern of the mutual support assumes that it should be totally selfless. Therefore, the doctrinal view which assumes that when one of the subjects described in art. 87 does not perform the indicated duties described in this regulation, the other party is not released from this obligation, is accurate.

As far as the mutual relations between parents and children are concerned, it is worth to emphasise **the Supreme Court's resolution from November 22nd 2017, III CZP 78/17 (Jurisprudence of the Supreme Court 2018/5/51)** which states that in case of a conflict between the

⁸ See J. Ignatowicz, *Kodeks rodzinny i opiekuńczy*, comments and editing of K. Pietrzykowski (Warszawa: 2012), 3rd issue, 837; H. Ciepła, *Kodeks rodzinny i opiekuńczy, Komentarz* (Warszawa: 2009), 717 and next.; G. Jędrejek, *Kodeks Rodzinny i Opiekuńczy – Komentarze praktyczne* (Warszawa: 2017), 693.

child's rights and the rights of others, including the parents – the child's welfare predominates.

Art. 91, which is addressed to the children who live with their parents, and which determines the way how the children should support the parents, remains in the direct connection with art. 87. Art. 87, as a general norm, is supposed to prevent the legal gaps in regulating various relations between parents and children⁹.

From the point of view of the subject matter and the aim of the regulation, the general regulations in the mentioned chapter (art. 87-91) can be divided into two groups:

The first one with art. 87 and 91, devoted to the personal relations between parents and children, however, art. 87 generally regulates the duty of the mutual respect and support and art. 91 determines this duty as a responsibility towards the child.

These regulations aim to protect the relations from wicked conduct of both parties which can weaken the existing bond between them. The instrument for the protection is contained in the precepts defined in these regulations. This model of conduct originates in our cultural circle, supported with the moral standards in behaviour which results from the sense of a special spiritual and emotional bond which naturally connects parents and children. It is significant that although the legislator granted this behaviour a normative demand and called it a commitment, he did not predict sanctions for any violation of these standards, believing that the responsibilities provided for by the law must not be enforced or legally executed.

The second group contains art. 88-90, which regulate the issue of the child's surname. In this case the aim of the regulation is to form one of the elements of the civil status namely the child's surname, according to the natural condition which results from the parental relationship, which indicates that the child comes from a certain parent or family. These regulations, as opposed to the ones from the first group, are characterized by a far-reaching interference of the legislator which aims at determining the events and circumstances regulating the child's surname and at establishing the principle that the child shall bear the surname of his or her father. The exception to this rule, which consists in the possibility to name the child according to the will of the involved parties, is acceptable.

As a rule, the change in the conditions which led to establishing the child's surname causes the change of the acquired surname, although

⁹ See J. Ignatowicz, *System prawa rodzinnego i opiekuńczego*, vol. I (Wrocław: 1985), 787.

the act clearly does not determine it. In particular the annulment of the recognition of paternity of a child, overthrowing the sentence of paternity or denial of paternity result in the fact that the child loses the obtained surname of the father and returns to his previous surname. Only the parents' divorce or the annulment of their marriage does not cause the change of the child's surname because these decisions of the court do not overthrow the paternity of the mother's husband¹⁰.

The comparison of art. 87 to art. 92-112² and art. 128 results in the conclusion that the duty of the mutual respect and support mentioned in art. 87, it becomes valid in the sphere of such relations between the parents and children which are not subjected to the regulation on the basis of the laws on parental authority (art. 92-113) and of the maintenance obligation between parents and children (art. 128).

In practice the respect and support for the parents from their children will take place when the children are adult, however, also the minor children are obliged to help to the best of their abilities in case when the parents are sick, when the case can be dealt with by the child and when the obligation is not subjected to the duty resulting from art. 91 § 2.

The characteristic feature of the legal regulation contained in art. 87 is that in the majority of responsibilities which result from it cannot be enforced by any direct or even indirect sanction. They can only be implemented with the warranties from beyond the legal sphere, namely in the mutual affection which usually connects parents and children. It is therefore of educational nature¹¹.

On the basis of the law in art. 87 we can deduce that there is no legal foundation for the claim, however, it seems that the regulation originates from the moral standards, it could be used in the legal proceedings as a means in the defence of the sued parents or children, in support of the allegation that the counterclaim is contradictory on the basis of art. 5 of c.c.

The child's affiliation

Among the relations between parents and children regulated in Chapter II of the Family and Guardianship Code there is also the child's affiliation regulated in art. 62-86 (of chapter I).

¹⁰ J. Ignatowicz, *Kodeks rodzinny i opiekuńczy z komentarzem* (Warszawa: 1990), 398.

¹¹ B. Dobrzański, *Kodeks...*, 630, J. Ignatowicz, *Kodeks rodzinny i opiekuńczy...*, 837 and next.

The regulations of the family law did not directly regulate the claim to determine or deny maternity. In 1974 J. Gwiazdomorski¹² found the lack of regulations in this sphere as loophole in the family code. Furthermore, J. Pietrzykowski¹³ emphasised that this loophole resulted in the fact that practice and science, upon the impossibility to avoid recognition of such cases, fulfilled this loophole. The permissibility of such a negative or positive counterclaim was based on art. 86 FGC, which anticipated “the claim to determine or deny the child’s affiliation”, assuming that the child’s affiliation also refers to being born from a specific woman, that is the child’s mother; or based on art. 189 of the Civil Procedure Rules which assumed: “the claim to establish in the court the existence or non-existence of the legal relationship when the party has a legitimate interest in it.”

The lack of this regulation and the possibility of contemporary medicine which would allow for fertilization and conception outside the woman’s body, carrying the pregnancy to term by another woman than the egg donor, caused conflicts concerning the fact who is the actual mother of the child. The development of medicine made it possible to separate **genetic parentage from biological parentage**, that is: a woman can give birth to a child who genetically comes from another woman. Meanwhile, giving birth to a child is a legal event which not only creates a legal and family relation between the mother and the child but also directly influences the establishment of paternity. Therefore, we can claim that maternity is primary in relation to paternity. In other words, maternity is the material and the legal premise of paternity. Denying maternity undermines the already recognized paternity¹⁴.

Therefore, it is justified that the amendment from November 6th 2008 introduced art. 61⁹ constituting that “The mother of the child is the woman who gave birth to the child” to the Family and Guardianship Code. This regulation clearly defines who the child’s mother is. The regulation is compatible with Convention on the legal status of an illegitimate child written in Strasburg on October 15th 1975 (Journal of Laws from 1999, Nr 79, item 888), in which art. 2 states that the parentage of an illegitimate child is determined on the basis of the fact

¹² J. Gwiazdomorski, *System prawa rodzinnego i opiekuńczego* (Wrocław: 1985), vol. 1, 625.

¹³ See J. Pietrzykowski, *Kodeks rodzinny i opiekuńczy z komentarzem* (Warszawa: 1973), 367.

¹⁴ See J. Ignaczewski, *Kodeks rodzinny i opiekuńczy, Komentarz* (Warszawa: 2010), 450.

of birth. Introducing art. 61⁹ FGC mainly aims at settling which of the mothers is the child's mother in the light of the law¹⁵.

Determination of maternity

The lack of regulations in the sphere of establishment of maternity, until the amendment from November 6th 2008 came into force till June 13th 2009, did not prevent in filing claims to determine maternity before the court. The admissibility of it was found in art. 86 of FGC or in art. 189 of the Code of Civil Procedure. Since June 13th 2009 the material and legal basis to recognize maternity is contained in **art. 61⁹** which states that **“The mother of the child is the woman who gave birth to the child”**.

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However, the birth certificate is still the exclusive evidence of the events which it proves, that is also the evidence of the fact that the indicated woman gave birth to a certain child (art. 3 civil status certificate – further c.s.c.). According to this regulation *expressis verbis*, maternity is based on the fact of giving birth to a child. The fact of giving birth to the child is, therefore, the only necessary and sufficient premise of maternity meant as a legal institution. The incompatibility of the act of the civil status with the truth can only be proven in court which does not determine its procedure. On the basis of art. 3 c.s.c. it is necessary to separate the procedure of the process and the non-litigious proceedings for the investigation non-compliance with the birth certificate. If the child's affiliation is to be confirmed or denied or the paternity is to be confirmed or denied because of various reasons, it is proper to introduce the judicial process. Only on the basis of the sentence given in the judicial process can the act of the civil status be changed in the form of an additional reference.

According to the Supreme Court in the order from March 26th 1992 (I CRN 20/92, OSA 1993, Nr 2, item 2), on the basis of 30 c.s.c. the act of the civil status can be overturned only when it violates the truth of the so called basic events, which create the civil status and which result in the preparation of the act (e.g. the fact of the child's birth). If the person who reports the birth of a child in the registry office after a considerable period and is not able to provide a medical certificate form of reporting the birth of a child, it is not acceptable to prepare an act of the birth of a child in the ordinary course of proceedings

¹⁵ See more M. Kosek, in: W. Stojanowska, M. Kosek, *Nowelizacja prawa rodzinnego na podstawie ustaw z 6 listopada 2008 r. i 10 czerwca 2010 r. Analiza – wykładnia – komentarz*, ed. W. Stojanowska (Warszawa: 2011), 100 and next; G. Jędrzejek, op. cit., 570 and next.

provided for in the regulations of c.s.c. after carrying out the investigation procedure. In such a situation it is justified to determine the contents of the birth certificate according to art. 32 point 2 and art. 33 c.s.c. only by the court in non-litigious proceedings, upon request of the interested party or of the prosecutor. This kind of procedure must not be conducted by the head of the civil status office because he or she is not properly qualified for that (see decision of the Supreme Court from September 3rd 1997, III KKO 5/97, OSNP 1998, Nr 14, item 441, but currently art. 40 c.s.c.).

Foster maternity

The problem of **the agreement for the foster maternity** has not been solved in practice. We should be acceded to the opinion in the doctrine according to which such an agreement is absolutely invalid. The authors of dissertations concerning this issue drew attention to the complications which could appear when the mother is married and her husband is not the biological father of her child. The presumption of the child's affiliation with the mother's husband is applied, which can be overthrown in the process of paternity denial. After the paternity denial, the biological father of the child can recognize the child or file a civil suit to determine the paternity. The mother who concluded an agreement for the foster maternity can be married to the child's biological father.¹⁶ In case of the agreement for the so called foster maternity, the regulations of the civil code which concern legal acts and

¹⁶ H. Pietrzak, *Archaizm i nieskuteczność prawa wobec surrogatek*, in: *Ars boni et aequi. Księga pamiątkowa dedykowana księdzowi profesorowi Remigiuszowi Sobańskiemu z okazji osiemdziesiątej rocznicy urodzin*, ed. J. Wroceński, H. Pietrzak (Warszawa: 2010), 770 and next; K. Bagan-Kurluta, *Mater certa est. Rozważania nad trzema koncepcjami macierzyństwa*, in: *Rozprawy cywilistyczne. Księga pamiątkowa dedykowana Profesorowi Edwardowi Drozdowi*, ed. J. Pisuliński, M. Pecyna, M. Podrecka (Warszawa: 2013), 679-680; E. Raczek, "Nowelizacja kodeksu rodzinnego i opiekuńczego. Rozdział I. Pochodzenie dziecka (JL 2008, Nr 220, item 1431) – uwagi biegłego genetyka sądowego", *Archiwum Medycyny Sądowej i Kryminologii* 2009/2: 134, which indicated the fallacy of the solution which assumed the maternity of the woman who gave birth to the child because such a regulation violates the child's dignity because the child is not able to get to know his or her genetic origin and, moreover, according to the author, such a regulation discriminates women and causes that the evidence from the DNA test in cases for the denial of maternity become ineffective. In the current legal status a person who was born as a result of the medically assisted procreation procedure, and as a result of donation other than her partner's, of reproductive cells or donation of the embryo, is entitled to get to know the information which concerns the donor after reaching adulthood.

in particular art. 58 c.c., which introduces the sanction of the absolute invalidity towards actions contrary to the act or which aim at circumventing the act (art. 58 § 1 c.c.), as well as the act contradictory to the principles of social coexistence (art. 58 § 2 c.c.), can be applied. Every legal action which concerns **the child's affiliation** is absolutely void if it is contradictory to the regulations of the Family and Guardianship Code which regulate this issue as they are absolutely mandatory (*ius cogens*). This observation causes that there is no need for any further analysis of subsequent reasons for the invalidity of the legal action e.g. because of the defects of the declaration of will.¹⁷

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Determination of paternity

According to art. 72. § 1 if there is no presumption that the mother's husband is the child's father or when the presumption was denied, determination of paternity can be established either through recognition of paternity or by order of the court.

§ 2. Determination of paternity cannot be established if there is a court case to determine paternity.

From the wording of the provision of art. 72 § 1 of FGC we can deduce that determination of paternity can be established only when the child was born out of wedlock and as a result, the rebuttable presumption from **art. 62 § 1 of FGC** is not valid or the presumption was overthrown in the process of paternity denial. According to art. 62 § 3 of FGC the presumptions which concern the child's affiliation from the mother's husband can be overthrown only as a result of the suit to deny the paternity. Therefore, it is unacceptable to determine paternity of the child who was born in the marriage before the denial of presumption art. 62 § 1 of FGC by way of litigation to deny paternity. If the child was born in marriage, determination of paternity can be established only after validation of the verdict which confirms denial of paternity.¹⁸ According to the thesis of the sentence of the Supreme Court from March 24th 1997, I CKU 18/97 (unpublished), it is unacceptable to determine paternity if there is presumption that the child's father is the child's mother's husband. Similarly, on the basis of art. 42 § 1 of FC from 1950, it was assumed that the presumption of the child's affiliation from the mother's husband can be overthrown only by way of litigation to deny paternity and only in case of taking into account such litigation with

¹⁷ See G. Jędrejek, *Kodeks rodzinny i opiekuńczy*, op. cit., 571 and next.

¹⁸ See the Supreme Court's verdict from May 24th 1966, III CR 91/66, LEX nr 490.

a valid sentence, it is possible to determine paternity in court.¹⁹ An exceptional situation will occur if the paternity was recognized (the child was recognized) in the period of the presumption of the child's affinity from the mother's husband if the husband was presumed dead at the moment when such presumption was impossible. In that case, as it was indicated by the Supreme Court in the order from October 28th 1980, III CRN 216/80, LEX nr 2591, recognition of the child becomes valid ("comes into force").

Before the evoked act from November 6th 2008 amending the act – the Family and Guardianship Code act and some other acts, the jurisprudence of the Supreme Court assumed that **recognizing the child constitutes an act of the dual nature**, which contains both the elements of the legal action (declaration of intent) as well as the act of knowledge (the recognition of facts)²⁰. In the explanatory statement of the verdict from August 15th 1967, II CR 152/67 (OSNC 1968, nr 4, item 69, LEX nr 651), the Supreme Court indicted that "recognition of the child is a one-sided declaration of intent, that is a declaration which is not made for another person". In the explanatory statement of the verdict from January 7th 2005, IV CK 405/04 (LEX nr 177265), the Supreme Court stated that: "The declaration of the recognition of a child belongs to the one-sided legal actions and its content expresses the state of intention and knowledge of the recognizing person". The notion of the **dualistic nature of recognizing the child** was also predominant in the doctrine. According to K. Piasecki the element of intention which consists in the intention to cause certain legal effects, which is based on the knowledge of the recognizing person about the actual relationship which connect him with the recognized²¹.

The proper interpretation of art. 72 § 2 of FGC leads to the conclusion that the legislator's intention was to prevent the recognition of paternity of a different man than the plaintiff, either on the side of the plaintiff or of the defendant. However, drafting of this legal provision does not fulfil the goal. It is wrongly edited and it should be expounded

¹⁹ See the indications of the Supreme Court from December 6th 1952, C. 166/52, OSN 1953, nr 2, item 31) and G. Jędrejek, *Kodeks rodzinny i opiekuńczy, komentarz* (Warszawa: 2019).

²⁰ See: the Supreme Court's verdict from May 15th 1967, I CR 5/67, LEX nr 6160 and from July 5th 1968, II CR 164/68, OSNCP 1969, nr 3, item 55; the Supreme Court's verdict from December 10th 1999, II CKN 1037/99, LEX nr 39832; the act of 7 judges from October 6th 1969, III CZP 25/69, OSNC 1970, nr 5, item 75, LEX nr 994.

²¹ See K. Piasecki, in: *Kodeks rodzinny i opiekuńczy. Komentarz*, ed. K. Piasecki (Warszawa: 2006), 563, and G. Jędrejek. op. cit., 627.

in such a way that it concerns inadmissibility of paternity recognition by another man than the plaintiff. It happens in practice that the mother does not allow for determining paternity by the biological father and he files a lawsuit to determine paternity, and the mother goes to the registry office or to the family court with another chosen man and there she confirms the latter's declaration of recognizing paternity.

In order to prevent such practice it is necessary to oblige the head of the registry office or of the family court to take a declaration of recognizing paternity and from the mother – the declaration that there is no conducted procedure to determine paternity. This obligation for the heads of the registry office can be drawn from art. 73 § 3 of FGC, which states that the head refuses to take declarations necessary for recognizing paternity, if the recognition is unacceptable. In the light of these deliberations a practical problem occurred: can the verdict which determines paternity enter into force and does it have any legal force despite the obstacle mentioned above. The act of recognizing paternity is invalid in this situation and it does not cause any legal effects. This opinion was confirmed by the Supreme Court in the verdict from February 7th 1948 (C. III 1741/47, *LexPolonica* nr 413305, OSN 1948, item 12).

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Paternity denial

According to art. 69 § 1 of FGC the mother can file a lawsuit to deny paternity of her husband within a year from the day when she got to know that he is not the child's father, however, no later than the moment when the child becomes adult. The mother should file a lawsuit to deny paternity against her husband and her child and if the husband is dead – against the child. The regulation ensures equal treatment of the possibility to deny paternity to both the husband of the child's mother and to the mother in case of the complete incapacitation or if there are reasons for such incapacitation. It strengthens the protection of the mother's interest before expiration of the period when she can file the lawsuit.²²

According to art. 70. § 1. of FGC the child after reaching the legal age may have an action to deny paternity within a year from the day when he or she got to know that he or she did not come from the mother's husband. If the child got to know about it before he or she became of legal age, the deadline to have the action to deny paternity is counted from the day of his or her 18th birthday.

²² See H. Ciepła, *Nowelizacje..., 36*, G. Jędrzejek, op. cit., 624.

The child should file the lawsuit against the mother and the mother's husband and of the mother is dead – against her husband. If the mother's husband is dead – the lawsuit should be against the curator appointed by the Guardianship Court. The regulations of art. 64 and 65 are applied respectively.

The wording of this regulation was granted with the act from May 16th 2019 (JL item 2089) as a result of the verdict of the Constitutional Court from May 16th 2018 SK 18/17 OTK-A 2018/25 which stated that the previous paragraph 1 in terms that it sets the time limit to file the lawsuit to deny paternity of the mother's husband regardless of the date of obtaining information by the adult child about the fact he or she does not come from the mother's husband, is inconsistent with art. 30 with regard to art. 47 with regard to art. 31 of paragraph 3 of the Constitution of the Republic of Poland.

This regulation grants the child the authority protecting him or her in case of his or her complete incapacitation or when there are reasons for such incapacitation after the child becomes of age like the one in art. 64 and 65 which concerns the husband of the child's mother²³.

Another important information to be noticed concerns the conditions for the permissibility to deny paternity after the child's death.

According to art. 70¹. § 1. denial of paternity is not permissible after the child's death unless the child died after initiation of the proceedings. In case of the child's death, after the child had brought the legal action to deny paternity, the child's descendants can claim their rights.

This regulation is valid since December 4th 2013. The previous art. 71 of FGC which excluded the permissibility of paternity denial after the child's death was invalidated with the verdict of the Supreme Court from November 26th 2013 because it was unconstitutional.

According to the laws in force since December 4th 2013 it is the rule, like previously, to counterclaim the suit to deny paternity after the child's death. However, denial of paternity is permissible when the child died after the initiation of the proceedings. If in the course of the proceeding the child was the plaintiff in the process to deny paternity, this paternity can only be claimed by his descendants when the claim was taken into account and the court can decide whether the child comes from his mother's husband²⁴. Analogically, the results can be similar when the child was presumed dead or his death was determined by the court.

²³ See G. Jędrejek, op. cit., 624.

²⁴ See K. Pietrzykowski, *Kodeks rodzinny i opiekuńczy comment 7 edited* (Warszawa: 2021), 686.

Among the cases which are of interest for us, the most interesting one is the following case:

Under the German occupation when the Nazis were conducting the pacification of the Zamość region, the spouses Anna and Karol Lis adopted a homeless boy who was reported to the register office as a twin of their own child born on December 16th 1942 with their daughter Zofia.

The foster child was treated like their own son without any differentiation between him and the daughter. The fact of adopting the child was kept a secret even before their closest relations. The boy was brought up in the house of the spouses as their son, he treated them like his biological parents and Zofia as his biological sister. The spouses loved their son like their own child and after her husband's death Anna Lis still loved the son dearly. The boy considered Anna's house as his own, he visited her a few times a week, depending on the period. Anna's maternal feelings for Leon were expressed by the fact that she divided her mansion in Gdańsk and gave each half to each child – $\frac{1}{2}$ to the son and the other $\frac{1}{2}$ to her daughter Zofia.

Filing the lawsuit to deny maternity Anna Lis asked for justifying her claim, did not provide any reasons. She stated that when "her foster son" (the defendant) was placed in a reformatory, he visited her and the house. In court the defendant stated that even in case of maternity denial, he will always be considering the plaintiff to be his mother.

The plaintiff still had maternal feelings towards the defendant – although his behaviour, especially the unwillingness to learn, was upsetting for her. The defendant let the foster mother down probably during his adolescence period, which later resulted in his change of the surname, however, currently, after reaching maturity, he still wants to be acknowledged as the plaintiff's son, which he confirmed in his testimony.

The plaintiff who filed the lawsuit was guided by the reasons only known to her but, taking into account her explanations, we can take it for granted that she as not going to do any harm the defendant, even in the moral sense. She did not realize that in case of the counterclaim being upheld, the defendant would remain a man without a family name, deprived of the birth certificate. As his parents are unknown, it would be necessary to apply art. 42 the law on the civil status documents, according to the plaintiff's testimony. The sister got to know about the actual condition of the case only after the mother had filed the lawsuit.

Taking into account all these arrangements, the Regional Court emphasised that according to the established jurisprudence in the cases concerning the state law, art. 3 p.o.p.c. (currently art. 5 c.c.) and that in these cases the claims cannot be dismissed with the reference to the violations of the rules of social coexistence. Despite that the Regional Court dismissed the claim because of the following reasons:

“The process for maternity denial is the establishing process (art. 189 of FGC), in which the complainant has to indicate the legal interest in establishing the legal relations or the law. The Regional Court has not noticed such an interest on the side of the plaintiff.

In this case the interests of the two parties are not opposite, but, on the contrary, they are convergent. The plaintiff still had maternal feelings towards the defendant – although his behaviour, especially the unwillingness to learn, was upsetting for her.

The opinion of the Regional Court that the plaintiff has no legal interest in bringing the lawsuit for denying maternity is certainly without merit. Such counterclaim is aimed at determining that there is not parental relations between the plaintiff and the defendant, therefore, it concerns, among others, the marital status of the plaintiff. Thus the verdict of the court, which takes into account such a claim, directly regards the sphere of the plaintiff’s interest which is – according to the perpetuated view of the doctrine – means that the plaintiff has a legal interest in to achieve such settlement.

The claim of the Court of First Instance that the plaintiff does not realize the essence and the results of the process which she had initiated is totally optional. It is contradicted by the clear part of the lawsuit as well as by the consequent attitude of the plaintiff in the course of the legal proceedings, including the content of the revision which she filed. This rule results from the strictly personal ground of these issues, for the necessity to provide stabilization and peace to the family, which excludes the right to intervene to too greater number of people, especially to those who are marked only with the property interest in questioning the family composition and who do it out of the practical reasons which are contradictory to the engagement into the cases for the civil status rights.

This regulation is still valid under the regulation of the Family and Guardianship Code. No regulation of this Code indicates that the legislator was going to regulate the issue of participation in the cases concerning the civil status in a way different from the usual. In particular the Family and Guardianship Code, not regulating – similarly to the previous code – the authority of claiming or denying

maternity and leaving this issue to the doctrine and judicature, expressed the view that there is no need to depart from the previously applied practice in this matter.

In these circumstances – against the notion of revision – the opinion of the Regional Court concerning the lack of the active authority of the plaintiff for the lawsuit to deny maternity is accurate. The claim of the court of cassation that this case does not aim at denying maternity but rather at “establishing the legal relations on the grounds of art. 189 of FGC”, proves that the plaintiff inadequately understood this legal situation. The possibility of claiming or denying maternity comes from art. 189 of FGC, however, as opposed to the regular establishment of the legal relations, it is strictly limited to certain people who can become the parties in the process for determining the existence or non-existence of maternity (the verdict of the Supreme Court **SN1966-06-14, I CR 161/66, LEX nr 6004**).

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Among the discussed issues the following court decisions deserve particular attention. The analysis should begin with the permissibility to apply art. 5 c.c. in the cases for the laws of the civil status. Dismissing of the prosecutor's claim in the case for the law of the civil status with regard to the principles of the social coexistence – the problem of permissibility to apply art. 5 c.c. in the cases for the laws of the civil status is connected with the resolution of the conflict between the basic rules of the law, mainly the principle of truth (which used to be called the principle of the objective truth) and the policy of the child's welfare and family protection. Such a legal conflict appears when the application of the mentioned principles result in the opposite conclusions which concern the way of resolution of a certain case. The principle of truth results from art. 3 of FGC and means that the court's decision should be consistent with the actual state of affairs. The principle of truth is the supreme legal principle which aims at ensuring compliance of the legal relations of maternity and paternity with the corresponding biological relations. It should be noticed that the legislator ensures the primacy of the child's welfare and the principle of protection of the family over the principle of the truth, introducing numerous limitations in the sphere of filing the counterclaim to deny maternity or paternity and determining ineffectiveness of recognizing paternity (previously: cancellation of recognition of a child). However, in the situation when the legal relation which result from the act of the civil register is not reflected in the actual condition (biological), and the applied counterclaim was brought in the proper time and by an empowered person, the principles of the child's welfare and the

protection of the family do not establish a normative ground to dismiss the claim in the case for the law of the civil status. Such a possibility is caused by the principles of the social coexistence in art. 5 c.c., with regard to among others the child's welfare and protection of the family (**the verdict of the Supreme Court from January 15th 2021 IV CSKP 28/21, (OSNC 2022/4/41)**).

The next verdict of the court which takes into account the counter-claim of the woman to deny her maternity mainly concerns the law of the civil status of the plaintiff. This means that she has the legal interest in obtaining such a verdict (**the verdict of the Supreme Court from 1966-01-22 I CR 312/65, OSNC 1966/7-8/136**).

It should also be noticed that the principle that the counterclaim for the law of the civil status can be filed only by the person who is directly and personally interested as a result of this process, unless the particular regulation provides otherwise, is still valid under the rule of the Family and Guardianship Code. In particular, the person who is interested in e.g. denying maternity only due to the relating assets, does not possess the legal standing (the verdict of the Supreme Court from **2011-10-19, II CSK 87/11, LEX nr 1027165**).

In the case for denying maternity, the social interest expressed in the postulate of establishing the valid record of the events which are documented in the acts of the civil status is superior in relation to the child's interest. It is not taken into account due to the mentioned reason, art. 5 c.c. (**the verdict of the Supreme Court from 1967-02-27. II CR 470/66 OSNC 1967/9/167**)

In the case of filing a lawsuit by the prosecutor in order to deny paternity on the basis of art. 86 of FGC due to the impossibility to be claimed by the child's father (art. 63 of FGC), the court investigates whether it was based on the child's welfare or on the protection of the social interest (**the verdict of the Supreme Court from December 6th 2019 V CSK 471/18, OSNC 2020/7-8/67**).

In the process to deny paternity in which the proof from the examination of DNA cannot be conducted because the mother does not allow for taking the child's blood or her own blood, the presumption derived on the basis of art. 233 § 2 of FGC could become a premise to overthrow the presumption derived from art. 62 § 1 of FGC if, at the same time, it justified the request that other man's paternity is more likely (**the verdict of the Supreme Court from December 29th 1977, LEX nr 8045**).

The general clause on the family welfare and the child's welfare belongs to the principles of the social coexistence the legal violation of which can lead to its absolute invalidity (art. 58 § 2 c.c.). According to art. 140 c.c. the principles of the social coexistence constitute the inner determinant for the content of the right of ownership, they indicate its limits. Due to the fact that deposition of a thing which consists in conclusion of a contract of donation belongs to the content of the property right, the indicated limitation also concerns this legal action. Furthermore, the contract of donation which leads to the violation of the family or the child's welfare can be considered absolutely invalid (art. 58 § 2 c.c. **(- the verdict of the Supreme Court from September 29th 2020 I NSNc 42/20, OSNKN 2021/1/3)**).

The right to respect the family life. The prohibition of surrogacy. Refusal to recognize the parental bond between the spouses and the child born through surrogacy, VALDÍS FJÖLNISDÓTTIR AND OTHERS v. ISLAND – The verdict of the European Court of Human Rights LEX nr 3174865 – the verdict from May 18th 2021. The Tribunal of the Human Rights stated that settling that case on the basis of art. 8 of the Convention, requires taking into account a range of factors in order to determine the scope of participation for the state. When the case concerns a particularly important aspect of existence or a person's identity, the limitation to the state's actions will be determined. However, where there is no agreement between the states of the European Union, either with regard to the relative importance of the subject's interest or with regard to the means of the subject's protection, especially when the case regards the sensitive moral or ethical issues, the scope of the state's involvement will be broader. The state is usually privileged when it comes to its participation, however, if the state is forced to balance the competing private interests and the public interest or the statutory interests. The Tribunal indicates that the actual participation in the family life of the three complainants should not be influenced by the sued state. On the contrary, the sued state took measures aimed at the third compliant (the child born in the USA from a surrogate mother) to ensure his right to be brought up in the foster family of the first or the second complainant, and the possibility of a shared adoption was available for the first and second compliant until their divorce. From the moment of the divorce, the sued state concluded an agreement with the first compliant in order to make him or her a foster parent (for the third compliant), with reservation of the further equal guardian rights with regard to the child of the second

complainant. Thus the sued state took the measures in order to make sure that the three complainants could participate in their family life despite the lack of recognition of the parental bond (between the first and the second compliant), and despite the divorce between the two. Despite the Tribunal's claims that the lack of recognition of the parental bond influenced the family of the complainants, the further participation in the family life was also guaranteed by transformation of the foster care (over the third compliant) into the permanent guardianship and it must be acknowledged that this measure significantly diminished the insecurity and anxiety of the complainants.

Moreover, it should be stated that the sued state granted the citizenship to the third complainant (the child who was born abroad from the surrogate mother) by way of the direct act of parliament which resulted in regulating and protection of the residence and the civil rights of the child in the sued state. In fact the practical obstacles on the way to participate the family life, which resulted from the lack of recognition of the family bond (between the first two complainants and the child), seem to be limited. The final resolution, which is the object of this assessment, is the verdict of the Supreme Court of Island from March 30th 2017 by the power of which the Supreme Court dismissed the application of the complainants in the repealing of the registration of the parental bond and obliging the head of the Civil Status Office to register the third complainant as the son of the first and second complainants. Before pronouncing the verdict by the Supreme Court and after the divorce decree, the first and the second complainant withdrew their applications for adoption of the third complainant and the application for adoption was not the object of the legal proceeding. Thus the final resolution in the field of the law of the first and second complainant was not settled. Therefore, the Tribunal's resolution will only be limited to the extent concerning the registration of the family bond, which was the object of the legal procedure and which was finally settled by the verdict of the Supreme Court of Island from March 30th 2017. The reservation of the government, according to which the complainants did not exhaust the range of legal remedies available in the state law, must be dismissed.

However, according to the government's claim, either the first or the second complainant can still apply for the adoption of the third complainant, either individually or with their new spouse. However, it should be taken into account that only one of the complainants will be allowed to adopt the child the Tribunal takes into account this possibility in the holistic assessment of the necessity for interference,

especially in the sphere of the regulations from art. 8 which the child is entitled to as the third complainant.

Taking into account the lack of the practical obstacles on the way of respecting the family life, and the steps taken by the sued state in order to regulate and protect the bond of the complainants, the Tribunal states that the lack of recognition of the formal parental bond, confirmed by the verdict of the Supreme Court, preserved the proper balance between the right of the complainants to participate in their family life and the public interest which the state is to protect through the ban on surrogacy. Thus the state acted within the limits of recognition which it is entitled to in such cases. The art 8 of the Convention was not violated with regard to the rights of the complainants.

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9. / 25358/12, The right to respect the private life. Refusal to recognize the relationship between the prospective parents and the child born through surrogacy. Giving the child born through surrogacy under the custody of an institution, PARADISO I CAMPANELLI v. ITALY – The verdict of the European Court of Human Rights

LEX nr 2192506 – the verdict from January 24th 2017.

The actual circumstances concern the ethically sensitive issues – adoption, obtaining the right for the foster care, medically assisted procreation and surrogacy – with regard to which the state are not limited. According to the arguments given by the domestic public authorities, it should be indicated that they particularly referred to two kinds of arguments: state authorities mainly meant the illegal steps taken by complainants [the complainants made a legal agreement for surrogacy in Russia where their child was born, as the child was registered in Russia and then brought to Italy] and secondly, the necessity to take special measures towards the child who was regarded to be abandoned in the meaning of provisions of the domestic act of adoption. The Tribunal does not doubt that the reasons given by domestic courts are relevant. They are directly connected with the aim of preventing violation of the order and with protecting children – and not only with regard to the child whom this case concerns, but also with regard to children generally – taking into account the state prerogative regarding determining affiliation on the way of fostering and with regard to the ban [introduced in Italy] of certain techniques of medically assisted procreation. The Grand Board concluded that the facts concerning this case should not be involved into the range of family life but only into the range of private life. Thus this case will not be considered from the point of view of the family protection but

rather from the point of view of the rights of complainants with respect to their private life, with regard to their interest regarding the right to the personal development through their relationship with the child. The Tribunal indicated that the reasons presented by the domestic courts which focused on the child's situation and the illegal acts of the complainants were sufficient.

It is therefore necessary to investigate whether the measures were proportionate to the implemented authorised aim, especially whether domestic courts which acted within the broad limits of recognition to which they were entitled, preserved the equitable balance between the competing private and public interests.

Domestic courts paid a lot of attention to the non-compliance of the domestic adoption legislation by the complainants and to the fact that the complainants were subjected to the assisted procreation methods abroad even though the procedure is banned in Italy [this regards surrogacy]. In the domestic procedures, the courts which were focused on the absolute necessity to take urgent measures [towards the child who was considered abandoned], did not deal with the public interest issues which constituted a part of the case and they did not directly address the sensitive ethical issues which constituted the background of the legal regulations which were violated by the complainants.

In the legal procedure before the Tribunal, the sued government indicated that according to Italian legislation, the affinity can be determined either through the biological bonds or through adoption in accordance to the existing legislation. The government argued that making this choice, the legislator aimed at protection of the child's proper rights, which is required by art. 3 of the Convention on the Rights of the Child. Therefore, the Tribunal states that through banning private adoptions based on agreements between private individuals and through limitations on the rights of adoptive parents to bring minor foreigners to Italy in the cases in which the regulations concerning inter-state adoptions were observed, the Italian legislator aims at protecting the rights of children from any illegal practice a part of which concerns human trafficking.

Moreover, the government referred to the argument according to which the decisions taken by the court banned surrogacy [surrogate motherhood] in Italian legislation. Such a solution [surrogacy] concerns sensitive ethical issues which cannot be agreed upon by the parties of this litigation. Through the ban on surrogacy, Italy stated that such a ban realizes the public interest concerning protection of women and children – the potential victims of these ethically

problematic issues. Such a policy is considered to be particularly important especially when – as the government indicated – the case regards conventional agreements concerning surrogacy. This basic public interest is also meaningful with regard to the measures taken by the state to discourage the citizens to go abroad to undertake the illegal practices which are banned in their own country.

Summing up, the main aim of the domestic courts was to prevent the illegal practices. Taking this into account the Tribunal states that the legal regulations which were violated by the complainants and the measures which were taken in response to their proceeding, were serving to protect very important public interests.

As for the private interests in this case, it concerns, on the one hand, the interest of the child and, on the other hand, the interests of the complainants.

With regard to the child's interest, it must be indicated that the domestic court regarded the fact that there was no biological bond between the complainants and the child and the court stated that it was necessary to find a proper couple who would take care of the child as soon as possible. Bearing in mind the child's age (it was a toddler) and a short period of time spent with the complainants [eight months], the court agreed with the opinion of a psychologist (presented by the complainants) which stated that the separation from the complainants would result in the disastrous consequences for the child.

And as far the complainants' interest regarding the bond with the child was concerned, the domestic court indicated the lack of supporting evidence to their claim that they had given to a clinic in Russia (the one where the medical procedures of assisted procreation took place) some genetic material of the second complainant. Moreover, after obtaining the consent for international adoption, the complainants violated the domestic adoption legislation bringing the child to Italy without the consent of a proper national authority that is the national commission for the international adoption. Taking this into account, the domestic court expressed the concern that the child could have been a victim of the parents' narcissistic desires and a means to solve an individual problem (of one of the complainants) or the couple's mutual problems. Further on, the court stated that the behaviour of the complainants cast a shadow on the authenticity of their feelings and educational abilities, and expressed doubts whether the complainants "were capable of any human feelings which are necessary to adopt a child and raise it as one's own".

This case differs from the cases which concerned separating a child from the parents, as separation, as a rule, is a means used only in case when the physical or mental integration of the child is threatened. On the contrary, the Tribunal does not regard that domestic courts are required to give priority to the aim of protecting the bond between the complainants and the child. The courts would rather make a difficult choice between allowing the complainants to continue their relations with the child, thus legalizing the situation created by the complainants through the accomplished acts, which was contradictory to the legislation, and taking the proper measures to provide the proper family for the child according to the legal adoption procedure. The Tribunal indicated that public interests of this case were very important. Moreover, the Tribunal stated that the justification provided by Italian courts with regard to the child's interest was by no means automatic or stereotypical. Analysing this particular situation of the child, the courts considered it to be proper to place the child in a proper family who would adopt it, and they examined the influence of this separation from the complainants on the child. The courts stated that this separation would not cause any serious or irreversible damage to the child. Italian courts devoted very little time to the interest of the complainants in their further bond development with the child and the results of such a hasty separation on their private lives. This condition must however be perceived in the context of the illegal proceeding of the complainants and the fact that their relationship with the child was uncertain from the moment when they decided to live in Italy with their child. This relationship became even weaker when, after taking the DNA test, when it turned out that there was no biological affiliation between the second complainant and the child. As for the complainants' argument that the courts did not examine the possibility of using alternative methods instead of the immediate and irreversible separation with the child, it must be noticed that the complainants addressed the domestic court in order to place the child with them until the moment of its adoption. According to the Tribunal, it must be taken into account that this procedure was urgent. Any means which would prolong the child's stay by the complainants, such as placing the child under their temporary care, would have predetermined the result of this case.

Moreover, apart from the illegal proceeding of the complainants, the government indicated that the complainants were too old to adopt the child legally (which concerned the difference of age between the adoptive parents and the child), envisaged in the domestic law

in the regulations of the adoption regulations, that is the difference of 45 years of one parent and 55 years of the other adoptive parent. The Tribunal indicates that the law allows courts to refrain from the regulations concerning the age difference. In circumstances of this act the courts should not be criticised for not taking this possibility into account.

The Tribunal does not disregard the influence of the immediate and irreversible separation with the child which must have been exerted on the lives of the complainants. However, even though the Convention does not recognize the right to parenthood, the Tribunal cannot ignore the difficult emotions which accompany the people whose need to become parents has not and cannot be satisfied. However, the public interests involved in the case predominated the result of the case, while the interests of the complainants and their personal development in the relationship with the child were of minor importance. Giving the consent for the child's stay at the complainants' house, with the possible outcome of them becoming adoptive parents, would mean legalization of the circumstances caused by the complainants who violated important regulations of the Italian legislation. The Tribunal concludes that Italian courts, after determining that the child will not be significantly and irreversibly hurt as a result of the separation, preserved the righteous balance between various interests present in this case, maintaining proper margin of discretion available in this case. Thus the art 8 of the Convention was not violated.

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In conclusion, it is worth to mention the Project of the Family Code developed by the Commission by the Ombudsman for the Rights of Children in the years 2015-2018, which awaits the legislative. The project defines the basic concepts of the family law (family, child, child's welfare, family autonomy) and the regulations of the family law which had not been previously defined by the legislator. The project contains a range of the provisions of the Convention on the Rights of the Child and from the legal international acts

Conclusion

The Family and Guardianship Code is the fundamental legal act which regulates the legal relations in the family and the relations regarding care and guardianship. The Code was subjected to further novelization with the act from December 19th 1975 (Dz.U. Nr 45, item 234) and with the act from November 6th 2008 (Dz.U. Nr 220, poz. 1431).

The amendment of the Code from 2008 regarded the regulations which referred to the child's affiliation, parental authority, the contacts between parents and children, maintenance relations between parents and children, foster care over the child. The need for changes resulted from the contents of international agreements ratified by Poland, from the provisions of the Polish Constitution and the submitted demands *de lege ferenda*, both in the legal doctrine and in jurisprudence and in the speeches of the Ombudsman for the Rights of Children and the Commissioner for Civil Rights. The issues of the relations between parents is the object of case law also in other countries and of the European Court of Human Rights (LEX nr 2192506 – verdict from January 24th 2017). The relationship between the family law and ethics results from the historical development of the institutions. It is therefore worth mentioning here the significance of the scientific legacy of Father Michał Sopoćko. The values which he proclaimed are universal in nature, and they are particularly up-to-date in the difficult contemporary times. It should be indicated that the Polish legislator, while going beyond the sphere of marital rights and obligations, does it moderately and intrudes only when it is necessary due to the perspective of the family designated by the state. While any interference into the family relationships of parental authority (art.109 -112) is an exception. The legislator does only when he learns from whatever source that the children in the family are being harmed

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Marriage and the family issues in the research and writings of Blessed Michał Sopoćko in the light of his scientific activity and legacy

Father Michał Sopoćko, the blessed of the Catholic Church described the issues of marriage and the family in the legal and ethical aspect in his doctoral thesis. It was published in 1926 and was called: *Rodzina w prawodawstwie na ziemiach polskich* [The family in the legislation on Polish soil]. This article presents this publication with the background note about the scientific activity of Father Sopoćko, the scientific disciplines which he worked on (pastoral theology, pedagogy, catechetics and homiletics) as well as the apostolate of Divine mercy (teaching, the cult, publications), which were his life mission. The dissertation presents the reasons why he described the issues of marriage and family: his concern for the Christian model of the family, of the family's rights based on the natural and on the revealed law in order to take them into account in the codification created in the freed Poland. Further on, the main content of the work consists of the vision of family and marriage, the mutual relationship of the spouses, the relationship between parents and children with regard to the natural law and to the Christian morality presented in the light of the legislation on the Polish soil under occupation. The final part in the conclusion of the article emphasises the indispensability to embed the constituted law on marriage and the family on the natural and the revealed law. This validity has not become out of date and should still be preserved. This statement adds value to the work of Father Sopoćko and makes it worth attention in the light of the contemporarily discussed issues of marriage and the family.

Key words: Father M. Sopoćko, scientific profile and scientific legacy of Father Michał Sopoćko, Father Michał Sopoćko as the apostle of Divine mercy, the family and the natural law, the family and the constituted law.

Father Michał Sopoćko¹ completed his studies in theology and pedagogy, then he started his scientific studies of the moral theology, pastoral theology, the aesthetic theology and pedagogy. Thus his scientific and research activity and literary activity concerned mainly these fields of studies. However, he devoted some time and research also to Divine mercy, mainly in the sphere of understanding the very truth of Divine mercy and the cult, which further resulted in the multifaceted literary output. He spent most of his life on the research of didactics, as a lecturer in a seminary and at university. His vast literary legacy consisted of numerous publications as well as of a rich literary collection of more popularising and journalistic nature. Most of his scientific legacy is presented and compiled in numerous minor publications, however, there are still many interesting aspects of the legacy that can be researched and used in a creative way. Doctoral theses, Master

¹ Michał Sopoćko was born on November 1th 1888 in Juszewszczyzna the county of Oszmiana. In 1914 r. he was ordained a priest in Vilnius. Between 1914 and 1918 he worked as a vicar in the parish of Taboryszki. Then he moved to Warsaw where he was studying theology and pedagogy at the Warsaw University and he worked as a military chaplain. In 1924 he came to Vilnius, still working in the military pastoral care and organized associations of the Catholic youth in the diocese. Between 1927 and 1932 he was a spiritual father in the seminary in Vilnius and since 1928 he worked as a lecturer at the Faculty of Theology at Stefan Batory University and in the seminary. Devoted to the scientific and didactic work, he was a zealous priest, organizing Catholic associations of the faithful; he was also a confessor in religious congregations. Between 1934 and 1938 he was the rector of Saint Michael's church and a chaplain of Bernardine Sisters. In 1933 he met Sister Faustyna Kowalska and became her confessor and the spiritual guide. He helped her recognise her revelations and got engaged into the apostolate of Divine mercy. He ordered Sister Faustyna to write her diary, he managed to organize the painting of the Image of the Divine Mercy, he printed the first prayers to Divine mercy. He asked the ecclesial authorities to establish the holiday and authorise the cult of Divine mercy. He worked on the biblical and theological bases of the cult publishing scientific works. He was the co-founder of the Congregation of the Sisters of Merciful Jesus, as a result of God's demands from Sister Faustyna's revelations. In 1947 he left Vilnius and went to Białystok where he worked as a professor in the seminary, mainly in the chapel in 42 Poleska street. He consequently continued the apostolate of Divine mercy through his work as a preacher, through his scientific activity and numerous publications. He never stopped trying to convince the ecclesial authorities to introduce the holiday and to authorise of the cult. However, he did not live to see the effects of his efforts, but at his deathbed he trusted that his dreams would be fulfilled. He died in Białystok in 1975. Soon after his death the ecclesial authorities started to slowly allow to spread the cult until by John Paul II established the holiday of Divine Mercy on the second Sunday after Easter in 2000 during the canonization of Sister Faustyna. A zealous priest, a chaplain, an educator of priests, a guardian of nuns and mainly a tireless apostle of Divine mercy, he reaped the harvest of holiness of his life and he was declared blessed in 2008 in Białystok. His relics were transferred to the Sanctuary of Divine Mercy.

theses and other diploma works constitute the vast majority of the existing studies of the scientific and literary legacy of Father Sopoćko, but most of them have not been published. Therefore, it is necessary and advisable to conduct research of this precious legacy, to analyse it and creatively develop, drawing from this rich source of inspiration within the scientific fields that were dealt with by Father Sopoćko.

This is the main task of our scientific circle which initiated organizing conferences, like this one devoted to the marriage and family issues: 'The family in the thought of blessed Father Michał Sopocko', in reference to his dissertation: 'The family in the legislation on Polish soil' based on his doctoral thesis. In order to introduce the reader to the presented issues as well as to draw a proper background to it, we firstly present the blessed Father Michał Sopoćko with his literary legacy and mentioning the fields of studies which he dealt with. The next part of this dissertation will contain descriptions of the reasons, conditions and circumstances in which he started his research on marriage and the family as well as a short description of his activity. The dissertation will end in the summary of Father Sopoćko's research, the juxtaposition of the main conclusions and findings of the work and indication of the validity of his view on marriage and family issues presented in this dissertation.

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Theology and pedagogy studies and the beginnings of scientific and didactic work

Father Sopoćko showed his eagerness to gain knowledge since his childhood years. He was bestowed with mental abilities and zealously gained knowledge although the external conditions in which he lived (his impoverished parents, the tzar's administration's restrictions) made it more difficult for him to access knowledge. The more knowledge he gained, the more useful it appeared to him in life. This made him even more willing for further education. After graduating from the seminary in Vilnius in 1914 and working for a few years as a priest, he decided to start new studies at the Faculty of Theology at the Warsaw University and in the Pedagogical Study in 1918. He was studying moral theology and additionally, he attended lectures of law and philosophy. In 1923 he graduated from his studies and got his Master of Theology degree². In his magisterial diploma it was noted: *postquam legitimis examinibus in Theologia speciatim in Theologia Morali laudabilem doctrinam probavit*³.

² M. Sopoćko, *Wspomnienia z przeszłości*, in: *Wspomnienia* (Białystok: 2018), 91-92.

³ A copy of the Master's diploma, Archiwum Archidiecezji Białostockiej, file XI, item 4 – further: AAB, XI 4.

Apart from his theological studies, Father Sopoćko attended the two-year pedagogical study (1922-1924) at the State Pedagogical Institute in Warsaw. It ended with an exam before the State Educational Board and he submitted a dissertation called '*Alcoholism among the school youth*' which was required in order to get a diploma of graduating from the study. Getting this degree brought Father Sopoćko the title and authority of a qualified teacher (Master of Arts) of pedagogical subjects in secondary comprehensive schools and in seminaries for teachers⁴.

After receiving the title of the Master of Arts in Theology, Father Sopoćko continued further studies preparing his doctoral thesis. He was writing it under the guidance of professor Franciszek Jehliczka at the chair of moral theology at the Warsaw University. It concerned the issues of ethics in the family in the light of the civil legislation. The study was of ethical and legal nature and the author wanted to present the extent to which the civil legislation which was applicable on Polish soil, was in accordance with the principles of Christian morality. This issue was up-to-date as a new personal law was being prepared in independent Poland and there were doubts concerning the fact whether the Polish and Christian tradition would have enough influence on it. It was the author's intention to indicate, among other things, the need to reconcile the civil law with the natural law and the revealed law in such aspects which concerned the family ethics⁵.

Father Sopoćko finished his doctoral thesis in spring 1926 and he defended his thesis on March 1st 1926⁶. On the same day he received his diploma which gave him the title of "Sacrae Theologiae Doctor" [Bachelor of Sacred Theology] within moral theology on the basis of the passed exams and the dissertation "Family ethics in the Polish legislation"⁷.

Receiving his doctoral degree helped Father Sopoćko enter the path of his further independent career in science. Apart from his priestly ministry, it was one of the most important aims of his life. Therefore, it became a part of his timetable. As long as his priestly duties and life conditions allowed for that, he tried to devote his time to science. Further on he devoted more and more time to it when he was employed in the seminary and at university⁸. At the same time, since his university years,

⁴ A copy of the diploma, AAB, XI 12.

⁵ See M. Sopoćko, *Rodzina w prawodawstwie na Ziemiach Polskich* (Wilno: 1926), 4-5.

⁶ *Curriculum vitae ks. Michała Sopoćko*, Vilnius May 20th 1928, (copy), AAB, IV 14.

⁷ Doctoral diploma. (copy) AAB, II 15

⁸ "Scientific work was among others one of the main tasks of my life. Therefore, I have never neglected it. However, sometimes I had little time for it. But I found at least a few hours a day on it". M. Sopoćko, *Dziennik* (Białystok: 2015), 86.

he started publishing his research results and scientific achievements, either as a stand-alone items or, mainly, in various religious magazines and science magazines. On the basis of his pedagogical training, apart from the issues concerning religion and theology, he took up the social and educational issues. His first publications were chats for soldiers: *Obowiązki względem Ojczyzny*⁹ [Duties for the Homeland], published in Warsaw in 1922 as a result of religious and patriotic education led by him while he was working as the military chaplain; as well as the article: *Alkoholizm a młodzież szkolna*¹⁰ [Alcoholism among the school youth], based on the diploma dissertation in pedagogy, which was firstly published in *Przegląd Pedagogiczny* [Pedagogical Literature Review] in 1924, and later as a separate item¹¹ in Warsaw in 1925. In 1926 he published his Doctoral Thesis called: *Rodzina w prawodawstwie na ziemiach polskich*¹² [The family in the legislation on Polish soil] in Vilnius. Later on, especially when he was working in the Seminary in Vilnius where he was obliged to carry out his scientific work, his literary and scientific legacy developed significantly.

His pedagogical education gained in Warsaw resulted in the occupational proposals from educational institutions in Vilnius. The Kuratorium of the School District in Vilnius [Kuratorium Wileńskiego Okręgu Szkolnego] employed him to give lectures in psychology and pedagogy as well as to teach methodology of History, Polish, Mathematics and Sciences at the Higher Teachers Course in Vilnius during the school year of 1926/1927¹³, and to give lectures of the methodology of religion at the summer courses for teachers in Vilnius, Święciany, Oszmiana, Wilejka and Dziśna in the summer of 1926¹⁴, and later on in Oszmiana and Święciany in the summer of 1927¹⁵. Stowarzyszenie

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⁹ M. Sopoćko, *Pogadanki. Seria I. Obowiązki względem Ojczyzny* (Warszawa: 1922).

¹⁰ M. Sopoćko, "Alkoholizm a młodzież szkolna", *Przegląd Pedagogiczny* (1924), fasc. 4: 244-289.

¹¹ M. Sopoćko, *Alkoholizm a młodzież szkolna* [Alcoholism among the school youth] (Warszawa: 1925).

¹² M. Sopoćko, *Rodzina w prawodawstwie na Ziemiach Polskich* (Wilno: 1926).

¹³ The letter of the Kuratorium of the School District in Vilnius: *Powierzenie nauczania na Państw. Wyższym Kursie Nauczycielskim w Wilnie na r. szk. 1926/27, dnia 15 IX 1926 r. N.I-20691/26.* (copy), AAB, XII 5.

¹⁴ The letter of the Kuratorium of the School Disctrict in Vilnius: *Powierzenie prelegentury religii na kursach wakacyjnych w roku 1926, dn. 10 VII 1926 r. L.I-14570/26.* (copy), AAB, XII 6.

¹⁵ The letter of the Kuratorium of the School District in Vilnius: *Powierzenie prelegentury religii na kursach wakacyjnych, dn. 4 VII 1927 r. N.I-16392/27.* (copy), AAB, XII 8; The letter of the Archbishop of Vilnius Romuald Jałbrzykowski

Chrześcijańsko Narodowego Nauczycielstwa Polskiego [The Christian National Polish Teachers Association] invited Father Sopoćko to give his lectures for the public school teachers at the Higher Philosophical and Mathematics Course organized by the Association for teachers in the school years of 1925/26 and 1926/27¹⁶. His engagement and devotion to the cause of training teachers was appreciated by the course organizers. The Christian National Polish Teachers Association concluded in the special gratitude note that it was Father Sopoćko's good will and selfless and dedicated work which proved his genuine citizen's concern to deepen and develop knowledge for the good of the teachers and for the benefit of them and of the Polish School¹⁷.

The Habilitationsschrift and the attempted professorial promotion

In 1927 Father Sopoćko was employed at the Faculty of Theology of Stefan Batory University in Vilnius and thus in the Metropolitan Seminary in Vilnius as it was a part of the Faculty. At first he was employed temporarily as a lecturer of the history of philosophy, later on, he became formally employed on the basis of the decision of the Ministry of Religious Affairs and Public Enlightenment on August 7th 1928 which validated his position of the associate professor at the Chair of Pastoral Theology¹⁸.

Taking up the employment at University was connected with the obligation to achieve the subsequent University degrees. Father Sopoćko was obliged to prepare his Habilitationsschrift. The subject of the thesis regarded the issues concerning the spiritual education in Mikołaj Łęczycki's works (1574-1653), Łęczycki was a Polish Jesuit, theologian and educator. Father Sopoćko shared Łęczycki's pedagogical interests which resulted in his earliest studies at the Pedagogical Institute in

from July 4th 1927., Nr 2356, commissioning the lectures of Religious Education at development courses for teachers. AAB, XVI 25.

¹⁶ The letter of Oddział Okręgu Wileńskiego Stowarzyszenia Chrześcijańsko Narodowego Nauczycielstwa w Polsce z dn. 3 czerwca 1928 r. Nr 491-IV/28 addressed to Father Prof. Dr M. Sopoćko expressing gratefulness for lecturing at the Superior Course of Philosophy and Mathematics. (copy), AAB, XI 1.

¹⁷ The letter of The Christian National Polish Teachers Association of the District of Vilnius [Oddziału Okręgu Wileńskiego Stowarzyszenia Chrześcijańsko Narodowego Nauczycielstwa w Polsce], see above.

¹⁸ The letter of the Senate and the Rector's Office of USB in Vilnius to Father Doctor M. Sopoćko informing that the Ministry of Religious Denominations and Public Education's regulation from August 7th 1928 Nr IVSW.8274/28 gave him the position of a substitute in the Department of Pastoral Theology on a full-time basis of professorship. AAB, XII 13.

Warsaw. He was also motivated by his ministry of a spiritual father in the seminary which he was doing at that time and by the practical need to gain deeper knowledge in pedagogy in the work of a priest and educator. Moreover, in his opinion, collecting and presenting the views of Łęczycki and his teaching concerning education could bring new positive inspirations to the current educational activity especially in the spiritual sphere¹⁹.

Mikołaj Łęczycki was an accomplished teacher and a hard-working writer, however, his literary and scientific legacy were not well-known or elaborated on. In 1933 Father Sopoćko finished his studies and wrote an essay called "The aim, the subject and the object of spiritual education according to Mikołaj Łęczycki", branded by the professors of the Warsaw University: Father professor Antoni Borowski, professor of moral theology and Father professor Zygmunt Kozubski, professor of pastoral theology. In 1933 he published the dissertation in Vilnius²⁰ and on the basis of the dissertation, his Habilitationsschrift colloquium took place at Warsaw University on May 14th 1934²¹.

Continuing his work on the scientific legacy of Łęczycki, Father Sopoćko, compiled the complete works on Łęczycki's teaching on spiritual education comprising it in a 4-part complete works called *Mikołaj Łęczycki o wychowaniu duchowym*²² [Mikołaj Łęczycki on spiritual education], which was published in Vilnius in 1935. In the professors' assessment the dissertation was a great basis to appoint Father Sopoćko a university professor²³. Unfortunately, despite the common approval of the most competent scientific circle of Father Sopoćko's candidature, he was finally not promoted to be a university professor. It probably resulted from financial reasons. After the Second World War the Faculty of Theology and its professors were forced to move to Białystok where it was not validated by the authorities of the Polish Peoples Republic²⁴. Thus the issue of Father Sopoćko's candidature for the position of a professor collapsed. Until the moment of retiring in 1962 he remained a lecturer in the seminary in Białystok.

¹⁹ M. Sopoćko, *Wspomnienia*, 121.

²⁰ M. Sopoćko, *Cel, podmiot i przedmiot wychowania duchowego według Mikołaja Łęczyckiego* (Wilno: 1933).

²¹ M. Sopoćko, *Dziennik*, 88; M. Sopoćko, *Wspomnienia*, 195.

²² M. Sopoćko, *Mikołaj Łęczycki o wychowaniu duchowym. Studium teologiczno-pedagogiczne* (Wilno: 1935).

²³ M. Sopoćko, *Dziennik*, 88.

²⁴ See S. Hołodok, *Wydział Teologiczny Uniwersytetu Stefana Batorego w Białymostku (1945-1951)*, in: *Archidiecezjalne Wyższe Seminarium Duchowne w Białymostku 1945-1995. Księga Jubileuszowa*, ed. S. Hołodok (Białystok: 1995), 46-70.

Fields of scientific studies and the literary legacy

According to the acquired specializations, the main fields of scientific studies and didactics of Father Sopocko were pastoral theology, homiletics, catechetics and pedagogy. He wrote his dissertations in all of these fields. The effects of his studies were expressed in independent scientific and popular-science articles, encyclopaedic entries and reviews²⁵. The issues concerning Divine mercy and the cult of the mercy constituted a separate field of scientific searches, of research, of the polemic and of apologia. What is more, the issue of the priestly formation was one of the essential ones in literary works. Sopoćko's works also consisted of journalism which mainly concerned the current religious and social issues.

As far as the fields of pastoral theology and pedagogy were concerned, Father Sopocko dealt with the issues concerning Christian education. His most precious scientific works were the studies of Christian education according to Mikołaj Łęczycki, the Polish Jesuit, an outstanding theologian and pedagogue whose scientific legacy contained in the dissertations on education, exerted a significant influence on the development of the Christian pedagogy. Due to Father Sopoćko's work, the idea of the Christian education in the literary legacy of Łęczycki was developed and introduced. The works included: "The aim, the subject and the object of spiritual education according to Michał Łęczycki" and "Mikołaj Łęczycki on spiritual education. Theological and pedagogical study"²⁶.

Later on Father Sopoćko dealt with the issues of marriage and the family in the light of the pastoral care. He had already elaborated on these issues while preparing his doctoral thesis. As it was mentioned above, his studies mainly concerned the institution of the family with regard to the legal aspects, nevertheless the subject was developed also as an issue for the pastoral reasons²⁷. Essentially he started to deal with the issues of the family in the late 1930s. He wanted to prepare an approachable lecture on the family issues and their role in the religious and social life, for priests and for the faithful. The outbreak of the war and the Nazi occupation interfered with publishing his already

²⁵ M. Sopoćko, *Wspomnienia*, 195-196; M. Sopoćko, *Dziennik*, 110. During his work as a professor at University and in the seminary until they were closed during the Second World War published 90 publications.

²⁶ M. Sopoćko, *Mikołaj Łęczycki o wychowaniu duchowym. Studium teologiczno-pedagogiczne* (Wilno: 1935); see A. Skreczko, "Wychowanie chrześcijańskie w ujęciu księdza Michała Sopoćki", *Rocznik Teologii Katolickiej* 4 (2005): 59-98.

²⁷ M. Sopoćko, *Rodzina w prawodawstwie na Ziemiach Polskich* (Wilno: 1926).

refined literary works. He only published an article which concerned the preparation for marriage. It was published as a separate leaflet publication²⁸. In reference to the encyclical of Pius XI on marriage *Casti connubi*, which recommended preparation of young people for marriage, Father Sopoćko published an approachable concise work consisting of the issues concerning marriage, its essence and tasks, the duties of the spouses for each other, for the children and for the family and the religious duties of a family. The well-prepared dissertation was finally published but in a limited edition and in the collected works only after the war in 1947. It was called "Pastoral care in the family". He wrote about the tasks of the family and of its meaning to the society and to the Church, about pastoral care of marriage and the family and about the care over the family in the broader sense, concerning the family members, relatives and in-laws. It was an approachable compilation of the essential and basic issues concerning the family life, duties and tasks of family members, which ordered the insights on family in the light of the pastoral care of the family²⁹. The leaflet on the preparation for marriage called "Nauka przedślubna" ["The pre-wedding studies"] was reprinted and republished after the Second World War³⁰. A short article from 1930s about the duties and tasks of God parents was a complementary text to the issues of pastoral care of the family³¹.

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Father Sopoćko dealt with the issue of the sacrament of penance and reconciliation and confession mainly from the pastoral perspective. It appeared in the publications directly concerning confession or accompanying other issues especially the ones concerning Divine mercy. These publications contain the presentation of the subject of the sacrament of penance mainly in the light of Divine mercy³².

²⁸ M. Sopoćko, "Przygotowanie do małżeństwa. Nauka przedślubna", WAW 13(1939): 180-183, 196-200, 209-215, 226-231; M. Sopoćko, *Nauka przedślubna* (Wilno: 1939).

²⁹ M. Sopoćko, *Duszpasterstwo w rodzinie*, in: *Nauka pasterzowania*, ed. Z. Pilch, vol. II (Kielce: 1947), 5-31; see A. Skreczko, *Rodzina w nauczaniu ks. Michała Sopoćki*, in: M. Ozorowski, W. Nowacki (ed.), *Rodzina drogą Kościoła. Księga Jubileuszowa na 25-lecie posługi pasterskiej Biskupa Łomżyńskiego Stanisława Stefanka TChr* (Łomża: 2005), 379-382.

³⁰ M. Sopoćko, *Nauka przedślubna* (Wrocław: 1948).

³¹ M. Sopoćko, "Obowiązki rodziców chrzestnych", *Ateneum Kapłańskie* 38 (1936): 183-185.

³² M. Sopoćko, "Kapłan jako szafarz Miłosierdzia Bożego", *Głos Kapłański* 13 (1939): 356-358; "Spowiedź młodzieży szkolnej", *Przegląd Katechetyczny* 31 (1948): 22-28, 51-59; "Nałogowcy i recydywiści", *Ateneum Kapłańskie* 51 (1949): 61-67; "Spowiedź jako czynnik postępu w doskonałości", *Głos Karmelu* 21 (1952),

Similarly, the issues of alcoholism and preventing alcohol addiction were presented by Father Sopoćko in the light of Divine mercy. These aspects are revealed in the already mentioned diploma dissertation *Alcoholism among the school youth*. During his whole life Father Sopoćko frequently mentioned this issue in his publications and dissertations. He lectured on this, published diverse articles and sermons³³.

In the field of homiletics his legacy was collected in numerous publications devoted among others to: preaching technique, retreats and folk missions. He prepared a handbook for homiletics but it only remained a typescript. A collection of sermons either published or in typescripts and manuscripts was an important dimension of Father Sopoćko's literary and scientific legacy in homiletics³⁴.

Similarly, in the field of catechetics, his legacy was revealed in numerous studies concerning the issues of: teaching catechetics in seminaries, organization of religious courses and catechetical conventions, organization and methods of catechising, correlation of religion with other school subjects. What is more, he prepared an extensive script for teaching catechetics in seminaries³⁵.

The field of pedagogy was the object of his scientific specialization and his personal passion since his youth; his interest in it appeared when he worked as a teacher in a small school in the parish of

104-113, *Miłosierdzie Boga w dziełach Jego*, vol. III (Rzym – Paryż – Londyn: 1962), vol. IV (Paryż: 1967).

³³ M. Sopoćko, *Alkoholizm a młodzież szkolna*, in: *Księga pamiątkowa kursu katechetycznego w Krakowie* (Kraków: 1929), 206-219; "Abstynencja a trzeźwość", WAW 4 (1930): 191-194; "Alkoholizm a moralność", *Trzeźwość* 12 (1937): 132-138; *Alkoholizm a moralność* (Warszawa: 1937); "Alkoholizm a młodzież i jej wychowanie", *Caritas* 4 (1948), 314-322; *Alkoholizm a młodzież i jej wychowanie* (Kraków: 1949); "Bractwo trzeźwości", *Homo Dei* 18 (1949), 420-430; *Szkic kazania o pijaństwie*, WAW 8 (1934): 3-11; *Szkice kazania o abstynencji*, ibidem, 10 (1936): 25-29; "Na Tydzień Wstrzemięźliwości. Szkic kazania o abstynencji", *Nowa Biblioteka Kaznodziejska* 50 (1936): 40-47; *Szkice kazań o abstynencji i pijaństwie* (Wilno: 1936); "O trzeźwości", *Współczesna Ambona* 5 (1950): 268-272.

³⁴ M. Sopoćko, *Wygłoszenie kazania* (Kielce: 1938); "Rekolekcje i misje ludowe", WAW 12 (1938): 40-42, 58-60, 72-75, 89-93, "Program homiletyki w seminariach duchownych", *Kazalnica Popularna* 2 (1938), 153-163; *Homiletyka*, Sekcja Wydawnictw Skryptów Koła Teologów USB (duplicator), Wilno; *Podręcznik homiletyki*, (typescript) AAB, LXXVI.

³⁵ M. Sopoćko, *Program katechetyki w seminariach duchownych*, in: *Pamiętnik Siódmego Zjazdu w Wilnie 19 VI – 21 VI 1933*, Wilno 1934, 309-319; "Organizacja kursów religijnych, dni i zjazdów katechetycznych", WAW 9 (1935): 336-342, 354-358; 10 (1936), s. 7-13; *Organizacja kursów religijnych, dni i zjazdów katechetycznych* (Wilno: 1936); "Łączność i jednolitość nauczania religii z innymi przedmiotami", *Miesięcznik Katechetyczny* 26 (1937): 369-386; *Korelacja w nauczaniu religii z innymi przedmiotami* (Warszawa: 1937).

Zabrzezie. His studies in the Institute of Pedagogy prepared him in a professional way which he used in education in Vilnius and later at University and in seminary while teaching pedagogy. The works of M. Łęczycki presented above touched upon theology and pedagogy. One of the most interesting dissertations on the basis of pedagogy was an article which was a published version of a lecture presented in the Catholic Studies on education in Vilnius in 1936, which concerned Polish and Catholic ideals and educational systems. In his lecture he indicated the importance of the educational system in Poland which emphasised the essential core of the Catholic ideal that is the idea of "God-Human"³⁶. In a different article he developed the current and important issue of that time which concerned the relationship between the nature and the supernatural, the relationship between the will and grace and between the inherent means of education and the supernatural means in the educational process. This was the answer to spreading of the naturalistic course which posed a threat to the presence of Religious Education classes at schools and might have meant removing religious practice from the process of upbringing. He perceived upbringing as a process aiming at the internal harmonisation of the human powers that means submitting your passion to the rule of your intellect and will in order to achieve internal harmony between the physical and spiritual body powers and thus implement the main aim of the Christian education which is in God Who is the greatest good, truth and beauty as well as the eternal happiness of the man. Furthermore, he indicated the need for the complementarity of the state education and the religious education³⁷. He also worked on the lectures on pedagogy for students collected in a script³⁸.

Apart from the scientific disciplines indicated above, which were the subject of Father Sopoćko's research and which were his scientific legacy, he also conducted research and left a legacy in other disciplines of his priestly and pastoral as well as educational and social interests, which was reflected in numerous publications and dissertations. These include his active participation in the priestly formation which resulted in a series of dissertations devoted to the formation issues and published in "Wiadomości Archidiecezjalne Wileńskie" [The

³⁶ M. Sopoćko, *Polskie i katolickie ideały i systemy wychowawcze*, in: *Pamiętnik II Katolickiego Studium o wychowaniu* (Poznań: 1936), 169-198; *Polskie i katolickie ideały i systemy wychowawcze* (Poznań: 1936).

³⁷ M. Sopoćko, *Przyrodzone i nadprzyrodzone czynniki wychowania*, in: *Pamiętnik ósmego zjazdu w Częstochowie 15-17 IV 1936* (Kraków: 1937), 274-288; *Przyrodzone i nadprzyrodzone czynniki wychowania* (Kraków: 1937).

³⁸ M. Sopoćko, *Pedagogika* (Wilno: 1933).

Archdiocesan News in Vilnius] and the articles which concerned the general pastoral issues and those devoted to preaching³⁹. The educational and formational influence of Father Sopoćko also involved the lay people. It was revealed in the direct contact and cooperation with them but also in his publications which presented his intentions and aims and in which he chose religious, social and national subjects. His first works of this kind were the publications of diploma theses mentioned above, which were written during his University years in Warsaw: *Alkoholizm a młodzież szkolna* [Alcoholism among the school youth]⁴⁰ and *Rodzina w prawodawstwie na Ziemiach Polskich* [Family in the legislation on Polish soil]⁴¹ as well as the moral – religious chats for soldiers *Obowiązki wzgędem Ojczyzny* [Duties towards my homeland]⁴². As a continuation of the last one Father Sopoćko published a dissertation *O obowiązkach społecznych* [About community duties] in Vilnius in 1931. According to the title he devoted it to the important issue of the civil duties towards the society. The reason why he took this subject was the need to make the general public aware of the existence of such duties which used to be seriously neglected according to the author. Among these he enumerated the duty to work. He strongly emphasised the need to strive for the basic social virtues such as justice, truthfulness, humbleness, love and friendship. These features contribute to the proper fulfilment of the social duties and protect from the vices of laziness and parasitism and thus they ensure the order and social development, peace in the family, in the society and in the state⁴³. Another dissertation of a similar educational and formational profile concerning the social life and the civic attitudes was the work called

³⁹ M. Sopoćko, "W jedności siła", WAW 5(1931): 27-28; "W jedności siła", ibidem: 44-45; "W jedności zbawienie", ibidem: 58-59; "Sacerdos alter Christus", ibidem: 75-76; "W jedności pomyślność", ibidem: 90-91; "Lauda Sion Salvatorem...", ibidem: 141; "I zebrał się apostołowie... (Acts 15,6-12)", ibidem: 186; "Na pasterkę", ibidem: 294. "Christus factus est pro nobis... (Philippians 2,8)", ibidem: 105-107; "Et principem fecit illum...", WAW 6(1932) 149-152; "O czynną i ofiarną miłość kapłańską", ibidem: 166-168; "Lauda Sion Salvatorem...", WAW 5(1931): 105-107; "Veni Creator Spiritus", ibidem: 156-157; "Cogitationes Cordis eius in generationem et generationem", ibidem: 171-172; "Pośrednictwo N.P. Maryi", WAW 6(1932): 198-201; "Quam magnifica sunt opera tua...", WAW 5(1931): 123-124; "Konferencja o św. Janie od Krzyża i mistyce", WAW 5(1931): 267-268; "Ufność kapłana w miłosierdzie Boże", *Głos Kapłański* 7-8(1939): 298-304; "Kapłan, jako szafarz Miłosierdzia Bożego", *Głos Kapłański* 9(1939): 356-358; "Wspólnota Chrystusowa", WAW 6 (1932): 292-295.

⁴⁰ M. Sopoćko, *Alkoholizm a młodzież szkolna* (Warszawa: 1925).

⁴¹ M. Sopoćko, *Rodzina w prawodawstwie na Ziemiach Polskich* (Wilno: 1926).

⁴² M. Sopoćko, *Obowiązki wzgędem Ojczyzny* (Warszawa: 1922).

⁴³ M. Sopoćko, *O obowiązkach społecznych* (Wilno: 1931).

Z zagadnień etycznych [Of the ethical issues] published in 1937. Father Sopoćko presented in it a lecture on the basic principles of ethical conduct. This publication resulted from the lack of unity in the society, in nation and in the state. Seeking the reasons of this condition, he indicated the loss of homogenous moral norms which would regulate the life and conduct of citizens. According to the Catholic teaching he indicated that the norm is inscribed into the human nature bestowed with intellect and freedom but still remaining dependent on God the Creator and the lawgiver. Human deeds should therefore be judged on the basis of such a norm. Then they will bear good fruit. Globally speaking, any human activity should be subordinate to the final aim which is bringing glory to the Creator as it is the man's personal happiness as his direct aim⁴⁴.

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Furthermore, father Sopoćko published a dozen reviews for various publishers. They mainly concerned the fields of his scientific specializations that is pastoral theology, pedagogy, homiletics. They were reviews of books and articles. He earnestly evaluated works and their presentation emphasising their best qualities and encouraging to read them⁴⁵.

The teaching on Divine mercy and the apostolate of Divine mercy cult

Apart from the presented scientific and journalistic publications of Father Sopoćko which revealed his comprehensive engagement into scientific, pastoral, educational and social activity, he was also appreciated for his great contribution into spreading the truth about Divine mercy and its cult. The revelations of Sister Faustyna, whose confessor

⁴⁴ M. Sopoćko, *Z zagadnień etycznych* (Wilno: 1937).

⁴⁵ M. Sopoćko, Rec.: "Encyklopedia kościelna, vol. 33, Włocławek 1933", *Słowo* (1934) nr fasc. 12 X.; Rev.: "Homiletyka duszpasterska. (Zbiorowy podręcznik nauki kaznodziejskiej dla polskiego kleru). Kielce 1935", WAW 10 (1936): 17; Rev.: "A. Borowski: Warunkowe szafarstwo sakramentalne. Włocławek 1936", WAW 10 (1936): 358-359; Rev.: "M. Klepacz, Kierunki organizacyjne oraz ideały wychowawcze we współczesnym szkolnictwie polskim. Katowice 1937", WAW 11 (1937): 369; Rev.: "P. Gantkowski, Technika żywej mowy. Kielce 1937", WAW 11 (1937): 117; AK 40 (1937): 531-532; *Przegląd Homiletyczny* 15 (1937): 241-242; Rev.: "W. Kochański, Przewodnik Drogi Krzyżowej w Kalwarii pod Wilnem. Wilno 1937", WAW 11 (1937): 201; Rev.: "K. Mazurkiewicz, Wychowanie w świetle chrześcijańskiej prawdy, Potulice 1938", AK 42 (1938): 199-201; *Gazeta Kościelna* 15 (1938): 45-46; *Przegląd Homiletyczny* 16 (1938): 280-181; WAW 12 (1938): 18; Rev.: "F.de Hovre, P. Tochowicz, Podstawy współczesnej pedagogiki, Włocławek 1938", WAW 12 (1938): 355-356; Rev.: "A. Borowski, Warunkowe szafarstwo sakramentalne. Włocławek 1936", AK 41 (1938): 94-95; Rev.: "W.F. Potempa, Więcej psychologii w duszpasterstwie czyli teologia pasterska w świetle psychologii, Włocławek 1938", WAW 12 (1938): 129.

he was, aroused his interest in this truth. He was zealously devoted to the apostolate of Divine mercy through teaching, spreading the cult, striving for the Church authorities for the approval of the cult. From the pre-war years he started to investigate the truth of Divine mercy, he published a series of works presenting both the truth and the introductions which contained the justification of introducing the cult of Divine mercy. The first article was called “Divine mercy” and it was published in the Archdiocesan News from Vilnius [Wiadomości Archidiecezjalne Wileńskie] in 1936 and at the same time in the compact publishing with the same title. Apart from the teaching on Divine mercy, both works indicate the need to admire God in particular for this feature of mercy, the very thought of it was put forth from the Bible and from the teaching of the Fathers and Doctors of the Church⁴⁶. During the next year he published a new article devoted mainly to the cause of God’s mercy cult and the holiday to celebrate it in the periodical ”Misterium Christi”⁴⁷. These first pioneer dissertations became the beginning of a numerous strand of publications devoted to this subject and published till the end of his life. During the war time he made copies and published a leading treaty in Latin which introduced the teaching on God’s mercy and the need for the cult: *De Misericordia Dei deque eiusdem festo instituendo. Tractatus dogmaticus ac liturgicus*⁴⁸. After the war he published next works which presented essential arguments, mainly pastoral and liturgical, for introducing the cult of Divine mercy. It also contained the teaching on Divine mercy presented in a brief way but right to the point and based on the Bible and on the teaching of the Church. He also introduced the case of the private revelations of Sister Faustyna in a proper way⁴⁹.

His further works written in 1950s and 60s were mainly focused on the biblical and theological development of the teaching on Divine

⁴⁶ M. Sopoćko, “Miłosierdzie Boże”, WAW 10 (1936): 44-46, 104-106, 118-121, 134-137, 152-155, 167-170, 181-185; M. Sopoćko, *Miłosierdzie Boże. Studium teologiczno-praktyczne* (Wilno: 1936).

⁴⁷ M. Sopoćko, “Idea Miłosierdzia Bożego w liturgii”, *Misterium Christi* 8 (1937): 102-116.

⁴⁸ M. Sopoćko, *De Misericordia Dei deque eiusdem festo instituendo. Tractatus dogmaticus ac liturgicus* (Vilnae: 1940). The treaty was printed after the Second World War on the initiative of cardinal Augusta Hlonda, the Primate of Poland: M. Sopoćko, *De misericordia Dei deque eiusdem festo instituendo. Tractatus dogmaticus ac liturgicus* (Varsaviae: 1947).

⁴⁹ M. Sopoćko, *O świętą Najmiłosierniejszego Zbawiciela* (Poznań – Warszawa – Lublin: 1947); *Miłosierdzie Boże jedyną nadzieję ludzkości*, edition 1 (Londyn: 1949); edition 2 (Londyn: 1949); *Poznajmy Boga w Jego Miłosierdziu. Rozważania o Miłosierdziu Bożym na tle litanii* (Poznań: 1949); *Godzina święta i Nowenna o Miłosierdziu Bożym nad światem* (Poznań – Warszawa – Lublin: 1949).

mercy. His arguments for introducing the holiday and the devotion were also introduced again in the later years but only as a way of repeating and strengthening the previous requests. Some of his works were translated into different languages at that time.

The basic work of Father Sopoćko at that time was the 4-volume work called *Miłosierdzie Boga w dziełach Jego* [Divine Mercy in His Work]. Further volumes appeared during the years 1959-1967. In these volumes he presented the revelation of Divine mercy in the work of God the Father, Jesus Christ, the Son of God and the Holy Spirit Who is present and active in the Church now. The fourth volume was devoted to showing the presence of the mystery of Divine mercy in the liturgy, showing Virgin Mary as the Mother of mercy, Divine mercy in Christian education and in the pastoral mission of the Church⁵⁰. Even at the end of his life he published a few articles devoted to the issue of approval of the cult of Divine mercy in the Church⁵¹. Many of his works containing the basic dissertation *Miłosierdzie Boga w dziełach Jego* [Divine mercy in His work] were translated into different languages.

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The serious engagement of Father Sopoćko into the apostolate of Divine mercy, which was reflected in his scientific and journalistic activity, is the reason to acknowledge him as a person particularly meritorious for the idea of Divine mercy, as the author and promoter of the cult of Divine mercy. Inspired by the revelations of Sister Faustyna, after his own private recognition and conviction of the beneficial effect of the truth about Divine mercy and its cult on Christian life, he was the first person to take up this challenge. His literary legacy, apart from the other forms of apostolate, played an important role in the preparation of the final approval of Divine mercy cult.

The issues concerning marriage and the family in the doctoral thesis: reasons, conditions and the circumstances of writing it

The best validation of the scientific activity is putting it in practice in everyday life, in service for the man, for societies, for nations, in the religious dimension to religious communities, in Christianity – for the

⁵⁰ M. Sopoćko, *Miłosierdzie Boga w dziełach Jego*, vol. I (Londyn: 1959); vol. II (Rzym – Paryż – Londyn: 1962); vol. III (Rzym – Paryż – Londyn: 1962); vol. IV (Paryż: 1967).

⁵¹ M. Sopoćko, “Duch liturgii Niedzieli II Wielkanocy”, *Duszpasterz Polski Zagranicą* 22(1971): 37-52; *Duch liturgii II Niedzieli Wielkanocy*, w: *Powołanie człowieka. “...bo Jego miłosierdzie na wieki”* (Ps 135), vol. 2, ed. L. Balter, (Poznań – Warszawa: 1972), 377-392; “Duch liturgii Niedzieli II Wielkanocy”, *Msza Święta* 29(1973): 88-89

Church. Such a reference can easily be found in the intentions and in the activity of Father Sopoćko as a priest and as a pastor, as a theologian, a pedagogue and the man of science. Since his childhood years, due to his religious and moral education, he was able to discover the meaning of the creative effort in life and of gaining knowledge in order to shape his future and fulfil his life tasks also in the relationship with other people and with the people from various communities in which he would live. Already in his childhood he chose his life target – his vocation for priesthood and service as a priest and everything was based upon moral principles coming from faith, Decalogue, love for his homeland. The difficult life conditions combined with work on the farm since his early childhood, remote education opportunities due to high costs and the limitations forced upon by the tzar's administration, on the one hand tempered him in life but on the other hand they were not positive but they motivated for a greater cry out to God and for the stronger trust in His care. When he was finally able to start his education at schools, Michał studied diligently because it was necessary for him as he wanted to be admitted to the seminary. And the more knowledge he gained, the more zealous he was to explore it for his better development as he realized that education would give him better life perspectives. He was open to other people and he cared for them which was another reason to gain more knowledge, to be able to share the effects of his education with others and to take more life tasks also in the service for others.

Everything that Michał was planning to achieve and his life targets before he was admitted to the seminary, started to realize. After graduating from the city school in Oszmiana, he was invited by the parson in his home parish Zabrzeź to start teaching children in the new parish school. At that point he could share the gained knowledge with the children and make a good use of it. Then his pedagogical interests arouse. He wanted to gain the skills to properly carry out teaching and organize the process methodologically. This is what he wrote about teaching at school: "It was so nice to work here, the work was full of faith and enthusiasm; we created various projects, plans concerning the organization the Polish education and the method of teaching which I did not know at that time"⁵². When he arrived in Vilnius in the dormitory to prepare himself to join the seminary, he met there an exemplary home-room teacher Józef Zmitrowicz, who awoke his passion for teaching and became his role model of a home-room teacher. After graduating from the seminary and being ordained to the priesthood, he was sent to the parish of Taboryszki. There he zealously entered into his priestly ministry and into

⁵² M. Sopoćko, *Dziennik*, 70-71.

education, he started a few country schools and collected the teaching staff providing for their proper pedagogical preparation. In order to achieve that, he organized various methodical courses. It all helped him to recognise and discover the value of specialist knowledge, and, in case of pedagogy, in order to raise the level of teaching and education. He also felt the need to develop his theological knowledge, also within the pastoral scope, in order to fulfil his priestly ministry more effectively. The gained knowledge helped in the more comprehensive undertaking of the challenges brought by time and life. This visible challenge in Taboryszki, which he took, consisted in an urgent need to teach children and young people after the period of imposed restrictions under the rule of the tsar. This experience from Taboryszki motivated him even more to take up the theological studies at the Warsaw University as well as in the Pedagogical Institute. These were not the studies taken up to gain knowledge out of personal ambitions, but the choice resulted from the practical life needs in order to do his priestly ministry and pastoral ministry in a more effective way also in the educational and pedagogical dimension. Later in life, when he became a lecturer in the seminary and at the Faculty of Theology of the Vilnius University, one of his students gave a significant testimony about Sopoćko's teaching intentions. In his memoirs the student presented his professor who was teaching for life and not for knowledge. The testimony confirmed the motivation which accompanied Father Sopoćko in taking up his studies and during his whole life and in the priestly and educational tasks which he performed.

The indicated motivation to develop and deepen his knowledge and skills was revealed during his studies in Warsaw. Sopoćko proved to be open to the challenges of the changing times. The problems and needs which appeared on his way influenced the profile of his education and the range of his research. While studying at the Pedagogical Institute he addressed the issue of risk of alcohol addiction among young people. He encountered this problem while working as a military chaplain when he was taking care of orphans from families of soldiers. The research which he conducted confirmed the scale of the threat. His dissertation was published and thus this problem was made public. The society was sensitized to the threat for the Homeland according to Father Sopoćko's intention when he released the research results. Moreover, Father Sopoćko sent his dissertation to the members of the Sejm of resurgent Poland asking them to introduce an anti-alcoholism legislation. The members of the Sejm established a special committee to fight alcohol addiction and invited Father Sopoćko to the committee's meetings. Through engaging the Prime Minister and

a few members of the Seym and the anti-drinking activist the proper legislation was finally introduced⁵³.

The way he could sympathise with the current needs, challenges, recognition of the circumstances in order to take proper practical actions to meet the challenges were revealed in his research on the family and in the elaboration on these issues in his doctoral thesis. Although Father Sopoćko pointed out that the subject of the thesis had been suggested by rev. prof. Franciszek Jehliczka, who was his promoter, it does not prove that he himself did not notice the need to write such a dissertation and its value. His engagement into the research and into writing the thesis proved his motivation. He definitely wanted to do something for the good of marriage and the family, even more as he as a priest and a pastor must have known the family issues, its value and role in the society. Through his research under the guidance of a distinguished professor, rev. prof. Jehliczka, he could more precisely contribute to promote the proper Christian way of perceiving the family and emphasise its position and role in rebuilding Homeland which had been in the partition of occupants. Rev. prof. Jehliczka, who was a Czech by origin, was described by Father Sopoćko as a theologian with thorough knowledge, deep thoughts, a long-established virtue, who was the author of numerous works on the moral theology. With such a distinguished guide and master, Father Sopoćko zealously devoted himself to his work on the doctoral thesis and, as he mentioned, spent a great amount of time on preparing it.

The main aim of the dissertation was to present the Christian worldview and the principles of the Christian faith, and further on, the teaching of the Catholic Church on the need to base the state law on the family on the natural law inscribed into the creation by the Creator and complement it with the revealed God's law. The constituted state law must involve the natural law or renounce it without violation of the essence of marriage and the family with their aims and rights and welfare. It was a pressing problem and it was necessary to remind and indicate this connection between the state legislation and the natural law and the principles of the Christian morality as at that moment the Seym was working on the family act. As Father Sopoćko emphasised in the introduction to his doctoral thesis, at that moment the press spread the information about the trend to depart from the Polish tradition and from the customs concerning the family which used to be based

⁵³ M. Sopoćko, *Wspomnienia*, 194; M. Sopoćko, "Alkoholizm a młodzież szkolna", *Przegląd Pedagogiczny* (1924), fasc. 4: 244-289; M. Sopoćko, *Alkoholizm a młodzież szkolna* (Warszawa: 1925); M. Sopoćko, *Rodzina w prawodawstwie na Ziemiach Polskich* (Wilno: 1926).

on the natural law and on the divine law. He did not feel entitled to instruct the members of the committee who were preparing the act or to give them indications, but he was really concerned to draw the attention of citizens that is the voters, and mostly the members of the Sejm and to remind that the law cannot be adopted in the by any available means but it must be adopted in accordance with the eternal law inscribed in the nature of the creation, which regulated the life of the family and its members⁵⁴.

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The main assumptions and contents of the work, essential findings and conclusions

Father Sopoćko studied applicable legal codes in each individual partition as far as the issues regarding marriage and the family were concerned, with regard to the observance of the natural law and the moral law taught in the Catholic Church. Then he indicated the possibilities to harmonise the civil law with the moral teaching, tradition and customs preserved through centuries in Poland since the introduction of Christianity. In this respect he respectively dealt with understanding the concept of the family, of its role and meaning in the society as well as of its legitimate rights owed and binding. Next he dealt with the concept of marriage, with the problem of indissolubility of marriage and its unity and with the mutual relationships of the spouses with regard to their rights and duties as well as with the property law concerning the spouses. In the end he worked on the issue of the relationships between parents and children with regard to their mutual duties and fundamental right⁵⁵.

The conducted research indicated that the legislations existing on the Polish soil under partitions consisted of numerous contradictions, mainly they were inconsistent with the natural law and with the Polish traditional customs. However, the situation also had some positive aspects like some regulations favourable for the family welfare and in accordance with the Christian principles⁵⁶.

Father Sopoćko noticed that in the process of standardization of the law which concerned marriage and the family, with the inalienable principle of basing the legislation on the natural law, on the positive revealed law and on the formerly Polish common law, there was a threat of giving in to the influence of the contemporary anti-ethical

⁵⁴ M. Sopoćko, *Rodzina w prawodawstwie na Ziemiach Polskich*, 5.

⁵⁵ See M. Sopoćko, *Rodzina w prawodawstwie na Ziemiach Polskich* (Wilno: 1926).

⁵⁶ M. Sopoćko, *Rodzina w prawodawstwie na Ziemiach Polskich*, 150.

currents, of the excessive interference and of subordinating the family under the state's law and separating the school from the Church and the Church from the state. Therefore, he indicated that getting over these harmful trends can be done through the faithful respecting the principle that the human law must not be established freely but it must be based on the eternal law that is the one inscribed into the nature of the creation in the natural law. This law was confirmed in the revealed science, guarded by the Catholic Church, when it is preserved in the state legislation, it will become the guarantee of the proper regulations. On the basis of this law, legislators can build the legal standards which, however, must never be contradictory to the law.⁵⁷

As it was noticed earlier Father Sopoćko undertook the challenges of time, responded to them with his practical approach. Like in the case of his dissertation on alcoholism among young people, he consistently presented his research to the groups working on the anti-drinking act, he published his doctoral thesis in 1926 and sent it to the people who were preparing the codification of the law concerning marriage and the family and to the Seym members. He enclosed his request for the faster establishment of the family act. He motivated his request with the phenomenon of the increase in the amount of problems in families while it was the condition of the family which mainly influences the education of the young generation of Poles, as he convinced the addressees. However, his petition did not bring the expected result. After many years he wrote in his memoirs from the past [*Wspomnieniach z przeszłości*]: "Unfortunately my request was a lone voice in the wilderness. The Seym of the Republic of Poland did not establish or even prepare such an act throughout the whole interwar period"⁵⁸.

The prerequisites of the timeliness of Father Sopoćko's dissertation for the contemporary issues concerning marriage and the family

The issues presented by Father Sopoćko in his doctoral thesis almost one hundred years ago, regarding the legislation concerning marriage and the family, which were popular at that time, have not devalued their currency. Making a reference of the state legislation to the natural law and to the revealed law of God concerning marriage and the family as well as regarding other dimensions of citizens' lives: their social, economic, political life should definitely be reflected nowadays.

⁵⁷ M. Sopoćko, *Rodzina w prawodawstwie na Ziemiach Polskich*, 151-152.

⁵⁸ M. Sopoćko, *Wspomnienia*, 194.

Unfortunately, there are more and more obstacles on the way. The ones which were indicated by Father Sopoćko in his time have not ceased to exist but on the contrary they have increased. In this respect we can talk about the currency of Father Sopoćko's dissertation in contemporary times. And the principle about the reference of all the constituted laws to the natural law mentioned by him still requires to be defended and voted for. It is also a great challenge to convince others and to justify the existence of the natural law.

The insights expressed by Father Sopoćko in his dissertations, concerning the role and the meaning of the family for nations, states and smaller communities and for the civilisations which were being shaped in the history of humanity, are everlasting and more vivid. The first insight concerns the fact that the family is a foundation of each society, particularly of a state, and its natural laws, which are based on the natural law, constitute the basis of the state's laws and the guarantee for the rights to be preserved. Thus the situation requires a perfect harmony between the family and the state: the family should educate the citizens and the state should protect the rights of the family and enable the family to fulfil its tasks⁵⁹. Secondly, as a great warning for the contemporary European civilisation and for the similar civilisation and states. Where the natural rights of the family were not protected and where the family was finally destroyed, even the most prosperous state collapsed⁶⁰. The next insight about the reasons for dissolution of marriage is also very convincing. The spouses do not break up because they were mismatched but because they were careless while contracting marriage. Divorces do not change the characters of the spouses and it is not possible to build a new proper life in a new relationship without a personal change. It is difficult to cure or change the immature attitudes of the spouses, thus the way to protect the society from the frequency of divorces is to take care of the prosperous families which will spread the proper educational atmosphere⁶¹.

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⁵⁹ M. Sopoćko, *Rodzina w prawodawstwie na Ziemiach Polskich*, 149.

⁶⁰ Ibidem, 150.

⁶¹ Ibidem, 152-153.

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Psychological maturity of young men and women for marriage as the predictor for the observance of contemporary family law

Through their mutual relationship the woman and man create the atmosphere of the married life which is either favourable for their development and for the development of their children, or which hinders the development. The higher is their psychological maturity, which is reflected in self-acceptance, in their internal integrity and in the positive attitude towards marriage and family life, the more likely the spouses would follow the rules of contemporary family law and, as a result, they will create the atmosphere which favours proper development of all the family members.

Key words: psychological maturity for marriage, self-acceptance, internal integrity, attitude towards marriage and family life, contemporary family law.

Introduction

Psychological maturity for marriage, which consists in the ability to create a satisfying interpersonal relationship for a lifetime results from the personal level of psychological maturity of both spouses¹.

¹ M. Braun-Gałkowska, *Miłość aktywna. Psychiczne uwarunkowania powodzenia w małżeństwie* (Warszawa: 1985), 24-27; A. Dakowicz, *Powodzenie małżeństwa. Uwarunkowania psychologiczne w perspektywie transgresyjnego modelu Józefa Kozieleckiego* (Białystok: 2014), 55.

Assuming a certain psychological concept concerning man would lead to emphasising different aspects of the psychological sphere which feature psychological maturity and it is difficult to collect these aspects into a compact canon which would integrate various attitudes. However, it is possible to define the most essential dimensions of a mature personality. Zdzisław Chlewiński² brings it to: 1) autonomy in thinking, in aspirations, decisions and conduct – consisting in following one's own principles and the system of values in life; 2) treating everyone with due respect that is: as the highest value, without treating this person in an instrumental manner; 3) accurate detailed insight into one's own motivation – that is understanding the reasons of one's behaviour without resorting to the defence mechanisms. Piotr K. Oleś³ mentions the following criteria of a mature personality: 1) the inner riches – which is expressed in experiences, convictions, knowledge, attitude towards life, which is connected with broadening the horizons of thinking, the scope of understanding phenomena and the variety of interpersonal contacts; 2) feeling of happiness – the developing ability to feel and express the joy of life which results from satisfying one's needs or from effective realization of tasks and achieving the goals which are considered valuable; 3) the choice of goals and aspirations – the ability based on clear criteria with realistic planning and the effective and efficient realization; 4) flexibility in reacting – the ability of the adequate, adaptive attitude towards various challenges, tasks and events; 5) resistance to frustration – the ability to independently react to the conditions of stress and anxiety; 6) hierarchy of values – allows to know what is the most important in potential or in real-life conditions; 7) the commitment for others – formulating goals and choosing the tasks which go beyond one's own interests, the ability to submit the pro-social goals over individual goals; 8) transcendence – going beyond what is typical, well-known and tested, the ability to create new and progressing aspirations which aim at the personal development with the commitment into the essential life matters; 9) respect for others – subjective attitude towards others which is mainly expressed in respecting the dignity and freedom of others; 10) responsibility – the ability to make important existential choices with the readiness to bear the direct and distant consequences; 11) autonomy – readiness for the risk of acting on an individual basis without expecting the support or example of others; 12) moral maturity – the ability to develop one's

² Z. Chlewiński, *Dojrzałość: osobowość, sumienie, religijność* (Poznań: 1991), 15-31.

³ P.K. Oleś, *Psychologia człowieka dorosłego. Ciągłość – zmiana – integracja* (Warszawa: 2011), 247-255.

own inner criteria of valuing and understanding the contextual nature of respecting the rules.

The criteria of a mature personality mentioned above reflect the degree of the psychological maturity for marriage.

Psychological maturity for marriage

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The analysis of the factors which determine the maturity for marriage prepared by Maria Ryś and Tomasz Sztajerwald resulted in creating the Psychological Maturity Scale for Marriage which comprises the aspects concerning self-acceptance, that is; the proper self-esteem, the ability to satisfy one's needs, to properly function in the sphere of emotions as well as the personal integrity and the personal attitude to marriage and family life⁴.

Self-acceptance has an important influence on the functioning of marriage. Too low self-esteem would lead to the lack of confidence in one's abilities while the heightened self-esteem may lead the spouses to undertake tasks which are just beyond their capabilities⁵ or even to assume the attitude of egocentrism. The proper self-esteem will always be connected with self-acceptance of a person who knows his or her strengths and weaknesses. A mature person lives in truth, respecting and valuing himself or herself without the fear of rejection or disapproval. He or she does not aim at imaginary goals, is aware of his or her aspirations and knows the reasons behind the undertaken actions⁶.

The inner integrity of the spouses is very important for their marriage because every person consists of an instinct and reflective layer, of the psychological layer and of the spiritual layer. The process of the inner integrity of man may lead to the balance between all the elements of personality as well as between the aspirations and actions, attitudes, values, ambitions, needs and feelings⁷, which would be reflected in the

⁴ M. Ryś, T. Sztajerwald, "Psychologiczne aspekty dojrzałości młodych do małżeństwa. Skala Dojrzałości Psychicznej do Małżeństwa SKALDOM II", *Kwartalnik Naukowy Fides et Ratio* 1(37) (2019): 164.

⁵ B. Tomaszewska, U. Dębska, "Psychologiczne aspekty dojrzałości do małżeństwa. Badania studentek pod kątem ich oczekiwani wobec przyszłego partnera życiowego", in: *Młodzież w zmieniającym się świecie*, ed. A. Keplinger (Wrocław: 2001), 133.

⁶ M. Ryś, *Psychologia małżeństwa w zarysie* (Warszawa: 1999), 33.

⁷ M. Ryś, *Ku dojrzałości osobowej w małżeństwie. Rozwijanie dojrzałej osobowości* (Warszawa: 1997), 10; M. Ryś, *Psychologia małżeństwa w zarysie* (Warszawa: 1999), 33.

higher quality of the created marriage relationship, and in case of the lack of harmony, it will be reflected in its low quality⁸.

The attitude towards marriage and family life is of great importance in the psychological maturity for marriage. When the wife and the husband are mature in their decisions, and when they make choices in accordance with the proper, well-thought and acknowledged system of values, they act in an autonomous way, have insight into their own motivational system and take into account the social requirements, while preserving their independence from the social pressure⁹, they have a chance to create a marriage relationship which would be satisfactory for both spouses¹⁰.

Creating the marriage relationship, the spouses undertake highly responsible challenge of creating a relationship for a lifetime, which will give them satisfaction or which will lead to dissatisfaction. The former family law¹¹, as well as the current Family and Guardianship Code¹², through the framed regulations, are supposed to support the spouses on their common path of married life and in the effective undertaking of the parental functions.

The procedure of the Authors' research

The aim of this article is to make an attempt to determine whether the psychological maturity of young women and men for marriage can influence the way they perceive the contemporary family law. In order to achieve this goal we should have determined whether there are any essential differences in the level of the maturity among the surveyed women and men. The main problem consists in establishing the relation between the psychological maturity for marriage of young women and men and the way they perceive the contemporary family law. Therefore, the following research questions were posed:

⁸ B. Harwas-Napierała, "Dojrzałość osobowa dorosłych jako czynnik chroniący rodzinę", *Czasopismo Psychologiczne* 21, 1 (2015): 47.

⁹ M. Ryś, *Ku dojrzałości osobowej w małżeństwie. Rozwijanie dojrzałej osobowości* (Warszawa: 1997), 12-13.

¹⁰ A. Dakowicz, *Zadowolenie z małżeństwa. Pedagogiczne implikacje dotyczące osobistego rozwoju małżonków, relacji małżeńskich i rodzicielskich* (Białystok: 2021), 109-115.

¹¹ Rev. M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich. Studjum etyczno-prawne* (Wilno: 1926).

¹² The Act from February 25th 1964 The Family and Guardianship Code, annex to the announcement to the Marshal of the Seym of the Polish Republic from July 15th 2020 r. (item 1359).

1. Do the surveyed young women differ from one another as far as the level of psychological maturity for marriage is concerned?
2. Do the surveyed young men differ from one another as far as the level of psychological maturity for marriage is concerned?
3. Are there any differences among the surveyed which refer to the three essential dimensions of the psychological maturity for marriage: self-acceptance, the inner integrity and the attitude towards the world and towards marriage and the family life?
4. Can the psychological maturity for marriage influence the way they observe the contemporary family law?

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The analysis of the publications on the discussed issues ¹³ induces to make the following hypotheses:

H_0 – Psychological maturity for marriage among the surveyed young women and men can exert influence on their way of observing the contemporary family law.

H_1 – We can presume that young women and men who are more psychologically mature for marriage are more likely to observe the contemporary family law than the surveyed with the lower level of psychological maturity for marriage.

The research¹⁴ was conducted with the Psychological Maturity Scale for Marriage SKALDOM II, which determines three essential dimensions of psychological maturity for marriage: 1) Self-acceptance; 2) The inner integrity and the attitude towards the world; 3) Attitude towards marriage and family life¹⁵. Researchers obtained complete

¹³ M. Braun-Gałkowska, *Psychologiczna analiza systemów rodzinnych osób zadowolonych i niezadowolonych z małżeństwa* (Lublin: 1992); I. Janicka, T. Rostowska (ed.), *Psychologia w służbie rodziny* (Łódź: 2003); M. Płopa, *Więzi w małżeństwie i rodzinie. Metody badań* (Kraków: 2005); L. Dyczewski (ed.), *Małżeństwo i rodzina w nowoczesnym społeczeństwie* (Lublin: 2007); M. Jeziorański, D. Opozda, A. Rynio (ed.), *Rodzina przestrzenią rozwoju osoby. Perspektywa pedagogiczna* (Lublin: 2012); J. Augustyn (ed.), *Sztuka relacji międzyludzkich. Miłość, małżeństwo, rodzina* (Kraków: 2014); I. Janicka, H. Liberska (ed.), *Psychologia rodzinny* (Warszawa: 2014).

¹⁴ Within the research project called: "Dojrzałość psychiczna do małżeństwa młodych kobiet i mężczyzn" [Psychological maturity of young women and men for marriage] conducted in the academic year 2021/2022 at the licentiate seminar under the supervision of Andrzej Dakowicz PhD by the students of III year grade of Cognitive and Communication Studies in the Institute of Philosophy of Białystok University: Natalia Artemiuk, Iga Baranowska, Patrycja Bielska, Martyna Kołosowska, Izabela Olchanowska, Julia Ostrowska, Karolina Sienkiewicz, Julia Winnicka and Emilia Zawadzka.

¹⁵ M. Ryś, T. Sztajerwald, "Psychologiczne aspekty dojrzałości młodych do małżeństwa. Skala Dojrzałości Psychicznej do Małżeństwa SKALDOM II", *Kwartalnik Naukowy Fides et Ratio* 1(37) (2019): 164.

and correctly prepared results of the Psychological Maturity Scale for Marriage SKALDOM II from 90 women and 90 men. The surveyed women and men were divided into two 30-person groups with the higher and lower psychological maturity for marriage. Taking into account the specification of the surveyed women from both groups, they were very similar as far as the average age, the level of education, paid activity, type of their parents' relationship and the number of siblings (table 1) are concerned.

Table 1. The characteristics of the surveyed women

Selected features		Women with the level of psychological maturity for marriage	
		higher (N=30)	lower (N=30)
The average age		22,1 years old	21,9 years old
Level of education	secondary high (university)	23 (76,7%) 7 (23,3%)	24 (80,0%) 6 (20,0%)
Paid activity	Yes	22 (73,3%)	21 (70,0%)
	No	8 (26,7%)	9 (30,0%)
The type of the parents' relationship	Formal	20 (66,7%)	26 (86,7%)
	Separated	0 (0,0%)	1 (3,3%)
	Divorced	10 (33,3%)	3 (10%)
Siblings	Has	28 (93,3%)	29 (96,7%)
	doesn't have	2 (6,7%)	1 (3,3%)

The situation is analogous in the case of the surveyed men, both groups with higher and lower level of psychological maturity for marriage were similar as far as the average age, the level of education, the paid activity, the type of their parents' relationship and the amount of siblings (table 2) are concerned.

Using proper statistical tests¹⁶, the researchers compared the selected groups of young women and men using the software IBM SPSS Statistics 28. The surveyed women (table 3, diagram 1) of the higher level of psychological maturity for marriage are to a greater extent able to accept themselves as they are (table 3: $t = 8,49$, $p < 0,001$). The inner integrity and the attitude towards the world are much higher among them than among the women with the lower psychological maturity

¹⁶ M. Cypryańska, S. Bedyńska, "Testy t-Studenta i ich nieparametryczne odpowiedniki", in: *Statystyczny drogowskaz 1. Praktyczne wprowadzenie do wnioskowania statystycznego*, editors S. Bedyńska, M. Cypryańska (Warsaw: 2013), 179-185.

for marriage (table 3: $t = 10,27, p < 0,001$). Among the women with the higher psychological maturity for marriage level the researchers could observe a better approach to marriage and the family life than among the women with the lower level of psychological maturity for marriage (table 3: $t = 5,39, p < 0,001$).

Table 2. The characteristics of the surveyed men

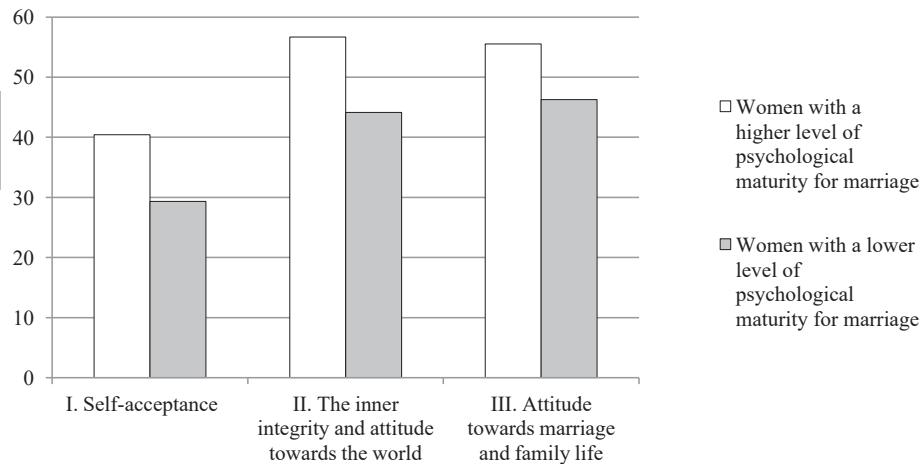
Selected features		Men with the level of psychological maturity for marriage	
		higher (N=30)	lower (N=30)
The average age		21,5 years old	22,4 years old
Level of education	secondary	23 (76,7%)	28 (93,3%)
	high (university)	7 (23,3%)	2 (6,7%)
Paid activity	Yes	20 (66,7%)	23 (76,7%)
	No	10 (33,3%)	7 (23,3%)
The type of the parents' relationship	formal	23 (76,7%)	22 (73,3%)
	separated	0 (0,0%)	0 (0,0%)
	divorced	7 (23,3%)	8 (26,7%)
Siblings	Has	26 (86,7%)	26 (86,7%)
	doesn't have	4 (13,3%)	4 (13,3%)

Table 3. The results concerning women with the higher and lower level of maturity for marriage obtained in the Psychological Maturity Scale for Marriage SKALDOM II

Dimensions of psychological maturity for marriage	Women's level of maturity for marriage				Significance of differences	
	higher (N=30)		lower (N=30)			
	M	SD	M	SD	T	p<
Self-acceptance	40,43	3,70	29,33	6,13	8,49	0,001
The inner integrity and attitude towards the world	56,70	4,60	44,13	4,87	10,27	0,001
Attitude towards marriage and family life	55,53	7,24	46,27	6,03	5,39	0,001

Diagram 1. Presentation of the results of women with higher and lower level of maturity for marriage obtained in the Psychological Maturity Scale for Marriage SKALDOM II

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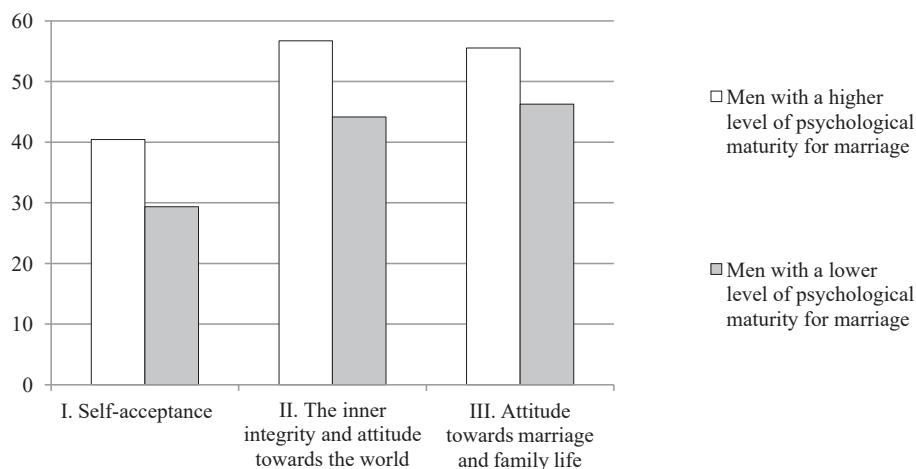
Analogically to women, the surveyed men (table 4, diagram 2) with the higher level of psychological maturity for marriage possess the feature of high self-acceptance (table 4: $t = 10,00, p < 0,001$). The inner integrity and the attitude towards the world are much higher among them than among the men with the lowest level of psychological maturity for marriage (table 4: $t = 10,13, p < 0,001$). Another specific feature of the men with the higher psychological maturity for marriage is a better attitude for marriage and family life than among the men with the lower psychological maturity for marriage (table 4: $t = 3,63, p < 0,001$).

Table 4. Presentation of the results of women with higher and lower level of psychological maturity for marriage obtained in the Psychological Maturity Scale for Marriage SKALDOM II

Dimensions of psychological maturity for marriage	Men's level of maturity for marriage				Significance of differences	
	higher (N=30)		lower (N=30)			
	M	SD	M	SD	t	p<
Self-acceptance	41,90	4,73	28,93	5,29	10,00	0,001

The inner integrity and attitude towards the world	57,20	4,23	44,90	5,13	10,13	0,001
Attitude towards marriage and family life	52,37	5,35	47,70	4,47	3,63	0,001

Diagram 2. Presentation of the results of men with higher and lower level of maturity for marriage obtained in the Psychological Maturity Scale for Marriage SKALDOM II



The interpretation of the obtained results

Due to the fact that they accept themselves more, have a better inner integrity and a more positive attitude towards the world and a positive attitude towards marriage and the family life, young women and young men with the higher level of psychological maturity for marriage have a greater potential which enables them to deal with the problems that would definitely accompany their married and family life.

At the beginning of their married life together, when the identity of the married couple is created¹⁷, the effective way of dealing with the

¹⁷ M. Walczak, "Dylematy życia małżeńskiego. Rzecz o dynamice i kryzysach w relacjach małżeńskich", in: *Psychologia w służbie rodzinny*, edited by I. Janicka, T. Rostowska (Łódź: 2003), 106.

problems¹⁸ leads to a better communication¹⁹ and to settlement which make the spouses more eager to help and support each other and not only to focus on their own needs and treat the spouse as a threat in realization of one's own business. When the couple have children, the previous roles connected with wifely and husband's duties in marriage and the spouses' occupational duties are combined with parenthood role which are highly absorbing, and which require additional effort usually 24/7 but which also give the satisfaction of being the mother²⁰, or the father²¹. In the situation when the roles of spouses, parents and employees are accumulated, which definitely require more efforts, the previous experience of good communication among the spouses, which results from psychological maturity for marriage allows to achieve a better quality of life and to enjoy everything which they experience together²². The research concerning this sphere clearly indicates that psychological maturity for marriage of young women and men alike is combined with a higher level of the sense of security²³, psychological flexibility²⁴ and emotional intelligence²⁵. Lack of communication be-

¹⁸ Sz. Chrząstowski, "Konflikty w parze w perspektywie narracyjnej terapii więzii", *Psychoterapia*, 3(194) (2020): 31-44.

¹⁹ A. Dakowicz, L. Dakowicz, "The quality of marital communication of spouses with a higher and lower level of satisfaction with their relationship", *Kwartalnik Naukowy Fides et Ratio* 1(46) (2021): 129-141

²⁰ W. Półtawska, "Macierzyństwo darem", in: *Oblicza macierzyństwa*, edited by D. Kornas-Biela (Lublin: 1999), 41-47.

²¹ M. Braun-Galkowska, "Być ojcem", in: *Oblicza ojcostwa*, edited by D. Kornas-Biela (Lublin: 2001), 201-210.

²² T. Rostowska, *Małżeństwo, rodzina, praca a jakość życia* (Kraków: 2008), 132-147.

²³ J. Ostrowska, "Dojrzałość psychiczna do małżeństwa młodych kobiet o wyższym i niższym poziomie poczucia bezpieczeństwa", *Archiwum Prac Dyplomowych Uniwersytetu w Białymostku* (2022); I. Olchanowska, "Dojrzałość psychiczna do małżeństwa młodych mężczyzn o wyższym i niższym poziomie poczucia bezpieczeństwa", *Archiwum Prac Dyplomowych Uniwersytetu w Białymostku* (2022).

²⁴ M. Kołosowska, "Dojrzałość psychiczna do małżeństwa młodych kobiet o wyższym i niższym poziomie sprężystości psychicznej", *Archiwum Prac Dyplomowych Uniwersytetu w Białymostku* (2022); K. Sienkiewicz "Dojrzałość psychiczna do małżeństwa młodych mężczyzn o wyższym i niższym poziomie sprężystości psychicznej", *Archiwum Prac Dyplomowych Uniwersytetu w Białymostku* (2022).

²⁵ N. Artemiuk, "Dojrzałość psychiczna do małżeństwa młodych kobiet o wyższym i niższym poziomie inteligencji emocjonalnej", *Archiwum Prac Dyplomowych Uniwersytetu w Białymostku* (2022); J. Winnicka "Dojrzałość psychiczna do małżeństwa młodych mężczyzn o wyższym i niższym poziomie inteligencji

tween the spouses, which results from the lower level of psychological maturity for marriage, leads to a series of conflicts²⁶, to transferring all duties on the other spouse²⁷, to the sense of shame²⁸, or even to depressive conditions²⁹. This may end in disharmony which reduces the quality of life of all the family members.

Conclusion

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The aim of this dissertation was to determine the influence of psychological maturity of young women and men for marriage on compliance with the contemporary family law. The comparative analysis between women and men with higher and lower level of psychological maturity for marriage indicates the differences reaching the level of statistical significance, which leads to the conclusion that the higher level of psychological maturity for marriage, due to the self-acceptance, internal integrity and the attitude towards the world as well as the positive attitude towards marriage and the family, can constitute a significant predictor of compliance with the principles contained in the Family and Guardianship Code, and as a consequence, constitute a good basis for creating a positive atmosphere for development of all the family members. It would be advisable to conduct research which would verify the presumed correlation.

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²⁷ A. Lipińska-Grobelny, "Marital communication and relationship satisfaction – the differential role of gender schemat", *Quarterly Journal Fides et Ratio* 2(50) (2022): 92-102.

²⁸ M. H. Herudzińska, "O (nie)idealnej żonie w czasach dynamicznych zmian – dylematy i wyzwania", *Wychowanie w Rodzinie* vol. XXI(2) (2019): 147-167.

²⁹ I. M. Mudrecka, "Wybór między rodziną a pracą zawodową. Doświadczanie i rozwiązywanie konfliktu wewnętrznego", *Family Forum* (2021): 35-50.

³⁰ E. Robakowska, "Percepcja związku małżeńskiego i relacji rodzinnych oraz strategie radzenia sobie kobiet o zróżnicowanym stopniu nasilenia depresji", *Acta Universitatis Lodzienensis Folia Psychologica* 18 (2014): 45-66.

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36. Annex to the announcement of Marshal of the Seym of the Republic of Poland from July 15th 2020 (item 1359).

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Family and its protection in contemporary Polish legislation

This article deals with issues related to the family and its protection in contemporary Polish legislation. The Authors focused on the attempt to define the subject of protection and its scope. Basically, they analyzed the regulations of the Polish family law. They also took into account constitutional provisions and provisions from other spheres of law affecting the family. The content was supplemented with practical professional experience of a probation officer from the family division.

Key words: family law, family, family protection.

The family in contemporary Polish legislation seems to be obviously raised and dignified among the values protected by the legislator. In recent years we have observed that parents have been strongly supported by the state in the widely understood educating of their children. Nevertheless, in the face of the ongoing social transformations, the concept of the family with its capacity and boundaries is also undergoing transformations. The difference in understanding the concept of "the family" in many cases results from various systems of values of the participants of social life or from the ongoing social phenomena, as well as from the dynamics in the formation of the predominating model of the family. The law in a democratic country should reflect

the needs, values and the structure of the society, therefore, before the level of the family protection is evaluated, the concept of the family must first be put into proper frames.

The concept of the family

First of all, there is no legal definition of the family. Nevertheless, this concept appears in the fundamental law. Article 18 of the Constitution of the Republic of Poland¹ constitutes that “Marriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, shall be placed under the protection and care of the Republic of Poland.”(<https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>), while according to article 71 paragraph 1 of the Constitution: “The State, in its social and economic policy, shall take into account the good of the family. Families, finding themselves in difficult material and social circumstances – particularly those with many children or a single parent – shall have the right to special assistance from public authorities”. Moreover, in other parts of the Constitution we can find such concepts as: the “family life”, “parental care” or “parental rights”².

According to the linguistics, the family means the spouses and their children, and generally: the persons connected by the kinship and affinity³. Furthermore, the complete family consists of a husband, a wife, and children⁴, while an incomplete family is the one without a parent⁵. Therefore, by its name, the family is the place where a human being is born. In the Christian tradition the family is the first natural human society which serves not only for procreation but also for educating the offspring and for preparing the offspring for further development⁶. St. Thomas Aquinas defined the family as a natural community that is a community postulated by the social nature of the man who must grow up and develop in the home community for his complete normal

¹ The Constitution of the Republic of Poland from April 2nd 1997, Journal of Laws – further JL. nr 78, item 483, with further changes

² W. Borysiak, in: M. Safjan, L. Bolek (ed.), *Konstytucja RP. Tom I. Komentarz do art. 1-86* (Warsaw: 2016), art. 18, side number 132.

³ *Słownik Języka Polskiego PWN*, access July 11th 2022, <https://sjp.pwn.pl/sjp/rodzina;2515555.html>

⁴ *Słownik Języka Polskiego PWN*, access July 11th 2022, <https://sjp.pwn.pl/slowniki/rodzina%20pe%C5%82na.html>

⁵ *Słownik Języka Polskiego PWN*, access July 11th 2022, <https://sjp.pwn.pl/slowniki/rodzina%20niepe%C5%82na.html>

⁶ M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich (studium etyczno-prawne)* (Wilno: 1926), 6-8.

and full development⁷. The fundamental meaning of the family was emphasised also in the ancient times. Aristotle indicated that the family is created out of the connection of two persons who are unable to exist without each other and in this relation every man can satisfy his everyday needs. Moreover, the children, as the common good, are the aim of the family⁸.

According to the Constitutional Court, the lack of the definition of the family, even in the light of the ongoing social transformations, does not result in the lack of the possibility to reconstruct the concept. In the light of the constitutional regulations “the family” is every lasting relationship of two or more people, which consists of at least one adult and one child, which is based on the emotional or legal bond, and on the blood ties. The family can be complete, with many children, or single-parent. The complete family consists of two adults remaining in the common household and bound with an emotional bond, with a common child brought up by both of them. A single-parent family consists of one adult and one child or more children who are brought up by this adult.⁹

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In the Polish legal system the only formalized relationship of a woman and a man is marriage, regulated by the rules of the law (Family and Guardianship Code – further FGC¹⁰) and it is under the special guidance of the state (art. 18 of the Constitution)¹¹. Nevertheless, although marriage is clearly indissolubly connected with the concept of the family, which directly results from the rights and duties of the spouses (art. 23-30 of FGC), they are not the same¹². The birth of a child is usually the determinant of creating the family, however, the legal bond of kinship can also be acquired through adoption¹³. Therefore, it

⁷ More: W. Piwowarczyk, “Rodzina jako społeczność naturalna według św. Tomasza z Akwinu”, *Roczniki Filozoficzne*, vol. 8 (1960), No. 2: 89-111.

⁸ A. Szczap, “Rodzina w poglądach wybranych filozofów”, *Wychowanie w Rodzinie*, vol. VII (2013): 21.

⁹ The verdict of the Constitutional Tribunal from April 12th 2011, SK 62/08, Legalis nr 311533; M. Dobrowolski, “Status prawny rodziny w świetle nowej Konstytucji Rzeczypospolitej Polskiej”, *Przegląd Sejmowy* nr 4 (1999): 23-24.

¹⁰ The Act from February 25th 1964. – the Family and Guardianship Code JL from 2020, item 1359.

¹¹ J. Gajda, in: T. Smyczyński (ed.), *Kodeks Rodzinny i Opiekuńczy, System Prawa Prywatnego, Tom 11* (Warszawa: 2014), 70-73.

¹² See W. Borysiak, in: M. Safjan, L. Bolek (ed.), *Konstytucja RP. Tom I. Komentarz*: art. 18, side number 138-139.

¹³ E. Holewińska-Łapińska, in: T. Smyczyński (ed.), *Kodeks Rodzinny i Opiekuńczy, System Prawa Prywatnego, Tom 12* (Warszawa: 2011), 498-499.

can be assumed that a parent (or parents¹⁴) will be the subject of the constitutional guarantees. As a result, the care for the child's welfare, expressed as providing a proper family environment, will constitute the essence of the family protection because by nature the child is the weakest member of this relationship. Furthermore, the law also includes the right of every man to family life. After all, the family as a social group is supposed to serve its members and not to exclude the needs of the family members.

It is quite controversial to call a group which performs similar functions a family because the family used to consist of a man and a woman (ignoring the matter of formalization). Now the so called rainbow families are introduced into society. These communities often refer to the argument that homosexuality is a phenomenon known already in the ancient times, and taking into account the broad definition of freedom and equality before the law, typical for contemporary democratic countries – there should be no exceptions and exclude the rainbow families from the definition. It should be noticed that the Polish Family and Guardianship Code does not question e.g. care and educational abilities of a person who performs parental custody over children only because of his or her sexual identity¹⁵.

However, we can debate over the subject, following the ancient ancestors – because homosexuality undoubtedly existed in the ancient times, however, the ancient ancestors defined the family as a formalized relationship of a woman and a man, which, if properly contracted, allows to produce the legitimate offspring, and what is more, it was the father who ruled over the other family members¹⁶. Apart from the nature of a relationship of two adults, for the purpose of this publication, the family was defined in a functional and more confined way. Therefore, the family is a community of at least two persons, including at least one minor, based on the strong and long-lasting emotional and legal bond, often also on the blood ties, which aims at providing the

¹⁴ Regardless of the bond between them (marriage, an informal relationship, parents who live in separation) or the lack of the bond.

¹⁵ The threat for the child's welfare (art. 109 of FGC) is the basis for limitation of parental authority, while in case of deprivation of parental rights, it is applied when the parental authority cannot be performed due to the permanent obstacle or in case of the child abuse by the parents or when they grossly neglect the child (art. 111 of FGC). In such cases the parent's predisposition (including the sexual identity) are taken into account in situations when they objectively negatively influence the care and educational conditions of the child.

¹⁶ Szerzej: A. Eckmann, *Starożytna Rodzina Grecka i Rzymska* (Lublin: 1985), 29-50.

minor with a proper care and educational environment for his or her proper development and preparation for the life in society.

Autonomy of the family

The family as a separate community of the basic nature requires the respect for its autonomy. Every man in his or her nature should have the right to decide about him or herself which results from the dignity of a human being; so the basic community based on emotional bonds or often also on blood ties, should have the right to decide about themselves. While it is the duty of the state to respect the family's autonomy, the boundaries of which are set only by freedom and autonomy of others.

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The principle of autonomy of the family is not directly expressed in the regulations of law, however, it can be reconstructed on the basis of the existing regulations, in particular the constitutional right to family life (art. 47 of the Constitution), the right to educate children according to the parents' convictions (art. 48 and 53 paragraph 3 of the Constitution), the state's care over families (art. 18 of the Constitution) and the order to include the family welfare in the social and economic policy (art. 71 paragraph 1 of the Constitution).

Following blessed Father Michał Sopoćko "The state can and should give regulations concerning family life, however, in Christian countries, these regulations must be in accordance with Christian morality. The state's regulations can describe the civil relations of family members in a detailed or more general way, however, they should not interfere with the conscience and legalising the laws of nature included in the regulation on Christian morality. Besides the civil law cannot cover all the details from family life because they are so diverse that only the conscience can resolve them"¹⁷. Referring to the Christian morality is not an obstacle in preserving the essence of the Author's statement. From his point of view it is obvious that the regulations of the family law can and should regulate the civil relations of the family members, but they cannot interfere into the sphere of conscience. Therefore, it seems that in the face of the ongoing secularization of the society, but also of the variety of denominations, the conscience will be compatible with the system of values held by a certain person. As a result, the quoted thought becomes universal and at the same time it is not in conflict with the Author's intentions.

¹⁷ M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 10.

The state's interference should therefore be limited to the minimum, only to create the sphere for the unrestricted creating a bond and working on its functioning within the society. Institutional actions can take place only in exceptional cases when the child's welfare is threatened.

The condition mentioned above is reflected in the regulations of the family law. The newlyweds contract marriage expressing mutual declarations in this respect (art. 1 of FGC). As a rule, every person who came of age (18) can contract marriage, moreover, for valid reasons the guardianship court can give permission to a woman of 16 years old to contract marriage, when the circumstances indicate that contracting marriage will be beneficial for the welfare of the started family (art. 10 § 1 of FGC). Although marriage is an institution which functions side by side with the family (art. 18 of the Constitution mentions marriage and then the family), nevertheless marriage is a seed to start a family in a natural way when a child is born to a married couple. Moreover, the legal regulations do not interfere with creating the family. From the etymology of the word *rodzić* – *to bear* we can deduce that the moment of the childbirth is the moment of creating the family¹⁸. Determining of the origin of a minor child (art. 61¹⁹ – 86 of FGC) results only in legitimization of the family bonds which combine the newly born family which originates in the moment of childbirth. Contemporarily it is obvious to determine the origin of the man from his father and mother, which is a natural entitlement. It aims at getting to know the natural origin of a person, which undoubtedly affects building of an identity and satisfies the need of belonging to a community. Determining paternity and maternity in a legal way specifies the civil status (the family status) of an individual and constitutes one of the most important personal goods for the child and for his or her parents²⁰.

The autonomy of the family is also revealed in the constitutional warranty to educate the offspring in accordance to one's convictions (art. 48 and 53 paragraph 3 of the Constitution). According to art. 96 § 1 of FGC the parents educate the child, who is under their parental authority, and guide the child. They are obliged to take care of the child's physical and spiritual development and properly prepare him or her for the work for the good of society accordingly to his or her talents²⁰.

¹⁸ B. Banaszak, *Konstytucja Rzeczypospolitej Polskiej. Komentarz* (Warszawa: 2012), art. 18, side number 3.

¹⁹ T. Smoczyński, in: T. Smoczyński (ed.), *Kodeks Rodzinny i Opiekuńczy, System Prawa Prywatnego, Tom 12* (Warszawa: 2011), 2-3.

²⁰ More: J. Gajda, in: K. Pietrzykowski (ed.), *Kodeks rodzinny i opiekuńczy. Komentarz* (Warszawa: 2021), art. 96, side number 1-9.

Therefore, the parents have priority in formation and education of their child. Thus the families are empowered both in the inter-family relations and through creating a coherent community outside.

An exception to the rule of the protection of the family autonomy is application of the regulations to prevent the violence in the family²¹. It is understandable that the victims of the violence should be taken care of especially when the aggressor is the person closest to the victim. It is a rule to separate the child from the aggressor, which must be the decision of the family court after a comprehensive judicial procedure. However, in the face of a real and direct threat to the child's life or health which results from the violence in the family, a social worker is authorized to step in with the intervention and to take the child from the family. Then the family court becomes the child's custody (art. 12a and 12b of the act on preventing the domestic violence).

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of Family

The protection of the family stability

The protection of the family stability is an essential sphere of the family life. It is implemented in two dimensions. On the one hand, through making sure that nobody will interfere into the internal relations of the family, which also involves keeping the children close to parents and on the other hand, protecting the security of the wedlock. Maintaining the emotional and the legal bond between the parents positively influences maintaining the family spirit. Obviously the state cannot protect the sustainability of the informal relationships which give birth to the offspring and thus also create a family. In the light of the law, the parents who are not married are only connected by the common child (only in case when both parents are registered as the child's biological parents). Without the exposure of such a relationship, the state cannot protect it. Therefore, protecting the sustainability of the family, in which the parents are in an informal relationship, will only be expressed as the protection of the sustainability of the bond between the parent and the child.

Recently marriage can be dissolved when there is a complete and permanent breakdown of marital life (art. 56 § 1 of FGC). The concept "breakdown of marital life" was the object of the deliberations of the doctrine and judicial decisions. In common practice it is clearly established that the breakdown of marital life is reflected in the cease of the emotional, physical (intimate) and economic bond. The jurisprudence

²¹ Act from July 29th 2005 on combating domestic violence, JL from 2021 item 1249.

consequently advocates in favour of the so called objective concept of the marital life breakdown²². It is obvious that there is no bond between the spouses, which often determines the lack of communication and which is reflected in conflicts between them, and the wedlock is a fiction, which is not in favour of the family welfare.

Nevertheless, the legislator introduces new conditions which exclude the possibility to get divorced, even if there is a complete and permanent breakdown of marital life between the spouses. Thus the legislator protects the sustainability of the family meant as a married couple with a child or children because according to art. 56 § 2 of FGC divorce is not acceptable if it negatively influences the welfare of the minor children or of the spouses. Therefore, the divorce court should protect the child's welfare which could be threatened in case of dissolution of marriage of the child's parents.

By definition the family should be a safe place for its members. It also remains the first and most important educational environment for the children born in it or those who are adopted. This leads to the conclusion that the family issues cannot be analysed regardless of children who as can't handle life on their own, require special support. Therefore, the welfare of the child is the most important rule of the family law²³.

The welfare of the child is the object of particular protection in the Polish legal system as well as the object of detailed analysis in the literature regarding the issue²⁴. There is no doubt that it is a concept which means a positive appraisal – in the social hierarchy of values – of the child's situation from the point of view of satisfying his or her needs with the benefits of property and non-property nature. Furthermore, on the basis of the aim and the function of the concept of the child's welfare in the family law, we can assume that the child's welfare means the protection of his or her interests for the child's better physical, emotional, spiritual and social development²⁵. Such a broad definition

²² J. Pawliczak, in: K. Osajda (ed. of the series), M. Domański, J. Ślyk (ed. of the volume), *Kodeks rodzinny i opiekuńczy. Komentarz* (Warszawa: 2022), art. 56, side number 21.

²³ See P. Kędzior, "Dobro dziecka jako podstawowa wartość prawa rodzinnego – rozważania na tle praktyki orzeczniczej sądów powszechnych", *Problemy małżeństwa i rodziny w prawodawstwie polskim, międzynarodowym i kanonicznym, KKP Monografie* (Olsztyn: 2017), 73.

²⁴ M. Bieszczad, "Dobro dziecka jako klauzula generalna – ustalenie znaczenia pojęcia dobra dziecka w XXI w.", *Monitor Prawniczy* nr 17 (2019): 946-947.

²⁵ K. Gromek, *Kodeks rodzinny i opiekuńczy. Komentarz* (Warszawa: 2020), art. 109, side number 2.

of the child's welfare allows to protect the minor in the broadest sense, in every specific actual condition.

Interference into the parental authority is only allowed in case when the child's welfare is threatened (art. 109 of FGC), therefore, it does not require the total violation. The legislator assumes that the guardianship court should act in a preventive way, through preventing the negative results of the improper or inept exercise of parental authority²⁶. Nevertheless, limiting the parental authority on the basis of art. 109 of FGC mainly aims at the protection of the child and at the same time at providing help to the parents so that they could exercise it better²⁷. Therefore, the family court's interference is not a repressive action but it aims at supporting parents in their parental authority. These actions mainly aim at maintaining the spirit of the family, with respect for maternity and parenthood in the care for the child's welfare.

The majority of the family courts' orders can be a discomfort for the family functioning e.g. the obligation to participate in workshops for parents, the obligation to cooperate with a family assistant or establishing a probation officer. Nevertheless, they do not cause separating the children from the parents and they are to help in adjusting the parental attitudes. The most drastic means which are described in art. 109 § 2 point 5 of FGC²⁸, leading to separating children from the parents are applied as a last resort, when the other means did not improve the situation or when the family breakdown is so advanced that they are definitely not enough to improve it²⁹. Therefore, placing the child in a substitute related family or in the institutional foster care should only take place in the threatening situations, when the minor's welfare would be threatened or violated.

At last, the most drastic interference into the family integrity is to deprive the parents of parental authority. The deprivation of parental

²⁶ The verdict of the Supreme Court – the Civil chamber from September 13th 2000 II CKN 1141/00, Legalis nr 188114.

²⁷ See J. Ślyk, in: K. Osajda (ed. of the series), M. Domański, J. Ślyk (ed. of the volume), *Kodeks rodzinny i opiekuńczy. Komentarz* (Warszawa: 2022), art. 109, side number 4.

²⁸ Placing the minor in a foster home, in a children's home or in an institutional foster care, temporary entrustment of the child to a married couple or a person who do not fulfil the conditions which concern foster families with regard to necessary trainings defined in the regulations concerning supporting the family and the system foster care or placing the minor in a medical institution, in an institute of nursing and care or in an institution medical rehabilitation.

²⁹ J. Gajda, in: K. Pietrzykowski (ed.), *Kodeks rodzinny i opiekuńczy. Komentarz*, art. 109, side number 11.

authority indicated in art. 111 of FGC essentially results from the qualified forms of violating the child's welfare³⁰. It should be noticed that this legal action is applied when the family is so dysfunctional that the child must no longer remain in the family because this would lead to the essential violating of the minor's welfare.

It should be indicated that any initiated interference into the care and educational situation of the child means notifying the family court about the alarming signals about the situation in the family. Therefore, the family court's interference will never be a rule but only a reaction to the threat to the child's welfare. In a properly functioning family the measures of interference into the sustainability of the family bonds are not applied in advance.

It should be emphasised that the decisions of the family court in the sphere of the parental custody are always preceded by the evidence proceedings as a result of which the decision to separate the child from the family will always be well-thought and balanced. Moreover, the court's orders are not irreversible. The guardianship court can change the decision even the legitimate one if the welfare of the person whom it concerns requires it (art. 577 of Code of the Civil Procedure³¹). However, in case of determining the reason which was the basis for deprivation of the parental custody, the guardianship court can restore the parental custody in case when the reason which was the basis for deprivation of the custody ceased (art. 111 § 2 of FGC).

Maintenance of the family

Every family whose basic task is to educate full-fledged members of society, apart from ensuring the autonomy and protection of sustainability of marital bonds, requires financial basis to maintain the minor children.

Financial responsibility for the family members is, in the first place, assumed by those who started the family (art. 129 § 2 of FGC). While according to art. 128 of FGC the maintenance obligation is debited on the direct relatives and the siblings. This regulation financially integrates family members creating an economic bond between them. Thus the legislator strengthens the position of those who are a part of the family but who are economically weaker or unable to earn their

³⁰ J. Ślyk, in: K. Osajda (ed. of the series), M. Domański, J. Ślyk (ed. of the volume), *Kodeks rodzinny i opiekuńczy. Komentarz*, art. 111, side number 1.

³¹ Act from November 17th 1964 – Code of the Civil Procedure JL. from 2021 item 1805 with further changes.

living by themselves. Frequently the maintenance obligation towards one another is assumed voluntarily, even without the awareness of the legal regulation of such an act. The maintenance claims in court usually appear in the situation when the parents of the child live separately and the parent who is taking care of the child files the lawsuit on behalf of the minor child against the other parent.

According to art. 135 of FGC the amount of the alimony is established on the basis of the justified needs of the child and of the financial resources of the parents. The concept of justified needs is not clearly defined. Generally, the amount of the justified needs of the child, who is not yet able to earn his living on his own, is based on the principle of maintaining equal living standards of parents and children. These needs are individualized and should be determined for every single case. However, the top limit of the alimony is defined by the earnings and the financial condition of the paying parent (art. 135 § 1 of FGC), even if the established amount does not cover the justified needs of the child entitled to alimony³². Whereas according to the fixed position of the Supreme Court, the earning potential of the parent paying alimony is determined by the earnings and incomes which he or she would obtain with his or her physical and mental abilities and not the earnings which he or she actually obtains³³. Moreover, these abilities are determined by the age of the person paying alimony, by his or her health condition, professional training, education and the possibility of finding a job and by many other factors which take into account the actual conditions.

What is essential, the amount of the established alimony is not absolute and it can be modified in case of the change in the actual conditions on the basis of art. 138 of FGC³⁴. It is an important exception to the rule of the seriousness of the *res judicata*. The judicial practice shows that if a few years passed after the previous court's decision of granting alimony, the courts assume the passing of time as the basis for the increase of the amount of alimony. It should also be noticed that the duty to pay the alimony to the child, which usually lasts for a longer period, is accompanied by the inherent change of conditions which shape its range. In case of a minor child the range of his or her

³² The verdict of the Supreme Court – the Civil Chamber from January 20th 1972, III CRN 470/71, Legalis nr 15970.

³³ The verdict of the Supreme Court – the Civil Chamber from May 16th 1975., III CRN 48/75, Legalis nr 18769.

³⁴ See the verdict of the Supreme Court – the Civil Chamber from January 7th 1998., III CKN 576/97, Legalis nr 32089.

justified needs will certainly increase with time. According to the preserved jurisprudence view, the difference in the age of the child caused by the passing time since the courts' decision which established the amount of the alimony justifies the increase of the needs connected with going to school, taking additional lessons etc. which results in the necessity to increased expenditure³⁵.

The maintenance obligation is a vicious institution which has unavoidable legal side effects – it can be predicated *in absentia* or even in the presence of the welfare officer when the defendant is absent and nobody can find him or her; in some cases it is necessary to accept some legal fiction in order to protect the most important rule of the minor child's welfare so important for the Polish family law. The failure to comply with the duty is subjected to the bailiff's execution and to *ex officio* prosecution (art. 209 of Penal Code), and in case of exhaustion of all possibilities this duty – because of its importance – is passed on the state³⁶, which will later pursue claims against the debtor by administrative execution.

A question arises: will the court-ordered maintenance obligation be determined at the fair level? The answer will not be easy. First of all, in the matters relating to maintenance, the parties often file the lawsuits without the professional representatives, which negatively influences the quality of the evidence. The judicial practice indicates the clear disparities in the amount of maintenance adjudged depending on the city. Family courts who adjudicate in these cases should have a proper life experience. Aside from those who do not have any experience as the people obliged to the maintenance obligation (in my opinion, having one's own experience is not obligatory), professional group of judges, due to the level of their incomes (which is guaranteed by the Constitution at such a level which allows to limit the possibility of the illegal donations for the judicial actions) is inevitably detached from the rest of society whose financial situation is much worse. Finally, it all depends on the awareness and sensitivity of those engaged into the process of regulating the maintenance obligation. Therefore, the effectiveness of the solution of the maintenance obligation problem and non-maintenance mainly depends on people. "It is the man and his morality and not the legislation which decides about the maintenance obligation and the law can only force a man to fulfil this

³⁵ See the decision of the Supreme Court – the Civil Chamber from June 1st 1965, I CZ 135/64, Legalis nr 12331.

³⁶ Act from September 7th 2007 on assistance to the persons entitled to alimony JL from 2022 item 1205.

obligation in certain situations, although – as we can notice – it is not only effective”³⁷.

The state’s support for the family

According to art. 71 paragraph 1 of the Constitution “The State, in its social and economic policy, shall take into account the good of the family. Families, finding themselves in difficult material and social circumstances – particularly those with many children or a single parent – shall have the right to special assistance from public authorities.” The last decade brought serious transformations, particularly in the sphere of the financial support in maintaining children. Apart from the group of limited provisions for the families who have low incomes – that is the provisions granted by social welfare authorities on the basis of the act from March 12th 2004 on social assistance³⁸ – the legislator introduced a group of direct provisions and the forms of indirect assistance which go beyond the sphere of the social welfare, which is not always limited by the social criterium.

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The provisions from the social welfare are granted mainly on the basis of the criterium of incomes. It is not absolute because currently there is an applied rule “złotówka za złotówkę”[zloty for zloty]. This means that e.g. the child benefit is granted also after exceeding the limit of income and the amount of the provision is reduced by the amount of surplus³⁹.

The range of social welfare provisions is very wide. As far as the financial aid is concerned – the state satisfies the needs in this sphere. My professional practice as a probation officer of the family division clearly indicates that the beneficiaries often overuse the provision and the methods of verification and the situation when the provisions are really granted to those who need them the most are very limited. Nevertheless, the families who are financially weak are able to obtain real provision for maintenance.

And as far as the non-financial aid is concerned – it all depends on the own resources of the municipality. The bigger social welfare centres such as the one in Białystok (Miejski Ośrodek Pomocy Rodzinie) offer a broad range of services. Smaller social assistance centres – e.g.

³⁷ M. Boczek, “Obowiązek alimentacyjny – przymus państwo czy powinność moralna?”, *Problemy małżeństwa i rodziny w prawodawstwie polskim, międzynarodowym i kanonicznym*, (Olsztyn: 2017), 126.

³⁸ JL from 2021 item 2268.

³⁹ Act from November 28th 2003 on family benefits JL from 2022, item 615.

the municipal social assistance centres in municipality of Jaświły and Jasionówka in the Podlaske Voievodship – are limited in the resources, even when it concerns the places of accommodation which they could offer to the impoverished families so they are unable to provide certain services (e.g. care services, protected apartments). However, it is possible to apply for additional funds either from the UE funds or from earmarked funds e.g. Fundusz Sprawiedliwości. In the work of a probation officer of the family division it is clear that the amount of the non-governemental organizations especially in big cities positively influences the condition of families in the material and financial dimensions. However, these organizations are usually territorially limited. Therefore, in practice, in the countryside the aid provided to the family will be much more limited in comparison to the aid provided in big cities. As a result, the statutory guarantees, in the lack of the proper material and financial base, are not covered.

This alarming phenomenon will definitely increase the approaching communication exclusion with the coming ill-considered electrification in the automotive industry based on the incomplete technology. A car, which will soon be financially unavailable for the average person, is often the only means of transport to the cities where people can obtain professional aid, and it will become a luxury again.

The social benefits for the families threatened with poverty offer emergency assistance however, they are not deprived of defects. In cities and in the country the phenomenon of generational poverty is still present, as families, for generations, are dependent on the social welfare benefits. However, it cannot be unequivocally stated that the direct financial and material provisions are the best form of state's help for the impoverished families. Undoubtedly, if the state tries to prepare the impoverished family members to satisfy their needs on their own, as the saying goes: teach a man to fish⁴⁰, it will let them help the next generation to avoid the terrible circle of poverty. Nevertheless, offering such help by the state is definitely less measurable and it assumes the ability of the protégés to change. What is more, the system of support would require large financial outlays which are connected with securing the material base and with employing social workers who would cooperate with the impoverished families. The professional experience in the sphere of family law shows that in many cases these families

⁴⁰ See D. Ossowska-Salamonowicz, M. Giżyńska, "Konstytucyjne obowiązki państwa względem rodziny – analiza wybranych przykładów regulacji ochronnych", *Problemy małżeństwa i rodziny w prawodawstwie polskim, międzynarodowym i kanonicznym*, KKP Monografie (Olsztyn: 2017), 48.

in the poor living and social conditions are not properly motivated to change the style of functioning.

The group of provisions which is independent from the income criterion results from the political campaign from recent years. Regardless of the political origins of these solutions, the economic results and the influence on the fertility rate in Polish families, unquestionably influenced the condition of Polish families. The range of provisions begins with the so called child benefit called Rodzina 500 plus [Family 500 plus]⁴¹, or the provision Dobry Start [the Good Start]⁴². The previously introduced provision is the Big Family status (three children or more)⁴³. On the basis of these provisions certain groups of services and goods offered by the state, by companies or local governments (which can introduce their own systems of the Big Family cards) are provided to beneficiaries on special conditions. The further examples of the financial support for families which we can mention are: the Family Guardianship Capital, the nursery voucher⁴⁴, or the pension for the parents of families with many children⁴⁵.

The essential support is expressed in applying the tax credits for the child. However, according to the Constitutional Tribunal, qualifying one parent and a child as a family should not, even indirectly, lead to weakening the sustainability of the family bonds through creating such solutions which would be favourable only for bringing up a child by a single parent or even by both parents who are not married⁴⁶. It is postulated in the doctrine that the regulations of law should be precisely formulated so that they would support people who bring up the child alone but at the same time, the regulations should also favour contracting marriage⁴⁷.

⁴¹ Act from February 11th 2016 on state aid in bringing up children JL from 2019 item 2407 with further changes.

⁴² Regulation of the Council of Ministers in on detailed conditions of implementation of the governmental program "Dobry Start" from June 15th 2021, JL from 2021 item 1092 with further changes.

⁴³ Act from December 5th 2014 on the Big Family Card JL from 2021 item 1744.

⁴⁴ Act from November 17th 2021 family welfare capital JL from 2021 item 2270.

⁴⁵ Act from January 31st 2019 on parental supplementary benefit JL from 2021 item 419.

⁴⁶ The verdict of the Constitutional Tribunal from April 12 2011, SK 62/08, Legalis nr 311533.

⁴⁷ A. Siostrzonek-Sergiel, "Kilka uwag na temat zakresu konstytucyjnej ochrony rodzin", *Monitor Prawniczy*, nr 23 (2015): 1258.

The broadly regulated leaves in the labour code which are connected with maternity and parenthood constitute the favourable treatment of parents who maintain their families themselves through the legal employment⁴⁸. Due to the paid break at work, a parent can stay with the child in the particular time of perinatal period and in the early childhood. It is definitely beneficial for creating the bond between the child and the parent. The parent feels secure that he or she will obtain a salary in this period and after the maternity leave the mother will be able to come back to the previous post.

The state protects the sustainability, safety and proper development of the family also through penalisation of prohibited acts which are against the family welfare and care (art. 206-211a of Criminal Code⁴⁹)⁵⁰. Thus it protects the family against the external threats but also takes care of the welfare of the weakest family members.

Summary

The family as the basic social unit is under particular care of the state. The constitutional guarantees of protection and care of the family are determined by the directions of the social and economic policy of the state. Nevertheless, this protection is mainly expressed in the lack of the state's interference into the autonomy and sustainability of the family. These actions of the legislator should be evaluated in a positive way as the attempt to regulate the family life in a detailed way could lead to distortion of the spirit of family. As a result, this interference into the internal relations of the family is limited to reacting in the situations when the child's welfare is threatened. In a well-functioning society it should be the rule that the best environment for the minor's development is his or her family.

Moreover, the support of the state for the families, the members of which are not capable of satisfying their basic needs themselves, is clearly noticeable. In most cases this concerns the minors but also the families who are in difficult material or social conditions. Provided

⁴⁸ Art. 179¹-184 Acts from June 26th 1974 – Labour Code JL from 2020, item 1320 with further changes, more on the subject: K. Ziolkowska, "Nowe uprawnienia rodzicielskie wyzwaniem dla polityki społecznej", *Problemy małżeństwa i rodziny w prawodawstwie polskim, międzynarodowym i kanonicznym*, KKP Monografie (Olsztyn: 2017), 84-92.

⁴⁹ Act from June 6th 1997 Criminal Code JL from 2022, item 1138.

⁵⁰ K. Majchrzak, "Ochrona rodziny w świetle przepisów rozdziału XXVI polskiego kodeksu karnego", *Problemy małżeństwa i rodziny w prawodawstwie polskim, międzynarodowym i kanonicznym*, KKP Monografie (Olsztyn: 2017), 93.

that the direct financial provisions are not a perfect solution, as they can lead to the phenomenon of “generational poverty”, still they are the most measurable form of assistance. Such support is measurable and allows to apply the most objective criteria.

Whereas in the care for the dysfunctional families or single-parent families, it is necessary to consider legislative instruments which allow for the actual help to such families. Financial and material provisions are often not enough as in case of dysfunctional families the problem often concerns the lack of proper parental skills, social skills or even the proper management of the household. While in case of the single-parent families, when one of the parents is not interested in the child's fate, the problem usually concerns in the lack of responsibility for the family. Therefore, stability and sustainability of the family depends on the maturity of the people who start the family and on the cooperation of the parents in their life together for the sake of the child's welfare. Therefore, the state actions can lead to raising the parental and social qualifications of the parents or alternatively, through the favourable treatment of the families the parents of which regulated their marital status in a formal and legal way.

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The concept and meaning of the family in the context of the deliberations of Blessed Father Michał Sopocko

The thematic scope of the article is related to the re-edition of the book by Fr. Michał Sopoćka, entitled – *Family in legislation in the Polish Lands (Ethical and legal study)*, published in Vilnius in 1926. This is the published version of the doctoral dissertation on the basis of which Fr. Michał Sopoćko, received a doctorate in theology on March 1, 1926.

The article does not pretend to be a comprehensive study of the issue contained in the title, it is only an attempt to draw attention to the topicality of the issue of the family raised by Fr. Sopoćko in his doctoral dissertation and the need to continue this issue in the context of legislation and ethics, and Christian morality. The reference to the family theory of Fr. Michał Sopocko – a zealous priest, theologian, social worker, servant of God, it is all the more justified that in the era of strong ideological, worldview, propaganda and ideological tendencies against the national and Christian culture, the 20th / 21st century family found itself in the face of difficult problems – there is even talk of a family crisis. Formerly hidden are coming to light: violence, harassment on various grounds, psychological torment, and even sexual violence against children, incest and crimes of infanticide. Hence, the reference to the Christian model of a family created on the basis of a humanistic approach to human existence is becoming particularly important today and – perhaps – most needed by people. It allows us to strive for the place and right of existence of the Christian vision of the world, the image of man and the Christian system of values in the public space. The more so because Fr. Michał Sopoćko, as an apostle of the truth and worship of Divine Mercy, recognized the truth about man, marriage and family on the basis of the intellectual tradition of personalism and Christian culture.

Father Michał Sopoćko pointed out that without the family, its concern for education and service to life, there is no development of the nation and the Church.

Key words: Blessed Fr. Michał Sopoćko, family, Christian pedagogy.

Introduction

The range of topics in the article is connected with the reissuing of the book of Father Michał Sopoćko called – *Rodzina w prawodawstwie na Ziemiach Polskich (Studium etyczno-prawne)* [The family in the legislation on Polish soil (Ethical and legal study)], published in Vilnius in 1926¹. It is a published version of the doctoral dissertation – *Etyka rodziny w prawodawstwie polskim* [Family ethics in the Polish legislation], written under the guidance of Rev. Prof. Franciszek Jehliczka at the Chair of the Moral Theology of the Warsaw University², on the basis of which Father Michał Sopoćko received the degree of the Doctor of Theology on March 1st 1926. However, the article is not supposed to be a comprehensive study of the issue mentioned in the title, it is only an attempt to emphasise the validity of the issue of the family discussed by Father Sopoćko in his doctoral thesis and the need for the further elaboration on the subject within the context of legislation and ethics, and of the Christian morality. Reference to the theory on the family of Father Michał Sopoćko – a zealous priest, theologian, community worker, God's servant³, was the more reasonable that the family of XX/

¹ M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich (Studium etyczno-prawne)* [The family in the legislation on Polish soil (Ethical and legal study)] (Wilno: 1926).

² H. Ciereszko, *Działalność naukowa i dydaktyczna księdza Michała Sopoćki*, "Studia Teologiczne", Białystok, Drohiczyn, Łomża 26 (2008): 9.

³ Michał Sopoćko was born on November 1st 1888 in Juszewszczyzna in the country of Oszmiana in Poland's Easter Borderlands which at that time remained under the Tsarist Russian partition. In 1910 he entered the seminary in Vilnius. In 1914 he was ordained a priest and for 4 years he was working as a vicar in Taboryszki. In the years 1919-1924 he was a military chaplain in Warsaw and at the same time he was studying at the Faculty of Theology of the Warsaw University and in the Institute of Pedagogy. His education and knowledge as well as his organizational experience and the personal qualities were recognised by the bishop of his diocese Jerzy Matulewicz, the later blessed, who in 1924 invited Father Sopoćko to Vilnius. In Vilnius he still worked as a military chaplain until 1932. Since 1928 he was employed as an assistant of the professor of pastoral theology at the Faculty of Theology of USB. In the years 1927-1932 he was the spiritual father in the Seminary in Vilnius. In 1933 he met Sister Faustyna Kowalska and until her death he was her confessor and spiritual director. She inspired him to get to know the truth of Divine mercy and he spread the cult of Divine mercy until his death. In 1947 he came to Białystok and started to lecture in the Seminary which he did until 1962. He died in Białystok on February 15th 1975. The process of beatification of Father Sopoćko started in 1987 at the diocesan level and it ended in 1993, the case file was sent to The Congregation for the Cause of the Saint in Rome. In 2002 the written litigated file (*Positio super virtutibus*), required for undertaking further stages of the process of beatification at the level of Congregation, was finally completed and in 2004 the decree on

XXI century was facing difficult problems which had not appeared with such an impact earlier. "The law and the current customs allow for the dissolubility of the family in justified cases, and, what is more, this tolerability concerns not only a few cases but dozens or hundreds of married couples"⁴. Apart from that, contemporary families undergo intensive changes which result from fast macrosocial transformations and global societies. According to Dorota Piotrowska, the new values and the goods which are currently offered to the members of families "individualize their attitudes and aspirations. In many cases the family values no longer remain fundamental compared to the personal values and personal aspirations, which some people perceive as evil or selfish, some are even prone to point it out as a pathology"⁵. Adam Podgórecki describes such situations as "the negative category of social phenomena"⁶, because these are the social phenomena which are in conflict with the current moral code.

The need to refer to the work: *Rodzina w prawodawstwie na Ziemiach Polskich (Studium etyczno-prawne) [The family in the legislation on Polish soil (Ethical and legal study)]*, also results from the fact that the contemporary family is undergoing serious transformations concerning its functioning, structure, shape and internal relationships. Some people also call it the crisis of the family. Krystyna Marzec-Holka claims that the previously hidden: violence, harassment of different backgrounds, psychological bullying and even sexual violence against children, incestuous deeds and infanticide, are now made public⁷. Undoubtedly, it is only a marginal model of the married and family life, however, according to Stanisław Kawula, the phenomenon is

the heroic virtues was proclaimed, and in 2007 a miracle through the intercession of Blessed Father Sopoćko was announced. The main celebration of the beatification took place on September 28th 2008 in Białystok in the Sanctuary of Divine Mercy where the relics of the Blessed were deposited. M. Sopoćko, *Dziennik*, preface, study, footnotes H. Ciereszko (Białystok: 2010); H. Ciereszko, *Śluga Boży ksiądz Michał Sopoćko*, edition II (Białystok: 1998); H. Ciereszko, *Droga świętości księdza Michała Sopoćki* (Kraków: 2008); S. Strzelecki, *Ksiądz Michał Sopoćko jakiego znałem i pamiętam* (Warszawa: 2004).

⁴ D. Piotrowska, "Założenia i zasady katolickiej etyki normatywnej w odniesieniu do rodziny", *Studia z Nauk Społecznych* 1996, fascicle 12 (8), *Wybrane problemy z socjologii*: 120.

⁵ Ibidem, 121

⁶ A. Podgórecki, *Patologia życia społecznego* (Warszawa: 1969), 9.

⁷ K. Marzec-Holka, *Dzieciobójstwo: przestępstwo uprzywilejowane czy zbrodnia* (Bydgoszcz: 2004), 46.

increasing⁸. The author adds that the indicators of the crisis include: children who do not know their fathers, the children in orphanages and in other care facilities. According to S. Kawula, an avarage Pole spends only 15 minutes a day talking to his or her family and the American grandchildren contact their grandparents only 5 times a year⁹. Despite that the family still remains one of the most important social institutions. According to theologians, the family is irreplaceable, and according to psychologists, the family is inalienable in the psycho-physical and social development of the man (especially in the early childhood)¹⁰. At the end of the 20th century Zbigniew Tyszka – a pedagogue, presented the following vision of the family in the contemporary time: “We can say that the family of our time is like a ship which is facing the storm, but it is still sailing despite of the situation – with a broken flagpole and full of water deep inside. And nobody can state with 100 per cent certainty that the ship will reach the port”¹¹, especially when it comes to the wellbeing of the next generations. Thus the reference to the Christian model of the family based on the humanist approach to the human existence has become extremely important nowadays – and probably – most needed by people. It contributes to the defence of the man “against such ideological protection of life which could lead to killing and trampling a human being”¹². It is also another reason to refer to the opinions and reflections on the family of Blessed Father Michał Sopoćko, following the example of the Primate of the Millennium Cardinal Stefan Wyszyński, and to strive for “the place and, in general, the right to exist of the Christian vision of the world, the image of the man and the Christian system of values in the public sphere”¹³.

Yet another important reason to refer to the doctoral dissertation of Father Michał Sopoćko is his spirituality which we experience while reading the dissertation. As the apostle of the truth and of the cult of

⁸ S. Kawula, “Przemiany i przyszłość rodziny współczesnej”, *Państwo i Społeczeństwo* VI (2006) nr 2: 5.

⁹ Ibidem, 6.

¹⁰ Ibidem, 5.

¹¹ Z. Tyszka, *Rodzina we współczesnym świecie* (Poznań: 2002), 184.

¹² J. Tarnowski, “O użyteczności niektórych kategorii personalistycznych dla pedagogiki”, *Kultura i Edukacja* 1993, nr 24: 29.

¹³ E. Sienkiewicz, “Naród według prymasa Wyszyńskiego w kontekście jubileuszu chrztu Polski”, *Studia Paradyskie* vol. 24, (2014): 231-246.

Divine mercy, he is “the model of priestly holiness”¹⁴. According to the wise observation of bishop Henryk Ciereszko, he also possesses “certain characteristic features or dimensions proper for him. They result from the individual attributes of Father Sopoćko”¹⁵, which are connected with the deepest religiousness of his family home. His parents genuinely lived by the Christian values and due to that they “transmitted the simple and trustful faith, they implemented religious practice and the principles of moral conduct”¹⁶. “Bestowed and strengthened, he entered life with the need to make a gift of self to the service to God and to people, which would be expressed in his priestly vocation”¹⁷.

The spirituality of Father Michał Sopoćko – in the light of the exploited source material

Already during his lifetime Father Michał Sopoćko drew attention to “himself: the things that he did and he said. Some people were listening to him carefully and tried to follow his example, others criticized his teaching, and some people fought against him. After his death, the interest in him started to change into praise”¹⁸. According to Abp. Edward Ozorowski: he was the object of the cult especially for the nuns from the Congregation of Divine Mercy and for the ladies from the Institute of Divine Mercy – the community the creation of which was inspired by Father Michał Sopoćko. In order to establish the cult of Divine mercy and to honour the contribution of Father Michał Sopoćko, bp Edward Kisiel¹⁹ submitted a petition to the Congregation for the Causes of Saints on February 15th 1987 on the basis of the faithful’s requests for the permission to initiate the informative process of Father Michał Sopoćko. After receiving the approval of the Holy See on

¹⁴ H. Ciereszko, *Sługa Boży ksiądz Michał Sopoćko – wzorem świętości kapłańskiej*, <http://digital.fides.org.pl/Content/578/PDF/MSopocko-wzor-swietosci.pdf> (access from August 22nd 2022).

¹⁵ H. Ciereszko, *Sługa Boży ksiądz Michał Sopoćko – wzorem świętości kapłańskiej*, 1.

¹⁶ Ibidem.

¹⁷ H. Ciereszko, *Wprowadzenie*, in: *Dziennik*, preface, study, footnotes H. Ciereszko (Białystok: 2010), 8.

¹⁸ E. Ozorowski, Fenomen świętości, in: H. Ciereszko, “Ksiądz Michał Sopoćko profesor, wychowawca i ojciec duchowy alumnów i kapelanów” [Father Michał Sopoćko, professor, educator and spiritual father of alumni and priests], *Studia Seminarii Białostocensis* 3 (Białystok: 2008), 11.

¹⁹ Ibidem, 11.

December 4th 1987, the process of beatification at the diocesan level started. It lasted for 7 years²⁰.

Unfortunately, the communist authorities “almost entirely stopped the publication of any work concerning theological and ecclesial issues”²¹. Thus only after the social and political transformation, Blessed Father Michał Sopoćko began to be more commonly known due to the growing number of publications, among others, written by: Father monsignor Stanisław Strzelecki, Bishop Henryk Ciereszko, Bishop Edward Ozorowski, and by Father Adam Skreczko who specializes in the scientific legacy of Father Michał Sopoćko devoted to the widely understood Christian family²². The authorial publications of Father Professor Skreczko connected with the issues of the family constituted a guideline in writing this article.

Father monsignor Stanisław Strzelecki was the author of a number of publications, articles and books devoted mainly to the issue of Divine mercy as well as to the life and work and ministry of Father Sopoćko²³. Father monsignor Stanisław Strzelecki was not only a student, a disciple and a penitent of Father Sopoćko, but also “the eyewitness of his life and an attentive listener of the stories about him”²⁴. He took active part in the process of beatification of Father Michał Sopoćko. Therefore, according to Abp. Edward Ozorkowski, the works written by Father monsignor Stanisław Strzelecki, have a value of the source material and indeed add to the scientific narrative. What is more, Father Henryk Ciereszko considers Father monsignor to be the best expert on the person and works of the blessed priest. He thinks that Father monsignor Stanisław Strzelecki is a priest who is fully devoted to his apostolic mission, who “significantly went down in history of our Archdiocese, in connection with the person of the blessed Michał Sopoćko and the cult of Divine mercy ”²⁵.

²⁰ H. Ciereszko, *Sługa Boży ksiądz Michał Sopoćko*, edition II (Białystok: 1998), 103-104; M. Kupiński, “Życiorys Abp. Edwarda Kisielą”, *Feniks* 2018, nr 2(58): 4.

²¹ E. Ozorowski, *Fenomen świętości...*, 11.

²² A. Skreczko, “Wychowanie chrześcijańskie w ujęciu księdza Michała Sopoćki”, *Rocznik Teologii Katolickiej* vol. 4, 2005: 59-98; A. Skreczko, *Rodzina w nauczaniu ks. Sopoćki*, “*Studia Teologiczne*” 2008, nr 26: 57-70.

²³ S. Strzelecki, *Wkład księdza Michała Sopoćki w formację duchowieństwa* (Białystok: 1983); S. Strzelecki, *Ksiądz Michał Sopoćko jakiego znałem i pamiętam* (Warszawa: 2004).

²⁴ E. Ozorowski, *Fenomen świętości...*, 11.

²⁵ H. Ciereszko, “Wspomnienia i refleksje Ksiądz Infułat Stanisław Strzelecki o bł. Michale Sopoćce i Miłosierdziu Bożym”, *Feniks* 2016, nr 1(53): 4.

Abp. Edward Ozorowski emphasises the unique cognitive value of the publication of abp. Henryk Ciereszko, who worked on “positio” in the process of beatification of Father Sopoćko and who carefully examined the life of Father Sopoćko, testimonies of witnesses and his literary legacy²⁶. According to Father Henryk Ciereszko, Father Sopocko was more active during his priesthood ministry in Vilnius than during the period spent in Białystok. It resulted from the external circumstances and his health condition. According to the analysis of Father Henryk Ciereszko – “After his arrival in Białystok in 1947 Father Michał was forced to stay in very poor living conditions: uncomfortable flat, poor nourishment. This led to the deterioration in his health especially after his accident in Zakopane”²⁷.

The written sources are the main basis of the knowledge of Father Sopoćko’s activity in Vilnius, mainly because the witnesses of his life in Vilnius are already dead. However, the period of his priestly life spent in Białystok is and can still be known on the basis of the accounts of the living witnesses who were in close relationships with the Blessed. We can debate to what extent the testimonies are reliable, especially that the testimony can be subjective and can contain mistakes in detail but as abp. Edward Ozorowski rightly observes, the testimony “complementary with the other [sources – added by E.K.] helps to create the whole picture. It is science which should carefully examine and verify the presented image”²⁸. Apart from that, the accounts of eyewitnesses contribute to broadening the observations with the witnesses’ experience of his “being, contacting, [of] the mutual relationships with people and of the image of the [presented – added by E.K.] world”²⁹.

One of the most precious testimonies from the period of the pastoral ministry of Father Sopoćko in Białystok are the memoirs of his student – abp. Edward Ozorowski. The Archbishop met Father Sopoćko during the entrance Latin exam to the Seminary in 1958 in Białystok³⁰. During his studies he participated in the classes of Father Sopoćko

²⁶ H. Ciereszko, *Droga świętości ks. Michała Sopoćki* (Kraków: 2002); H. Ciereszko, *Zycie i działalność księdza Michała Sopoćki (1888-1975). Pełna biografia apostoła Miłosierdzia Bożego* (Kraków: 2006); H. Ciereszko, *Ksiądz Michał Sopoćko profesor, wychowawca i ojciec duchowy alumnów i kapelanów*, *Studia Seminarii Bialostocensis* 3, (Białystok: 2008), 13.

²⁷ E. Ozorowski, *Fenomen świętości...*, 12.

²⁸ H. Ciereszko, *Ksiądz Michał Sopoćko profesor...*, 12.

²⁹ R. Nycz, “*Wstęp. My świadkowie. Ustanawianie świadka*”, *Teksty Drugie* 2018, nr 3: 9.

³⁰ E. Ozorowski, *Fenomen świętości...*, 13.

on catechesis and he learned Russian under his guidance. According to abp. Edward Ozorowski "Those were not grammar lessons. Father Sopoćko presumed that every alumnus knew the basics of the language. He taught (...) the prayer in Russian and he told us to learn Krilov's fairy tales by heart. He explained to us that we should go to the West and there preach the Gospel. When I went to Saint Petersburg in order to give lectures on ecclesiology and sacramentology in their Seminary, it seemed to me that I was fulfilling the last will of my professor from Białystok"³¹.

Moreover, according to the well-known proverb of Jan Twardowski – "Let's hurry to love people, they depart so quickly"³² abp. Edward Ozorowski emphasised that it was not unusual that only "after the death of a close person we see better who he or she was" and "we regret that we did not manage to tell the person everything what we wanted, that we can no longer talk to him or her"³³. It happens quite often that "the phenomenon of holiness is revealed in the fact that uniqueness appears in the usual way. Thus we usually do not notice it"³⁴. With this regard, all the biographies which describe the history of life of Blessed Father Sopoćko are very precious, and very useful for the preparation of this particular article. Although the private writings of Father Michał Sopoćko, even more than the scientific works, help "to enter into the inside of a Blessed person"³⁵. "The direct insight into the soul of the writer" and his biography with the possibility "to follow the grace in a certain person's life"³⁶ are possible thanks to the autobiographical notes which he entitled *Dziennik [Journal]* and *Wspomnienia z przeszłości [Memories from the past]*³⁷. The latter of the two mentioned memoires, which is a biography, was written later in the author's life, and "created from the time perspective", constitutes

³¹ Ibidem, 13.

³² J. Twardowski, *Miłość której nie widać nie zasłania sobą* (Częstochowa: 2004), 16.

³³ E. Ozorowski, *Fenomen świętości...*, 13.

³⁴ Ibidem, 13.

³⁵ E. Ozorowski, *Słowo wstępne*, in: *Dziennik*, preface, study, footnotes H. Ciereszko (Białystok: 2010), 5.

³⁶ Ibidem, 5.

³⁷ *Wspomnienia. Błogosławiony Ksiądz Michał Sopoćko*, ed. H. Ciereszko (Białystok: 2018). The dissertation was published on the 10th anniversary of Father Michał Sopoćko's beatification. It contains his personal memories from the past, rich in contents, events and various descriptions. Moreover, there are his memoirs about S. Faustyna Kowalska and S. Jadwiga – Faustyna Osińska, the people that his priestly life was most bound with.

a perfect and “a holistic review of the life and achievements of the Author”³⁸.

Apart from the autobiographical notes, the numerous publications of Father Michał Sopoćko³⁹ reveal his mind and make him more well-known. His scientific work was one of his main tasks, he hardly ever neglected it⁴⁰. In his passions he focused on the issues connected with the goodness of Jesus. According to Father Henryk Ciereszko, one of the most well-known publications of Father Michał Sopoćko called *Divine Mercy in His Work*⁴¹ on the need for and the essence of the cult with his reflection on the subject, is the culmination of Father Sopoćko’s teaching on Divine mercy which is revealed “in His work” that is: God’s works in the history of salvation. Due to the significance of this dissertation and its contribution in the apostolate of Divine mercy, it is still necessary to reissue it. What is more, other dissertations of Father Sopoćko will also be republished and widespread.

Theology
of Family

Definition of the family, its meaning and rights

The family, according to the historical analyses, is a form of community life and a natural relationship of the people related by blood. It is a common definition of the family which has started to arouse interest in various aspects of the family reality through the years. This resulted in creating various types of knowledge about the family, of its tasks and functions. Thus in various fields of science there are different types of definitions of the family. Referring to the in-depth overview of definitions of the family of Father Jarosław Szymczak, the chaplain of

³⁸ H. Ciereszko, *Wprowadzenie*, in: *Dziennik*, preface, study, footnotes H. Ciereszko (Białystok: 2010), 8-9.

³⁹ M. Sopoćko, *Alkoholizm a młodzież szkolna*, in: *Księga Pamiątkowa Kursu Katedrycznego w Krakowie* (since April 9th until April 12th 1929) (Kraków: 1929); M. Sopoćko, “Autorytet w rodzinie a wolność dziecka”, *Ku Szczytom* 3 (1939): 255-261; M. Sopoćko, *O obowiązkach społecznych* (Wilno: 1931); M. Sopoćko, *Pedagogika* (Wilno: 1933, Białystok: 1948); M. Sopoćko, *Przyrodzone i nadprzyrodzone czynniki wychowawcze*, in: *Pamiętnik VIII Zjazdu w Częstochowie* 1936 (Kraków: 1937), 274-287; M. Sopoćko, *Cel i przedmiot wychowania duchowego według Mikołaja Łęczyckiego* (Wilno: 1933); M. Sopoćko, *M. Łęczycki o wychowaniu duchowym* (Wilno: 1935); M. Sopoćko, “Mikołaj Łęczycki o wychowaniu duchowem. Studium teologiczno-pedagogiczne”, *Studia Teologiczne* V, 1935.

⁴⁰ M. Sopoćko, *Dziennik*, Zeszyt 2 (Białystok: 2010), 86.

⁴¹ M. Sopoćko, *Miłosierdzie Boga w dziełach Jego*, Białystok 2008, vol. I-III. The first edition in 3 volumes was published in the years 1959-1962 (vol. I, London: 1959; vol. II, Rome – Paris – London: 1962; vol. III, Rome – Paris – London: 1962). The 4th volume was published 5 years later (Paris: 1967).

the Institute of the Holy Family in Łomianki near Warsaw, we should notice that “At times psychology defines the family as a basic group for an individual “that is the one the members of which maintain a close contact and cooperate”⁴². Taking into account the etymology of the word family in psychology, we notice that the reason which determines being a family is procreation. This definition – according to Father Jarosław Szymczak, does not define the relationship between the family members which means “the family is not identified here in a sufficient way”⁴³.

In pedagogics the family is defined either through enumerating its tasks (functions) or through enumerating the basic bonds between the family members. In case of the family functions we enumerate: satisfying the sexual drive, satisfying the basic life needs, giving birth to and educating children. According to this definition, as was wisely observed by Father Jarosław Szymczak, “the family is used for satisfying the needs of each separate family member (their «basic needs»). The fourth function: «educating children» and fulfilment of the function of a parent”⁴⁴ can also be reduced to satisfying the basic needs. Therefore, if we limit the family only to satisfying certain “needs” of family members without experiencing “the love directed at the good of the other person”, we can get into the conclusion that the family is an institution in a way outside love”⁴⁵.

Sociology usually defines the family as “the basic social community and, therefore, a fundamental and constitutive element of each society” and treats the family as a group which constitutes an element of a bigger entity that is: of the society. Marriage is considered to be the basis of the family but it is defined as a “social, legal, sexual relationship, (...) relatively long-term (...) of a woman and of a man appointed in order to live together, cooperation for the family welfare that is: mainly educating the children”⁴⁶, without indicating any deeper and primary origins of the family.

Noticing the difficulties of particular sciences in defining the term: the family, Father Jarosław Szymczak expresses the opinion that “these sciences are not capable of such an insight into the man, and

⁴² Rev. J. Szymczak, “Definicje rodziny”, *Studia nad Rodziną* 2002, R. 6, nr 2(11): 153.

⁴³ Ibidem, 153.

⁴⁴ J. Szymczak, *Definicje rodziny...*, 155.

⁴⁵ Ibidem, 155.

⁴⁶ Ibidem, 156.

that they need to make use of philosophy in order to formulate a proper definition of the family”⁴⁷.

According to Father Mieczysław A. Krąpiec “all philosophical trends acknowledged the family to be the basic form of social life and the fundamental «niche» of development for the man. It was the character of the family which influenced the character of the bigger forms of social life and to such an extent that there were theories [which claimed – added by E.K.] that society is not constituted by “citizens”, but rather by families as the more basic units of the social life”⁴⁸. Giving a more precise definition Father M. Krąpiec indicates two important elements of the family: the essential good which is “to bear and educate children”, and “the structure of personal love”, as the factors constituting this community. This kind of love is not limited to its psychological meaning but it is understood as “the love which is the gift of self for the other person without any reservations”, which requires “«giving up on oneself» and giving the gift of self to the other person”⁴⁹.

Pope John Paul II claimed that spiritual fatherhood and motherhood are the symptoms of the inner maturity of a human being⁵⁰, which “is comprised in the evangelical vocation for perfection”. The man who shaped his inner fatherhood and motherhood “acquires the likeness of God the Creator”⁵¹.

The family as the natural community and coexistence “in the development of the personal love” of the parents and children, constituted the basis of the way Father Michał Sopoćko perceived it. Already in 1930s Father Sopoćko, as the Master of Theology and the Bachelor of Theology as well as the graduate of the Higher Institute of Pedagogy with the competence to provide lectures in Psychology⁵², formed an interdisciplinary definition of the family. The basis for the considerations was the recognition of the truth about the man, about marriage and the family, which grew out of the tradition of the thought of personalism and the Christian culture. According to this tradition, which is presented in the considerations of Father Sopoćko, the family is “the community of people created on the foundation of a monogamous and

⁴⁷ Ibidem, 156-157.

⁴⁸ M. A. Krąpiec, *Człowiek i prawo naturalne*, edition II (Lublin: 1986), 160-161.

⁴⁹ M. A. Krąpiec, *Człowiek i prawo naturalne...*, 163; J. Szymczak, *Definicje rodziny...*, 157.

⁵⁰ K. Wojtyła, *Miłość i odpowiedzialność* (Lublin: 1986), 177.

⁵¹ Ibidem, 177.

⁵² H. Ciereszko, *Sługa Boży ksiądz Michał Sopoćko*, edition II (Białystok: 1998), 49.

indissoluble marriage which guarantees the community sustainability and the generational continuation in history”⁵³.

The word “the family”, according to Father Sopoćko, in Latin means – *familia*, which is translated into Russian as семья, while in Slovenian it means ‘the tribe’. Its foundation consists in “the biological difference of the sexes between the people, as it used to be, and comes from the human nature and does not depend on the economic or social conditions”.

Father Sopoćko adds that the word comes from the verb ‘to bear’ and, strictly speaking, means the parents and the children together; in the wider meaning this word comprises all the “people related, of the same surname, and sometimes – all the relatives and in-laws even despite having a different surname”⁵⁴. In the mentioned dissertation – *Rodzina w prawodawstwie na Ziemiach Polskich* [Family in the legislation on the Polish soil], Father Sopoćko dealt with the family in the primary meaning, the one which consists of parents with children because the family in such an understanding is the primary natural human society the aim of which is “to educate the new generation”⁵⁵. Thus the family comprises the institution of marriage and the institution of the family. Marriage is a contract which is “designated by nature, [it is] of a constant and previously defined content. Marriage by nature should be holy, indissoluble, consisting of one man and one woman. Only such a marriage is capable of proper education of the new generation”⁵⁶. It is a recommendation and its implementation results from the very word “family” which in Polish indicates its basic task (rodzić – to bear, rodzina – the family), its main aim is to transmit the human kind, to educate new members, therefore, we can come to the conclusion that its origins come from the beginning of the mankind, otherwise it would be difficult to naturally explain the existence of the human race”⁵⁷. In order to justify that the family is “the primary natural human society” Father Sopoćko referred to the thought of Aristotle which confirmed that “the man is by nature created to live

⁵³ B. Kiereś, *Filozoficzna myśl Arystotelesa inspiracją realistycznej teorii rodziny*, in: *Rodzina – historia i współczesność*, ed. B. Kiereś, M. Gromek, K. Hryszan (Lublin: 2018), 10.

⁵⁴ M. Sopoćko, *Rodzina w prawodawstwie na Ziemiach Polskich* (Wilno: 1926), 3.

⁵⁵ M. Sopoćko, *Miłosierdzie Boga w dziełach Jego* (London: 1958), 135.

⁵⁶ *Ibidem*, 135.

⁵⁷ M. Sopoćko, *Rodzina w prawodawstwie...*, 6.

in the state⁵⁸” and by nature he possesses the rush to love in a community⁵⁹, in which the family constitutes “the inborn connection for the everyday coexistence”⁶⁰. He also referred to Saint Tomas Aquinas who called the family: inherent to the society, whose main concern regards everything that the man needs in his everyday life⁶¹. He also reminded that a similar definition of the family was mentioned in the Roman Law although it was mentioned in a broader scope which comprised not only people related by blood but also by the bonds of submission under one paternal authority. , The family is a collection of human individuals who are subjected to the same paternal authority “⁶². The family consisted of not only the closest family members related by blood such as the father (*pater familias*) or mother (*mater familias*) and the unmarried daughters or sons. It also comprised the married daughters if they contracted marriage *sine conoeentione in manu*, as well as married sons with their wives and children. All of them lived under one roof and were under the authority of *pater familias*⁶³. It must be added that parents, and the paternal authority were considered holy for the ancient Romans⁶⁴. The “broader” meaning of the term *family*, according to Father Sopoćko, “partly originated in the moral theology which considers not only parents and children but also hosts, household members and servants to be parts of the family⁶⁵”, and sometimes the term *family* was meant in a broader sense as the society, the nation and the whole humanity “as they had one heavenly Father and who were redeemed by Christ’s blood”⁶⁶. Therefore, while discussing the fourth commandment: Honour thy father and thy mother “, moralists “discuss not only the rights and duties of the spouses, parents and children but also of servants and hosts, workers and employers and, moreover, the duties for the Homeland and for the nation that

⁵⁸ Aristotle, *Polityka [Politics]*, transl. L. Piotrowicz, in: Arystoteles, *Dzieła wszystkie*, vol. I (Warszawa: 2003), 61.

⁵⁹ Ibidem, 6.

⁶⁰ M. Sopoćko, *Rodzina w prawodawstwie...*, 7.

⁶¹ Ibidem, 7.

⁶² Ibidem, 7.

⁶³ A. Nowak, “Pojęcie władzy ojcowskiej w rzymskim prawie klasycznym”, *Studia Prawnoustawowe* 2002, nr 1: 36.

⁶⁴ Ibidem, 36.

⁶⁵ M. Sopoćko, *Rodzina w prawodawstwie...*, 7.

⁶⁶ Ibidem, 28.

constitute one big family as well”⁶⁷. However, according to Father Michał, the family described like that “will not be a natural society but only its complementation”⁶⁸.

The family, apart from its “proper aim that is bearing and educating, shall be given priority in educating before any other environment”⁶⁹. The right to educate: in the natural order it also the duty of the state and in the supernatural order it is the duty of the Church. According to Father Adam Skreczko, the educational functions of these three communities are bestowed on them “from a different reason as they have different sources of origin”⁷⁰. Only God can be called the real educator because only He is capable to form a full-value personality. He calls the man into existence. In the analogical meaning, the parents have the primary right to educate their children as “they gave their offspring the basis for the creative power of the Almighty”⁷¹.

According to Father Michał Sopoćko, the family also “takes into account the maintenance of the material and the spiritual legacy of people; the family is a school of life and an incentive for the economic, spiritual and cultural progress”⁷². And the concern for the needs of the family “stimulates its members for diligence, for saving and for preserving the goods for the next generations”⁷³. Moreover, according to Father Sopoćko, the family preserves the spiritual legacy. Thanks to that, religion, morality, patriotism and customs do not disappear with the death of the parents but they are transmitted to the children, who grow up and live among them, “in order to further spread these values among the next generations. The family preserves the teaching and the information most important for life, which are derived from the experience of ancestors”⁷⁴. In this context the family is “a conservative institution in its strictest sense. Despite its conservative nature, the family is the incentive for the progress. A real progress consists in the implementation of the high ideals of justice, love, equality and

⁶⁷ Ibidem, 28.

⁶⁸ Ibidem, 7.

⁶⁹ A. Skreczko, “Wychowanie chrześcijańskie w ujęciu ks. Michała Sopoćki”, *Rocznik Teologii Katolickiej* 2005, vol. IV: 73.

⁷⁰ Ibidem, 73.

⁷¹ Ibidem, 73.

⁷² M. Sopoćko, *Rodzina w prawodawstwie...*, 7.

⁷³ Ibidem, 7.

⁷⁴ Ibidem, 8.

brotherhood”⁷⁵. At the same time, Father Michał emphasises that the pinnacle of progress will be reached only when all people become “one big family educated on the basis of justice, love, brotherhood and equality”⁷⁶.

Legislation in the family life in Christian societies

Theology
of Family

Father Michał Sopoćko, who was aware that the family constitutes a social reality and that it is a legal institution as well, made great efforts to provide the family with the rights from the society to regulate behaviours of its members and to take measures which would ensure its proper functioning as a whole accordingly to the Christian ethics. It was an extremely difficult task – it required determination “to what extent the civil legislation which had existed so far on Polish soil was consistent with the principles of the Christian ethics”⁷⁷. During the period of formation of the Polish statehood, after 123 years of partitions on the Polish soil, there were various legal systems of the former partitioning states⁷⁸ and not every civil code supported the family ethics “which was in accordance to the regulations of Christian ethics which is still present in the Catholic tradition of the nation and which expects to be legally consolidated into a unified Polish law”⁷⁹. Thus there was an urgent need to unify the legal system, including the family legislation in the whole Republic of Poland⁸⁰. However, this brought the doubts whether the Codification Commission which was responsible for the unification of the Polish legislation in the newly-created regulations – would preserve the Polish and Christian traditions. These doubts were the more justified that the works of the Codification Commission on the Polish personal legislation were about to be finished and would soon be the object of the Seym’s debate, while “The press continuously spread the alarming news about deleting the Polish tradition in the

⁷⁵ M. Sopoćko, *Rodzina w prawodawstwie...*, 8.

⁷⁶ Ibidem, 8.

⁷⁷ H. Ciereszko, “Działalność naukowa i dydaktyczna księdza Michała Sopoćki”, *Studia Teologiczne, Białystok, Drohiczyn, Łomża* 26 (2008): 9.

⁷⁸ W. Makowski, *Rozważania prawnicze. Z dziedziny prawa publicznego, z dziedziny prawa karnego – mowy autora* (Warszawa) 1928, 176.

⁷⁹ M. Sopoćko, *Rodzina w prawodawstwie...*, 154.

⁸⁰ M.J. Kryński, “Normatywne i doktrynalne podstawy kształtowania się idei odrodzonego postępowania ze skazanymi uzależnionymi od alkoholu w Polsce w latach 1918-1969”, *Civitas et Lex* 2021, nr 2(30): 15-37.

project of the new legislation”⁸¹, despite the fact that around 75 % of the citizen of the Republic of Poland were of the Catholic denomination⁸². This high rate of the Catholic believers was another reason to justify the need to introduce compliance in the civil law accordingly to the natural and the revealed law in the matter of the family ethics⁸³. According to Father Sopoćko the word “ethics” comes from Greek and it means a custom, a tradition and the same as morality because in Latin – *mos*, also means a custom and tradition. The word “ethics” can also be understood as – “either good manners and it means the study of morality, tradition and virtues; or a collection of regulations on the duties and virtues”⁸⁴.

In this context, with ethics understood in such a way, Father Michał claimed that the state could and should provide regulations in the family life matters but these regulations in Christian societies cannot be contrary to the Christian ethics⁸⁵. Apart from that, the regulations provided by the state could regulate the civil relations of family members in either a detailed or a general way, however, “not interfering with the range of conscience and imposing sanctions on the laws of nature which are included in the regulations of the Christian ethics”⁸⁶. Civil law cannot cover all the details of family life as “they are so versatile that only the conscience can resolve them” as Father Sopoćko stated. However, the conscience is not only stable and it is sometimes very hesitant in the choice of the action. Thus the need to introduce moral theology⁸⁷, which is based on the Holy Scripture, on the decisions of Popes and Vatican Councils, as well as on the writings of the Fathers of the Church, of serious moralists and on the ecclesial practice. Thanks to that “moral theology resolves any doubts of conscience, corrects errors and thus it helps to reconcile the arrangements of family ethics with the laws of nature”⁸⁸.

Father Marian Biskup claims that this biblical nature, which was noticed by Father Michał Sopoćko, is the first specific trait of Christian morality. The connection between morality and faith is equally

⁸¹ M. Sopoćko, *Rodzina w prawodawstwie...*, 5.

⁸² Ibidem, 4.

⁸³ Ibidem, 4-5.

⁸⁴ Ibidem, 3.

⁸⁵ Ibidem, 10.

⁸⁶ Ibidem, 10.

⁸⁷ Ibidem, 10.

⁸⁸ Ibidem, 10.

important, and even so important that Christian morality is also called the morality of faith. Without faith there would be no Christian morality”⁸⁹. Therefore, Christian ethics includes the principles which come from the Christian faith. This, among others, is indicated in the fact that at the moment of introducing Christianity in Poland (in 966) the monogamous family became the norm. According to Father Michał Sopoćko, the family regulations were mainly introduced – “to a higher degree” by the ecclesial authorities. For example, the councils in Cracow (1189) and in Paris (1197) decided that “celebratory wedding ceremonies would take place in church accompanied by witnesses”. In 1309 the council of Pest (authorised by Pope Clement VI in 1346 for Poland and Hungary) “confirmed this order and threatened with excommunication and with the refusal to bury in the Christian rites to those who would not comply with it”⁹⁰. The Church recognises seven sacraments, including marriage, as was strongly emphasised by Father Michał Sopoćko⁹¹.

According to Father Wincenty Granat such a morality sets the Christian morality as an ethical system which proclaims certain rules of conduct, in particular the ones concerning the family. The family should provide the effective support of the Church in religious education⁹².

“As an apostle of the cult of Divine mercy”⁹³ Father Sopoćko claimed that the law of nature is the “eternal Divine law which appears in the animal world as an instinct, and among humans as the mind or reason, which guides us in our conduct and states what to do and what to avoid”⁹⁴. However, not everybody is capable to “draw further conclusions from the general laws of nature”. Thus in case of the customs and morality of the family, according to Father Sopoćko, the decision-making should be entrusted to the Church as it had already been bestowed to Her by God and as She “would be supported in that by God’s Revelation which, apart from the reason, becomes the new source of cognition”⁹⁵. Divine Mercy Revelation can also be found in the sacrament of marriage in which the merciful love of God flows on

⁸⁹ M. Biskup, “Swoistość moralności chrześcijańskiej”, *Saeculum Christianum* 3 (1996) nr 2: 150.

⁹⁰ M. Sopoćko, *Rodzina w prawodawstwie...*, 13.

⁹¹ Ibidem, 13.

⁹² Z. Tyszka, *Socjologia rodziny* (Warszawa: 1976), 114.

⁹³ J. Zabielski, “Błogosławiony ksiądz Michał Sopoćko – Apostoł Bożego Miłosierdzia”, *Śląskie Studia Historyczno-Teologiczne* 52,2 (2019): 312.

⁹⁴ M. Sopoćko, *Rodzina w prawodawstwie...*, 13.

⁹⁵ Ibidem, 10.

the spouses and on the whole human society which is based on the family⁹⁶.

What is more, in his encyclical *Veritatis Splendor*, devoted to the issues of morality, John Paul II stated that: morality is “The rational ordering of the human act to the good in its truth and the voluntary pursuit of that good, known by reason, constitute morality”⁹⁷. No man – according to John Paul II – can overrule the basic questions: *What should I do? How to distinguish right from wrong?* The answer can only be found in the light of the truth⁹⁸.

Sacrament of marriage – implementation of Divine mercy

According to Saint Paul, the Catholic marriage is the symbol of the relationship between Christ and the Church. The unity of Christ with His Church is supernatural, therefore, the sacramental marriage is also supernatural. Thus, as Father Sopoćko wrote, the Saviour “raised the natural relationship of a man and a woman to the dignity of a sacrament, bestowing the spouses with special grace to help them fulfil the great task of educating a new generation (...) through that he presented the greatest Divine mercy to the humanity”⁹⁹.

Father Sopoćko reminded that God is the Creator and Lawgiver for marriage, therefore, he confirmed in his teaching with his infallible gravity that it is not people but God Who unites the spouses and he reserves the special right for this relationship. „Have you not read that from the beginning the Creator ‘made them male and female’ and said, ‘For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh’? So they are no longer two, but one flesh. Therefore, what God has joined together, no human being must separate” (Math. XIX, 3-6)¹⁰⁰. (https://www.vatican.va/archive/ENG0839/_PVS.HTM).

⁹⁶ M. Sopoćko, *Miłosierdzie Boga w dziełach Jego*, vol. 3, (Rome – Paris – London: 1962), 239-240.

⁹⁷ John Paul II, *Encyklika Veritatis Splendor. Do wszystkich biskupów Kościoła katolickiego o niektórych podstawowych problemach nauczania moralnego Kościoła* (Kraków: 2017), 72.

⁹⁸ *Ibidem*, 2.

⁹⁹ M. Sopoćko, *Miłosierdzie Boga w dziełach Jego*, vol. 3, (Rome – Paris – London: 1962), 258.

¹⁰⁰ M. Sopoćko, *Rodzina w prawodawstwie...*, 31-32.

According to Father Sopocko, the decisive factor of the conclusion of marriage and of its condition is, by nature, love: “love awakes to the new life the unknown desires and emotions and in its pure full bloom it stimulates to seek not only oneself but the good of the beloved person to bestow him or her with the gift of self”¹⁰¹. As the virtue of love covers not only “the love of God but also the love of neighbour”¹⁰². Thus the love of the neighbour is, according to Sopoćko, the theological love. In our neighbour we are supposed to see God Who reveals Himself through the natural and supernatural gifts. It is because the virtue of love is supernatural”¹⁰³.

Therefore, true love does not know the boundaries of space and time and it possesses the quality of eternity. Apart from the feeling which comes from the soul, a sensual instinct appears, and “under the authority of the will, it becomes the ally of love, and without which it would only be a destructive and demoralizing power. Therefore, here is where the body and the soul cooperate, and the latter raises, ennobles and regulates the sensual feeling, bestowing it with the feature of permanence.”¹⁰⁴.

According to Father Sopoćko, marriage is an institution: Divine and human: Divine because its beginning, its aim, its rights and goods come from God; human as it is done by people who make a gift of self for the other spouses for the lifetime”¹⁰⁵.

Thus the sacrament of marriage provides proper grace for “courageous treading (...) on the thorny paths ...) Through multiplication of sanctifying grace, the sacrament improves the love of the spouses¹⁰⁶; the Apostle indicates its qualities:

“Love is patient, love is kind. It is not jealous, (love) is not pompous, it is not inflated, it is not rude, it does not seek its own interests, it is not quick-tempered, it does not brood over injury, it does not rejoice over wrongdoing but rejoices with the truth. It bears all things, believes all things, hopes all things, endures all things”(1 Cor, 13, 1-7) (<https://>

¹⁰¹ Ibidem, 34.

¹⁰² M. Sopoćko, *Miłosierdzie Boga w dziełach Jego...*, 112.

¹⁰³ Ibidem, 112.

¹⁰⁴ M. Sopoćko, *Rodzina w prawodawstwie...*, 35.

¹⁰⁵ M. Sopoćko, *Miłosierdzie Boga w dziełach Jego*, vol. 3 (Rome – Paris – London: 1962), 259.

¹⁰⁶ Ibidem, 260-261.

www.vatican.va/archive/ENG0839/_PVS.HTM), and therefore, love facilitates the life together¹⁰⁷.

Even greater mercy is expressed in the sacrament for the children that the spouses are to bear, to educate, to feed and to teach the moral life principles in order to ensure their earthly and eternal life¹⁰⁸.

The sacrament of marriage, as Father Sopoćko demonstrates, is also Divine mercy for societies, for the state and for all humanity “Society and the state base their existence on the family as they need healthy and brave citizens whose proper education is possible only under the condition that marriage will remain united and indissoluble”¹⁰⁹.

Therefore, the Catholic Church, as the lawkeeper of the natural and positive law, despite any threats and persecution from the authorities or despite any internal obstacles, “has always defended the indissolubility of marriage and even agreed to lose some of Her members than allowed for any compromise in this area”¹¹⁰.

Apart from the indissolubility, there is also another feature of the Christian marriage, which is the result of the natural law, that is: unity. It consists in the fact that marriage can only be contracted by “one man with one woman, therefore, any relationship polyandrous or polygamous will be forbidden”¹¹¹.

Father Michał Sopoćko emphasised that marriage is an interpersonal relationship of a moral nature and – “Therefore, marriage begins in the human will. The woman and the man usually need to grow up to this gift”¹¹², because it results in the strength of the relationship. In order to oppose to the weakening of the importance of marriage and its value, Pope Pius XI in his encyclical *Casti connubii* on Christian marriage (December 31st 1930), recommended the preparation of young people for marriage as the interpersonal community, constituted through “the mutual gift of self of two free parties”¹¹³. He condemned the opinions and actions which degrading marriage and he indicated the means of marriage renewal such as: submission to God’s will, piety and religious practice remembering about the sacramental nature of

¹⁰⁷ Ibidem, 261.

¹⁰⁸ Ibidem, 261.

¹⁰⁹ Ibidem, 261-262.

¹¹⁰ M. Sopoćko, *Rodzina w prawodawstwie...*, 37.

¹¹¹ Ibidem, 39.

¹¹² K. Krajewski, *Etyka rodzinna*, in: *U źródeł tożsamości kultury europejskiej*, ed. T. Rakowski (Lublin: 1994), 182.

¹¹³ K. Krajewski, *Etyka rodzinna...*, 183.

marriage. Father Sopoćko, while referring to the encyclical – motivated to follow the path which led to the Creator, and encouraged to be submissive to God's will as well as to live in piety and be an active practicing Catholic.

Protecting the integrity of the marriage act, Father Michał Sopoćko published a dissertation on the preparation for marriage, which referred to the encyclical *Casti connubii*. He indicated the trust into Divine mercy as the essence of the preparation¹¹⁴ which is reflected in the words addressed to the future mother included in “the Pre-marriage course” –

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while being pregnant the future mother must avoid hard work, nervous shocks, sadness, anger, arguments and all kinds of sins – instead she should train herself in patience and gentleness and zealously pray for herself and for the baby, and before the puerperium she should go to confession, receive the Holy Communion because she will experience a serious ordeal which is sometimes dangerous for her life. Despite that, the woman should follow towards her termination with bravery, like a soldier goes bravely and courageously to defend his Homeland, because motherhood – is the woman's military service and a woman who is giving birth – is a soldier in the precinct. She gives her Homeland a new citizen and a new member for the Church, therefore, she should trust Divine mercy and love the Creator and her country which usually makes the childbirth easier and brings the happy termination¹¹⁵.

As Kazimierz Krajewski wisely observes, the family ethics involves not only moral dilemmas of marriage and the family but also the “family-related” ones, among others, concerning pre-marital chastity¹¹⁶. Thus Father Michał Sopoćko combined the pastoral activity which concerned the family and its religious duties connected with educating children, with maintaining chastity and morality of the Christian family with the preparation for marriage¹¹⁷.

Summary

Bishop Henryk Ciereszko recalls Father Michał Sopoćko who remained in the memory of “the clergy and the faithful of the archdiocese as a role model of a priest who was totally devoted to the service for

¹¹⁴ S. Wiśniewski, “Błogosławiony ks. Michał Sopoćko. Kapłan o miłosiernym obliczu”, *Łódzkie Studia Teologiczne* 24 (2015) 4: 113.

¹¹⁵ M. Sopoćko, *Nauka przedślubna* (Wrocław: 1948), 34.

¹¹⁶ K. Krajewski, *Etyka rodzinna...*, 182.

¹¹⁷ M. Sopoćko, *Rodzina w prawodawstwie...*, 46.

God”¹¹⁸. He was a zealous priest, theologian, pedagogue, social worker, the apostle of the truth, God’s servant, whose life was reflecting the process of growing to the Christian ideals and holiness of a priest. He recognised the truth about the man, about marriage and the family on the basis of the tradition of the thought of personalism and the Christian culture. He proved that raising marriage to the dignity of a sacrament “Jesus proved his great mercy for the spouses and for the whole human community”¹¹⁹.

In the time of the strong philosophical views, propaganda and ideologies which were opposing the national culture and the Christian culture as well as the nature of marriage and the family, it is necessary to read the work of Father Michał Sopoćko, devoted to the family as a Divine and human institution called: *Rodzina w prawodawstwie na Ziemiach Polskich (Studium etyczno-prawne). [Family in the legislation on the Polish soil]*

Father Michał Sopoćko indicated that without the family, without its concern for education and service for life, there is no development of the Church or of the nation. He not only saw the threats but he also warned in a detailed way on how to overcome various difficulties and crises in the spirit of faith but also what educational tasks should be implemented while facing the difficulties. He advised that any departures, vices or failures in the family should be treated as a result of secondary considerations, and not as the results of the nature of marriage. The nature of marriage indicates its monogamous nature and indissolubility. Therefore, the monogamous nature of marriage and its dissolubility and thus the permanence of the family and its essential establishment should be supported as, according to Father Michał Sopoćko, they directly influence the welfare of the society and of the people which, in the contemporary times of violent transformations in every sphere of life, are particularly desired.

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¹¹⁸ H. Ciereszko, *Sługa Boży ksiądz Michał Sopoćko*, edition II (Białystok: 1998), 101.

¹¹⁹ M. Sopoćko, *Miłosierdzie Boga w dziełach Jego*, vol. III (Białystok: 2008), 260.

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Family structures on Polish soil at the end of the partitions period and in the interwar Poland. The outline of issues

The article focuses on the history of the Christian family (and of the Jewish family to a lesser extent) and of the household on Polish soil since 1880s till 1939. It aims at presenting the demographic characteristics of rural families (of peasants, of petty nobility and of landowners) and urban families (of craftsmen, bourgeoisie and intelligentsia) as well as the circumstances of rising and lasting of these families. The Author of the article presents in detail such important features as: the age of the newlyweds, the length of the marriage, fertility rate and the death rate in the families. Furthermore, the Author indicates the influence of the intense economic and social transformations on Polish soil from the second half of XIX century on the role and position of each individual member of the family: the spouses, the children and the grandparents.

Key words: family, marriage, children, household, Polish soil, XIX-XX centuries.

The years of childhood and youth of Blessed Michał Sopoćko¹ were accounted for the end of the partitions period which was the harshest for Poles in the Kingdom of Poland and in the Taken Lands (Western Krai). The beginning of his productive scientific work took place in the Reborn Poland. The end of XIX century and the first decades of the next century were the period of important political events that is: the collapse of three European super-powers and the significant economic transformations which resulted in social transformations.

¹ H. Ciereszko is the author who is writing most extensively about the life, work and scientific legacy of Michał Sopoćko, *Życie i działalność księdza Michała Sopoćki (1888-1976): pełna biografia Apostoła Miłosierdzia Bożego* (Kraków: 2006).

Industrial revolution, marked by new appliances and techniques of production, which began in Western Europe at the turn of XVIII and XIX centuries was transmitted into Polish soil in the second half of XIX century. As a result of that, the heavy industry developed: mining and metallurgy (Upper Silesia, Zagłębie Dąbrowskie, Warsaw); textile industry (the Kingdom of Poland, Białystok district, Lower Silesia); sugar industry (the Greater Poland, Gdańsk Pomerania, Kujawy, Mazovia)². In the agricultural industry one of the dominating branches was distilling industry (the Kingdom of Poland, the Greater Poland, Gdańsk Pomerania). The development of industry which resulted in a great need for employees in the emerging mines, steelworks and factories, caused the greater outflow of population from the rural regions which had previously been limited by the feudal dependencies, and thus resulted in the increasing urbanization. At the turn of XIX and XX centuries, the Upper Silesia was the most densely populated – 58%; as opposed to the Prussian Partition – 39% and the Kingdom of Poland – 33%. The lowest number of population in the cities was accounted for Galicia, only 20%³. In II Polish Republic the amount of the population increased enormously, mainly in big cities, with over 100 thousand inhabitants, while the urban population during the final period of the II Polish Republic in 1939 reached only 28%.

Despite the industrial revolution, Poland was mainly rural at the end of XIX century, as around three fourth of the population of Galicia and of the western Russian Empire governorates made a living from farming (in Grand Duchy of Posen, and in the Kingdom of Poland – 54-57%). The situation in the Reborn Poland was similar, the region was poorly developed economically, and peasants constituted half of around 35 million of inhabitants in 1938, and over 61% of the population made a living from farming⁴.

Creating of the industrial agglomerations on Polish soil resulted in the transformations in the social structure⁵. Mainly, a new group of a capitalist society was created. It consisted of the working class, who worked not only in industry (factory proletariat) but also, which

² A. Jezierski, C. Leszczyńska, *Historia gospodarcza Polski* (Warszawa: 1997), 179-190.

³ Ibidem, 157.

⁴ Ibidem, 248-249.

⁵ In the text below I refer to the precise deliberations which concern the transformations of the Polish society in the 20th century written by W. Mędrzecki, S. Rudnicki, J. Żarnowski, *Spoleczeństwo polskie w XX wieku*, ed. J. Żarnowski (Warszawa: 2003).

might have been forgotten, in agriculture and in trade. The group mostly consisted of landless peasants who came to cities, but also of impoverished craftsmen. On the opposite side, a new social group was created –bourgeoisie, who was recruited from great and medium merchants, the warehouse keepers, manufacture owners, sometimes even from aristocracy and landlords, or from scholars. From the ethnic perspective, apart from Poles, there were many Jews and a few Germans. Last but not least, the growing new social group which became more and more popular in the social structure on Polish soil at the turn of XIX and XX centuries, was the so called intelligentsia (scholars, journalists, politicians) which consisted of people from various social backgrounds, from the impoverished noblemen to the petty bourgeoisie and sometimes peasants. The great importance of this social group for the national cause during the First World War, as it was one of the pro-independence communities, and its managerial role in it, cannot be underestimated. In the independent Poland the role of intelligentsia and of the white-collar workers (researchers, teachers of various types of school, judges, prosecutors, solicitors, officers, doctors and engineers, people of art and culture) was explicitly strengthened (before the Second World War intelligentsia constituted 5% of the whole population), this group took the leadership of the whole current social life, politics, economy, administration, education and culture⁶.

At the same time, the processes of territorial mobility (migrations of people) were also intensified. Apart from the well-known previous migrations in search for work from the village to another village and from the city to the country⁷, at this point in time, after the agrarian reforms which were intensified (mainly the latter), as a result of the eagerness of the peasants' sons for education, a new type of economic migration appeared and increased to a high degree, which was either seasonal (mainly to Germany), and permanent (migration to the USA or Brazil)⁸. Both groups contributed to the budgets of the families

⁶ Both invaders of Poland Germany and the Soviet Russia were aware of the state-building role of the Polish intelligentsia, therefore, while invading Poland in September 1939, since the very beginning of the occupation, they aimed at the extermination of mainly this social group.

⁷ The migrations of peasants in the pre-industrial period were connected with the progress in assimilation into the urban environment as well as with their returning to the country; the processes are well described in the latest study of M. Wyzga, *Homo movens. Mobilność chłopów w mikroregionie krakowskim w XVI-XVIII wieku* (Kraków: 2019).

⁸ See W. Wrzesiński, *Polskie migracje*, in: *Migracje: dzieje, typologia, definicje*, ed. A. Furdal, W. Wysoczański (Wrocław: 2006), 159-171. The permanent emigration

which they left in the country, and those who came back influenced the peasants' mentality by promoting increased entrepreneurship exploration of the whole world⁹. Indicating only the transformations which were taking place in the society on Polish soil, we would like to emphasise the huge differentiation, even greater than the one in the Second Polish Republic, as far as prosperity and the material conditions of life were concerned.

Without doubt the social and economic, political and cultural transformations which took place in the 1880s 1890s and at the beginning of XX century on Polish soil influenced the situation of the basic socio-demographic unit, that is the family, and its role in the society, which at that time was ethnically and religiously diverse. At the turn of both centuries Poles predominated in the Kingdom of Poland – they constituted 72% of the population, in Cieszyn Silesia – 69%, and in the Grand Duchy of Posen – 62%, in Galicia – 59%. Ethnically the inhabitants of Lithuania and Belarus mainly consisted of 55% Belarusians, 14% of Jews, 13% Lithuanians 6% of Poles. In the 3 governorates of the southwestern part of the country (districts of Volhynia, Podolia, Kiev) the main inhabitants were Ukrainians – 62%; there were only 13% of Jews and 3% of Poles¹⁰.

At the same time Catholics constituted 91% of the population of the Upper Silesia 76% of the Kingdom of Poland, 61% of Prussian Partition, 47% of Galicia and only 31% in Lithuania and in Belarus. More than 42% of inhabitants of Galicia declared adherence to the Greek Catholic Church in the population census, similarly to the Prussian Partition 38% declared their adherence to the Evangelical denomination¹¹. In

from the Polish soil in the years 1870-113 was estimated at 3,5 mln people, 2,2 mln people emigrated to the USA, *ibidem*, 162.

⁹ A. Dobroński emphasises the growing impact of peasants and petty nobility from Łomża on the state's budget after bringing the money earned in the USA, which was paradoxical because the economically retarded countryside became relatively wealthy, *Infrastruktura społeczna i ekonomiczna guberni łomżyńskiej i obwodu białostockiego (1866-1914)* (Białystok: 1979), 117.

¹⁰ A. Jezierski, C. Leszczyńska, quoted p. 162-163.

¹¹ *Zarys historii Polski w liczbach. Społeczeństwo. Gospodarka*, ed. J. Łukasiewicz (Warszawa: 2012), 146-149. According to many historians (A. Chwalba, A. Dobroński, J. Łukasiewicz) the official data referred to Poles and the people of Roman Catholic denomination, however, they were rather unreliable because of the deliberate policy of Russification which involved even the Orthodox Church. The Russian authorities policy was aimed against the petty nobility which was the mainstay of Polishness; it is well described by J. Sikorska-Kulesza, *Deklasyfikacja drobnej szlachty na Litwie i Białorusi* (Pruszków: 1995).

Belarus, mainly in the eastern part, the majority of inhabitants were Orthodox Christians¹².

What is more, the Second Republic of Poland was also a multinational and multi-faith country in 1931, where Poles constituted almost 65% of the whole population, Ukrainians – 16%, the Jews almost 10% and Belarussians – 6%¹³. The majority of people were Roman Catholics – 64,8%, the 11,8% were Orthodox, 10,4% of Greek Catholics, 9,8% of Jews and 2,6% were Protestants¹⁴.

The following considerations mainly concern Christian families, to a lesser extent the Jewish family, and they do not constitute a comprehensive study. We think that despite publishing a few important and interesting studies about a working-class family¹⁵, about a bourgeois family¹⁶ and about a family of intellectuals¹⁷, presented with regard to bigger cities, we are far from becoming familiar with the whole situation of the family life and with the ongoing changes in it in smaller cities and in towns which were dominating in the urbanisation of the Polish soil¹⁸, not to mention the peasants¹⁹ or the petty nobility so common

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¹² A. Chwalba, *Historia Polski 1795-1918* (Kraków: 2000), 386.

¹³ We rely on the estimated values suggested by Z. Landau and J. Tomaszewski with the correction of J. Żarnowski, *Społeczeństwo Drugiej Rzeczypospolitej 1918-1939* (Warszawa: 1973), 374.

¹⁴ *Zarys historii Polski w liczbach. Społeczeństwo. Gospodarka*, 153.

¹⁵ A. Żarnowska, "Rodzina robotnicza w Warszawie na przełomie XIX i XX wieku", *Kronika Warszawy*, vol. 15, 1984, nr 2: 83-90; ibidem, *Modele rodziny i pozycja w niej kobiety w uprzemysławiającym się mieście na przełomie XIX i XX wieku. Tradycja i modernizacja*, in: *Pamiętnik XV Powszechnego Zjazdu Historyków Polskich*, vol. 2, *Przemiany społeczne a model rodziny*, ed. A. Żarnowska (Gdańsk – Warszawa: 1995), 47-55; K. Sierakowska, *Rodzina robotnicza w Królestwie Polskim w drugiej połowie XIX i pierwszej XX wieku. Ujęcie kulturowe*, in: *Rodzina, gospodarstwo domowe i pokrewieństwo na ziemiach polskich w perspektywie historycznej – ciągłość czy zmiana?* ed. C. Kuklo (Warszawa: 2012), 323-341.

¹⁶ M. Siennicka, *Rodzina burżuazji warszawskiej i jej obyczaj. Druga połowa XIX i początek XX wieku* (Warszawa: 1998).

¹⁷ K. Sierakowska, *Rodzice, dzieci, dziadkowie... Wielkomiejska rodzina inteligencka w Polsce 1918-1939* (Warszawa: 2003).

¹⁸ See on the subject – the interesting deliberations of R. Renz, *Gospodarstwo domowe i życie rodzinne w środowisku małomiasteczkowym międzywojennej Kielecczyzny*, in: *Rodzina, gospodarstwo domowe i pokrewieństwo...*, 343-359.

¹⁹ Among the earlier works written by ethnographers there are interesting works of various authors, e.g. the study of D. Markowska, *Rodzina wiejska na Podlasiu 1864-1964* (Wrocław: 1970), while among the few dissertations of contemporary historians the most interesting ones are the articles of W. Mędrzecki, *Kobieta wiejska w Królestwie Polskim. Przełom XIX i XX wieku*, in: *Kobieta i społeczeństwo na ziemiach polskich w XIX w.*, ed. A. Żarnowska, A. Szwarc (Warszawa: 1990),

and large in Mazovia and Podlachia²⁰. It is worth to notice the latest attempt of the synthetic characterization of the family on Polish soil in the long term, since the end of the Middle Ages until the half of XX century, which presents if not all, at least the basic states and classes of the society, with regard to various denominations and nationalities²¹.

The sphere of the detailed research issues devoted to the family, which is the smallest social group, which maintains the biological continuity and transmits the basic cultural legacy, is so enormous that it requires every single aspect to be properly defined. The sphere of the material aspect of the family life (the structure of incomes and expenditures, nourishing, living conditions) are in the sphere of interest of the representatives of the economic science, similarly to the socializing functions of family members – this is in the sphere of interest of historians of upbringing and education, while the personal privileges and property rights of spouses, the relationship arising out of blood ties and the care for minors, belong to the sphere of interest of the specialists of the family law.

Therefore, the main aim of our dissertation is to define the main features of development of former families, from the moment of contracting marriage until getting of age of their children, with regard to the age, marital status of the newlyweds, the sustainability of marriage and widowhood and frequency of contracting the second marriage among the number of all marriages. It is also essential for us to get to know better the procreation function of the family, that is the level of fertility rates and – from the other side – the deaths rate among infants and children which used to have the greatest influence on the pace of

130-138; ibidem, *Intymność i sfera prywatna w życiu codziennym i obyczajach rodziny wiejskiej w XIX i w pierwszej połowie XX wieku*, in: *Rodzina – prywatność – intymność. Dzieje rodzin polskiej w kontekście europejskim*, ed. D. Kałwa, A. Walaszek, A. Żarnowska (Warszawa: 2005), 105-121; ibidem, "Model post-radycyjny jako forma odpowiedzi wsi polskiej na wyzwania XIX i XX wieku", *Rocznik Łódzki* vol. 66, 2017: 181-188.

²⁰ In Łomża governorate before the I World War the petty nobility constituted more than one third of the population and was on the second place as far as the number of the population was concerned, just after peasants. See A. Dobroński, quoted, 206.

²¹ *Rodzina i jej gospodarstwo na ziemiach polskich w geografii europejskich struktur rodzinnych do połowy XX I wieku*, ed. P. Guzowski, C. Kuklo (Białystok: 2019). The English version of the volume with the added part devoted to the Jewish family in XIX and XX century was issued in 2022 by the prestigious publishing house Routledge – *Framing the Polish Family in the Past*, ed. by P. Guzowski, C. Kuklo, translated by T. Czogała-Koczy, J. Czogała-Kiełboń, London – New York.

the population growth and on social development. However, we are not going to limit our deliberations only to the married couple and the offspring, as the previous research revealed that some part of them did not constitute their own economic units and they were a part of the household of their parents or in-laws. It is therefore worth to get to know the size and the members of the households which were living on Polish soil from the end of XIX century until 1930s, at least approximately, in the rural and urban communities. And last but not least, we are interested in the issue of the influence of social, economic, political and cultural changes which were taking place during the period of partitions and the Second Republic of Poland on the prestige and the role of its members that is on the father, the mother, the children and grandparents and other relatives.

Marriage constituted the basis of the family and it was an important institution for all the social groups and communities. Thus, both among the impoverished and the middle-class, and among the landowners, merchants, bankers and entrepreneurs, there were some marriage strategies which aimed at the most beneficial marriage of the son or the daughter. Marriage was not only the reflection of the social aspirations of two young people and their families but marriage was mainly the realization of certain economic interests, while among the social elite: landowners and bourgeoisie it was an essential element of the more comprehensive ancestral policy. The society shared a common view that the newlyweds should come from the families of equal or similar financial status which would guarantee an equal financial contribution of the future spouses. This principle was supposed to provide the sense of equality of husband and wife in the family. The living parents who, especially among the landowners and bourgeoisie and intelligentsia, tried to take into account the opinion of their adult children, but mainly sons than daughters, determined the marriage strategies. However, it is worth noticing that the most important factors in choosing the spouse for the majority of social classes, that is: the economic and prestige incentives (which were also a basic principle for the working class), played a minor role among the intelligentsia where we could observe the increase in the children's independence in this sphere and attaching greater importance to the matter of the feeling which connected the couple²².

It seems that in terms of selecting the spouses the most conservative social classes of that period were the landowners, ancestral aristocracy and bourgeoisie, who felt strong sense of individuality and superiority,

²² K. Sierakowska, *Rodzice, dzieci, dziadkowie...*, 57-58.

while the intelligentsia was the most receptive to innovations. As far as the first group is concerned, it resulted from the specific limitations on marriage market. Thus, as opposed to the other groups and social classes, marriages among the wealthy landowners and among aristocracy or bourgeoisie exceeded the boundaries of partitions and of countries.

Peasants in the countryside found their spouse while watching her during the fieldwork or in their own village or in a village close to their parish or in the neighbourhood, sometimes they exceeded the boundaries, however, the spouse came from the same social class. The situation was similar in the small-town communities, where the young couples met at their workplace or during a holiday when they participated in the same liturgy in the Roman Catholic Church, in the Greek-Catholic church or in Evangelic kirche or in the Orthodox Church. Young working class, apart from the common work in a factory, met during dance parties or in the promenades which were coming into fashion at that time. In the big densely-populated cities, the correlation between the social status and professional status of the future spouses and the spatial extent of the class which they come from, was clearly visible. The extent of the network of contacts was the widest among the wealthy urban elites and the most limited among the poorer class (labourers, apprentices, domestic staff), who usually found their future spouse in the same parish, or even in the same street or tenement-house.

The age of contracting marriage in all the social classes mainly depended on the financial status, however, in the most well-off social classes men often delayed the time of starting a family. However, as a rule, the wealthier usually started their families earlier, regardless of the place where they lived (the city or the countryside). At the end of XIX century and during the first decades of XX century Catholic peasants in the big Podlachia parish Trzcielne married for the first time at the age of 25-26, similarly to the farm owners in the not very rich villages of the Kielce parish of Bejsce, or the peasants who lived in the Kochłowice parish in the Upper Silesia²³. The unmarried peasant women who were getting married at that time in the parish of Trzcielne were mainly 21 years old (until the end of XIX century), at the beginning of the next century the women getting married were even a year younger; in the countryside in the Kielce region the women were getting married at the age of 21-22, similarly to the Upper Silesia.

²³ E. Piasecki, *Ludność parafii bejskiej (woj. kieleckie) w świetle ksiąg metrykalnych z XVIII-XX w. Studium demograficzne* (Warszawa – Wrocław: 1990), 149;

The members of the petty nobility in Podlachia started their families in a similar age to the age of their peasant neighbours, which mainly concerned young women because young men married a year or two later than the peasant young men, mainly at the age of 26-27. The same situation was repeated in the parish of Ciechanowiec, where the impoverished noblemen married at the age of 24-29 (61%), to the quite young women of 19 or less (35%) and only slightly older – 20-23 years old (40%)²⁴. The Uniate young single men, peasants and townspeople who lived in the parish of Kałuszyn in the far away Ukraine at the foot of the Carpathian mountains (the basin of Dniester river) married at the average age of 27 while young women at the age of 22²⁵.

Greater differences of age of the newlyweds appeared in bigger cities (Warsaw, Łódź, Lviv, Cracow, Poznań, Białystok), which were specific because of the wider range of the social and occupational categories of the citizens. Workers married quite early, at the age of 20 to women who were even younger, which resulted from the early start of the women in entering the labour market and earning money.

In comparison to the majority of the society, the descendants of capitalists e.g. in Warsaw, as a rule married as late as at the age of 30, having reached the first successful stage of career which guaranteed maintaining the family at a sufficiently high standard of living. Until 1980s they chose to marry young women (mainly 20 year old), although the age of the women grew systematically to the age of 25 before the I World War²⁶. In the class of the rich landowners the trend concerning the age of the newlyweds was similar both for men and women, however, during that period marriages of the couples with a with a big age difference also started to appear (e.g. young women married much older men)²⁷.

There are very few surveys regarding the age of the newlyweds which would emphasise their diversified denomination structure. On the basis of the research on the society of Toruń of 1910 (the city of 45 thousand citizens, including 52% Evangelicals and 46% Catholics),

²⁴ M. Dajnowicz, *Drobną szlachta ziemi łomżyńskiej na przełomie XIX i XX wieku* (Łomża: 2002), 182.

²⁵ K. Rzemieniecki, A. Miesiąc-Stępińska, “Śluby w parafii greckokatolickiej Kałusz w latach 1785-1897”, *Przeszłość Demograficzna Polski* vol. 33, 2014: 53-54.

²⁶ M. Siennicka, quoted, 42-43. The earlier situation in Warsaw was similar (1858-1861) in the higher social classes (clerks, solicitors, doctors, merchants, factory owners), the majority of men married at the age between 30 and 40, see S. Kowalska-Glikman, *Ruchliwość społeczna i zawodowa mieszkańców Warszawy w latach 1845-1861* (Wrocław: 1971), 27.

²⁷ E. M. Kostrzewska, *Rodzina ziemiańska*, in: *Rodzina i jej gospodarstwo...*, 271.

referring to the period from XIX century and at the beginning of XX century, there were no noticeable differences because the age of young men contracting marriage of both denominations in the years 1881-1914 was 26 – 26,5 and of young women 23,5 – 24²⁸. While in Lviv, the city of many nations, denominations and cultures, the comparison of age of contracting marriage is only possible with regard to the period of 1874-1875. The oldest newlyweds were among Armenians – 35 year old but they mainly married the youngest girls (apart from Evangelicals), 24-year-old women. The single Roman Catholic and Greek Catholic men were mainly 30 years old when they got married. However, Catholics usually married women 3 years younger or at the same age, while the believers from the Uniate Church married women of the same age or even slightly older – 32 year old. The youngest married couples were among the Evangelicals: men – 28 year old and women – 22 year old²⁹. Among the Protestants of Poznań, the married couples consisted of men and women at the same or similar age (1855-1905), the men were on average 28 year old as opposed to the citizens of Lviv who were older than their wives only 3 not 6 years³⁰.

In the earlier literature we could often encounter the notice on starting the family in the Jewish community as they usually did it very early in their life which could result in the greater number of children that they could have. The latest research shows the subject in a different light – indicating the moment of gaining independence by young Israelites. In the Belarusian governorates in the first half of XIX century the age of contracting marriage was 19-20 for both sexes, and the situation was similar among the Jews in Suwalski region: 22 years for men and 20 years for women, similarly to Piotrków Trybunalski³¹.

²⁸ A. Zielińska, *Przemiany struktur demograficznych w Toruniu w XIX i na początku XX wieku* (Toruń: 2012), 367-369. Similar K. Makowski who conducted research of the society of Poznań in the period earlier than the one presented in this dissertation, in the first half XIX century (38 thousand citizens in 1846 r., excluding soldiers and their families), and did not notice any particular differences in the age of the newlyweds between Poles, and Germans, Catholics and Evangelicals, see K. Makowski, *Rodzina poznańska w I połowie XIX wieku* (Poznań: 1992), 92.

²⁹ K. Wnęk, L. A. Zyblikiewicz, E. Callahan, *Ludność nowoczesnego Lwowa w latach 1857-1938* (Kraków: 2006), 145.

³⁰ G. Liczbińska, *Lutherans in the Poznań province. Biological dynamics of the Lutheran population in the 19th and early 20th centuries* (Hamburg: 2015), 129.

³¹ B. Stępniewska-Holzer, "Badania nad rodzinami żydowskimi w białoruskich guberniach strefy osiedlenia w XIX wieku", *Roczniki Dziejów Społecznych i Gospodarczych* vol. 60, 2000: 173-176; A. Markowski, *Miedzy Wschodem a Zachodem. Rodzina i gospodarstwo domowe Żydów suwalskich w pierwszej połowie*

The violent economic transformations which were taking place in the second half of XIX century influenced the age of starting the family increasing this age among the Jewish males, but the Jewish women still remained the youngest among other brides. In the mid-1870s in the Jewish community in Lviv, men got married at the age of 28 (only two years earlier than Catholics and Greek Catholics), but they married much younger women of 22 years old (Catholic women – 27, Greek Catholic women – 30). What is more, in Toruniu in the end of XIX and at the beginning of XX century the average age of contracting married by Jews was similar to the Christian men, while Jewish women were one year younger than their Evangelical counterparts and two years younger than the Catholic women³². In some circles where, regardless of their size and economic structure, Jewish newlyweds were not that young. The industrializing Wrocław is a good example of such a situation (in 1885 – 300 thousand inhabitants, including 18 thousand Jews), as well as the small Greater Poland's Wolsztyn. In both of these different cities men married for the first time at the age of 30-31 to young women of 25-27 years old in Wrocławiu and 27 years old in Wolsztyn³³.

The foregoing considerations may appear to be presenting marriages as a very common phenomenon in the discussed period which meant that all adult people would sooner or later get married (apart from the monastic clergy and priests and nuns). We want to strongly emphasise that it was not true, and the number of permanently unmarried people was quite large. Only among the people from the country, peasants and petty nobility, we could meet single permanent celibates. However, in the small-town circles, only 2-3% of the population of over 50 years old, and even more women of this age remained permanently unmarried. The biggest concentration of the permanently unmarried people used to be the biggest cities, mainly consisting of women which was noticeable already in the cities of the Republic of Poland of nobility³⁴. In Cracow in 1890 there were over 69 thousand

XIX wieku (Warszawa: 2008), 128-129; T.M. Jankowski, "Małżeństwa Żydów w Piotrkowie Trybunalskim w latach 1808-1870", *Przeszłość Demograficzna Polski* vol. 37, 2015, nr 3: 55.

³² A. Zielińska, quoted, 369.

³³ A. Zielińska, *The jewish family in the 19th and early 20 centuries*, in: *Framing the polish family...*, 275.

³⁴ C. Kuklo, *Demografia Rzeczypospolitej przedrozbiorowej* (Warszawa: 2009), 277. It is noticeable in the big provincial of the Kingdom of Poland in 1897 in the majority of which feminization rate amounted from 112 to 119 women for every 100 men, see W. Prus, *Ludność Królestwa Polskiego 1864-1914* (Warszawa: 2019), 142.

civilians and each 100 men accounted for 122 women, the percentage of the permanently unmarried men equalled 8% and among women – twice as much – 15%³⁵. While in the metropolitan city of Warsaw in 1931 with around 1,2 million citizens and the noticeable predominance of women (119 W/100 M) the phenomenon was also prominent. The permanent solitude mainly appeared in the social groups with lower incomes, mainly among female workers and domestic staff, which again emphasises the importance of the material status in planning and starting the family.

Among the general amount of contracted marriages, the relationships of single men with single women predominated, however, to a various degree. In 1880s there were more of such relationships in the rural and small-town regions (75-85%) than in big cities (60-70%), mainly because of the higher mortality rate which resulted from the poor living conditions which influenced the longevity. Later on, before the I World War, in bigger urban agglomerations which gathered young people from all over the country, e.g. in the capital city of Warsaw, in 1936 there were 88% of the first marriages of Catholics and 93% of marriages among Jews among all others³⁶. The biggest group of second marriages (of widows or widowers) were contracted between widowers and young single women, and a smaller group of marriages were contracted between single men and widows. The lowest number concerned the marriages of widows with widowers. The previous studies clearly indicate that widowers were favoured over widows on the marriage market. As a rule, widowers very quickly contracted second marriages and half of them usually got married within the first 3-5 months after their wives deaths, while widows got married within the 2 or even 3 years after losing their husbands. Widowhood of women especially of the elderly and middle-aged was widespread in the demographic structures of Polish cities regardless of their size or social and occupational profile.

For the record, it should be underlined that the age of newlyweds and the structure of the contracted marriages have never been permanent and the trends of raising the age of getting married appeared during the times of the deterioration of the economic situation, similarly, it was lowered in the time of the improvement of the living conditions and of the increase in the possibilities to get employed. On the other

³⁵ The Author's own calculations on the basis of L. A. Zyblikiewicz, *Ludność Krakowa w drugiej połowie XIX wieku. Struktura demograficzna, zawodowa i społeczna* (Kraków: 2014), 127.

³⁶ *Rocznik Statystyczny Warszawy 1936-1937* (Warszawa: 1938), 16.

hand, demographic crises (which have not been sufficiently described in the Polish literature) resulted in the immediate interruption in the functioning of dozens or hundreds of the existing families and in the recurring pursuit of the widows and widowers to restore their existing household as soon as possible which meant unusually increased number of second marriages.

The previous studies confirmed the relationship between the seasonal nature of weddings and the social and occupational, denominational and spatial nature of population. What is more, the ecclesial regulations in all the Christian communities forbade to contract marriages in Advent (until the Epiphany) and during Lent (until the first Sunday after Easter), which means during March and April³⁷. Rural population (peasants, petty nobility) mostly contracted marriages in late autumn mainly in November, after finishing work in the fields. The second noticeable peak period in this circle was the beginning of the year, the period of carnival, during January and February. The economic factor, which was also noticeable in the cities and towns, exerted less impact among the population of bigger cities where the amplitude of volatility was lower and the third peak period of the increased number of contracted marriages occurred in May (Lublin, Toruń), June (Warsaw) or July (Posen).

Furthermore, the nature of Jewish weddings was also seasonal, as they strongly follow various traditions: religious and moral. Due to a different timetable of holidays in the Jewish calendar, and the greater interpretative freedom of the same religious rules in this circle it was more differentiated than among Christians. The Jews from Suwałki most eagerly contracted marriages at the beginning and at the end of agricultural work (the least in July), while in Piotrków Trybunalski, Toruń, they got married from November until March, excluding (not always, like in Toruń) the summer months..

To sum up the brief description of the marriage on Polish soil within the agreed time frame (1880-1939) we cannot ignore the issue of marriage duration. In the rural and small-town circles only the death of the spouse interrupted the functioning of the smallest social unit as the phenomenon of divorces did not appear there. However, there were also single-parent families, mainly deprived of the father and husband rather than of the mother and wife, due to the economic migrations abroad which not always ended with the happy return to the family.

³⁷ Due to the movable date of the feast of Easter which dates between March 22nd and April 25th. On the seasonal nature of marriages, see P. Rachwał, *Ruch naturalny ludności rzymskokatolickiej w Lubelskiem w świetle rejestracji metrykalnej z lat 1582-1900* (Lublin: 2019), 181-188.

Also in the working class, especially among the poorer ones, marriages ended in separation or divorce due to abandoning the family. However, in legal terms, that is divorces, the majority of divorces took place in the circles of the big-city intelligentsia, particularly among the artistic and officers' circles of the Second Polish Republic. The majority of couples, despite various problems in their everyday existence, which were sometimes even suffering from serious marital conflicts (moral and customary affairs, violence and alcohol addiction), tried hard not to allow for the break of the wedlock³⁸.

In the discussed period, marriages lasted longer than in the old-Polish period and at the beginning of the period of partitions (in the country they lasted around 15-20 years, in the cities for 15 or fewer years). The general improvement of the living conditions, in the country – wide-spread growing of potatoes, dismissed threat of starvation in the pre-harvest season even for the poor inhabitants, in big cities – the noticeable decrease in the mortality of infants and babies as well as the decrease in the mortality in the puerperium period of women and spreading of the medical care (also concerning the newly delivered mothers), resulted in extending the lifespan.

The first marriages of peasants in Kielce region in the second half of XIX century lasted on average 26-27 years, and the second marriages lasted even 18-19 years³⁹. The same applied to the marriages of peasants in Upper Silesia e.g. in the villages of Toszek parish, but only among rich peasants (26 years) and slightly shorter among peasants who owned farms and cotters (24 years), not to mention the marriages of bailiffs (only 13 years), which suggests the influence of the social and occupational status and the living conditions which resulted from it. This dependence is clearly visible on the example of the centre of the mentioned parish of the artisan town of Toszek (almost 1,9 thousand inhabitants; Catholics – 85,5%, Jews – 8,4%, Evangelicals – 6,1%), where the marriage of a merchant lasted on average 38 years, of the craftsman – 25 years and of a clerk almost 19 years⁴⁰.

³⁸ The lack of a more exact statistics of divorces before 1939 makes it impossible to make a more exact analysis, but the percentage of adults recorded in directories as divorced or separated, was very low and e.g. in Poznań in 1931 among the inhabitants at the age of 15 and more, they constituted less than 1%, see S. Abt, *Ludność. Struktura demograficzna miasta*, in: *Dzieje Poznania*, vol. 2, 1793-1945, ed. J. Topolski, L. Trzeciakowski (Warszawa – Poznań: 1998), 971.

³⁹ E. Piasecki, quoted, 153-154.

⁴⁰ D. Daszkiewicz-Ordyłowska, *Rodzina w parafii toszeckiej w latach 1789-1877*, in: *Śląskie studia demograficzne*, vol. 5, *Rodzina*, ed. Z. Kwaśny (Wrocław: 2001), 98-100.

Among the Warsaw bourgeoisie, the majority of marriages contracted at the beginning of the second half of the century lasted over 30 years (over 57%), although at the turn of the centuries it definitely decreased to over 21%, which could have resulted from, on the one hand, the raised age of women getting married, and, on the other hand, the decisions to get divorced or separated⁴¹. The lack of detailed study does not allow for the precise answer to the question of duration of marriages among the wealthy landowners. Indirectly we can presume that they were functioning as long as the ones among the bourgeoisie, although the representatives of this class (mostly men) did not care much for the sustainability of marriage⁴².

Theology
of Family

Birth of a child constituted not only an important but also highly celebrated event in almost every family as it provided the most important biological continuation. Therefore, infertility was not approved of and it was usually considered to be the woman's fault⁴³. In the discussed period, the typical family usually was a large family with many children, and the peasant families used to have more children than the workers' families. The problem of the correlation between the number of children and the family's social status or the economic status used to be discussed in the thematic literature. As long as this correlation is noticeable in the rural communities (the more well-off families had more children) and in the provincial towns, it was not that clear in big cities which were characterized by variety of occupations and activities of the inhabitants and thus of various levels of prosperity.

With this brief draft of the question of birth rate of former married couples on Polish soil since the end of XIX until 1930s, we need to face the fact that we enter a sphere which is not easy for characterization as it concerns individual attitudes towards procreation which in various social classes (intelligentsia) did not have to be constant and which were undergoing transformations⁴⁴. On the other hand, even in the small-town provincial circles which embodied the traditional

⁴¹ M. Siennicka, quoted, 45.

⁴² E. M. Kostrzewska, quoted, 272; A. Szwarc, *Rygorystyczne normy i swobodne obyczaje. Małżeństwo i związki pozamążęńskie w opiniach ziemianoskarystokratycznej elity w połowie XIX wieku*, in: *Kobieta i małżeństwo: społeczno-kulturowe aspekty seksualności. Wiek XIX i XX*, ed. A. Żarnowska, A. Szwarc (Warszawa: 2004), 89-101.

⁴³ See on the subject A. Boldyrew, *Matka i dziecko w rodzinie polskiej. Ewolucja modelu życia rodzinnego w latach 1795-1918* (Warszawa: 2008), 21.

⁴⁴ A. Boldyrew wrote about the trends to avoid procreation by various social groups, presenting the used methods and the attitudes of the medical community towards the termination of pregnancy, quoted, 31-36.

ways of thinking and acting, and were not very keen on novelties or progress in sphere of marriage and the family, there were many cases of resorting to the birth control and family planning. It is confirmed by the opinions of priests in the parishes, which were collected in a survey concerning family morality of the parishioners in the years 1920-1929 conducted in the diocese of Kielce. It contains statements about avoiding procreation in the form of coitus interruptus, while a parson from Busko Zdrój wrote: "avoiding procreation is noticeable not only among intelligentsia but also among the whole population, it results from the fear of the burden and duties of motherhood"⁴⁵.

The number of childbirths was influenced but the age of contracting marriage and by the duration of marriage. Therefore, mothers who initiated procreation the earliest that is before the age of 25 usually gave birth to 10 or even 12 children, and the 5 year older mothers gave birth to 8 or 9 children. And even those who got married relatively late (35-39 years old) usually gave birth at least to 3 children. However, their whole biological potential was hardly ever used because the final number of children was usually limited by economic factors but the social and cultural practice was also of great importance (the duration of breastfeeding, the time before the births of subsequent children, the age of the previous child, physical and mental fatigue, the frequency of the sexual intercourse, involuntary miscarriages). Let's not forget about the ongoing high death rate of infants and babies. Even at the end of XIX century, for every 1000 live births in the country, 250 children died in infancy (100 years earlier even 350), and in big cities even more. The improvement of this situation which evident in reduced mortality rate of infants took place in the period of II Polish Republic (187 deaths in 1920 and 142 deaths in 1930 for every 1000 live births)⁴⁶. The percentage of death rate of small children 1- 4 years old was also very high. It should be emphasised that at the end of XIX century in the families of peasants from Małopolska region only slightly more than a half of the children grew up until the conventional age of 20 which allowed for starting a family, while in the inter-war Poland at the beginning of 1930s as many as three fourths, and in some cities such as Poznań even more – 80%⁴⁷. On the other hand, during the whole discussed period the overall birth rate decreased. Infants usually died of pneumonia,

⁴⁵ R. Renz, quoted, 353-354.

⁴⁶ C. Kuklo, J. Łukasiewicz, C. Leszczyńska, *Historia Polski w liczbach. Polska w Europie/History of Poland in Numbers. Poland in Europe* (Warszawa: 2014), 92.

⁴⁷ E. Piasecki, quoted, 288-290; *Mały Rocznik Statystyczny Polski wrzesień 1939 – czerwiec 1941* (Londyn: 1941), 25 [reprint Warszawa 1990]; S. Abt, quoted, 968.

diarrhoea and the accompanying intestinal disorders, as well as of the congenital defects and infancy diseases. There were two peaks of the seasonal death rate of infants: the winter peak in February and the summer peak in August, while the latter was strongly connected with infectious diseases.

Wealthy peasants used to have more than 5-7 children while the poorer bailiffs 3-4. The cases of women who gave birth to 13-15 children have been very rare, even when they had two husbands⁴⁸. The families of miners in the Upper Silesia used to have 7 children. In the small-town circles, which were also quite versatile, in the social and occupational aspects, where, similarly to the countryside, the predominant model of the family was the traditional model of family life with a few children, usually there were fewer children – 3-5. The working class families in big cities of Warsaw and Łódź used to have more children, on average from 4 to 6, although during the period of II Republic of Poland, the number of families with the greater number of children – 10 and more, clearly decreased. Researchers emphasise that in this circle the higher social status was expressed in the lower number of the offspring and on the contrary, in poorer families of part-time workers or even of unemployed, the number of children was greater.⁴⁹

The sizes of landowners families also varied, they consisted of childless families and of families with a dozen children but on average at the beginning of XX century in the Kingdom of Poland there were 5 children per family and in the interwar period even more 6-8. In rich families of financiers and the merchants of Warsaw there was the trend of limiting the number of the offspring from 6 (1850-1859) to almost 2 before the I World War, among the short-term and long-term marriages lasting a dozen years, which indicates the deliberate limitations. In the interwar period the intelligentsia families were the ones who deliberately limited the number of children, more and more couples resigned from having children. It is worth to notice that journalists writing the columns in "Przegląd Powszechny", the magazine addressed to the Catholic intelligentsia, promoted 4-children families (but not the large ones)⁵⁰. Withdrawal from having a greater number of children was also noticed in the rural areas e.g. in the families whose members were interviewed thoroughly e.g. the families of peasants

⁴⁸ E. Piasecki, quoted, 270.

⁴⁹ A. Żarnowska, *Robotnicy Warszawy na przełomie XIX i XX wieku* (Warszawa: 1985), 94.

⁵⁰ K. Sierakowska, *Rodzice, dzieci, dziadkowie...*, 100-104.

in the region of Kielce in which at least one fourth of young mothers postponed the next pregnancies⁵¹. Such attitudes were not accepted by the Church (the Catholic Church was particularly against birth control methods)⁵², which resulted from Her doctrine that procreation is the main aim of marriage⁵³.

The recent survey which concerns Jewish families does not confirm the myths that they used to have many children, but in various ways it emphasises the influence of the economic status of the family. In the Jewish families of Suwałki the richest merchants' families usually had only two children which could have resulted from perceiving a child in economic terms and the families of craftsmen (e.g. tailors, butchers, chimney sweeps) had around 4 children⁵⁴. In Piotrków Trybunalski in the half of 1860s the situation was totally the opposite – the wealthiest families had three children while the poor ones – only two or fewer⁵⁵. Also in Toruń (1861-1910) the number of children in the Jewish families was very low – around 3,5 children.

In the majority of families the first child was born usually within the first year or two years after contracting marriage, although the amount of pre-marital conceptions among peasants or in the urban communities was not small⁵⁶. However, there were no pre-marital conceptions among the rich bourgeoisie, landowners and aristocracy mainly because of the parental control over the growing up youth. The next children, depending on the fate of the previous one, were usually born every 2 or 3 years although it did not concern the attempts to conceive a baby.

⁵¹ E. Piasecki, quoted, 218.

⁵² R. Renz, quoted, 74.

⁵³ See the collection of studies written by professors of the Catholic University of Lublin – *Małżeństwo w świetle nauki katolickiej* (Lublin: 1928), ibidem, *Małżeństwo – Cele*, in: *Słownik małżeństwa i rodziny*, ed. E. Ozorowski (Warszawa – Łomianki: 1999), 230-231.

⁵⁴ A. Markowski, quoted, 179-180.

⁵⁵ T.M. Jankowski, “Ruchliwość społeczno-zawodowa Żydów i formowanie się gospodarstw żydowskich w Piotrkowie Trybunalskim w latach 1808-1870”, *Przeszłość Demograficzna Polski* vol. 37, 2015, nr 4: 78.

⁵⁶ In the countryside in the region of Kielce in the second half of XIX century the pre-marital conceptions accounted for only a little over 5% (E. Piasecki, quoted, 348); while in the Upper Silesia in the villages in the parish of Strzelce Opolskie there were 23,4% of them, and in the town even – 31,3% (J. Spychała, *Rodzina w parafii Strzelce Opolskie w latach 1766-1870*, in: *Śląskie studia demograficzne*, vol. 5, *Rodzina*, ed. Z. Kwaśny (Wrocław: 2001), 9-10.

In peasant families children were conceived after finishing the works in the fields (mostly in May) and much fewer in the summer months and in the early autumn (July- October). In urban communities, especially in big cities, the seasonal nature of conceiving the child was not identical because, apart from the usual time of conceiving the child during spring (May, June), there were more conceptions during the summer (July and August)⁵⁷.

Making a short analysis of fertility rate of the former families, we cannot skip the question of extramarital conceptions which were by no means negligible but rather quite spatially diversified. At the turn of XIX and XX centuries many illegitimate children were born in Galicia – 11,6%, in the Prussian partition – 8,8%, and the fewest in the Kingdom of Poland – 4,6%⁵⁸. Urban communities have always had a greater share in the birth rate than the rural communities, e.g. in the cities of the Congress Kingdom of Poland there were 8,5% of them, while in the countryside only 3,8%. This phenomenon was increasing in bigger cities which were inhabited by the increasing number of young people, mainly women who were looking for better living conditions and who usually ended up working as the domestic staff, labourers or often became unemployed. However, at the beginning of XX century, the high rate of extramarital births predominated not in the fast developing Warsaw or Łódź but rather in Cracow where every fourth born child had the status of being illegitimate. In comparison to the beginning of the century, in the interwar Poland, the frequency of extramarital fertility significantly decreased. At the beginning of 1930s there were only 6% of such births in the whole country (11,1% in big cities and 4,9% in the countryside), more in the western and southern regions (8%) than in the central and eastern regions of Poland (5%). At the same time the number of extramarital births was the lowest among the Orthodox Church believers (4,6%) and Catholics (5,2%) and slightly bigger in the communities of Evangelicals and Greek-Catholics

⁵⁷ We can deliberate over the fact to what extent did the religious principles which indicated the necessity of sexual abstinence during Advent (December) and the Lent (mainly March) influence the sexual activity in families. In the rural parishes and in the city of Lublin we could notice the increase in the number of conceptions during these two months, greater in the city. See P. Rachwał, quoted, 240, 244. On the other hand, the inhabitants of Toruń, Catholics and Evangelicals alike, tried to restrain from any sexual activity during this time. See A. Zielińska, *Przemiany struktur demograficznych...*, 401-403.

⁵⁸ We refer only to the collective statistics from the work of P. Szukalski, *Płodność i urodzenia pozamążęskie w Polsce* (Łódź: 2001), as in the smaller communities – parishes, we can observe greater differences even within the scope of the same districts or voivodeships.

(6,4-6,5%). Among Jews 28,6% of the children were born in ritual marriages and these children were not registered in any registry office so they were counted as the illegitimate. We should add that the “burden” of being illegitimate did not result in any problems with getting married in small and traditional communities in the countryside, however, it was long remembered by the neighbours, as the terms “illegitimate” or “born out of wedlock” are mentioned in the XIX century records of inhabitants of the parishes of Trzcianne or Knyszyna next to the names of not only children but also of adults – the father or mother of the household.

Contracting marriage and starting a family did not always mean gaining economic independence that is: creating one’s own household, separate from parents or in-laws. However, the more detailed look at the structure of these former households which will illustrate not only the models of the family functioning at that time, which involved the relatives or friends who lived together with the family but also getting to know the protective function of the family over the senior relatives.

Before the I World War in the quite large Catholic parish Trzcianne in Podlachia region, which was inhabited by 8,7 thousand people (1755 of households), the majority of the peasants and petty nobility, three thirds, lived in simple households (the married couple with their children or without children or a widowed parent with the children)⁵⁹. Only one in five households hosted a relative from outside the family of blood ties or another married couple. The extended households with an additional person who used to be the mother of the husband (or the mother of the wife, which was rather rare) and an unmarried sibling of the host (less frequently the sibling of the hostess). Among the households which consisted of two married couples, the old married couples hosted their married children 74% (peasants) and 71% (petty nobility). Let’s add that the amount of the households of single persons or non-family households (that is: without a spouse, but e.g. consisting of lonely children or other related people) was negligible and amounted to 2,5 (among peasants) and 4% (among the petty nobility).

The most of the heads of the household were the owners of the house but not all of them as every eighth peasant’s household and every tenth petty nobility’s household were the bailiff’s. In the agricultural environment mainly the men managed the households but in over 12% of the total amount of peasants’ households and in 10% of the petty nobility’s households women were the heads. As a rule these family-residential communities were not big, in the households of the hosts

⁵⁹ C. Kuklo – database: *Spisy mieszkańców parafii Trzcianne z 1843, 1882 i 1910 r.*

there were on average 5,3 people and in the bailiff's households there were 4,6 people. The households of women were usually smaller: 3,7 household members and 2,8 household members respectively. However, what is most noticeable here is the trend to hold the household as long as possible before passing it on to the next generation which concerned both social groups, and every fifth household was managed by the elders of 60 or more years old. These people were aware that at the moment of passing the household on to the younger generation their previous social status, through which they were evaluated by their relations and neighbours, would be lowered.

In the reconstructed image of the family system of the northern Podlachia region it is worth to notice its resemblance among the circles of peasants and the petty nobility which, however, had always tried to emphasise its superiority over the peasant neighbours even at the beginning of XX century⁶⁰.

However, drawing the direct analogy between the specification of the households of the peasants in Podlachia of the beginning of XX century and the rural communities of the remaining parts of the Republic of Poland would be oversimplification as their structures depended both on the conditions and economic opportunities and on the family strategies or the intergenerational relationships e.g. the attitude towards the elderly. However, in the south-eastern Borderlands after the agrarian reforms of 1860s in Russia (at first, liberation from servitude and abolition of serfdom, then enfranchisement of peasants), organization of households among the local Greek Catholics who lived in Volyn in the county of Krzemieniec was similar to the situation in Podlachia. In the years 1881-1885 among the peasants and the petty impoverished nobility, there were mainly simple households consisting of a married couple – more than 77% among the petty nobility and nearly 82% among peasants, to even a greater extent than in the parish of Trzcianne⁶¹. Moreover, the size of the households in both of these social groups was identical as they hosted 5 people under the same roof (median). Therefore. In the circle of Catholic peasants and the petty nobility in Podlachia and in the far away Volyn in the time after the enfranchisement, the processes of the progressing disaggregation of the family structures. The families consisting of many members which

⁶⁰ For more information see M. Dajnowicz, *Drobna szlachta ...*, 173-178.

⁶¹ P. Guzowski, R. Poniat, C. Kuklo, "The influence of emancipation reforms on the Polish rural family in western provinces of the Russian Empire in the second half of the 19th century", *The History of the Family* vol. 27, 2022, nr 1: 188 (tabl. 6).

were rarely present in the countryside in Volyn (almost 3% among the petty nobility and 5% among peasants), and a little larger in the countryside of Podlachia (over 8% among peasants and almost 10% among the petty nobility), were more common and resembled, which is worth noticing, the situation among the population of Belarus⁶².

There are relatively less data about the structure of the households in big cities at the end of XIX century and in the first decades of the XX century. Taking as an example the better known community of Cracow we can conclude that in 1890 the predominant families (80%) consisted of the parents and their offspring or childless, although the percentage of childless couples was relatively high and equalled nearly 17%⁶³. There were also two noticeable phenomena. On the one hand, single parenthood which concerned every sixth family. On the other hand, in comparison to some rural communities, there were very few households of extended families hosting related people or in-laws – only 7,1%. In the biggest cities the number of single person households was growing rapidly, from 19% in Cracow (1921) to over 27% in Posen (1931)⁶⁴.

In the Jewish community of Suwałki in the first half of XIX century the predominant household consisted of nuclear families which were deprived of the extended family structures, these families consisted of 4-5 members⁶⁵. While in Piotrków Trybunalski where the number of nuclear families was also predominant, however, among the Jews every fifth household consisted of parents and married children. This situation mainly concerned the richest families who were capable of fulfilling the custom of *kestu* which consisted in maintaining of the family of the younger generation in the household of the bride⁶⁶. In the relatively larger community of the Cracow Jews in 1890 the majority of families consisted of the married couple (88%), and there were relatively fewer households consisting of single parents in comparison to the Catholics (10,5 to 18,3%). While the extended households and compact households were very rare – only 1,7% of all existing households⁶⁷.

⁶² More on the subject see S. Tokts', *Byalaruskaya vyoska w epokhu z'myenaw. Druhaya palova XIX – Pyearshaya tratsina XX st.* (Minsk: 2007).

⁶³ L. A. Zyblkiewicz, quoted, 299-303.

⁶⁴ See E. Adamczyk, *Społeczność Krakowa i jej życie*, in: *Dzieje Krakowa*, vol. 4, *Kraków w latach 1918-1939*, ed. J. Bieniarzówna, J. M. Małecki (Kraków: 1997), 33; S. Abt, quoted, 973-974.

⁶⁵ A. Markowski, quoted, 166-168.

⁶⁶ T.M. Jankowski, *Ruchliwość społeczno-zawodowa Żydów...*, 74.

⁶⁷ L.A. Zyblkiewicz, quoted, 301-303.

At the beginning of the accelerated industrialization and urbanization of the Polish soil in the second half of XIX century in all the social groups, the former peasant and petty nobility groups, landowners, petty bourgeoisie, as well as in the new emerging groups of workers, bourgeoisie, intelligentsia, the predominant model of the family was the patriarchal family. The father-husband was the head of the family and he assumed the unquestionable position (at least at the beginning of the discussed period), which had previously been privileged also in the previous Christian doctrine of marriage and Judaism. The wife, the children, the grandparents remaining under the paternal care, and the domestic staff of both sexes, were obedient to the paternal authority. Mainly the father decided about the matrimonial strategies of his adult children, about marriages of his sons and daughters. His high position in all the social groups resulted not only from the tradition but mainly from the burden laid on him to maintain the family. The agricultural enterprise was the basis of the household among peasants and the petty nobility, the craftsman's families were maintained from the income of the workshop which was also based on the physical labour of the man, like in the warehouses, but not always exclusively, as the women's labour and the adolescent children's labour was also of importance.

In the circles of landowners, the man was responsible not only for the functioning of the agricultural estate, and with time, for its modernization and industrialization, for bringing specialists, sometimes from abroad, but also for multiplying the assets by investing in various corporations (industrial, financial or trade) often with the assets of the domestic or foreign bourgeoisie. The situation in the families of bankers and industrialists was similar, the woman was not allowed to run the business or to take decisions on economic matters, and instead she was expected to focus on the private sphere of the family life.

In the patriarchal family the woman, wife and mother, was the guardian of the domestic life, and her primary tasks included motherhood and procreation, and the care for and education of children, this concerned all the social groups. In the families of peasants the woman was strongly involved into the sphere of the household but also into animal breeding and growing vegetables, and from spring to autumn also in the field works. She was engaged into the physical labour in the workshop to a minor degree. In rich families of landowners or of the rich bourgeoisie women were not directly engaged into the business, however, they knew about it to a greater or lesser extent, which was confirmed when, after the death of the husband, the wife could easily

and effectively get engaged into the business and run it successfully⁶⁸. It was the woman who had to run the family household in which the number of the employed household staff: cooks, butlers, housemaids and servants, depending on the financial status of the family, was quite large. The women, as opposed to their husbands who spent most of the time out, managed the household staff, took care of the household aesthetics, organized the timetable and took care of the social life of the family. The most well-off landowners, entrepreneurs and bankers regularly invited guests and their houses were open for the family and friends and acquaintances, for partners in business or for celebrities from the world of literature, famous painters and musicians. In the families of the arising intelligentsia, who were not mainly based on financial relationships, the position of women was stronger, e.g. they could decide about the marriage of their daughters. Like their daughters, they were inclined to attach more importance to the relationships based on the feelings of the future spouses who were similar in age than in the case of the arranged marriages. However, this social class favoured the traditional approach to the female role in the family and the majority of women did not have a paid job, except for the women of independent profession or those forced to work because of the poor financial conditions.

The mother was also the beacon in the working class family, although, at the end of the XIX century, a lot of women gave up their jobs in the factory, focusing on the household duties and on raising the children. In this circle, the fate of the wife and mother was the most difficult. They were often facing the open alcohol abuse of their husbands, physical violence and the neglecting of the household duties by the husbands, which in this community was predominant among other communities. Neglecting of the household duties by the husbands usually resulted from overwork, from the amount of time spent in the factory or steelworks. The poor living conditions of the working class were definitely very hard for the people, the situation was often extremely difficult. On the other hand, the need to provide for the family e.g. in case when the husband lost his job or earned very little, forced women to find a job (often temporary), in a factory, sometimes a part-time job in services or cottage industry.

Children were highly desired, both in the Christian and in the Jewish family; even in the period of the capitalistic transitions they were treated in economic terms, apart from the well-off social communities (rich landowners, bourgeoisie) and intelligentsia. Their physical

⁶⁸ Specific examples are given by M. Siennicka, quoted, 94.

labour, even of the 10- or 12-year olds, not even mentioning the older children, consisted in the basic assistance and work on the farm or in a craftsman's workshop, by which they were contributing to multiplication of the family assets. It is commonly recognised that in the current system of values children constituted a kind of protection and care for the senior parents. The children were much more taken care of in the well-off families, although the sons had better care than daughters. However, due to the social divisions, the children at that time were taught to be hard-working, pious and thrifty. These features were in the first place taught by the mother. In the well-off families the children were taught and educated by nannies and private tutors and teachers. Gradually, the young people from the countryside and towns gained access to school education, which was meaningful both in their further life and in the way they perceived the relationships in the family and the relationships in the local community⁶⁹.

The sons of elite of landowners and industrialists were sent to gymnasiums, got a degree in economics or in business studies as these were the most useful occupations, but also in medical studies (rarely humanities studies), they often studied abroad and spoke foreign languages. However, this luxury only concerned sons. The daughters, even in well-off families, according to some researchers, were often neglected, which might not be true. Although the majority of daughters of e.g. the Warsaw bourgeoisie were educated in special finishing schools for ladies which, however, did not always provide high-level education, moreover; the girls were not sent to study abroad, although some young women took up university education. Even before the revival of the Polish statehood, in the years 1894-1918, more than 6,3 thousand women (13% of all the students) studied at Jagielloński University, and in the group of the recognized social background the majority of young women came from intelligentsia (the professional and art, including

⁶⁹ In the Kingdom of Poland in December 1917 there were over 7,8 thousand schools in the country (including 78% of public schools) with almost 550 thousand students at the age of 7-12 and 366 of secondary schools with over 83 thousand students (secondary schools were mainly schools for girls – 55% of all). In Galicia in the school year 1910/11 among the population of 6-12 years old in the folk schools (over 5,8 thousand.) 85,5% of all studied in primary schools and over 40 thousand young people studied in secondary schools. In 1911 Polish students in folk schools in the countryside in the Prussian partition constituted almost 70% of all –all the data from *Historia Polski w liczbach*, vol. 1, *Państwo. Społeczeństwo*, ed. A. Jezierski, A. Wyczański (Warszawa: 2003), 230-237.

independent professions) – 47% and from bourgeoisie – 29%⁷⁰. During the interwar period the amount of women who started to study at the 5 universities multiplied and in the school year 1934/1935 the majority of them were studying in Warsaw (over 39%) and in Vilnius (over 32%), in Cracow and Lviv 28% and slightly fewer in Poznań (27%)⁷¹.

Although, according to our studies, the majority of families were 2-generation, there were also 3-generation more extended family structures which included the elder generations, e.g. the parents of one of the spouses, mainly a widowed mother than the father, but sometimes with other elderly relatives and in-laws. Their fate in the country, among the working class or even in the petty nobility family, was unenviable, although formally they were supposed to be respected and cared for. In reality, with the loss of physical strength, they were badly treated by their children, mainly in the impoverished families of peasants, craftsmen and workers rather than in the families of the rich peasants or foremen, especially when the seniors had passed on their farm or workshop to their children⁷². Some seniors in such situations chose to become beggars. However, Włodzimierz Mędrzecki emphasises the fundamental principle of the rural environment according to which the care for the senior must not take place at the cost of major sacrifice of the adult children⁷³. Let's add that both in the countryside and in the cities seniors tried for as long as it was possible to remain the heads of the household which ensured them financial independence and provided for a better life in old age than when they gave up their farms to the children not even mentioning renting a place to live or becoming an employee.

The situation was totally different for the elderly seniors in well-off families. In manor houses and palaces of the landowners, the widowed parent or an in-law was constantly accompanied by elderly aunts and uncles or other elderly relatives and even unrelated elderly persons

⁷⁰ The Author's calculation on the basis of U. Perkowska, *Studentki Uniwersytetu Jagiellońskiego w latach 1894-1939. W stulecie immatrykulacji pierwszych studentek* (Kraków: 1994), 36-37, 46.

⁷¹ Ibidem, 40.

⁷² More on the subject see B. Gapiński, *Ludzie starzy na wsi polskiej od schyłku XIX po rok 1939* (Poznań: 2014), 108-125.

⁷³ W. Mędrzecki, *Uwagi o starości na wsi polskiej w XIX wieku*, in: *Ludzie starzy i starość na ziemiach polskich od XVIII do XX wieku (na tle porównawczym)*, vol. 1, *Metodologia, demografia, instytucje opieki*, ed. A. Janiak-Jasińska, K. Sierakowska, A. Szwarc (Warszawa: 2016), 77. Unlike B. Gapiński the Author does not share the view on the worsening of the conditions of the elderly in the Polish countryside in XIX century and at the beginning of XX century (ibidem, 81).

of both sexes, called residents (homeless, friends, military veterans, clerks). The matter of nutrition or lack of space was of no problem in this circle, therefore, these people could live there for longer periods, especially that some of the residents did their best to be helpful in the household chores. With time, especially at the end of XIX century even among the landowners who were trying to adapt to the capitalist housekeeping methods, the number of residents of both sexes decreased due to the growing costs of maintenance⁷⁴.

In the circle of intelligentsia, experiencing old age looked different depending on the health condition and the family situation. In Galicia at the turn of XIX and XX centuries the long-time civil servants and clerks, including university teachers (who were all the imperial clerks), could live off low pensions paid by the authorities.

The rapid transformations since the end of XIX century of the social and economic nature, of the cultural and legal transformations exerted an increasing influence on the ways of functioning of the family in the interwar Poland gradually replacing the previous model of the patriarchal family which clearly reminded in the encyclical of Pope Pius XI *Casti Connubii (O małżeństwie chrześcijan) [On Christian marriage]* from December 1930⁷⁵ A bit earlier the Catholic Church changed the form of the marriage vow and the woman did not have to promise to be obedient to her husband. On the other hand, the family became the object of the state legislation to a greater degree than previously⁷⁶. The emancipation process of women present in the whole of Europe and confirmed with gaining the voting rights the majority of countries before 1920 and the progressing occupational activity of not only women but also of adolescent children led to weakening of the former position of men in the family on the economic and social levels. All that, to a different extent, contributed to the transformations of the former positions of family members and the mutual relationships between the household members, marked by the weakening of family bonds.

⁷⁴ See an interesting essay of W. Molik, *Rezydenci w rodzinach ziemiańskich na ziemiach polskich w XIX wieku*, in: *Ludzie starzy i starość...*, 223-241.

⁷⁵ See F. Adamski, *Rodzina. Wymiar społeczno-kulturowy* (Kraków: 2002), 105-107; see also M. Strzelecki, *Wizerunek i rola kobiety w katolickiej koncepcji wykowania społecznego w Drugiej Rzeczypospolitej*, in: *Partnerka, matka, opiekunka. Status kobiety w dziejach nowożytnych od XVI do XX wieku*, ed. K. Jakubiak (Bydgoszcz: 2000), 269-287.

⁷⁶ See the characteristics of the regulations of the family relationships from the period of partitions to the II World War written by P. Fiedorczyk, *Rozwój prawa rodzinnego*, in: *Rodzina i jej gospodarstwo...*, 221-240.

In the rural environment, with the progressing agrarian overpopulation, with the ongoing fragmentation of households and the increasing life expectancy, the sons and daughters of peasants could not easily gain the high and desired position of the householder and hostess, which resulted in the growing number of young men and women who were looking for work outside the family household or village. At the same time the number of peasant boys who were attending secondary (comprehensive and vocational) schools increased. This reinforced the emancipation of peasant women, also influenced by the cooperative movement, which indirectly strengthened the position of the woman and of the adolescent children in the family, even of daughters, although the leadership of the man, father and husband, and remained unquestionable.

As far as the petty nobility or the craftsmen and merchants' families were concerned, the model of the family life did not change much there. The traditional division with the male leadership and poorly paid women's labour remained unchanged. Although one fifth of women remained illiterate, they eagerly and actively participated in the popular culture activities inspired by the local well-educate women – teachers⁷⁷.

In the circles of the patriarchal families of the well-off landowners and aristocracy, who emphasised their exclusiveness till the end of the interwar period in Poland, the prestige of the woman (wives and mothers) increased due to their more frequent economic, social and cultural activity⁷⁸. Moreover, the strict principles of the male patriarchate were relaxed and the interest in children also increased not only in the light of their marriage but also of their health, emotions and interests. Furthermore, the family members gained new independence.

Some transformations were also introduced in the families of workers in the industrialized urban centres. On the one hand, the family became a two-generation unit. On the other hand, when every family member took up a job (it was rigorously required from the older children) the position of the father, who used to be the only family breadwinner, was severely weakened. The early work of the workers' children resulted in weakening of the emotional bonds with parents and in the earlier marriages that led to the acquisition of independence earlier in life.

⁷⁷ See R. Renz, *Wzorce społeczno-obyczajowe a realia współżycia kobiet i mężczyzn w międzywojennym środowisku prowincjonalnym (w świetle dokumentów kościelnych)*, in: *Kobieta i małżeństwo: społeczno-kulturowe aspekty seksualności...*, 329-340.

⁷⁸ E. M. Kostrzewska, quoted, 313.

The big city intelligentsia circles of the Second Republic of Poland, despite its unquestionable diversity, faced the majority of transformations concerning the traditional model of division of the roles of husband and wife⁷⁹. Women's equality combined with their occupational activation and the gained education usually contributed to the gradual aligning the wife's and husband's positions in the intelligentsia families, transforming the patriarchal family into a partnership-based family. It was reflected in the shared decision about the family expenditure and household budget and in the increase in the women's independence in deciding about their future. Although even in this circle it was emphasised the meaning and importance of motherhood but the birth control was introduced in this group more often than in other social groups (the number of childless families was high), while the families with many children were very rare in this social circle in Poland. This group promoted the nuclear two-generation family and the cases of three generations living together in one household were very rare. At the same time the members took proper care for fulfilling the emotional needs and respect of the intimacy of each member. Another distinguishing feature of this group was the educational model and the aspirations concerning education. The educational model strongly emphasised the need for the active civic attitude and commitment to the state and society, and as for the aspirations concerning education. It was not enough to graduate from school, but the sons of the family were expected to go to university and get a degree, it also concerned the daughters but to a lesser extent. Generally speaking, in this group the relationship between the spouses (which were enhanced by the shared interests and the little age difference between the spouses), as well as between parents and children became more of partnership.

The traditional model of the family was predominant among the Jewish families due to the importance of following the religious rules, which also regulated the marital relationships (including procreation) and family relationships (the Bible, the Talmud). In these families the family bonds were of particular importance. In the groups of Orthodox Jews, women were responsible for maintaining the household because men were busy with studying the Torah and the Talmud. The wife who was quiet and obedient, who painstakingly fulfilled the religious recommendations, was also obedient to her husband. As opposed to the Christian families, in the Jewish family the husband and the father was above all the godly representative before God and the external environment. This tradition taught children the respect for parents

⁷⁹ More on the subject see A. Żarnowska, K. Sierakowska, quoted, 102-104.

and for the elderly, and the latter were respected and appreciated among Israelites. In the Israeli families parents placed the greatest hope in their sons. It should also be noticed that the traditional model of family life in which the woman usually had to maintain the family was criticised by the Jewish intelligentsia.

The studies of the family history on Polish soil in the a broad sense, from the transformation of its structure and functions to the social status and culture-forming role (including formation of patriotism) since the Middle Ages until the end of the previous century, definitely remain the unparalleled basic interdisciplinary phenomenon which would present the process of modernisation of our society particularly rapid in XX century. It is obvious that this extremely extended survey requires taking into account the whole variety of not only the social situations but also – which must be strongly emphasised – the changing conditions of the material existence of families and the ethnic, religious and special circumstances.

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The functions of the spouse's consent for the legal actions within the statutory matrimonial property regime

The teaching of Father Michał Sopoćko which concerns the legal regulations of marriage remains highly relevant. One of the most important basis of functioning a family is establishing the property security. The Polish legal regulations have evolved over the years, we have witnessed various structures of the statutory matrimonial property regimes. Nowadays, at the moment of contracting marriage the spouses establish the community property (matrimonial joint property) which complies a subordinate role for marriage. To strengthen the protective function of the regime it is necessary to obtain the consent of the other spouse for any statutory legal actions.

Key words: the teaching of father Michał Sopoćko, family, matrimonial property regime, statutory property regime, the spouse's consent for the legal action.

General comments

Father Michał Sopoćko's work entitled: *The family in legislation on Polish soil (ethical and legal study)* published in 1926 in Vilnius contained various thoughts and statements which, despite the passing time, have not lost their relevance. Among such statements there are those concerning the matrimonial property regime¹. As the Author wisely observes, the legal property relations of the spouses have a serious impact not only on the material condition of the family but also on the family ethics as the private property is the foundation of the

¹ M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich (studium etyczno-prawne)* [The family in legislation on Polish soil (ethical and legal study)] (Wilno: 1926), 60.

family's functioning. Without at least minimal asset based security the family will not be able to function properly. The problem concerns not only the family but the whole society, therefore, in certain situations the state provides material support to the family. Contemporarily it is the spouses' work and the defined matrimonial property regime which assume a subordinate role for the family's needs, and which last for only as long as the marriage which creates the family, that constitutes the legal basis of the family's financial security

During the time when Father Michał Sopoćko was writing his work, in Poland there were three main types of the statutory matrimonial property regimes. The first one – the community property, consisted in the community of the wife's and the husband's properties while the husband managed the property. The second type – the system of separation in which the wife's property remained her own but the husband managed and used it by special agreement. The third type was the dowry system, which resembled the system of separation, with the difference concerning the fact that the wife provided the dowry and the husband took income from it and, in some cases, it also became the husband's property. Father Michał Sopoćko wisely emphasised the difficulties and confusion in understanding the real nature of the statutory matrimonial property regime. It was full of contradictions and inaccuracies. The Author expressed the opinion that the most structured system was contained in the German Code².

It is commonly known that during the time of the Second Polish Republic, apart from introducing the Code of Obligations from 1933, the Code of the Civil Law and the family law remained unstandardized. Despite the advanced works of the Codification Commission created in 1919, the problem remained unsolved. This resulted in the fact that certain regions of the country were under the law of the German, Russian and Prussian invaders. And although the Commission developed the projects of the matrimonial property regime, it has never become the applicable law. The works on this project lasted for a long time and particular solutions aroused controversy. The matter of choosing the matrimonial property regime became one of the essential needs. There was no consent among the members of the Commission as regards the regime which best secured the interest of the family³. The complicated nature of the legislative matter resulted in prolonging the procedures of regulating the family law. Therefore, it was the

² Ibidem, 67.

³ P. Fiedorczyk, *Unifikacja i kodyfikacja prawa rodzinnego w Polsce* (Białystok: 2014), 29, 83.

Communist government which assumed the duty of standardizing the Civil law. In the new regime the marriage law was issued in 1945⁴, while the standardization of the remaining groups of family relations was established in 1946. It is worth noticing that the decree from May 29th 1946, the matrimonial property laws⁵ was in force only for a short period of time because it was repealed on October 1st 1950 with the act from June 27th 1950 (The legal regulations which introduced the Family Code)⁶. The Czech-Polish Committee of the Legal Cooperation developed the drafts of the Czechoslovakian Family Law Act and of the Polish Family Code and the Polish Sejm approved of the project of the Family Code with only minor amendments. On June 27th 1950 the law was passed – it was the Family Code⁷. The provisions of the Code declared the rule of equal rights and obligations of the spouses in all the legal relations which result from contracting marriage. Due to the state regime, among the ground rules of the Code there were such ones as: the secular nature of marriage and the egalitarianism of spouses. The rule of the community of residue was introduced as the basis of the statutory property regime which was acknowledged in line with the assumptions of the states with the socialist regime, which was progressive and integrated Poland with other socialist countries⁸. The interpretation of the laconic legal regulations of the Code caused considerable difficulties, this also concerned the joint property of the spouses which lacked clear and concise principles. Such a condition required a considerable participation of jurisprudence, especially of the Supreme Court which repeatedly established guidelines influencing the formation of the Family Law regulations interpretation.

The next step of the formation of the Family Law and of the matrimonial property regimes in the Polish People's Republic was adoption of the Family and Guardianship Code in 1964. The Code was introduced on January 1st 1965 and contained expanded provisions regulating matrimonial property relations. Similarly to the previous code, the community of acquisitions was considered to be the only property regime. The objects which were not included into the community constituted separate properties of each spouse. However, the

⁴ Decree from September 25th 1945 *Prawo małżeńskie* [Marriage law], The Journal of Laws. 1945 nr 48 item 270. This regulation introduced the civil marriage.

⁵ Dziennik Ustaw [The Journal of Laws] [further JoL]. Number [further nr] nr 31. Item [further: item]. 196.

⁶ JoL 1950, nr 34, item 309.

⁷ Ibidem, item 308.

⁸ J. Winiarz, *Prawo rodzinne* (Warszawa: 1977), 21-22.

initial concept of introducing two parallel regimes with the possibility of choosing one of them while contracting marriage was abandoned during the course of work of the Codification Commission. The guiding principle of the introduced regulations was the secular nature of marriage and the equality of rights and duties of the spouses which resulted from the care for the equality of sexes. Matrimonial property issues were divided in such a way that the first group concerned the issues connected with the joint property management (ordinary family needs), and the latter concerned the issues which exceeded the common property management (art. 36). The management of the common property did not require the other spouse's consent (independent management of the common property). The other group required the consent of both spouses, and the contentious issues were resolved by the court of law, taking into account the welfare of the family (art. 39). It should be noted that a creditor could be satisfied out of the assets of the common property even if it was only one of the spouses who owned the money (art. 41), which could definitely interfere with the stability of the common property of the spouses. During the ten years of practice after introducing the regulations provisions of the Code, the legislator decided to modify the issues concerning the liability for the commitments (debts which did not result from satisfying the ordinary needs of the family) entered into by one of the spouses. In 1975, as a result of the ruling party's recommendations, the legislator introduced numerous changes in the Family and Guardianship Code as well as various other acts which concerned the functioning of the family, which included the act from 1974 – the maintenance fund⁹. A group of lawyers formulated the overall assessment that the Family and Guardianship Code is a proper codification adequate to the current social relations¹⁰. The history indicates that the rules of the Family Law were not free from the ideology that was the basis of the state system. In the time of the Polish People's Republic the contract work was the basis for maintaining the family. The possession of the private property and other sources of income were discouraged, treated as contradictory to the assumptions of the regime. After 1989 many of the legal regulations were changed, these concerned both the sphere of private laws (mainly concerning property) and the public laws. Later on the legislator introduced changes in the law of succession and the

⁹ JoL nr 27, item 157.

¹⁰ M. Nazar, *Prawo rodzinne w dorobku naukowym i orzeczniczym Profesora Jęzegego Ignatowicza*, "Annales Universitatis Mariae Curie-Skłodowska" (Lublin: 2013), vol. LX, 1, 114 and the literary sources referred to.

regulations of the Family and Guardianship Code [further FGC], including the matrimonial property relations.

After 1989 the Family Law had to wait for the amendment, which resulted from the political changes in Poland. At first, the legislator introduced the amending act into the Family and Guardianship Code from July 24th 1998 which had a significant impact on the institution of marriage¹¹. The spouses who contracted marriage according to the internal ecclesiastical law or any other religious community law were now given the possibility to assume the civil and legal consequences of it, which constituted a vital change that had longed be expected by the society.

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The function of protecting the family and the rights of third parties in the Family and Guardianship Code

The act from June 17th 2004 amending the act – the Family and Guardianship Code and some other acts,¹² entered into force on January 20th 2005, introducing essential changes within the scope of performing by any of the spouses any bilateral legal action concerning their common property, which results from their statutory matrimonial property regime. The statutory matrimonial property regime is in nature the community of property or indivisible that is each spouse is entitled to the joint property but none of them can manage it by him- or herself (art 31 of FGC). Moreover, each of the spouses can possess their own private assets (art 33 of FGC). As a result there are three types of assets: the statutory community and two separate personal properties. This legal arrangement is created by the power of the act at the moment of conclusion of marriage if the spouses had not established any property separation or other property regime indicated in FGC. By entering the matrimonial property contract the spouses establish the community property by the act of law; this community property includes the assets acquired during marriage by both of the spouses or by one of them (joint property). The acquired assets which do not belong to the joint property, belong to the proper spouse separately. The joint property includes:

- 1) the salary and other earnings of each of the spouses

¹¹ W. Góralski, W. Adamczewski, *Konkordat między Stolicą Apostolską a Rzecząpospolitą Polską z 28 lipca 1993 r.* (Płock: 1994), 19; W. Góralski, *Zawarcie małżeństwa "konkordatowego" w Polsce* (Warszawa: 1998), 33-76; W. Góralski, *Małżeństwo kanoniczne* (Warszawa: 2011), 17; J. Ignatowicz, "Nowa forma zawierania małżeństw (art. 10 Konkordatu)" *Przegląd Sądowy* 1994 nr 2: 7.

¹² JoL Nr 162, item 1691.

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- 2) the income from the joint property as well as from the private property of each spouse
- 3) the funds collected in the open account or in the pension fund of each spouse
- 4) the amount of the contributions on the sub-account of the policyholder – the act from October 13th 1998 on the social insurance system¹³.

Only the spouses can be the rightholders of this joint property. In the Polish law the legal relationship of joint property cannot be established between two people in concubinage. Until the end of the joint property regime none of the spouses can dispose of the share or demand division of the joint property. By definition the joint property is the basis for ensuring material stability for the family. The regulations provide for the obligation of consent of the other spouse in situations when there is a threat to the property interest which requires protection (art. 37 of FGC). It is worth noticing that the Family and Guardianship Code imposes a requirement of consent in some non-property business (art. 89 § 1 and 2 and art 90§ 1).

Establishing the principle of obligation for both spouses in every action concerning the joint property would be irrational and burdensome for the spouses and for third parties¹⁴. However, empowering each of them to independently dispose of the joint property could in some cases be hazardous and would also pose a threat to the joint property of the family. Therefore, finding the solution to the problem requires reconciling several basic values, which mainly concerns the principle of securing the property sphere of the spouses and family and protection of the interests of third parties. The statutory regulation of family relations mainly includes their external side. The state interference into the family relationship is very rare (e.g. art 109-111 of FGC)¹⁵.

The legislator attempts to combine these values with carrying out a strict line of demarcation between legal actions which can be performed by one of the spouses and the actions which require the consent of the other spouse as well¹⁶.

¹³ JoL 2020 item 266, 321, 568, 695 and 875.

¹⁴ J.S. Piątowski, in: *System prawa rodzinnego i opiekuńczego. Część 1*. ed. J.S. Piątowski (Wrocław – Warszawa – Gdańsk: 1985), 403.

¹⁵ K. Pietrzykowski, in: *Kodeks rodzinny i opiekuńczy. Komentarz*, ed. J. Pietrzykowski (Warszawa: 2021), 12.

¹⁶ More on the subject: T. Mróz, *Zgoda małżonka na dokonanie czynności prawnej w ustroju majątkowej wspólności ustawowej* (Warszawa: 2011), 120-159.

The regulations provide a closed catalogue of managing the joint property, which requires the consent of the spouse who is not a party in the performed legal action. It is important that the consent is required only for the legal actions mentioned in art. 37 § 1 of FGC. The legal actions of administration of the community property of a factual nature do not require the consent of the other spouse¹⁷.

Art. 37 § 1 of FGC states that the consent of the other spouse is required for the legal actions which:

- 1) lead to the disposal, charging, purchasing a real estate or perpetual usufruct as well as to leasing the real estate for using or drawing benefits from it,
- 2) lead to the disposal, charging, purchasing the property law such as a building or premises
- 3) lead to the disposal, charging, purchasing and lease of an agricultural holding or a company
- 4) lead to donation from the common assets other than any customary minor donations

Currently, it is not necessary to classify this act as an act of ordinary administration or as an act exceeding the extent of ordinary administration in order to determine which action of managing the common assets requires the consent of the other spouse.

According to art. 37 § 1 of FGC the consent of the other spouse is required in relation to legal actions which concern certain rights and resulting duties as well as certain things and assets¹⁸, such as an agricultural holding or a company. This legal regulation concerns both the actions which burden or reduce the common assets and the legal actions giving rise to an increase in assets. Taking into account the economic and social reality it should be noticed that this legal regulation concerns situations with a significant economic value for the joint property of the spouses¹⁹. This problem can appear e.g. in

¹⁷ E. Skowrońska-Bocian, *Małżeńskie ustroje majątkowe* (Warszawa: 2008), 60.

¹⁸ E. Skowrońska-Bocian, *Małżeńskie*, 62; See more on transfer of an undertaking: M. Wilejczyk, *Zbycie przedsiębiorstwa* (Wrocław: 2004); R.T. Stroiński, *Przedsiębiorstwo. Charakter prawy oraz zbycie w prawie amerykańskim, francuskim i polskim* (Warszawa: 2003); E. Norek, *Przedsiębiorstwo jako przedmiot obrotu gospodarczego* (Warszawa: 1997); M.J. Erlich, *Przedsiębiorstwo jako przedmiot stosunków obligacyjnych* (Tarnów: 1934); R. Budzinowski, *Koncepcja gospodarstwa rolnego w prawie rolnym* (Poznań: 1992).

¹⁹ See more on the subject: T. Mróz, *Ryzyko wierzyciela w świetle małżeńskich ustrojów majątkowych*, in: *Człowiek, prawo, państwo. Księga Jubileuszowa dedykowana Stanisławowi Leszkowi Stadniczeńko*. ed. W. Żyłko (Warszawa: 2017), 711-722.

case of bringing an undertaking which consists of a real estate that constitutes the joint property of the spouses to a commercial company, the case was judged by the Supreme Court in 2022²⁰

Legal actions enumerated in art. 37 § 1 of FGC performed without the consent of the other spouse are binding for the counterparty but are in the category of a limping transaction (*negotium claudicans*). These actions result in state of uncertainty known as ineffectiveness suspended. It must be noticed that during the suspension period the legal actions are binding on both parties. Therefore, they cannot withdraw, they must be ready to complete the action in case of the confirmation of the agreement.

A similar situation is provided for in art. 18, 103, 199 and 529 of the Civil Code, however, the function of confirming the regulations contained in the Family and Guardianship Code and in the Civil Code – [further CC], which concern confirming the legal actions, coincide only in the sphere of the legal protection of the interests of third parties (art 38 of FGC). The time of the ineffectiveness suspended is not in any way limited, however, according to the Supreme Court, the consent must be authorised only during the time of lasting of the joint property of the spouses²¹. In order to abolish the state of the ineffectiveness suspended, the counterparty of the spouse can set a time limit for the other spouse to confirm the incomplete legal transaction. This confirmation should be communicated to the counterparty²². In case of confirmation before the proper deadline, the legal action is validated with retroactive effect from the moment of entering into agreement (art. 63 § 1 of FGC). The same concerns the consent expressed before the legal action²³. The consent should be expressed in the form required for the proper legal action. If the consent is expressed in a different form than the required one for the legal action, it results in conditional invalidity of

²⁰ The decision of the Supreme Court from January 28th 2022, case number I CSK 726/22, LEX nr 3303438.

²¹ The decision of the Supreme Court [further: SC] From November 13th 1962. "Orzecznictwo Sądów Polskich i Komisji Arbitrażowej" [further: OSPiKA] 1963 item 238.

²² In the resolution from June 13th 2001 II CKN 507/00, the Supreme Court took the position that the counterparty of the agreement concluded with only one of the spouses, who deliberately avoids to obtain the consent from the other spouse and thus harms the third party, is liable on the basis of art 415 CC. The critical commentary to this resolution was written by M. Pyziak-Szafnicka. "Orzecznictwo Sądów Polskich" [further OSP] 2002 nr 11 item 140. See the critical commentary M. Nazara OSP 2002 nr. 1 item. 3.

²³ J.S. Piątowski. in: *System*, 415.

the agreement concluded by one of the spouses. The refusal to give consent for a certain legal action does not require any particular form, therefore, it can be performed by any act which definitely expresses the will (art 60 of CC).

The results of the refusal for taking the legal actions mentioned in art. 37 § 1 of FGC should be considered separately, distinguishing between two situations: the first one, when the agreement is concluded despite a clear refusal for the consent of one of the spouses, while the other is when the agreement is concluded without the confirmed consent of the other spouse who, however, did not openly refuse to give the consent for this legal action (he or she remained passive)²⁴. The second situation appears when one of the spouses was not aware that the other was concluding an agreement which required his or her consent or when he or she was aware of it but did not make his or her own decision whether or not to give his or her consent to it.

In the first of the given situations the legal action is invalid from the very beginning due to the fact that it is taken despite the lack of consent of the other spouse under condition that the third party was aware of that. In any event the condition of validity specified by the law is not fulfilled (art. 58 § 1 CC in connection with art. 37 § 1 of FGC).

In the second situation, as long as there is no will of the other spouse to give his or her consent which is required or until the deadline given by the counterparty, the situation ends in the ineffectiveness suspended²⁵. This state ceases when the other spouse confirms his or her the concluded agreement and at this point it becomes valid since the moment of concluding. The spouse can also explicitly refuse his or her consent. In this situation the agreement is invalid since the very beginning. After the deadline given by the counterparty when the other spouse still has not expressed his or her will, the other party of the agreement is free²⁶.

It might happen that the relationship between the spouses is so negatively affected that taking any legal action provided for in art. 37 § 1 of FGC would not be possible, and the important reasons which influence the family welfare would indicate the necessity to conclude a certain agreement. Even the court of law cannot force an unwilling

²⁴ E. Skowrońska-Bocian, *Małżeńskie* p. 66.

²⁵ Z. Radwański, M Gutowski, in: *System prawa prywatnego. Prawo cywilne – część ogólna*, vol. 2, ed. Z. Radwański, A. Olejniczak (Warszawa: 2019), 575; M. Pazdan, in: *System prawa prywatnego, vol. 2, Prawo cywilne – część ogólna*, ed. Z. Radwański (Warszawa: 2008), 497.

²⁶ E. Skowrońska-Bocian. *Małżeńskie* p. 67.

spouse to confirm the legal action²⁷. Such situations can be solved and the solution is provided by the resolutions of art. 39 and 40 of FGC which enable the court to interfere in statutory cases.

If one of the spouses refuses to give his or her consent which is required while carrying out a legal action or if he or she cannot be dealt with, the other spouse can ask the court of law for the consent to take the legal action. The permit given by the court during the marital community property concerns two cases: when the other spouse refuses to give his or her consent or when he or she cannot be dealt with. It should be assumed that the court's permit concerns a single certain legal action and not a series of actions of one kind. When authorising, the court determines the specific legal action in the operative part of the adjudication²⁸. The authors of publications on the subject has long been leading a dispute on whether an agreement concluded without the spouse's consent can become valid only in the court's judgement issued under the procedure of the art. 39 of FGC. The majority of the theory and practice representatives took a stand against the court's confirmation of the agreement, emphasising that the court's permit must not be treated equally to any particular validation procedure of the agreement which had been concluded without the other spouse's consent. A different interpretation would mean validation by the court an absolutely void legal action which would not be valid without a particular and unambiguous legal basis²⁹. Under art. 37 § 4 of FGC it should be assumed that it is not acceptable that the court would authorise a permit after an unilateral legal action. The family welfare as a premise for the court's permit was particularly emphasised here. In the subject literature it is assumed that it is not enough to say that the agreement will not cause any family welfare deprivation but it is always necessary to determine that it requires a certain legal action³⁰. The family welfare which deserves taking into account can be financial or non-financial in nature. The resolution in art. 39 of FGC determines that the court can give permission if the family welfare requires it. It should therefore be assumed that it is the court's duty and not opportunity to give permit if the family welfare requires it. The court's permit can replace the other spouse's consent.

²⁷ K. Gromek, *Kodeks rodzinny i opiekuńczy. Komentarz* (Warszawa: 2006), 37.

²⁸ F. Zedler, *Dochodzenie roszczeń majątkowych od małżonków* (Warszawa: 1975), 79.

²⁹ J. Ignaczewski, *Małżeńskie ustroje majątkowe. Art. 31-54 KRO. Komentarz* (Warszawa: 2008), 106.

³⁰ J.S. Piątowski, in: *System*, 417.

The regulation provided in art. 39 of FGC concerns the way of solving the problem by judicial decision only when one of the spouses refuses to give his or her unjustifiable consent for a legal action or when he or she cannot be dealt with while the family welfare requires his or her consent. It should be emphasised that FGC regulations do not provide for any sanctions in case of unjustifiable refusal to give the consent which is required for the legal actions mentioned in art. 37 §1 and 4 FGC (art. 103 § 3 CC does not apply here)³¹.

Any broader range of the court's interference into the spouses' community property than the one mentioned in art. 39 of FGC in case of joint community property of the spouses is mentioned in art. 40 of FGC. For valid reasons the court can deprive one of the spouses of the independent management of the joint property or decide that the legal action described in art. 37 § 1 will require the court's permit instead of the spouse's consent. It is possible to repeal of the permit in case of a change in circumstances.

The court's decision can deprive one of the spouses of the right to the independent management of the joint property which would mean that the property which is used to run business or practise the profession by the spouse who had been deprived of the right to the independent management (art. 36 § 3 FGC) and the spouses can only manage the property together. The remaining assets can be managed by the spouse who lodged the application to the court and both spouses together. The spouse who was deprived of the independent management cannot – as it seems – object to the actions of the other spouse in accordance with the provisions of art. 36¹ of FGC in connection with art. 39 of FGC. The right to object the actions of management is affected by the right to manage the assets, therefore, depriving of the right for independent management equals depriving of the right to object which is mentioned in art. 36¹ of FGC.

The court is authorised to take the decision that any legal action mentioned in art. 37 §1 of FGC requires the court's permit which will replace the consent of the other spouse. The court's decision in accordance with art. 40 FGC does not lead to the permissibility of the effective legal actions indicated in art. 37 § 1 of FGC by the other spouse without the court's permit for any particular actions. Therefore, the question arises of the meaning of receiving the court's permit instead of the other spouse's consent as in the further course there arises the need to receive the court's permit for any particular action which can also be achieved in accordance with art. 39 of FGC.

³¹ T. Mróz, *Zgoda małżonka*, 127.

Therefore, only the spouse who is going to take any legal action is entitled to apply to the court for the permit. This cannot find application if the legal action had already been taken. It is the court to decide whether the reasons mentioned in the application are valid according to art. 40 of FGC.

Summary

For Father M. Sopoćko the family is the first natural human society the aim of which is to preserve the human race, to raise the new generation conveying the spiritual and material culture for further development³². In order to implement this thought it is necessary to preserve the integrity of marriage and family (which mainly depends on various circumstances)³³. Apart from the intangible circumstances, the implementation of this aim requires proper financial security. The teaching of the Church rightly emphasises the priority of the family before the society and the state. The family does not exist for the society and for the state but the society and the state exist for the family³⁴.

Polish history and the country's regime enforced after the Second World War indicate that the existing matrimonial property regimes were not free from ideology which was clearly visible during the rule of the communist government. The aim of the contemporary statutory matrimonial property regime regulated by FGC is not only to secure the sphere of property of the family but also to secure the rights of the third parties. In such a system, the requirement of the other spouse's consent for certain legal actions is an essential legal instrument. The basic function of the other spouse's consent for determined and limited legal actions is to secure the financial welfare of the family and to stabilize its material base.

According to art. 36 of FGC both spouses are obliged to cooperate in the management of the joint property, inform each other about the condition of the property, about the management and about the encumbrances of the joint property. Each of the spouses is entitled to independently manage the joint property. Only the legal actions which are determined in art 37 of FGC require the consent of the other spouse. One of the most important principles is the one concerning the case of purchasing certain goods from common assets by one of

³² M. Sopoćko. *Rodzina*, 150.

³³ See more on the subject e.g. M. Rzewuska, *Zareczyny. Status narzeczonego w prawie cywilnym* (Warszawa: 2019), 31 and the literary references given there.

³⁴ *Kompendium nauki społecznej Kościoła* (Kielce: 2005), 146.

the spouses, it is understood that they would belong to the matrimonial joint property. However, purchasing the goods from the private property of one of the spouses must result not only from the spouse's declaration but mainly from the overall circumstances and from the legally essential provisions of FGC.

It seems that the further protection of the financial basis of the family as well as strengthening the principle of trading and protecting the interests of the third parties can justify the request for establishing a system of registration of matrimonial property contracts³⁵ or registering them in the marriage certificate. Despite numerous legal safeguards no code can cover the vast range of complications of life which are subject to the conscience of parents or in some cases a judge³⁶.

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³⁵ The judgement of the Supreme Court from April 28th 2004, III CK 469/02, OSN 2005, nr 5, item 85.

³⁶ M. Sopoćko, *Rodzina*, 80.

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The influence of moral principles on the formation of a healthy family according to blessed father Michał Sopoćko

The article is based on the doctoral thesis of blessed father Michał Sopoćko: "The family in the legislation on Polish soil. Ethical and moral study", which he defended in Vilnius in 1926. The Author dedicated his work to the legislators who were working on creating the state legislation in Poland after regaining independence after 123 years of partitions, in order to unify the family law which was diverse in various partitions.

This dissertation presents the moral aspects concerning the family discussed by Father Michał Sopoćko with regard to the contemporary social norms.

The article is divided into 3 chapters: 1. The general concept and position of the family in moral theology; 2. The mutual relations of the spouses; 3. Relations between parents and children

Chapter 1. presents the basic role of the natural law, reference to the conscience and property law. Chapter 2 is focused on marital relations, among which the most important one is the integrity of the marital union, next there is a debate on the mutual life as a relation of two people of equal dignity with the variety of tasks and the property relations. Chapter 3 is a reference to the tasks which are connected with the childcare. It contains information about education, material security and the duties of parents and children and about the problems connected with divorces and maintaining illegitimate children.

The article emphasises the importance, validity and contribution of Father Michał Sopoćko to establishing legislation which concerns the family in the independent Poland.

Key words: Sopoćko, family, Catholic family, woman, man, wife, husband, child, parents, mother, father, conscience, natural law, family law, education, morality, divorce, marriage, indissolubility of marriage.

Introduction

Father Michał Sopoćko defended his doctoral thesis called *Family in the legislation on Polish soil*, in 1926 during the particular period for the Republic of Poland, the time of formation of the Polish legislation in the state rising from the ashes. Father Sopoćko, who noticed the trend to condemn the Christian tradition of the Polish family in the developed acts of law, wanted to protect the Catholic family values. He assumed that it was his moral duty, especially that as he noticed, at that time around 75% of the citizens of the Republic of Poland were Roman Catholics. He emphasised that the natural law, which is in accordance with the eternal God's law, was the foundation for every state legislation. That law had regulated the relations between family members before any human legislation was introduced.

For that purpose he examined and compared the codes of the law in every partition, emphasising these regulations which made it difficult or impossible for Polish families to build their households in accordance with Catholic values. He indicated that human law would never be homogeneous as it is dependent on the subjective view of legislators. His reference point was the moral theology of the Catholic Church which remained unchanged despite any political transformations.

Analysing the doctoral thesis of Father Michał Sopoćko I limited myself only to the moral issues which he indicated, putting aside the legal issues figured out by the Author.

Some issues required a longer analysis as even currently they are a source of social controversies, especially in the sphere of the civil rights of men and women.

The general position and concept of the family in moral theology

According to moral theology, as Father Sopoćko states, the family consists of the household community which consists of the spouses (as parents) and children. In the broader sense the family also includes relatives who are of the same or other blood but also of the same spirit, vocation or position¹.

In the times current for the Author, the family also included the third party – economic, which normalized the relations between the hosts and the servants. However, it was only supplementary to the natural

¹ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich (studium etyczno-prawne)* [Family in the legislation on Polish soil. Ethical and legal study], (Wilno: 1926), 28.

family. These norms resulted from the fact, that the father of the family fulfilled his paternal duty of maintaining the servants, especially widows with children, who did not have the right to inherit anything from the husband and father. Thus the widow became totally dependent on her employer².

Contemporarily social relations, including the right of inheritance, are totally different, and give the possibility of marital inheritance of the property to the husband and to the wife. Therefore, employees in the household are not a part of the family *sensu stricto*. They can participate in the life of the family however, in the relation of the employer and the employee and not as a master and a servant as it used to be.

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Moral theology names society, the nation and the whole humanity a family as they all have common Father in heaven and they are all redeemed with His Son's blood. Therefore, considering the fourth commandment: "Honor thy father and mother", moralists indicate not only the rights and duties of spouses, of parents and of children, and by the analogy of the parents – they talk about the duties of the first and of the latter, introducing the concept of family relations into schools and educational institutions, which is required by contemporary pedagogy. It concerns obedience of the employee to the superior and of a student to the teacher. This rule should be applied only when it concerns professional duties and does not interfere with the freedom of conscience.

The fourth commandment also concerns the citizens of the state who have responsibilities towards the Homeland and the nation who should finally constitute one big family. The essence of kinship, according to the Christian morality, includes the origin from the common ancestor regardless of the fact if the offspring was born as legitimate or illegitimate or from prohibited relationships³

The natural law

The natural law is common for all people, but it is not the first law. The first law is God's law which is mentioned by God Himself in the Holy Scripture: "fill the earth and subdue it" (Gen 1, 28). This was the command from the Creator for the first people, therefore, He was the first legislator. Regulations established by the man are licit to the extent to which they are in accordance with God's law. Therefore, the

² See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 7.

³ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 28.

state law is obligatory for Christians to the extent to which it is in accordance with God's law⁴.

In the discussed dissertation Father Sopoćko wrote "the law of nature is the eternal law of God which in the animal world appears as an instinct and among people – as the reason which dictates us what to do and what to avoid"⁵. It is unalterable truth, regardless of time and generations. However, in order to make the natural law determinant in human proceeding, it must be rooted in the properly formed conscience. The regulations of the civil law which concern the family can only be an extension of the law of nature and never contradictory to it⁶.

The function of the conscience

Father Sopoćko emphasised that God's law is unalterable, while the space for the confrontation of acting in its light is located in every person's conscience. Therefore, the considerations of Father Sopoćko which concern the family within the moral theology are not different from the contemporary teaching of the Catholic Church⁷. In the formation of the conscience it is necessary to refer to God's law because the man who is burdened with the consequences of the original sin, will never have a proper assessment. Only in the light of the Church's teaching can we set the moral boundaries which will contribute to the proper formation of the conscience. Civil law is not the condition for the proper functioning as it constitutes only the external norms. It does not refer to such values as love, forgiveness, building internal bonds in the family. It is the conscience which lets the man decide in the situations which go beyond the legal codes, both civil and canonical.

Father Sopoćko indicates that Catholic parents should have a properly formed conscience because they exert influence on educating their children and through that also on the formation of the children's conscience.

⁴ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 10.

⁵ See *ibidem*, 9.

⁶ See *ibidem*.

⁷ "Deep within his conscience man discovers a law which he has not laid upon himself but which he must obey. Its voice, ever calling him to love and to do what is good and to avoid evil, sounds in his heart at the right moment... For man has in his heart a law inscribed by God... His conscience is man's most secret core and his sanctuary. There he is alone with God whose voice echoes in his depths." CCC 1776.

The right to collect the assets

According to Father Sopoćko, the family is the first natural human society in which the new life is conceived. The family is the root of other social units of the state which should remain submissive to the family and not the other way round. It is not the family who maintains the state but the state maintains the family. Therefore, every citizen has the right to get a job and receive a descent salary⁸.

It is the right and the duty of the family to satisfy the material needs of its members. This motivates for diligence and work, for preserving the legacy and for developing them for the future generations. Therefore, Father Sopoćko thought that “communists who made attempts to overthrow the private property, acted against the family”⁹.

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The family also has the right and duty to preserve the spiritual legacy of its members. These include: religion, morality, patriotism and tradition. These values do not disappear at the moment of death of ancestors. They permeate to the next generations. The family develops such ideals as: justice, equality and fraternity. These ideals, which come from the family, are brought into society¹⁰.

The family is the school of life

Since the beginning of times, parents, the closest environment, have influenced the formation of a child's character. It is not indifferent in what environment, apart from the family, the child is brought up as it also has influence on his or her character¹¹.

The family in the light of the history of the Republic of Poland

In the area of Poland there were two laws: common and customary, that is tradition. It was difficult to unify the state law. The reason for that was mainly the big area of land of the state which consisted of various Principalities (Mazovian, Lithuanian, Ruthenian, and others).

Therefore, the customary law was the most important one among others for every particular principality, as it was conditioned by the denomination to a great extent, from the moment of the baptism of Poland in 996. Customary law also influenced the formation of the state regulations. For example monogamy, which predominated among the nations, became one of the factors contributing to culture, and civilised

⁸ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 7.

⁹ See ibidem, 8.

¹⁰ See ibidem.

¹¹ See ibidem.

nations of Europe took it as the only form of marriage sanctified by the law, religion and customs.

Customary law was focused on the economic issues connected with inheritance, child care etc. However, as Father Sopoćko noticed, despite the following rulers of the Commonwealth, from Kazimierz Wielki to Stanisław August, that is until the final partition of Poland in 1794, customary law was not unified for the whole state. Therefore, we can claim that Poland has never had a unified state law, especially with regard to family matters. Therefore, the Catholic Church played an important role here, caring to preserve God's law. Thus the Catholic tradition was strengthened and preserved in Polish families. These deep traditions present in Polish families were revealed particularly during the partitions of Poland. Due to the deeply rooted Polish Catholic tradition, Polish families have not lost their identity yielding to the civil law of the invaders. It also concerned other countries, not only Poland but the whole Europe.

The mutual relations of the spouses

Marriage – dissolution of marriage

In the light of the law, marriage is a contract. However, Father Sopoćko emphasised its uniqueness with this regard stating that: "due to its aim, essence and object it differs from any other contract and it is much higher in the hierarchy"¹². Marriage is a relation of a man and a woman. This structure of marriage according to the moral law is inviolable, regardless of the changing generations. Marriage is the beginning of building a family, the spouses are able to fulfil one of the main tasks of marriage: to accept and educate the offspring. However, procreation is not the only aim of marriage. In the moral order one of the main tasks of marriage is to educate a human. This process begins in marriage, that is the unit which exerts influence on the whole humanity. The spouses have the right to count on each other with regard to the material and spiritual aspects. According to Father Sopoćko marriage nobles the sensual urges, it contributes to raising physical health and improves the man ethically. Certainly such presumptions can be made when we are dealing with a perfect model of marriage¹³.

¹² See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 30.

¹³ See *ibidem*.

Marriage is religious in nature. Father Sopoćko noticed that it had always been like that in all societies. Contracting marriage was performed during a ceremony in honor of gods which were the object of the cult for a certain people. In the Catholic Church marriage is raised to the dignity of a sacrament. Therefore, we can talk about the holiness of marriage which is contracted through a mutual vow of the spouses before God and at the presence of a priest. For Christians God is the Creator and the Lawgiver in marriage (see Mt 19, 4-6). Therefore, Christian marriage is no longer just a civil contract. On the basis of legal prerequisites, the Church has the right to decide about the annulment of the contracted marriage. However, She cannot dissolve a marriage contracted in a valid way. Father Sopoćko emphasised that “the Church firmly advocates since the very beginning and She will not subside as with regard to the laws dictated by Christ, the Church is only a guardian and must watch over strict executing of them”¹⁴.

Both the Church as the supernatural society and the state as an institution have their own separate range of action but they have one common goal: the welfare of an individual and of the whole community. Thus, also in the matters of marriage, the agreement is possible and necessary, the thing concerns the determination of competencies of each party. According to Father Sopoćko, civil marriage can only be justified in case of non-believers. For the members of the Catholic Church it is justified to contract civil marriage due to its legal results provided by the state law but the act should be signed during a single ceremony of contracting marriage in the canonical form. Such an agreement between the state and the Church appeared by the power of Concordat in 1993. The Concordat from February 25th 1925 did not provide such a possibility, and what is more, it did not regulate this sphere at all. In marital law until 1939 the applied systems were the ones inherited from the partitioning countries¹⁵. Father Sopoćko thought that the obligatory civil wedding is a slap in the face of religion, violation of the conscience irony of civil liberties and abuse of the state¹⁶ and a serious harm for the Church and for Catholics¹⁷.

¹⁴ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 32. See CCC, 1639-1140.

¹⁵ J. Gręzikowski, “Zawarcie małżeństwa konkordatowego”, *Ateneum Kapłańskie* 2000, fasc. 3 (547), vol. 134, http://web.diecezja.wloclawek.pl/Ateneum/grezlikowski_547.htm (access from June 15th 2022).

¹⁶ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 34.

¹⁷ See *ibidem*, 38.

The right to divorce – as he claimed – deprives marriage of indissolubility and constancy. In this light the family is only a temporary agreement which can easily be dissolved. This is the basis of uncertainty as for the constancy of the relationship. With the lack of certainty for the future it is difficult to be open to a new life as this would oblige for commitment. The uncertainty of marriage cannot be reconciled with true love. It is usually the reason of our unconscious dissociation. Such a model of marriage, according to Father Sopoćko, who gives the examples of Germany and France, leads to the gradual dying out of a nation¹⁸. After almost 100 years we are convinced that his views were correct.

Indissolubility of marriage

Indissolubility of marriage ensures the permanent relationship. As a result it strengthens mutual love and attachment. The spouses who would never decide to get divorced are capable of fighting against all the vices in them in order to strive for consent. Such marriages, according to Father Sopoćko, are the schools of virtue, an incentive to work and to save up. If love is the basis of marriage, it will motivate the spouses to give the gift of self¹⁹. Otherwise, the spouses are looking for their personal goals. The care for others, for our state and for the children becomes distant from their aims. This results in the suffering of the family, of the society and of the state²⁰. “In case when the dissolubility of marriage is acceptable, consequently we can deduce that any vow can be broken, even the one which a soldier takes of fidelity to the Homeland”²¹.

Father Sopoćko notices that Catholic Church apply non-lifting burdens. This also concerns the sphere of marriage. Sometimes, for important reasons the spouses must be separated. Separation is

¹⁸ See *ibidem*, 34-35.

¹⁹ See *ibidem*, 35.

²⁰ See *ibidem*, 36. Father Sopoćko indicates that indissolubility of sacramental marriage is such a great value that the Church is able to accept apostasy of individuals and even many members of the Church in order to preserve God’s law. He refers to king Henry VIII as an example who demanded from Pope Clement VII to let him divorce Catherine of Aragon. As a result of the strong position of the Pope is the England’s departure from the Church and martyrdom of those who remained faithful to the Catholic Church. Another example is Napoleon, who wanted to divorce Josephine but he did not receive Pope Pius VII permission. See *ibidem*, 37.

²¹ See *ibidem*, 37.

a solution acceptable by the Church, however, it is not a divorce. The spouses who live in separation do not break their marriage vows, as it results from Christ's words: "I say to you, whoever divorces his wife (unless the marriage is unlawful) and marries another commits adultery." (Mt 19, 9)²².

Father Sopoćko indicates that this part has different meanings in different Christian religions. He thinks that in the Orthodox churches and Protestant churches this part of the Gospel was wrongly interpreted because that would mean that divorce is acceptable. However, as he emphasises, the Holy Scripture cannot contain any contradictions and the possibility of marriage is contradictory to the Christ's position on this subject. According to the Catholic ethics, only death dissolves the marriage knot, according to the words of the vow: "I will not leave you as long as we both shall live (...)"²³.

The indissolubility of marriage allows to preserve monogamy. Thus the spouses have equal rights, that is: the woman is released from the fall and bondage which she is subjected to in polygamy and it is most beneficial for the main aim of marriage – procreation, which is not possible in polyandry. The welfare of the spouses who must support each other in educating children and in their old age requires indissolubility of marriage²⁴.

Common life

Living together

The duty of the spouses to live together did not result directly from the codes of the civil law of the invaders. However, it was and still is in accordance with the natural law and with the Christ's teaching. For Father Sopoćko, it is rooted in the parts of the Holy Scripture: "For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh" (Mt 19,5) and: "Likewise, you husbands should live with your wives in understanding, showing honor to the weaker female sex, since we are joint heirs of the gift of life, so that your prayers may not be hindered" (1 P 3,7).

Living together helps the spouses preserve marital fidelity and to realize the main aim of marriage that is giving birth to and educating the offspring. In the times of life of the Author it was a common

²² See *ibidem*, 36.

²³ See *ibidem*, 37.

²⁴ See *ibidem*, 43.

practice that the wife moved into her husband's house and not the other way round. Currently this is not a rule. It mainly results from the economic reasons.

The social position of the husband and of the wife

Father Sopoćko emphasises the equality of rights of men and women. However, for practical reasons, he stands in favour of the privileged situation for men in the functioning of marriage and family. Referring to the Holy Scripture and quoting: "there is not male and female; for you are all one in Christ Jesus." (Ga 3, 28), he notices the equality of men and women, however, he assigns the authority to the husband. He thinks that "the equality between the man and the woman concerns being destined for the eternal glory through the deeds of the Christian perfection and thus they have equal rights and duties. However, the same nature develops differently, is externally expressed in a different way in the man and in the woman"²⁵.

The inconsistencies noticed by Father Sopoćko which concern the phenomenon of domination of the man over the woman and the other way round did not appear only in 1920s. Contemporarily we are also dealing with the phenomenon of the misunderstood equality of men and women which is being imposed on the society particularly by the feminist circles. Therefore, it should be strongly emphasised that the position of the Catholic Church has not changed. The proper relation between the husband and wife consists in the mutual complementarity. The woman brings to the relation her emotional sensitivity, the inclination for mutual interdependency, longing for the emotional intimacy with her husband²⁶. This intimacy of the husband is highly demanded for her. She wants to love and be loved. Her husband is the one that she can always count on also in educating their children. "The mother who does not have a strong support from her husband will definitely manipulate her children"²⁷. However, her maturity assumes taking responsibility for her own actions. The husband is supposed to be the wife's support but he cannot decide for her. What is more, she does not have the right to burden her husband with the

²⁵ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 45.

²⁶ A. Moir, D. Jessel, *Płeć mózgu. O prawdziwej różnicy między mężczyzną a kobietą* (Warszawa: 1993), 179.

²⁷ J. Augustyn, *Adamie, gdzie jesteś* (Kraków: 1996), 108.

absolute responsibility for the family. They are supposed to be partners in building their household²⁸.

The mutual help of the spouses

Apart from educating children, the spouses are to help each other in both the worldly matters and in eternal matters. Father Sopoćko recalls the thought of Aristotle: "Joining the husband and wife is necessary not only to preserve the human kind, but also to make the life on earth easier for them"²⁹. He notices that in moral theology disobeying this recommendations is a sin. As the civil law is limited to the help in everyday life in the mundane matters, moral theology broadens the mutual help also towards the spiritual sphere which concerns the spouses' concern for each other's salvation³⁰.

Noticing the differences in the legal provisions of different invaders, Father Sopoćko, strongly emphasises the love is the most important law for a Christian. Love will be the indicator for building a Christian family. "If we remove love from the family, all of the legal regulations concerning the rights and duties of family members will become a clashing cymbal" (see 1 Cor 13, 1-3; Eph 5, 25-33; Tt 2, 4-5)³¹. Moreover, he adds that this love must be stronger than the parents' love. Love is included in the marriage vow: "(...) and I promise to love, be faithful and cherish you".

Civil law concerns only the external deeds of people as it does not have any power over the inner acts of the soul and therefore, it cannot order or forbid them. That is why emotions are not included into the extent of the civil legislation, and thus there is no mention of the love of spouses in the codes. Love belongs to the sphere of conscience which is watched over by moral theology. According to the Christian rules, both the man and woman are mainly called to love. However, realization of the vocation for love by the woman is different from the realization of the man³².

Woman's vocation to "be for" is revealed already in Eve's relation with Adam. Created by God and located in the garden, which he is to cultivate, Adam suffers from loneliness. The presence of animals in not enough for him. He can name them, however, he needs help

²⁸ E. Pohorecka, "Macierzyństwo", *Życie Duchowe. Duchowość kobiety* 2006 (45): 57.

²⁹ M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 50.

³⁰ See *ibidem*, 50.

³¹ *Ibidem*, 58.

³² See *ibidem*, 49.

in life, he needs a person who is like him. This help is necessary for his full development of his humanity³³. Only a woman can constitute such a help for him, as she is created of the same flesh and she is filled with the same mystery, which gives the future to the human kind. It is expressed ontologically in such a way that creating the woman by God resembles the human relational reality³⁴. According to God's plan, the woman's mission was to interrupt the spiritual loneliness of the man³⁵. To confirm the man's recognition of the woman's equality Adam states: "This one, at last, is bone of my bones and flesh of my flesh" (Gen 2, 23)³⁶. However, this ontological unity does not mean that the woman was created to be subordinated to the man. She was created as a separate human entity, and she is equal to the man in her humanity³⁷. "The woman was not created out of the man's head in order for her to rule over him, neither out of his feet so that he did not trample her, but out of his rib so that she would be his peer and under his shoulder so that he could protect her and close to his heart so that he could love her"³⁸.

God created the woman out of love, as an autonomous being bestowed with reason and capable of expressing love for others – a gift³⁹.

³³ The Hebrew word *ezer*, translated as "aid" means such assistance which one person can offer to another. This concept does not introduce any connotation to submission or instrumentalization. God is sometimes called *ezer* in relations to the man (see Exodus 18,4; Ps 9-10, 35). D. Adamczyk, "Biblijno-teologiczna perspektywa seksualności człowieka", *ComP* 2007, nr 2 (158), 15. See also: Congregation for the Doctrine of the Faith, *List do Biskupów Kościoła Katolickiego o współdziałaniu mężczyzn i kobiety w Kościele i świecie*, May 31st 2004, *Biuletyn KWPŻ* 22/2004. Z. Kiernikowski, *Dwoje jednym ciałem w Chrystusie* (Warszawa: 2001), 33.

³⁴ See John Paul II, *Człowiek – obraz Boży jako podmiot poznania i wolności*, catechesis April 23rd 1986, 4, www.apostol.pl/janpawelii/katechezy/bogojciec/cz%C5%82owiek-obraz-bo%C5%BCy-jako-podmiot-poznania-i-wolno%C5%9Bci (access from June 15th 2022).

³⁵ See A. Kołodziejczyk, "Macierzyństwo Maryi uzdrawia", *Zeszyty Formacji Duchowej* 2003 nr 23: 39.

³⁶ Congregation for the Doctrine of the Faith, "List do Biskupów Kościoła Katolickiego o współdziałaniu mężczyzn i kobiety w Kościele i świecie", May 31st 2004, *Biuletyn KWPŻ* 2004 (22): 6.

³⁷ See John Paul II, *Znaczenie pierwotnej jedności mężczyzn i kobiety (I)*, catechesis 7.11.1979, 4, <http://www.madel.jezuici.pl/rodzina/Jan-Pawel-II-Theologia-malzenstwa.html> (access from June 15th 2022).

³⁸ Quoted after: G.J. Wenhan, *Genesis 1-15, World Biblical Commentary 1*, (Nashville: 1987), 69, in: J.-B. Edart, "Androgyn, czyli communio personarum", *ComP* 2007, nr 2 (158), 37.

³⁹ See A. Kołodziejczyk, *Macierzyństwo Maryi uzdrawia*, 34.

The woman is a gift for the man and the man is a gift for the woman. Both are created for the mutual relationship as the ability to love is the man's wealth, therefore, the man should not be by himself. The woman shall complete the man's loneliness⁴⁰.

God the Creator, giving the woman to the man, makes them mutual gifts for each other. The man meets the woman – wife. He experiences that the difference between the woman and the man is not limited to the external dimension. The mystery of her femininity is revealed and exposed in maternity. For the man, the woman is a visible help given to him by the Creator. She is a chance for him. She restores the human body making it a tool for exploring the intimacy of the other person. Such intimacy requires privacy. Therefore, the woman who is bestowed with the gift of carrying a child, transmits the truth that the Lord “cures every body and works wonders, the life”⁴¹. As a result the woman appears to the man as a mother. Maternity constitutes the inner potential of the whole woman's constitution which “with the creative precision serves to conceive and give birth to the offspring thanks to the man”⁴². Thus the man called the woman *chawwa* – “the mother of all the living”. This name defines her predestination – the woman's vocation for maternity. The Creator, while creating the woman, bestowed her with everything that is good for her, with maternity⁴³.

Theology
of Family

The woman's submission to the man

This title of the chapter sounds provocative. It results from the fact that contemporarily we look at the relation between the man and woman in a different way than during the times of Father Sopoćko. The woman's submission to the man, as Father Sopoćko emphasises, is required by the civil law codes of invaders, although to a different degree⁴⁴.

He saw this social phenomenon in the light of moral theology. He emphasises that this submission must not be perceived as servile. “Moral theology, while talking about the wife's submission, reminds the husband that he is not all-powerful master and she is not his servant,

⁴⁰ See D. Adamczyk, “Biblijno-teologiczna perspektywa seksualności człowieka”, *ComP* 2007, nr 2 (158): 14.

⁴¹ M. Vidal, “Stworzył ich jako mężczyznę i niewiastę”, *Życie Duchowe* 2006 (45): 20.

⁴² John Paul II, *Mężczyzną i niewiastą stworzył ich* (Watykan: 1986), 85.

⁴³ See E. Adamiak, *Milcząca obecność. O roli kobiety w Kościele* (Warszawa: 1998), 23; J. Pulikowski, *Słowo męża*, in: J. Pulikowska, *O kobiecości* (Poznań: 2004), 6.

⁴⁴ See *ibidem*, 47.

nor his concubine but his companion and bride, whom he owes love, respect, care and maintenance etc.”⁴⁵.

The woman’s submission to the man, especially in the marital relationship, is a gift. However, it can be a gift if it is implemented by both of spouses in accordance with God the Creator’s plan. The description of the act of creation reveals one more feature of the woman – she is easily deceived. Her dialogue with the serpent in paradise is an example of that. Some people think that “Yet your urge shall be for your husband, and he shall be your master (see Gen 3, 16)” as a part of her curse⁴⁶. However, this “man’s mastering” can also be perceived in a positive way as the Creator’s gift, help in taking decisions, support in difficult choices⁴⁷.

The unity of the woman and man is also the Creator’s idea. The man is supposed to support the woman, he is to take care of her and protect her from evil. Together they constitute a harmony in the order of creation⁴⁸. God created the man and woman for the mutual communion and therefore, from the beginning He addresses them separately (see Gen 1, 28)⁴⁹. Satan who falsifies the image of the Creator, separates people, he only addresses the woman, against the nature, isolates her from the man. This situation results in a division, the fracture of the original unity of people with God and among people. This results in the alienation, the mutual distancing. There is no communion between them. People get to know the feeling of longing and loneliness⁵⁰.

Relationality of the man and woman is a gift, which, when properly used, helps them in cooperation with the Creator. Thanks to the presence of the man, the woman can reasonably receive signals from her surroundings. While the man without the woman would not be able to ascend above the world of objects and animals the woman helps him notice the spiritual reality. She introduces the man into the world of relations and love⁵¹.

⁴⁵ M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 48.

⁴⁶ E. Adamiak, *Milcząca obecność. O roli kobiety w Kościele* (Warszawa: 1998), 23.

⁴⁷ J. Pulikowski, *Słowo męża*, in: J. Pulikowska, *O kobiecości*, 7.

⁴⁸ See U. Michałowska, “P. Evdokimov o charyzmie kobiecości”, *Zeszyty Formacji Duchowej* 2003, nr 23: 50.

⁴⁹ Ibidem.

⁵⁰ Ibidem.

⁵¹ See M. Dziewiecki, “Geniusz kobiety”, *Zeszyty Formacji Duchowej* 2003, nr 23: 58.

The emancipation of women

Father Sopoćko noticed that the Church approves of a limited emancipation. Indeed, based on the Christ's teaching, he was the first to protect women's rights against the pagan autocracy of husbands. Raising the cult of Virgin Mary over all the other cults except for God's, the Church raised the woman from the fall and restored her due respect in the contemporary Christian civilisation. The Church has always protected and is still protecting women's rights. She condemns the hypocritical activity of those who are against the women's emancipation and at the same time humiliate their dignity in the most appalling way. Limited emancipation, mainly in the economic, social and political matters, does not oppose to the Christian morality, but, on the contrary: it is and has always been involved into it and is the result of the morality⁵². "However, it is not acceptable – which is underlined by Father Sopoćko – to introduce radical emancipation, which is against nature and the woman's vocation and which goes against the revealed God's will. The Church will never approve of this type of emancipation on account of the public welfare, educating children, chastity and morality of the Christian family"⁵³.

⁵² See *ibidem*, 46. Sociological research which present the situation in Poland showed that not all women were subjected to it. They took up challenges connected with the development of the industry started in XIX century. The model of emancipation was mainly present among women aged from 19 to 29 years old and those after 50. Middle-aged women clearly chose to start a family and took up the duties connected with that. See S. Dzięcielska-Machnikowska, D. Duraj, *Rola kobiet w klasie robotniczej* (Łódź: 1984), 24.

⁵³ M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 46. See G. Maslenikowa, *Skradzione macierzyństwo*, in: *Międzynarodowy Kongres. O godności macierzyństwa – Warszawa 6-7 czerwca 1998* (Warszawa: 1998), 182. The author refers to the situation in Russia. She thinks that the social and economic system introduced in Russia, from the tsarist times, deprived women from maternity. "The stolen maternity in Russia, she wrote, consists in wet-nurses – slave girls, French governesses, the Church Who was forced to become the servant of the tsar's authority, and not to serve the family which is its little image; emancipation which deprived women of being a mother, the social policy according to which the woman becomes workforce, a part for creating material means and she is deprived of the possibility to realize her basic vocation – maternity. Maternity itself was deprived of appeal, apart from the reward, the gift from God, it becomes a burden, obstacle, it encumbrance which can be got rid of without thinking of the consequences. The mission of maternity is not implemented and the whole energy is directed at destroying home, the present and future of the children". *Ibidem*.

Love – as the condition for retaining the law

Analysing the legal regulations which concerned the family, Father Sopoćko, emphasises that they refer only to the external acts. Feelings are not included in the scope of civil legislation, therefore, most codes did not mention conjugal love. Father Sopoćko notices that in the codes which mention the mutual conjugal love it is only an expression without any particular sanctions, and thus it has no particular meaning⁵⁴.

Father Michał strongly emphasises that spouses are mainly obliged to love each other. This is a field of conscience and it is guarded by moral theology. The regulations of law are only guidance. “Love is one of the nobles feelings, without feelings there would be no master, no judge, no beautiful art. And no real marriage, as the man with reason but without feelings is simply a dead phantom with no real life”⁵⁵.

Property relations of spouses

This chapter will only contain a short comment as the field is a strictly legal matter. However, according to Father Sopocko, the family has the right and obligation to take care of their economic security. Private property is the foundation of building the household and has a great influence on the family ethics. Father Sopoćko thinks that “where there was no private property, there was no morality in the family. Therefore, broadening the moral duties of family members, it is not possible to ignore the property relations between spouses, parents and children”⁵⁶.

Moralists instruct to comply with the civil legislation concerning property relations in marriage only when it is in accordance with the conscience⁵⁷.

In the light of the moral law, the honesty in disposing the assets is a result of the marriage vow which the spouses took and promised to cherish. As it was a vow, it must be observed, otherwise they will commit a sin⁵⁸.

⁵⁴ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 59.

⁵⁵ M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, quotation from: J. Kremer, *Listy z Krakowa* (Wilno: 1855), 170.

⁵⁶ M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 60.

⁵⁷ See *ibidem*, 67-68.

⁵⁸ See *ibidem*, 76.

Relations between parents and children

Sociologically marriage is not yet a family. The family consists of spouses with their children this is the closest family which can be broadened with relations of previous or following generations. Healthy marital relations are the foundation for the healthy family. According to the principle: "words teach but examples inspire", parents' deeds will exert more influence on the children than the words. It is a timeless rule which is still applicable today⁵⁹.

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Parental care over children

Father Sopoćko emphasises that parents are obliged to take care of their little children and to maintain them. Such an approach is beneficial for them because with time, when the children grow up and the parents get old, the roles can be reversed. Then the children are supposed to take care of their parents. It mainly results from God's law which is contained in the fourth commandment: "Honor thy father and mother"⁶⁰.

Father Michał indicates that throughout history Christians were those who started to treat children as a respectable citizens who has the right to live as he or she has an immortal soul. The spirit of the Church permeated legislation and included disabled children, orphans and illegitimate children, who used to be deprived of the right to live, especially during the pagan times. Therefore, for Christian parents God is the first and most important legislator⁶¹.

Feeding the child

Father Sopoćko notices that a child has the right to make use of natural resources which serve his or her health. Among these Father Sopoćko mentions feeding the children by their parents. In case of infants, he thinks, that they are entitled to the mother's breast milk. If the mother can breast feed but she does not do it, she acts immorally because she deprives the child of not only the best nourishment but also of a range of psychological and spiritual goods which are necessary for the child's proper development. If the mother cannot breast feed and she hires a wet nurse, the latter can breast feed the baby but

⁵⁹ See Papieska Rada ds. Rodziny [The Pontifical Council for the Family], *Ludzka płciowość: prawda i znaczenie. Wskazania dla wychowania w rodzinie* (Łomianki: 1996), 55-60.

⁶⁰ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 78.

⁶¹ See *ibidem*, 81.

she cannot earn money for that. According to Father Sopoćko, earning money for breast feeding is considered immoral⁶².

Education

Education in the strict sense meant as the direct influence on the child from the first moment of his life mainly rests with the parents. Therefore, it is necessary to be present by the child, especially in the period before he or she starts school at the age of 7. The mother is supposed to educate the child while the father is expected to provide the wife and the child proper living conditions in the material sense⁶³.

The family can cope with this task with the help of the state which should provide the possibility to earn the living, especially to the child's father because the father is mainly responsible for maintaining the family. It is an order of things which was violated by the economic transformations introduced in the state⁶⁴. "The family as the sanctuary which has not been disturbed so far, has now been interfered by the state which has started to change the relations that should be regulated by the laws of nature and on the basis of natural love, morality and feelings which are not submitted to desecration"⁶⁵.

Father Sopoćko does not rule out the need for the industrial development, for the new technological developments but he warns against the results of violating the balance between the material and the spiritual. "In the period of steam, electricity and planes, the culture of the human spirit was forgotten and it resulted in the world war and later the economic crisis of the nations which were the first to strive for materialism"⁶⁶.

Father Michał indicates the dangerous social phenomenon – undertaking jobs by children who as a result must stay away from home. In his times such practice was at the expense of their school education.

Today children do not work but most of them spend almost all day in a nursery, in the kindergarten or in the aftercare. Although they need contact with their peers in order to work on their social skills, the time spent outside home should be balanced for their good. A child who is deprived the direct educational influence of the parents, does

⁶² See *ibidem*, 87 and next.

⁶³ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 91-92. See also: J. Augustyn, *Co matka i ojciec dają dziecku?*, in: J. Augustyn (ed.), *Macierzyństwo* (Kraków: 1998), 21.

⁶⁴ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 91-92.

⁶⁵ *Ibidem*, 93.

⁶⁶ *Ibidem*.

not preserve the moral attitude which can only be acquired at home. Parents are responsible for the spiritual development of the child⁶⁷.

Father Sopoćko particularly emphasises the religious aspect in educating a child because some children of the previously mentioned codes do not mention the obligation for the religious education of a child. He underlines the particular harm of the regulations of the Bolshevik civil law which forbids the religious education of children at school and under the penal code procedure it provides severe penalties for those who by any means exert religious influence on minor children. At the same time he notices the possibility of the broad interpretation of this regulation which can also regard the household and the child's parents⁶⁸.

In the contemporary time, some political parties in Poland similarly try to get rid of religion in the social life. Although the time has changed, the results will be the same as those in the time of Father Sopoćko. Only the religious practice which is connected with the faith in God and are a great lever in the whole human life, can he fully develop spiritually⁶⁹.

Parental authority

Father Sopoćko notices that the codes of the civil law generally assigned parental authority to the child's father although not to the same extent as to the mother. Certainly it was connected with the socially assumed way of treating women. Presenting the attitudes of particular employers, he definitely gives God's law the superiority over them all, as according to God's law, both father and mother have the same rights for the child as they both participated in giving life to the child. However, parents are not the absolute owners of the child as they did not create him or her. God is the creator the man thus the parents' limited authority⁷⁰.

Parents have the right to execute their authority over the child but it always requires their love. As the human feelings are changeable and they need to be subjected to the unchangeable regulations of law and must not be guided by feelings only⁷¹.

Father Sopoćko also mentions the issue of punishment for the child, which aims at educating the child to be obedient. He allows for the

⁶⁷ Ibidem.

⁶⁸ See ibidem, 94.

⁶⁹ See ibidem, 93.

⁷⁰ See ibidem, 96.

⁷¹ See ibidem, 97.

corporal punishment but only those which are not harmful. At present such punishment is considered violence but until recently they were an educational method. Moral theology, according to Father Sopoćko, commands the parents to scold the child's trespasses, however, they must do it with prudence and moderation. Corporal punishment must never turn to abuse. Punishing connected with hatred and exceeding the limits of justice are a sin⁷².

Civil authority in the codes discussed by the Author and in contemporary time does not allow for the violence towards the child. Non-compliance with that may result in depriving the parents of their parental authority by the court of law⁷³.

The rights and duties of children

Respect

The children's duties towards parents result from the natural law, regardless of any agreement or permission as the family is a natural society. The parents' duty is to maintain and educate children while the children's duty is to be grateful, to show respect, love and be obedient to the parents according to the fourth commandment: "Honor thy father and mother".

The law does not regard the internal human feelings and cannot forbid or command love. This is a matter of the conscience which is formed and managed by religion. In the civil legislation, respect is the external indication of love. Parents have a particular place before God as in the Holy Scripture God commands in the Decalogue to respect parents and He gives a promise to the children who will honor their parents (Syr 3, 3-4)⁷⁴.

Obedience

Respect is connected with obedience. The parents who are obliged to educate, should have the right to command and the children are obliged to be obedient until they are under the parental authority⁷⁵.

⁷² See *ibidem*, 100.

⁷³ See *ibidem*, 101.

⁷⁴ See *ibidem*, 106.

⁷⁵ See *ibidem*, 108.

The child does not have to and must not be obedient to parents when their commands are contrary to God's law and the civil law unless the latter is against God's law⁷⁶.

Moral theology obliges minor children to be obedient to their parents under the penalty of sin in everything which concern salvation of the soul and good manners. The exception concerns the choice of status. Children are not obliged to be obedient to their parents in this matter. They are obliged to follow their conscience (Mt 8, 22; 10, 37)⁷⁷. Similarly, with regard to the choice of occupation. Father Sopoćko indicates that the state law determined the time of the parents' authority over the children defining the boundary of their being under-aged⁷⁸.

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Maintaining parents in need

The Catholic ethics requires that children should take care of their parents when it is necessary. It also concerns the people who are ordained. In such cases leaving the community and taking care of the parents is morally justified⁷⁹.

The influence of divorce on the relation between parents and children

In the times of the Author's life, it was the woman who felt the consequences of divorce. It resulted from the fact that man was the main family bread winner. Nowadays it is different because women are able to earn their living themselves⁸⁰. However, it is still relevant that "every divorce undermines the family life, deprives the child of the proper living conditions in which he or she should be brought up"⁸¹. According to Father Sopoćko, children from a divorced marriage are deprived of the family atmosphere of love, obedience, discipline, feeling of unity

⁷⁶ See *ibidem*, 109.

⁷⁷ See *ibidem*, 110.

⁷⁸ See *ibidem*, 113.

⁷⁹ See *ibidem*, 111.

⁸⁰ "The woman has the right to equality in the sphere of payment and of the working conditions". It is necessary to create structures which would make it easier for the woman to enter social life, cultural formation and occupational formation, as well as benefit from the social provisions such as: assignment of the apartment, education for children, proper tax reductions". John Paul II, *Orędzie na Światowy Dzień Migranta [Message for the World Day of Migration]* 1995, 4, "L'Osservatore Romano", www.opoka.org.pl (access from June 15th 2022).

⁸¹ M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 118.

and fraternity. Such a deprivation usually results in the recriminations of the divorced spouses, which is witnessed by the child and in which he or she usually participates. This makes the child suspicious, dishonest, unstable and they suffer from resentment for their parents and later for the whole world. The lack of the strong guidance of the father and the tender care of the mother or sometimes of both parents, corrupts the child's character. The child's frustration is also caused by material and inheritance matters⁸².

Father Sopoćko thinks that the situation of children of divorced parents is much worse than the situation of orphans. The latter know that their parents are dead. They are grateful to them for the gift of life and education. Their sorrow is weaker when they are aware of the fact that their parents bless them from heaven. This obviously concerns children who were brought up in the Christian faith. The situation of the children of divorced parents is totally different, when the child knows that his parents are alive and living with one parent he or she has to tolerate the parent's new partner. Sopoćko notices that as many as 80% of children from penitentiaries come from divorced families⁸³. It should be indicated that he bases his theses on the contemporary social morality, not treating divorces as so natural as they are considered to be nowadays. The survey conducted in Poland in 2008 indicated that 52% of minor criminals come from divorced families the statistics from 2012 present the range of 21-36%, the 54-70% of which are the children brought up by single mothers⁸⁴.

Illegitimate children

Father Sopoćko, while discussing this issue in the light of moral theology, notices that parents, despite the fact that they are not married, are obliged to maintain such a child. He assigns the greater responsibility for that to the father. Therefore, the father should maintain the child. In the times contemporary to the Author, an illegitimate child was not responsible for the deeds of the parents, which is still

⁸² See *ibidem*, 118.

⁸³ See *ibidem*, 128.

⁸⁴ J. Słyk, "Przestępcość nieletnich w świetle badań aktów spraw sądowych a problem odpowiedzialności rodziców za szkody wyrządzone przez ich dzieci", *Zeszyty Prawnicze* 2008 (8.2): 293. See also: U. Dudziak, *Psychologiczne skutki rozwoju rodziców dla ich dzieci*, 102, in: https://bazhum.muzhp.pl/media/files/Forum_Teologiczne/Forum_Teologiczne-r2012-t13/Forum_Teologiczne-r2012-t13-s97-108/Forum_Teologiczne-r2012-t13-s97-108.pdf (acces from: June 15th 2022).

valid⁸⁵. However, until the Second Vatican Council, under the Code of the Cannon Law from 1917 such a child was deprived of some rights which were granted to a legitimate child. An illegitimate child as an adult could not be raised to the dignity of a cardinal, a bishop, a prior or a priest. He was not even allowed to enter a seminary. The same concerned women who wanted to enter a convent⁸⁶.

Summary

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“The family is the first natural human society the aim of which is to preserve the human kind – educating a new generation and transferring him or her the spiritual and material culture for his or her further development”⁸⁷.

The family is the first social unit. Therefore, drawing upon its first basic law, it cannot be subjected to the laws constituted by the later societies, which are not in accordance with the conscience of family members. It also concerns the state legislation. Therefore, the aim of the state is to clearly determine the regulations of natural law and to apply them in particular circumstances, place and time, the level of development and the national character of the citizens and to ensure application of these regulations with a proper sanction

Father Sopoćko indicates that none of the pagan cultures has ever been able to fully protect the natural rights of the family or protect the woman and children, especially the sick and disabled ones who used to be killed⁸⁸.

Only through the light of Christ’s teaching spread by the Catholic Church was the family healed. In the light of God’s commandments the proportions between the authority of the father and of the mother were introduced. The man’s absolute power over the woman and the children was severely limited. The woman received back her dignity and respect and the child was properly taken care of, protected from being killed or sold. Such regulations of the law were preserved in the Christian circles and they gradually were being introduced to the civil legislation, also on Polish soil. The barbaric customs were stopped under the influence of the Christian ethics. Christian principles were introduced in particular districts of Poland⁸⁹.

⁸⁵ See M. Sopoćko, *Rodzina w prawodawstwie na ziemiach polskich*, 130.

⁸⁶ See ibidem, 132.

⁸⁷ Ibidem, 149.

⁸⁸ See ibidem, 149.

⁸⁹ See ibidem, 150.

Since the time of reformation there has not been any unified Christian law which obliged all Christians alike. There was a schism between the family ethics in the Roman Catholic Church and the Protestant ethics. Under the influence of the changes connected with ethics, the family of the noblemen in Poland was disrupted. People got married several times and divorced, which exerted negative influence on the young generation. Finally it resulted in the moral corruption of the ruling class. The word lost its meaning and value. If it was possible to break the marriage vow, people could now replace bravery and sacrifice for the country with selfishness and self-interest. The latter finally led to the loss of independence.

The introduced regulations of the invaders, which at first, as Father Sopoćko noticed, resembled the Christian teaching, gradually, under the influence of the pseudo-reformation, were transformed in many amendments in the neo-pagan direction and were against the natural law and the former Polish customary law. Father Sopoćko gives as an example the permissibility to divorce, introduction of the obligatory contracting of civil marriages, forcing the wife to be absolutely submissive to her husband and depriving her of the paternal authority⁹⁰.

Father Sopoćko noticed that such legal status, different for different partition resulted in the fact that when Poland finally regained independence, it was difficult to establish unified legislation. The regulations which were totally different from the spirit of our nation and tradition in the sphere of marriage and family ethics, were very controversial. The latter were preserved in the Polish Catholic families despite the pressure from the invaders.

In the discussed dissertation Father Sopoćko indicated the negative social results of the regulations which were against the natural law. He emphasised that only the legislation which is in accordance with the Christian rules, and which is founded on the natural law, is acceptable. He was aware that despite the good will of many people, unification of the legislation according the Polish spirit and tradition was very difficult due to the fact that Poland was being gradually influenced by the anti-ethical trends which had already existed in the neighbouring countries.

One of the actions of these trends was to aim at the gradual separation of the school from the Church or creating the national Church which was totally dependent on the state. He considered it to be an absurd as it was the Catholic Church that remained the creator of the statehood and the refuge during the long years of partitions. “The

⁹⁰ See *ibidem*.

state would like to take an absolute authority over the family, to limit parental authority in order to take it over, what is more, – the state would decide about the marriage contract, its validity and results just like it is in Germany and Bolsheviks country⁹¹.

Father Sopoćko emphasises that among the lawyer's competence there are the civil results of marriage, while the Church, manager by the Pope, deals with the matters of (see Mt 16,19).

We must agree with Father Sopoćko who thinks that “the family ethics on Polish soil survived and still lives in the tradition of our Catholic nation”⁹². It depends on our generation if it outlasts for the next generations.

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John Paul II's apology of human freedom

Contemporary man is particularly sensitive to the issues related to his freedom. However, not everything perceived as freedom is in fact freedom. In the face of this fascination with apparent freedom, which is presented as unlimited but in fact leads to enslavement, the Church has a particular task in forming a proper understanding of freedom. This task was undertaken, among others, by John Paul II. This article is an attempt to present the Pope's concept of freedom based on truth, love and responsibility.

Key words: John Paul II, freedom, truth, love and responsibility, apology.

Freedom is one of the values which are most cherished by contemporary people. The word "freedom" is one the most popular words. It appears in almost all spheres of life. The way we understand the word reflects our philosophical, political, social or cultural affiliation. At the same time, this diverse understanding of freedom is so varied that it becomes the most important problem of contemporary man. In the face of freedom, contemporary man faces a paradoxical reality: on the one hand, he strives for it, on the other hand, he falls into a new slavery. It results from the fact that there is a new type of "freedom" which poses a threat to man because it leads him to the ultimate slavery. John Paul II expressed a particular interest in the matter of freedom. This is reflected in his encyclicals, documents and speeches. This article is an attempt to analyse the Pope's concept of freedom of man as a protection against the attempts to falsify it.

The formation of the Christian concept of freedom

In his encyclical *Redemptor hominis*, which clearly expresses his policy, John Paul II wrote: "Since man's true freedom is not found in everything that the various systems and individuals see and propagate

as freedom, the Church, because of her divine mission, becomes all the more the guardian of this freedom, which is the condition and basis for the human person's true dignity”¹. The Pope was aware of the threats posed to the man by inaccurate understanding of the concept of freedom, therefore, he treated the protection of its proper meaning exceptionally.

The concept of Christian freedom is analogical. Many various types of freedom comprise what we call the human freedom. John Paul II mentions a range of particular types of freedom. On the basis of the Pope's teaching we can indicate the freedom of speech, of science, of culture, of thought, of conscience and of denomination, of the practiced religions and of one's views, of the choice of particular status or occupation, of the freedom to start the family, of the freedom to establish associations and gatherings, of the free movement inside and out one's country, of the pace of living etc.²

For the Pope, man is an ontically free being. Thus freedom is not only something that is rightful to the man, but it is a part of his nature. John Paul II indicates this close connection between the man's freedom and his nature in his Message on the World Peace Day from 1981: “Freedom in its essence is within man, is connatural to the human person and is the distinctive sign of man's nature”³. Freedom is, therefore, the right guaranteed to man, which he does not receive from anyone else, but which results from the fact of being a human. Created in God's image, the man is so closely connected to his freedom that nobody has the right to take it away from him⁴. Therefore, man, who is free by nature, is entitled to use the freedom in every aspect of his everyday life⁵.

In the common meaning, it is man who is free, and who does not encounter any obstacles in life, who is not limited by any external constraint, that is one who enjoys his absolute independence. Such a way of understanding freedom is too simplistic and superficial and, therefore, it will not be enough to determine the essence of the meaning of

¹ John Paul II, Encyclical: *Redemptor hominis* (Vatican: 1979) – further: RH, 12.

² See H. Skorowski, *Wolność*, in: *Encyklopedia Nauczania Społecznego Jana Pawła II*, ed. A. Zwoliński (Radom: 2003), 582.

³ John Paul II, *Orędzie na światowy dzień pokoju* [Message on the World Peace Day] (Vatican: 1981) – ŚDP 1981, 5.

⁴ See *ibidem*, 11.

⁵ See H. Skorowski, *Wolność*, 579-580.

freedom⁶. John Paul II indicates that the essence of freedom is much deeper and fuller. The lack of obligation and necessity, although it is important, does not constitute the essence of freedom. The capability to take independent decisions, choices, and acting freely constitutes the fundamental dimension of freedom. The Pope indicates the word "capability" which defines man as the subject of responsibility. In this meaning freedom constitutes the inalienable foundation of man's acting, indicating the directions of his activity or inaction. With regard to man's capability to choose the good or evil, freedom becomes the source of responsibility for his deeds⁷.

Thus freedom is understood as the capability of making choices, of taking decisions and of acting freely and for John Paul II it constitutes the basic dimension of the concept of freedom. It is about the positive meaning of freedom, as the freedom "to" which can be expressed with such words as: "I may" and "I don't have to". The man of course enjoys such freedom "to", and the possibilities: "I may" and "I don't have to" but in his freedom man may also do something evil or banned. However, his obvious growth in freedom can only be done through directing freedom to what is good, that is towards the truth and love. Freedom is sometimes meant as being free from any obligation or necessities, but according to John Paul II this is only the second dimension of freedom. Whereby it is a dimension equally essential. The freedom "from" is perceived as the negative dimension, it indicates that man can be limited in many aspects and by various situations. Therefore, the aim of the freedom understood as the freedom "from" is man's striving to be free from something which enslaves and limits him: e.g. his impurities, his own selfishness, fear, lies, injustice, detachment and indifference and hatred⁸.

Another key element to understand the Pope's concept of freedom is to differentiate between the inner and outer freedom. On the inside, freedom means the human power thanks to which he undertakes choices and takes decisions in the sphere of his own convictions, views, beliefs, and the worldview, that is everything which concerns the world of the human inside. To make the story short, we can state that freedom in this aspect is defined as the internal independence of

⁶ See Congregation for the Doctrine of the Faith, *Instrukcja o chrześcijańskiej wolności i wyzwoleniu Libertatis conscientia* (Vatican: 1986) – furher: ICHW, 25.

⁷ See W. Karasiński, "Pojęcie wolności w nauczaniu Jana Pawła II podczas pielgrzymek do Ojczyzny", *Studia Wrocławskie*, vol. 10 (2007): 201.

⁸ See U. Niemiro, "Prawda a wolność w nauczaniu Jana Pawła II", *Zeszyty Teologiczne*, R. 14, nr 2 (2005): 14.

a person. Such a freedom assumes both the freedom “to” – when man is the subject who decides about everything, and the freedom “from” that is moving away from any kind of pressure in this matter. Freedom in the external sense, which is called the social freedom, is the freedom within everyday existence which is reflected in choosing certain type of behaviour, of acting and proceeding. It is the freedom which is realized in certain conditions by a certain person. The possibility to use such freedom depends on the fact whether man is subjected to external constraints, that is: he enjoys social freedom. The lack of external freedom not only deprives man of the means to strive for his chosen aims but it also constitutes a threat for his existence⁹.

Freedom constitutes an essential value for people. Deprived of freedom, man is not able to realize other values in the proper way. However, freedom, as the necessary condition for the update of human subjectivity, is not the highest value. Man is free in order to realize other values through his own decisions¹⁰. The Pope does not mean any kind of acting, behaving or proceeding. Freedom does not only mean lack of obligation and doing anything one pleases. For the Holy Father the choice of the good will always remain the root of the Christian understanding of freedom. Only the good learned by man can set the proper sphere for the human freedom. Whereas, the choice of the evil always constitutes the negation of the Christian understanding of freedom, which, when understood correctly, is never the freedom from the good but the freedom directed at the choice of the good¹¹.

Therefore, the Christian concept of freedom, according to John Paul II, mainly indicates the positive and negative understanding freedom as the freedom “to” and “from”. It is also about the freedom from any constraint, both internal and external, and even more about the freedom meant as the possibility to act. Whereas, for such freedom, the moral good is always the proper boundary. In the Christian understanding, freedom is always subjected to the good – the certain system of values. Therefore, the true freedom is not a value in itself, but it is freedom when it remains in relation to other values, particularly to the truth and love.

⁹ See H. Skorowski, *Wolność*, 580-581.

¹⁰ See J. Marecki, *Przesłanie wolności w pielgrzymkach Jana Pawła II*, in: *Ziarno czynu. Refleksja po V Pielgrzymce Jana Pawła II do Ojczyzny*, ed. F. Kampka (Kraków: 1998), 135.

¹¹ See *ibidem*.

Realization of freedom in the truth

According to John Paul II, the most dangerous falsification of freedom which appears in the contemporary world, both in the individual and social dimensions, is treating freedom as an absolute which is the source of all the other values¹². Contemporary man is convinced that he may do anything and that there is no forbidden sphere for him. Humanity is not perceived as a way of realization of a certain way of existence, human nature is established once and for ever, but it is meant as the possibility to create oneself in a desired way¹³. In this context the distorted freedom becomes the freedom which is reduced to the ordinary self-dependence. The supporters of such freedom claim that the human freedom is genuinely realized only when man decides about the contents of his life truth. And this truth is the result of man's creative self-understanding, it is the result of his self-creation. Human nature ceases to be the sphere where man can read the binding truth about himself and he becomes the creation of freedom¹⁴. As the Pope emphasises, in such concepts of freedom one forgets about his nature as the creation and does not notice its integrity. It finally leads to the conviction that freedom creates itself and its values. In this way man does not possess his own nature as the foundation for freedom but he can create himself from the beginning only according to his own project. Such a concept of freedom reduces human creation and brings it down only to one's own freedom¹⁵.

The sources of such absolute freedom will be found in its detachment from the truth. In his teaching, John Paul II repeatedly refers to the relation between the truth and freedom. Defending the genuine good of man, he definitely confirms the absolute primacy of the truth over freedom. At the same time, he emphasises that freedom which ceases to respect the constitutive bond which combines it with the truth, finally denies itself and is going self-destructive and to destroying other people¹⁶.

The truth constitutes the fundamental value in relation to freedom. Man was created by God and bestowed and called to discover the

¹² See John Paul II, Encyclical *Veritatis splendor* (Vatican: 1993) – further: VS, 32.

¹³ See P. Góralezyk, "Fałszywe wizje ludzkiej wolności", *Ateneum Kapłańskie*, vol. 130, fasc. 3 (1998): 340.

¹⁴ See *ibidem*, 345.

¹⁵ See VS 46.

¹⁶ See U. Niemiro, *Prawda a wolność*, 13.

truth. Bestowed with the reason he is able to get to know the truth¹⁷. As a rational being who wants to be free, man should be longing for the truth and live the truth. At the same time the Pope emphasises that man who ceases to seek the truth, is easily deluded by the false freedom away of the truth¹⁸.

The truth as the primary value is independent, therefore, it cannot be freely created. Thanks to the reason he can, to a certain extent, get to know the truth about himself, about the world and about God. Getting to know the mystery of microcosm and macrocosm, man discovers the presence of the almighty and wise Creator. Contemporary individual sciences, including philosophy, do not have the possibility to comprehensively answer all of man's questions. Therefore – as Saint Augustine noticed – man's reason is open only to the truth revealed by God¹⁹. This is the truth about the human origin from God Who not only created man but also communicated with him and invited man to follow Him. This is also the truth about the human nature which is weak and sinful, and needs redemption by Jesus Christ. It is about the highest truth which does not violates the human autonomy and his freedom but which invites man to be open to God²⁰.

The objective truth which comes from God has its reference in Jesus Christ, the Saviour of the world. Thanks to Him, the Church draws the truth about the Father and His love for us, as well as the truth about man and his freedom²¹. In this context Jesus' words which are often quoted by John Paul II: "you will know the truth, and the truth will set you free" (J 8,32) are really understandable. In these words Christ places the demand for the honest relations towards the truth before man. Being open to the truth protects man from the apparent truth which is superficial, unilateral without precise look into the truth about him and the world. Thanks to Christ Who brings freedom based on the truth, the human can be free from everything which limits this freedom, decreases it, breaks it at its root, in the human soul, in his heart and in his conscience. Thus all the contemporary threats of freedom

¹⁷ See RH 4.

¹⁸ See John Paul II, Encyclical *Fides et ratio* (Vatican: 1998) – further: FR, 25 and VS 34.

¹⁹ See U. Niemiro, *Prawda a wolność*, 13.

²⁰ See FR 15.

²¹ See ICHW 3.

which take place when the relationship between freedom and the truth is being weakened, or even denied²².

In the letter to the young *Parati semper* from 1985 John Paul II indicates that Christ Who revealed the whole truth about the man, shows what His true freedom should be based on, which is made-to-measure human dignity and greatness. The Pope mainly emphasises that being truly free does not mean doing everything that I like or I feel like doing. In fact freedom contains the discipline of the truth. Deprived of the criterion of the truth, it is not a true freedom but its falsification. Being truly free means using one's own freedom to do what is genuinely good. As a result, being genuinely free means being of the righteous conscience, being responsible and being there for others²³.

The letter of John Paul II clearly indicates that the structure of freedom is not expressed in obedience to itself but in the obedience to what is fair and good, that is, consequently, in the obedience to the truth. Therefore, the law, commandments and the system of moral values should not be treated as opposing to the human freedom, but they should be perceived as the criteria according to which it is possible to check whether freedom is based on the truth²⁴.

The Pope expressed his opinion that human freedom does not mean rejecting the moral law, but, on the contrary, accepting it. As he indicates: "Human freedom and God's law meet and are called to intersect"²⁵. It is connected with the proper understanding of God's law which is the expression of God's wisdom. Human freedom which is subjected to this law, at the same time is subjected to the truth of creation that is: the whole truth about man. Therefore, we cannot talk about the abolishment of human freedom through being obedient to God's law because remaining in this submission is at the same time remaining in the truth and confirming one's dignity²⁶. Therefore, the aim of God's law is to present to man the proper direction of his free acting thanks to which he will be able to confirm the truth about himself and about his true dignity²⁷.

²² See J. Szymański, "Wyzwoleńczy charakter ludzkiej wolności według Jana Pawła II", *Teologia i Człowiek*, nr 1 (2003): 128.

²³ See John Paul II, *List do młodych Parati semper* (Vatican: 1985), 12-13.

²⁴ See J. Nagórny, *Posłannictwo chrześcijan w świecie. Świat i wspólnota*, vol. 1 (Lublin: 1998), 372.

²⁵ See VS 41.

²⁶ See VS 43.

²⁷ See F. Greniuk, *Wolność a prawo*, in: *Veritatis splendor. Przesłanie moralne Kościoła*, ed. B. Jurczyk (Lublin: 1994), 31-37.

The Pope indicated the strict relation between freedom and the truth during his speech in the United Nations Organization. Freedom cannot be identified only with the lack of pressure or with the freedom to do whatever one wants. Freedom has its own inner logic which defines and nobles it. This logic consists in subjecting freedom to the truth and realizing it in seeking and living the truth. Any kind of violence and arrogance at the political level or any self-will in the individual life result from separating freedom from the truth about humans. Therefore, – as John Paul II indicates – referring to the truth, acknowledged through the moral law, inscribed in the human heart, is not a limitation to the man's freedom neither a threat to it. On the contrary, the truth and moral law are the guarantee of freedom in the future²⁸.

Freedom understood in such a way in the context of the truth and the moral law which expresses and confirms this truth, allows to understand the Church's decisiveness when defending the universal and unchanging moral standards. Contemporarily, we can notice the lack of understanding for the Church's activity in this matter. The natural defence of the universal and unchanging moral norms is often treated as assault for the human autonomy. Instead, the aim of the activity of the Church is not to enslave man but to serve for the genuine human freedom²⁹.

John Paul II emphasises that man cannot forget that his freedom is the participative. This means that human power over himself and over the world is not absolute but it is a participation in God's ruling³⁰. Human freedom is very extensive but it is not unlimited. The power to decide what is good and what is bad does not belong to man but to God only. Man was called to accept the moral law which is rooted in God, in the spirit of personal freedom. Only through acceptance of the moral law, human freedom can be genuinely and fully realized. Only God Who is the source of all good, knows what is really good for man and out of His love He instructs His creation through His commandments³¹.

Therefore, the truth constitutes about freedom and ensures its genuine development. When man in his choices runs from the truth, it turns out that he not only runs away from freedom but also from

²⁸ See John Paul II, "Moralna struktura wolności podstawą budowania nowej kultury wolności", *Ethos* nr 1-2 (1999): 16.

²⁹ See J. Nagórny, *Posłannictwo chrześcijan*, 373.

³⁰ See VS 38.

³¹ See *ibidem*, 35.

himself. This is so because freedom in man is only possible when he chooses the truth³².

This truth which is contained in the moral law, which consists in doing good and avoiding evil, can be discovered in the depth of human conscience³³. John Paul II emphasises the great meaning of the “inner sanctuary”, for the human life. Conscience is the inner guide and the judge of human deeds. It is very important to have a righteous conscience in order to build the judgements of the conscience on the truth and to call the good – good and the evil – evil. Man who lives in accordance with his conscience, places demands for himself, he raises from his falls and constantly experiences his own conversion. Man of the righteous conscience builds the moral order in his life which is not only the foundation of his life but also of the whole society. Only then can we talk about freedom when it concerns an individual as well as the whole society³⁴.

Contemporary man – according to John Paul II – faces the possibility of choice of his own life path. He has the right of freedom and he can choose the path prepared for him by Christ Who saved him. He can also choose the path away from Christ, however, he will not be truly free then because there is no true freedom without the truth. Any attempt to separate freedom from the context of the truth will lead to selfishness. Such freedom becomes dangerous for man and for his environment. To be truly free means to comply with the fruits of the truth. To be truly free also means to be subjected to the truth and not to one's cravings, affairs or sentiments. Only the freedom subjected to the discipline of the truth can lead man to his genuine good. Freedom which it strived for its own sake becomes an absolute and selfish freedom. It is so because freedom does not consist in doing whatever someone wishes for but in the right to do what he should. The aim of the contemporary man, who is threatened with various risks to his freedom is to strive for finding the full meaning of the truth and its value. Discovering and acceptance of the whole truth of himself – as a person and as “God's image”, who at the same time is weakened by the sinfulness and redeemed by Christ – guarantees acquisition of

³² See T. Styczeń, *Wolność z prawdy żyje*, in: *Jan Paweł II. Veritatis splendor. Tekst i komentarze* (Lublin: 1995), 150.

³³ See The Second Vatican Council, Pastoral Constitution on the Church in the Modern World *Gaudium et spes* (Vatican: 1965) – further: KDK, 16.

³⁴ https://opoka.org.pl/biblioteka/W/WP/jan_pawel_ii/homilie/skoczowh_22051995.html, (03.09.2022).

the inner freedom and becomes the source of the strength to live the freedom in the spirit of love and responsibility³⁵.

Development of freedom in the spirit of love and responsibility

John Paul II teaches that freedom is given to man but it is also his life task³⁶. Man should not only enjoy freedom but he also needs to fight for it³⁷. Infected by the original sin, man, despite Redemption, is inclined to do evil. Therefore, human freedom is not perfect and requires responsible care for its development³⁸. The Pope, referring to Saint Augustine, indicates that man who is inclined to the weakness of the sin is free to such an extent, to which he can serve God³⁹. Therefore, anyone who wants to enjoy the real freedom, should connect it to responsibility for the realization of the tasks which result from the work of Creation and Redemption⁴⁰. The mutual responsibility of freedom leads John Paul II to state that the attitude of responsibility is the best warranty of the freedom. Responsibility not only enables to realize freedom in life but also protects man from losing it. The Pope clearly emphasises that responsible freedom is the freedom faithful to the human dignity and his life vocation⁴¹.

Called to rule the world, to transfer life, to improve oneself and mainly to maintain the relations with God and with other people, man is called to realize his tasks in the freedom which aims at values. It is not about any kind of activity but rather about fulfilling the tasks which will aim at such values as: the truth, the good, justice and love. Such freedom, in relation to responsibility, serves the values. At the same time, directing freedom at values contributes to the genuine development of freedom. The genuine, responsible freedom is acquired only in acting based on values⁴².

³⁵ See U. Niemiro, *Prawda a wolność*, 16-17.

³⁶ See VS 24.

³⁷ <https://www.centrumjp2.pl/list-od-jana-pawla-ii-o-wolnosci/> (03.09.2022).

³⁸ See VS 86.

³⁹ See *ibidem*, 17.

⁴⁰ See *ibidem*, 38.

⁴¹ See ŚDP 1981, 10.

⁴² See S. Kowalczyk, "Pomiędzy zniewoleniem a wolnością", *Resovia Sacra* nr 1 (1994): 191.

Freedom in the spirit of responsibility can be realized only in the circle of personal values. For John Paul II it is freedom rooted in the truth, which was discussed earlier. Anyone who wants to realize his freedom in the spirit of responsibility, should get to know both the truth about himself and about others, including the truth about his moral frailty and threats. Only freedom aimed at the truth will be able to serve his genuine inner and external development⁴³.

The truth constitutes the first and fundamental value which is necessary to form the real freedom but not the only one. In the circle of moral values, love is the binding value, according to the Pope⁴⁴. Man who is the only creation on earth created by God for himself, as the Second Vatican Council explains, truly finds himself through the selfless gift of self"⁴⁵. In the perspective of love, meant as the selfless gift of self, according to the Pope, man finds not only himself but also the full and genuine meaning of his freedom⁴⁶.

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Therefore, vocation for love is a particular and inborn aspect of freedom which enables living one's life to the fullest⁴⁷. It requires using freedom in the spirit of responsibility not only for himself but also for others. It happens when one makes a gift of self for someone and when he accepts such a gift from the other person. Marriage, according to the Pope, is a particular example of such a gift of self. If someone is not able to make such a gift of self for others, his freedom is deprived of the perspective of love, and such freedom can eventually become dangerous. In such a case it will be freedom to do whatever one considers to be good, which brings him benefit or pleasure. Therefore, rejecting the perspective of the gift of self, people face the danger of the selfish freedom⁴⁸.

Only the love which serves, forgets about the self and is ready for the generous gift, is the guarantee of the completeness of freedom. Only love which forgives, although not forgets, is sensitive to the misery of others, does not seek its own self but wants the good for others,

⁴³ See ibidem.

⁴⁴ See S. Kowalczyk, *Koncepcja wolności odpowiedzialnej w encyklice Veritatis Splendor Jana Pawła II*, in: *Wolność we współczesnej kulturze* (Lublin: 1997), 336-337.

⁴⁵ See KDK 24.

⁴⁶ <https://www.ekai.pl/dokumenty/przemowienie-wygloszone-w-czasie-spotkania-z-delegacjami-na-miedzynarodowy-kongres-eucharystyczny>, (03.09.2022).

⁴⁷ See John Paul II, Encyclical *Evangelium vitae* (Vatican: 1995), 96.

⁴⁸ See John Paul II, *Przekroczyć próg nadziei. Jan Paweł II odpowiada na pytania Vittoria Messoriego* (Lublin: 1994), 151.

guarantees not only freedom but also happiness and future of man and of the nation. True freedom exists thanks to love which is reflected in the interpersonal solidarity. The degree of readiness for the gift of self and for the service is the measure of human freedom. Such a freedom builds not only our humanity but it contributes to building and uniting the society. Such freedom is genuinely creative and, therefore, it can effectively prevent all kinds and forms of enslavement and falsification of freedom⁴⁹.

The teaching of John Paul II confirms that we are witnessing particular sensitivity of man to the matter of human freedom. At the same time Pope's teaching indicates that in contemporary culture which is sensitive to the matter of human freedom, we can encounter various forms of enslavement. Their source is mainly in the false concepts of freedom, detached from the truth about man and about God Who is often presented not as a Warrantor of human freedom but as the One Who limits this freedom. Freedom deprived of the moral and religious credibility, eventually becomes freedom which is understood categorically. Such a concept of freedom is understood as the freedom to do whatever one pleases including evil. As a result, the freedom understood categorically leads to distortion of the private, social, political and economic life.

In the face of these fascinations of the illusive freedom presented as unlimited but eventually leading to enslavement of man, the Church is challenged to form the proper understanding of freedom and to protect it. The Pope suggests the concept of freedom based on the integral vision of man. He strongly emphasises that man was bestowed with freedom by God in the act of creation. Unfortunately, as a result of the original sin, this primary freedom was lost by man. Therefore, he needed redemption from Christ Who restored man's ability to properly use the freedom.

Freedom which was given to man at the moment of creation and restored in the act of redemption is also a task. Thus John Paul II while teaching about freedom indicates the responsibility connected with this gift. Man who wants to effectively overcome the threats is called by Holy Father to form the proper concept of freedom, in relation to values, particularly to the truth and love. For the Pope there is no real

⁴⁹ [\(03.09.2022\).](https://opoka.org.pl/biblioteka/W/WP/jan_pawel_ii/homilie/gdansk_05061999.html)

freedom without values or the engagement into certain effort or without the relation with God and with other people. Freedom is not only a value but, first and foremost, the ability and the inalienable feature of a person which reflects his great dignity. Freedom is such a constitutive factor of a human being that all the threats to it become the threats to the whole human being. Therefore, according to the words of John Paul II: our “generation [...] confront the issue of freedom. And this is a task which nobody can step back from”⁵⁰.

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The Procedure of Joining the order in Belarus in the Second Half of XIX and at the Beginning of XX Century: Legislation and Practice

The article highlights the evolution of the legislation of the Russian Empire regarding the rules for joining the monastic order. It also shows how the approach to understanding the organization of monastic life in the Russian Empire has evolved: from the order as the main form to the monastery. On the examples of some people who wanted to join a monastic order, the discrepancy between the state legislation that allowed entry, and the practice that forbade them is shown

Key words: monastic orders, Russian empire, monastery, XIX century, monastery.

The activity of Roman Catholic monastic orders in the lands which were annexed by the Russian Empire after partition of the Polish-Lithuanian Commonwealth (today's Belarus) was actually destroyed in XIX century. It resulted from the planned and diligently realized government action. Generally it included the activities concerning certain orders (e.g. banning of the activity of Jesuits in the Russian Empire in 1820), or the massive dissolution of monasteries (which began after suppression of the November Uprising 1830-1831). Realization of the government's ordinance contributed to the gradual cease of their activity. The final wave of closing down monasteries took place after the suppression of the January Uprising 1863-1864. It lasted until the late 1870s. After the dissolution, in Belarus there were only three Catholic convents: Bridgettines in Hrodna, the Bernardine Sisters in Słonim

and the Franciscan male monastery in Hrodna. In my article I did not mention the emergence of the female Catholic congregations – the so called “secret congregations”.

Concerning the regulations on joining the male or female orders, they evolved until the end of XVIII century, particularly in the first half of XIX century: from meeting the criteria imposed by the internal Roman Catholic ecclesial regulations to the procedures created by the Russian state legislation.

In order to properly understand the essence of the Russian state's attitude towards the reform of the procedures of joining the order, it is important to understand the basic terms, concepts and definitions used by the tsarist authorities. Therefore, in the “Regulations” from 1798 the orders are called¹ the structures of the Catholic Church. In that period the main aim of the tsarist authorities was to deprive the orders of the external (foreign) management, which was reflected in the ban to contact the Provincial Superior and General Superior (if they were abroad).

In the Russian legislation of the first half of XIX century, instead of the terms: “order” and “admission to the order”, they used the terms: “monastery”² and “joining the monastery”. The proper membership of the monasteries in the particular orders or religious congregations since 1830s, became meaningless for the state authorities. The Russian authorities moved from concerning “the order” to “the monastery” as the main form of the organization of monastic life. And each particular monastery became the object of interest of the authorities or at least of the planned transformations. The reforms and transformations undertaken in the Russian legislation concerning the Catholic orders, appeared in connection with the authorities' understanding of the essence of organization of the monasticism which followed the example of the Orthodox Church, the main centre of which was each particular monastery. Therefore, we can often find the definition: “сословие” (class), (e.g. “Бенедиктинско-цистерское сословие”³, “Сословие св. Викентия а Пауло”⁴ and others) and not “the Order”. With regard to that, we can claim that the action of the Russian authorities with regard to the Catholic monasteries aimed at unification of the

¹ Полное собрание законов Российской империи (further PSZRI), nr 18734, vol. 25, 436-438.

² PSZRI, Sobr. 2, nr 2773, Vol. 4, 200.

³ National Historical Archives of Belarus (further: NHAB), F. 1781, Wop. 2, Spr. 1913, k. 4-9.

⁴ NHAB, F. 1781, Wop. 2, Spr. 4206, k. 46-47.

organization of monastic life assumed in the Catholic Church, following the example of the Orthodox monasteries. The apparent reluctance to maintain the traditional organization of the monastic life assumed in the Catholic Church was clearly noticeable. This process was followed by the change of the traditional structure of management: from the superior general – the superior provincial – the prior into: bishop – visitor – prior.

With regard to that, in the second half of XIX century, the direction of receiving permission to join the monastery also changed radically: from the decision of the Provincial superior/prior to the permission of the secular authorities: governor general or governors and of the Department for Spiritual Affairs of Foreign Confessions in the Ministry of the Interior. Unity in management of the monasteries of all orders (instead of the branched network in each of the numerous orders), was gradually introduced by the state authorities as it was supposed to make it easier for the clerks to control the monks.

History of the Church

The first regulations were written in the legislation which concerned joining the order, they were noted down in the “Regulations” from 1798. § 20 of “Regulations” stated that: “No order can receive vows from those joining the novitiate other than the simple vows (*Simplicia vota*), the solemn vows (*vota Solemnia*) which cannot be concluded by the novices before they received the degree of a subdeacon⁵, and admission to orders only for the candidates of over 22 years old”⁶.

On May 24th 1827 the Senate issued a decree presenting the new procedure for admission to the female Roman Catholic monasteries. After entering the nunnery, the candidate’s dowry was given not to her nunnery but to the Prikaz of Public Charity for certain income. During the woman’s stay in the nunnery she received dividend from her dowry. After the nun’s death, the money was to be returned to the heirs and only in case of the lack of heirs, the money was given to the nunnery authorities. It was controlled by the diocesan bishop⁷. It is difficult to assess to what degree these rules were applied in Belarus.

⁵ In the regulations concerning the Catholic Church the legislators used the terminology assumed in the Orthodox Church.

⁶ PSZRI, nr 18734, 438; However, the idea of regulating the age limit of those entering the monastery date back to the Warsaw Seym from 1768 which suggested that male candidates before 24 years of age and female candidate before 16 would not be allowed to enter the novitiate. However, this decision was not introduced. See P.P. Gach, *Kasaty zakonów na ziemiach dawnej Rzeczypospolitej i Śląska 1773-1914* (Lublin: 1984), 18.

⁷ PSZRI, Sobr. 2, nr 1111, vol. 2(1827), 453-454.

The provisions of the “Regulations” from 1798 on joining the order were repeated on March 27th 1829, when the legislator established the provision on the vows of the Roman Catholic clergy and on the responsibility for violation of them⁸. In the same decree the legislators noticed that the preparation of a monk lasted until the perpetual vows for at least three years regardless of his age⁹. Admission to the solemn vows could take place not earlier than after the subdeacon’s ordination and not earlier than 22nd birthday. The decree clearly stated that all the solemn vows which were concluded but which violated any of the regulations were considered invalid¹⁰.

The decree also determined the course of the procedures which should be fulfilled in order to be admitted in the order (monastery). First of all, the candidate had to receive the permission of the Governorate’s authorities: had to submit the certificate of the being unmarried in the office as well as the certificate of no criminal record (not having been judged or sentenced or under investigation) and to express the desire to join the order in writing. The Governorate’s authorities had to verify those data and the provided documents. Next, from the Governor’s office these documents were sent to the order’s authorities and since 1842 to bishops. Then they passed this request to the officials of the Department of Religious Affairs of Foreign Faiths which gave permissions for entering the Order in every particular case¹¹.

Tsar’s decrees made the procedure of joining the order very bureaucratic and time consuming, however, to a greater extent, they did not violate any canonical principles of the Roman Catholic Church. In that period, receiving the permission required a formal authorization. The state authorities mainly allowed for entering the Order. The monastic authorities (apart from the Piarist monks) accepted the decree calmly¹².

After suppressing the November Uprising, the state authorities exacerbated the policy with regard to the Church. They started to strictly control the observance of the decree, particularly paying attention to the age of candidates joining the order and to the duty of serving the time in novitiate. In 1832 the Minister for Foreign Affairs of Russia issued a special decree concerning the regulations of joining

⁸ PSZRI, Sobr. 2, nr 2773, Vol. 4, 200.

⁹ Ibidem.

¹⁰ Ibidem.

¹¹ PSZRI, Sobr. 2, nr 2773, Vol. 4, 200-201.

¹² P.P. Gach, *Struktury i działalność duszpasterska zakonów męskich na ziemiach dawnej Rzeczypospolitej i Śląska w latach 1773–1914* (Lublin: 1999), 169.

the orders for western Governorate's¹³. In the procedure of accepting the candidates to the Order, he ordered the absolute adherence to the regulations from 1829. With regard to that, in 1833 another round of surveys were conducted in order to determine the legitimacy of the religious vows in the convent concluded previously.

Special caution was expressed by: governor-general of Smolensk, of Vitebsk and of Mahiloŭ, K. Chowański; A. von Dreibusch, the civil governor of Minsk; the civil governor of Volhynia¹⁴. Chowański was the first to guard the observance of the law¹⁵. In the letter to the governor of Minsk he asked for information about the monks from the dissolved monasteries, who concluded their vows violating the decree from 1829. Chowański knew about three monks from the dissolved convent of Dominicans in Škloŭ who violated the state legislation which concerned the procedure of concluding the vows. They were: G. Piotrowski, W. Budrewicz, A. Naruszewicz. As a result of the investigation conducted by secular authorities, it was determined that Budrewicz "may"¹⁶ be dismissed from the Dominican Order", because there was no information about his religious vows¹⁷. The two other monks lived in monasteries outside the Minsk governorate, so the information about their fate was not revealed¹⁸.

Another legislative act which concerned joining the order was the decree from December 5th 1839. It allowed for entering the priesthood to not only the man of noble origin but also to odnodvortsy and peasants. However, peasants had to obtain a special permission from their owners and present them to the Minister of Internal Affairs. According to the decree, the state peasants had to obtain the permission of the municipality and State Property Chamber¹⁹.

The subsequent decrees provided for a series of limitations concerning the functioning of certain monasteries and Orders. With the decree from July 30th 1842²⁰ all the Roman Catholic monasteries in

¹³ PSZRI, Sobr. 2, nr 5773, Vol. 7, 863-864.

¹⁴ In the documents there are no names and surnames but in the years 1831-1835 A. P. Rimskij-Korsakow took this position.

¹⁵ NHAB, F. 295, Wop. 1, Spr. 452.

¹⁶ The "can" meant "must" here.

¹⁷ NHAB, F. 295, Wop. 1, Spr. 452.

¹⁸ Канфесійны фактар у сацыяльным развіцці Беларусі (канец XVIII – пачатак XX ст.), (Мінск: 2015), 107.

¹⁹ M. Valančius, *Namų užrašai* (Vilnius: 2003), 154.

²⁰ M. Valančius, op. cit., 132.

the Empire were divided into the into regular (shtatnyy monastyr') and non-regular (zashtatnyy monastyr'). The latter were meant to be gradually closed²¹.

The order which consisted only of non-regular (zashtatnyie) monasteries was not allowed to admit novices which automatically resulted in self-liquidating. The regular (shtatnye) monasteries could accept the novitiate which contributed to their further existence and providing new staff. For example the Carmelite Monastery in Zaswir (of the third class) financially supported the maintenance of the novitiate in the monastery in Vilnius. In May 1862 the monastery donated 202 rubels, and in September 100 rubels²².

At that time the number of regular (shtatnych) monasteries was limited: in the Russian Empire it was allowed to maintain only 50 of such monasteries, including 36 of male ones and 14 female ones. Particular monasteries were divided according to the class and it was the base on which the number of monks in each monastery was established. And so: the male monastery of the 1st class needed to consist of at least 22 monks; of the second class – of at least 16, and of the third class – of at least 13. In female nunneries: in the first class ones there were at least 19 nuns, in the second class – at least 16; and in the third class – at least 11²³. As we can see the positions determined the required minimum but did not define the maximum number of monks or nuns. According to the clerks, the determined minimum regularly turned out to be a stable unit which was the reference point while equipping monasteries.

Before the January Uprising 1863-1864 on the turn of 1850s and 1860s, joining the orders in the Vilnius diocese, after fulfilling all the bureaucratic demands, took place without the basic refusals from the secular authorities and the clergy authorities. The Spiritual Collegium as the last instance which had the influence on obtaining the permission, also gave away mainly positive opinions²⁴.

The number of the monks in each convent depended on the financial capability. Every monastery, depending on their class, obtained

²¹ The tradition of dividing monasteries into regular (shtatnyy) and non-regular (zashtatnyy) in the Orthodox Church existed in the Russian Empires since XVIII century. The regular monasteries received donations from the state, while the non-regular ones did not. The monasteries were also divided into classes.

²² Vrublevskiu Biblioteka (Vilnius), F. 318 – 1209, k. 4, 10.

²³ Католическая Церковь накануне революции 1917 г. Сборник документов, 45.

²⁴ LVIA, F. 604, Ap. 5, B. 175.

a certain amount of money from the dividend of their post-monastic assets taken over by the authorities to the state treasury.

However, the amount of the state donation did not allow to increase the number of the regular monasteries with new posts. While even before the January Uprising these situations connected with the number of monks in monasteries could have been regulated. For example in 1853 the military governor's office of Kaunas received a request from a noblewoman from the Raseiniai County, Monika Matusiewicz, for admitting her to the Vilnius monastery of the Discalced Carmelite nuns. She enclosed the necessary set of documents: the letter from her mother with her blessing, a certificate from marshal of the gentry of the Raseiniai County about her noble origin and a copy of her birth certificate. The governor and bishop agreed and she could enter the nunnery²⁵. During further procedures it turned out that there were no vacancies in the nunnery which, according to the decree from 1842, belonged to the second class²⁶. Matusiewicz had to wait for a vacancy²⁷. Unfortunately, this situation could have lasted eternally because the nuns from the non-regular nunneries were regularly moved to the nunneries with posts, regardless of the number of inhabitants in the latter. With regard to that, Matusiewicz informed the governor that until there was a vacancy for her in the nunnery, she was able to earn her own living by herself in the nunnery. The governor left the decision to the bishop²⁸. As a result of the bishop's decision in May 1854, M. Matusiewicz was admitted in the Vilnius monastery of the Discalced Carmelite nuns²⁹.

Similar situations were characteristic not only for female monasteries but also for the male ones. In 1862 the application documents with request to be admitted to the Trinitarian Order monastery was submitted by a retired lieutenant colonel Eugeniusz Rakilewicz. In this case, too, there was a full set of monks in the monastery and there were no vacancies. The candidate undertook to maintain himself until the vacancy of the full-time position. The diocesan authorities and the superior of the monastery did not mind and so they applied

²⁵ LVIA, F. 604, Ap. 5, B. 48, k. 1.

²⁶ Ibidem, k. 3.

²⁷ Ibidem, k. 3v.

²⁸ LVIA, F. 604, Ap. 5, B. 48, k. 4.

²⁹ Ibidem, k. 11.

to the Spiritual Collegium to admit the candidate, they received the permission on July 10th 1862³⁰.

The given examples were not individual cases, which indicates that before the January Uprising the procedure of joining the order, although it was still overly bureaucratic, was not unreasonably banned.

Since 1863, in case of a dissolution of a monastery, the people who belonged to the monastery (e.g. were still in the novitiate) were in a difficult situation. In such case, in order not to leave the ministry, they were sent to other monasteries or theological seminaries (mainly to Vilnius and Minsk). The same happened to the mentioned Eugeniusz Rakilewicz. After the dissolution of the monastery in Vilnius in 1864 he was sent to the Seminary in Vilnius and from there, a year later, to the Saint Petersburg Roman Catholic Theological Academy. After graduating and receiving the holy orders he worked in the parish church in Bobrujsk³¹.

Not always those who were sent from the dissolved monasteries to the diocesan seminary were satisfied with the changes. It concerned Stanisław Demidowicz, who obtained the permission to join the Marian monastery in Rasna in 1862³². In 1864 the monastery was dissolved. The novices were sent to the diocesan seminary in Vilnius³³. Demidowicz left the seminary voluntarily in November 1864.

Similarly, in 1860s three monks: Maciej Ożyński, Józef Bunkis and Cezary Wiłkonecki left seminaries in Vilnius and Minsk after being sent there from the dissolved monastery of Bernardines in Vilnius³⁴. After dissolution of the Bernardines monastery in Vilnius, Wincenty Gromko was sent to the Bernardines monastery in Minsk. However, the monastery in Minsk was also soon dissolved. Then Gromko was sent to the seminary in Minsk from which he was expelled “for his resistance to the seminary’s discipline”³⁵. Next he took his documents and went to Cracow to join the Bernardines convent in the monastery in Cracow³⁶.

³⁰ LVIA, F. 604, Ap. 5, B. 221, k. 5.

³¹ Ibidem, k. 14.

³² LVIA, F. 604, Ap. 5, B. 217.

³³ Ibidem.

³⁴ LVIA, F. 604, Ap. 5, B. 175.

³⁵ LVIA, F. 604, Ap. 5, B. 165, k. 15.

³⁶ Ibidem, k. 15v.

Some unusual case also appeared, e.g. after the dissolution of the Marian monastery in Rasna, Józef Petraszka was sent to the army and became a recruit³⁷.

At the beginning of 1870s the Saint Petersburg Roman Catholic Spiritual Collegium carried out an inspection of all people who applied to join the monastery and were admitted to it ten years before the January Uprising³⁸. The Spiritual Collegium, but also the Ministry of Internal Affairs, were interested in the fact when and where those who obtained the permission concluded their vows, and in case of men, whether they were ordained to be priests and who allowed them to and where they were ordained, where they were and what they were doing there.

All monasteries present on Belarus soil after 1875 were regular (shtatnyy) monasteries. The Brigittines nunnery in Hrodna belonged to the first class (19 posts), the Bernardines nunnery in Slonim belonged to the third class (11 posts), the monastery of Franciscans in Hrodna belonged to the second class with 16 posts³⁹.

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The January Uprising radically changed the attitude of Russian authorities to the candidates who wanted to join the orders. The practice of receiving the permission also changed. Mainly the list of required documents was extended. The bureaucratic procedures were also extended. Thus, in order for a candidate to have his or her documents considered by the Department, it was necessary to go through a few obligatory proceeding stages. Mainly the candidate had to send a written request to the governor with included documents: the birth certificate, the baptism certificate, the certificate of education, the written permission from the parents (guardians), marital status certificate, the certificate of the affinity to nobility (in case when the candidate declared it), as well as four stamps for 60 kopeck each. In case of men, it was necessary to provide a certificate of military service practice or of being relieved.

After receiving these documents, the governor's office sent letters to the municipal courts or district court and to the local police headquarters (according to the place of living of the candidates). The police authorities transferred information about the candidates with particular attention to their political right-mindedness, no criminal record – that is the candidate's presence before the court or investigation. After

³⁷ LVIA, F. 604, Ap. 5, B. 166, k. 18.

³⁸ LVIA, F. 604, Ap. 5, B. 221; LVIA, F. 604, Ap. 5, B. 217; LVIA, F. 604, Ap. 5, B. 48 and others.

³⁹ M. Valančius, op. cit., 132-140.

receiving such information from the office, a letter should have been sent to the local bishop asking about his opinion about the candidate and the possibility of admission to the chosen monastery. The bishops usually supported the requests of all candidates. Then the set of documents with the cover letter was sent to the general-governor and from him to the Spiritual Collegium, later to the Department for Spiritual Affairs of foreign Confessions in the Ministry of the Interior. It was the decision of the latter factors that resulted in either the consent or the refusal of admission of a candidate to the convent. At the end of XIX century the decisions of the state authorities were in all cases negative and thus the possibility of development and further existence of the Catholic convents was strongly limited.

To give example of this phenomenon let's consider the cases of 20 people who in the years 1898-1900 applied for the admission to one of the three existing monasteries on Belarus soil: (Slonim – Bernardine nunes, Hrodna – Brigittes nunes, Hrodna – Franciscans).

In 1898 Helena Butoka, an inhabitant of Hrodna applied to be admitted to the nunnery in Hrodna with a set of documents necessary for further consideration. In response to the question of her credibility, both the police commissioner and the president of the regional court confirmed that "Butoko's conduct, lifestyle, moral features are good, she has not been judged and she has not dealt with anything harmful⁴⁰". The bishop did not notice any obstacles either so he informed that there were 13 posts in the nunnery at that time, and as a result, she could have been admitted to the post⁴¹.

In the Autumn of 1898 the same request with a set of necessary documents was sent to the governor of Hrodna by a noblewoman of Slutsk county and Minsk governorate, Emilia Niewiarowska⁴².

In November 1898 the governor's office received the request of Maria Picewicz, the inhabitant of Odelsk, Sokółka country of the Hrodna governorate of the joining to monastery of Brigittines.

In October 1898 the home teacher Emilia-Natalia Hess, who lived in Hrodna, sent an application to the governor of Hrodna. In her application she wrote: "After graduating from the female gymnasium in Hrodna I was teaching children in private houses but when I had my calling to go to nunnery I decided to join the nunnery of Brigittines of Hrodna"⁴³.

⁴⁰ NHAB in Hrodna, F. 1, Wop. 9, Spr. 960, k. 2.

⁴¹ Ibidem, k. 7.

⁴² Ibidem, k. 9-11.

⁴³ Ibidem, k. 44-46

In October 1898 a noblewoman who lived in Hrodna, in the Mińsk governorate of Sluck county Konstancja Tomaszewska, applied to be admitted to the nunnery of Brigittines in Hrodna⁴⁴.

At the beginning of 1899 a townswoman of Vilnius Pelagia Wąsowicz applied to be admitted to the same nunnery⁴⁵.

Some women wanted to join the Bernardine nunnery in Słonim. In October 1898 a townswoman of Hrodna who lived in the village of Juravičy, in the Hrodna governorate, Marianna Pyrska also applied⁴⁶.

In December 1898 a landowner's daughter, Maria Terlikowska, applied to be admitted⁴⁷.

In August 1899 the governor's office received the application and documents from Anny Semenowicz from Hrodna⁴⁸.

In the summer of 1899 a noblewoman Barbara Rewkiewicz, who lived in Hrodna sent an application for admission⁴⁹.

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Sometimes the requests were sent to the governor according to the place of living of the candidate. In such cases they were sent to the governor's office of the governorate where the monastery in question was situated. And so on April 29th 1899 the governor's office in Vilnius sent three applications of a noblewoman from Vilnius, Adela Aurelia Osmolska, to the governor's office in Hrodna with request for admission to the convent and with a report of the commissioner of the police in Vilnius with information about her. In her application it was emphasized that she wanted to enter the nunnery of Benedictines nuns in Vilnius but, as there were no posts, she asked to be admitted to the Bernardines nunnery in Słonim⁵⁰.

In the previously sent information which had been presented to the governor of Vilnius in the report of the commissioner of the police in Vilnius it was noted: "the lieutenant colonel's daughter Adelia-Aurelia Aleksandrowna Osmolska, 21 years old, a Catholic. Her parents died in 1892 and she lives with her aunt, a nun, Tekla Osmolska, in the building of Saint Catherine in Vilnius since September 19th 1892. (...) there are no obstacles for her so she can join the nunnery, although it is assumed that the applicant wants to be admitted to the nunnery

⁴⁴ Ibidem, k. 95-100.

⁴⁵ Ibidem, k. 18-20.

⁴⁶ Ibidem, k. 41-43.

⁴⁷ Ibidem, k. 35-38.

⁴⁸ Ibidem, k. 120-127.

⁴⁹ Ibidem, k. 128-136.

⁵⁰ NHAB in Hrodna, F. 1, Wop. 9, Spr. 960, k. 49-53.

probably under the influence of her aunt Tekla Osmolska, and of other nuns among whom she had lived since her 15th birthday, not having been in contact with any secular people”⁵¹. So at the very first stage of collecting data, even the policeman analyzed the reasons for the call and for her eagerness to join the nunnery.

Sometimes the requests for admission to the convent were collective. In 1879 the noblewomen Zofia and Aleksandra Przyborowskie, Waleria Nasutówna and Malwina Deichman, sent applications to the governor of Hrodna to be admitted to the Słonim nunnery of Bernardine⁵². As a reply they received the request for a set of traditional documents required to be submitted before the further considerations. Collecting these documents in this case lasted for 3 months and since January 12th 1880 the candidates sent the required documents and referring to art. 428, 429 and 430 of “The Collection of Laws” (ed. 1876) they asked for admission to the nunnery of Bernardines in Słonim once again. At that time the number of candidates decreased and there were only 3 of them (Zofia and Aleksandra Przyborowskie, Waleria Nasutówna). Malwina Deichman probably did not manage to collect the necessary set of documents. Since that moment the traditional procedure of testing the candidates before admitting them to the nunnery began. The procedure was conducted anyway despite the fact that the result was already known but the bureaucratic procedures were still required and unchanged⁵³. As a reply, the district clerks reported that the candidates (each of them was reported separately) “was not judged or investigated about and she is morally and politically trust worthy”⁵⁴, and the chancellery of the Criminal and Civil Court Chamber informed that the candidates “were not judged or investigated about”⁵⁵. After collecting and submitting all the necessary documents, there was the next stage of correspondence and bureaucracy. The governor’s chancellery informed the bishop of Vilnius chancellery (at that time it was monsignor Wacław Źyliński), that the documents of the mentioned candidates are proper (letter from February 23rd 1880)⁵⁶.

After receiving the letter from the governor’s chancellery, prelate Źyliński, in his letter from February 29th 1880 to the governor reported

⁵¹ Ibidem, k. 53.

⁵² NHAB in Hrodna, F.1, Wop. 8, Spr. 281, k. 1.

⁵³ Ibidem, k. 4.

⁵⁴ Ibidem, k. 5.

⁵⁵ Ibidem, k. 6.

⁵⁶ Ibidem, k. 7.

that “at present in the nunnery of Bernardines in Słonim there are only four nuns, and in order to complete the staff, that is providing for the other of 11, now on the order of the Minister of Internal Affairs, sever nuns are to be sent to this nunnery from Vilnius’ Bernardines. However, due to the fact that almost all these nuns are elderly and weak, I cannot refuse to admit to this nunnery these novices who are preparing to be nuns”⁵⁷. Another step was to inform the general-governor of Vilnius about these facts and about the positive decision of the bishop in this case⁵⁸.

The further correspondence was going to and from: the general-governor’s chancellery sent a letter to the governor of Hrodna with request for information about the number of vacancies in the Bernardine nunnery in Słonim, particularly, how many novices should there be and how many of them are there at present⁵⁹. Thus the question was sent to the office of the bishop of Vilnius. As a reply, the chancellery of the diocese of Vilnius indicated that: “at present there are seven vacancies for the nuns from Vilnius who had not yet been transferred, in the Bernardines nunnery in Słonim. At present in the nunnery there are no novices and the number of the present ones is not determined; but those who want to become nuns, are preparing in the nunnery and they are called novices for at least a year”⁶⁰, and in the next letter stating that at present there are no novices in the nunnery of the Bernardine Sisters⁶¹.

Probably the information obtained from the Catholic clergy could not be considered reliable, therefore, on April 9th 1880 a request was sent to the Słonim district clerk to inform about the present number of novices in the Bernardines nunnery in Słonim. The clerk answered that “there are no novices who are preparing to become nuns but the nunnery needs them very much because the nuns who live there are very old ”⁶².

Despite the complete fulfilment of the requirements as far as the set of documents and the real number of vacancies for the novices were concerned, the decision of the general governor from June 6th 1880 was the following: “it should be announced to the noblewomen Zofia

⁵⁷ NHAB in Hrodna, F. 1, Wop. 8, Spr. 281, k. 8.

⁵⁸ Ibidem, k. 9.

⁵⁹ Ibidem, k. 10.

⁶⁰ Ibidem, k. 12.

⁶¹ Ibidem, k. 15.

⁶² Ibidem, k. 16.

and Aleksandra Przyborowska and Waleria Nasut, that their requests for admission to the Bernardines nunnery in Słonim cannot be granted due to the lack of vacancies in this nunnery. Their documents (...) are returned to the owners”⁶³.

One more collective request was sent in the summer of 1899 by sisters Jadwiga and Maria Szunejko asking for admission to the Brigittines nunnery in Hrodna⁶⁴.

Similar requests were also sent by men. In 1898 Stanisław Sarosiek, “the inherited nobleman”, sent to the chancellery of the governor a request for admission to the Franciscan monastery in Hrodna. He enclosed all the necessary documents⁶⁵. In the bishop’s act in case of admission of Sarosiek to the monastery it was noticed that at the time when he requested for admission, in the monastery of Franciscans there were five monks (four in the monastery and one in the delegation) with the certain number of 16 posts. With regard to that, the bishop supported the request for admission⁶⁶.

At the end of 1898 a request for admission to the Franciscan monastery in Hrodna was sent by a servant of the same monastery, a peasant from the governorate and district of Hrodna from the village of Skomoroszki, Adam Pawłowski⁶⁷. In May 1899 Pawłowski, sent a the second request to the chancellery of the governor for admission to the monastery. He emphasized that he had not received any reply to his previous letter. He also indicated that he enclosed a certificate of his military service to the previous set of documents⁶⁸.

In January 1899 the chancellery of the governor received a request from an inhabitant of the governorate of Hrodna and the Białystok district Franc Pelszyński for admission to the monastery of Franciscans in Hrodna⁶⁹.

The citizens of the Kingdom of Poland also expressed their will to enter the monasteries which were situated in the Belarus and Lithuanian governorates. On October 13th 1898 Stanisław Furmański from the governorate of Radom, district of Sandomierz, municipality of Łoniów, who at that moment lived in Warsaw in 52 Krakowskie

⁶³ Ibidem, k. 19-19v.

⁶⁴ NHAB in Hrodna, F. 1, Wop. 9, Spr. 960, k. 79-88.

⁶⁵ NHAB in Hrodna, F. 1, Wop. 9, Spr. 960, k. 12-16.

⁶⁶ Ibidem, k. 17-17v.

⁶⁷ Ibidem, k. 21-26.

⁶⁸ Ibidem, k. 61.

⁶⁹ Ibidem, k. 31-34.

Przedmieście Street, sent a request for admission to the Franciscan monastery in Hrodna to the chancellery of the governor of Hrodna. In his application he referred to the legislation⁷⁰.

On January 16th 1899 the peasant Iwan Wasilewski who lived in Vilnius sent a request for admission to the Franciscan monastery in Hrodna to the governor of Hrodna⁷¹.

In September 1898 a request for admission to a monastery was sent by Adam Ždanuk, a 43-year old peasant from the governorate of Hrodna from the county of Sokółka from the village of Nierośno⁷². However, in this case the obstacle appeared when the police started their investigation as a reply to the governor's request, the president of the regional court in Hrodna informed that on September 21st 1898 "a peasant from the village of Nierośno, the county of Sokółka, Adam Wikcentiew Ždanuk was judged by the Regional Court in Hrodna on charges of a crime from art. 1049. And by the sentence from March 24th 1888 he was fined of 3 rubels (...) or in case of not paying the fine – he was to be arrested for two day. The sentence was carried out"⁷³. The report of the clerk from Sokółka stated that: "Ždanuk is a man of good qualities". The bishop also confirmed that the candidate's request can be fulfilled.

However, the police worked efficiently and during the investigation they sent information from October 27th 1899 to the chancellery which stated that Jan Wasilewski and Adam Ždanuk came to Hrodna without the permission and while waiting for the admission, they started to live in Hrodna.

This fact was negatively received by the civil authorities and the governor demanded explanations from the bishop of Vilnius. The bishop called the prior of the monastery in Hrodna for explanation. After the meeting, in the letter to the governor from January 12th 1900 the bishop informed that the candidates really lived in the Franciscan monastery even though the bishop did not allow the prior to let them. The bishop strictly reprimanded the prior for that illegal act and told him to expel the men from the monastery⁷⁴.

As we can see, it was considered a serious violation not only by the candidates but also by the monastery's prior. On February 11th 1900 the police commissioner informed the governor that the peasants Jan

⁷⁰ Ibidem, k. 47-48.

⁷¹ Ibidem, k. 67-69.

⁷² Ibidem, k. 62.

⁷³ Ibidem, k. 63.

⁷⁴ NHAB in Hrodna, F. 1, Wop. 9, Spr. 960, k. 76.

Wasilewski i Adam Ždanuk who had been living in the Franciscan monastery in Hrodna, were expelled from the monastery on January 12th 1900.⁷⁵

Another request for admission to the Franciscan monastery in Hrodna was sent by a 38-year old nobleman Kazimierz Innokencjusz Maksymilian Emiljanow-Cesarjew Umiastowski, who lived in Vilnius and worked in the Roman Catholic Consistory in Vilnius⁷⁶.

On September 22nd 1899 another peasant, Antoni Kazimierz Jarosewicz, who lived in Hrodna, sent a request for admission to the same monastery to the governor⁷⁷.

As a result of the collective requests for admission to monasteries, the Ministry of Internal Affairs sent collective responses, which replied to the group of requests collected in a certain period of time. On January 30th 1900 the chancelleries of the governors of Vilnius, Kaunas and Hrodna sent a confidential memo to the office of the governor of Hrodna, which stated: "The head of the Ministry of Internal Affairs, who according to my request, does not see any reasons to maintain the Catholic monasticism in our western outskirts, rejected the requests of 20 people sent by the Spiritual Collegium for admission to the Roman Catholic monasteries in the Northwestern Krai, that I have just been informed about. I have the privilege to announce it to Your Excellency in order to inform you"⁷⁸. Thus none of the mentioned requests for admission to a monastery was accepted.

Such decisions caused legislation violations to a certain extent because they were clearly against the regulations of law. Even the governors did not know on what bases they were supposed to reject the requests for admission with the sets of documents of the people who did not have any legal issues and who provided all the necessary documents. It is confirmed in the feedback letter from February 28th 1900 to the general-governor, in which the governor of Hrodna wrote: "With the circular from January 30th you informed me that the head of the Ministry of Internal Affairs, who did not see any reason to maintain the Catholic monasticism in our western outskirts, rejected the requests sent by the Spiritual Collegium for admission of 20 people to the Roman Catholic monasteries in the Northwestern Krai. Meanwhile I am considering a few requests of various people for a certificate according to Art. 429-430.v.9 "Collection of Laws" ed.

⁷⁵ Ibidem, k. 70.

⁷⁶ Ibidem, k. 89-93.

⁷⁷ Ibidem, k. 112-119.

⁷⁸ Ibidem, k. 136.

1876 before the Roman Catholic diocesan management to certify their being under the judgement and still under investigation and I am constantly receiving new requests. [...] I have the honor to ask Your Excellency not to refuse providing proper explanation whether these requests should be submitted in a set order or should these requests be rejected in the set order”⁷⁹.

Thus it is clear that such situations aimed at: a) preventing any minimal stabilization of the situation of the monastery life, b) moreover, they aimed at gradual destruction of monasteries. In such conditions monasteries inevitably started to gradually collapse. For Russian authorities the situation was not so critical as monks and nuns were sent from the dissolved monasteries to others. According to the authorities, there was no emergency situation, only the monasteries' staff were completed with new monks. The fact that according to the law and tradition of the Catholic Church such a monastery was still not such a one specified convent, was not important for the authorities. In fact from that moment the monasteries turned into a dormitories for monks⁸⁰.

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For example since 1883 the Franciscan monastery in Hrodna was a traditional dormitory where the following monks from different monastic orders lived: 1) prior Steckiewicz (Franciscan), 2) friar Wojtkiewicz (Franciscan), 3) friar (“novice”) Skalski (Franciscan); the so called “prescriptive”⁸¹: 4) Pomen (Dominican); 5) friar Medard (Dominican), 6) friar Senczyno (Benedictine); and the diocesan priests: 7) F. Senczykowski and 8) Markowski. The so called “prescriptive” monks were considered to be the members of a certain monastery on the basis of the state legislation, but they were not according to the Catholic law.

After the decree from 1905 the formal obstacles in joining the monasteries were removed. However, the monasteries (on Belarusian lands) which still existed, were not able to resume their activity and as a result of non-canonical manipulation, they changed their monastic affiliation (e.g. the Bernardines nunnery in Słonim was taken over by the sisters of Immaculate Conception⁸², while the nunnery of Brigit-

⁷⁹ NHAB in Hrodna, F. 1, Wop. 9, Spr. 960, k. 138.

⁸⁰ More on the subject: R. Zianiuk, “The Evolution of the Role of Roman Catholic Monasteries in Belarus from the Nineteenth Century to the Beginning of the Twentieth Century”, *Rocznik Teologii Katolickiej* 2021, Vol. XX: 103-122.

⁸¹ They were sent to the monastery of a different order as a result of the dissolution of the convents where they were at the time of cassation.

⁸² *Klasztory bernardynskie w Polsce w jej granicach historycznych*, ed. H. E. Wyczawski (Kalwaria Zebrzydowska: 1985), 541.

tines – by Sisters of the Holy Family of Nazareth. Only the Franciscan monastery in Hrodna remained in the same order affinity.

Thus, as a result of the policy of Russian authorities, the organization of monastic life on Belarus soil was completely changed. Mainly, the traditional structure of managing convents changed: from general – provincial – abbot was changed into the bishop – visitator – prior. Secondly, the decision to accept candidates for monastery was transferred from ecclesiastical authorities to the secular authorities. As a result of that since 1880s the ecclesial law to provide the monastic human resources has been gradually destroyed.

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Sprawozdanie z działalności Katedry Teologii Katolickiej Uniwersytetu w Białymstoku w roku akademickim 2021/2022

Kadra Katedry Teologii Katolickiej

Na Uniwersytecie w Białymstoku w ramach Katedry Teologii Katolickiej w roku akademickim 2021/2022 zatrudnionych było czterech pracowników. Wśród nich jest trzech pracowników naukowo-dydaktycznych. Na stanowisku profesora nadzwyczajnego zatrudniony był ks. dr hab. Andrzej Proniewski na całym etacie, który pełnił także obowiązki kierownika KTK. Ksiądz dr Tadeusz Kasabuła był zatrudniony na stanowisku adiunkta w wymiarze $\frac{1}{2}$ etatu, zaś ks. dr Marek Kowalczuk na stanowisku asystenta, również w wymiarze $\frac{1}{2}$ etatu. Oprócz pracowników naukowo-dydaktycznych na stanowisku pracownika administracyjnego w Katedrze Teologii Katolickiej był zatrudniony ks. mgr lic. Leszek M. Jakoniuk na całym etacie.

W związku ze zmianą ordynariusza Archidiecezji Białostockiej wraz z kanonicznym objęciem diecezji w dniu 3 września 2021 abp dr Józef Guzdek reprezentuje Archidiecezję Białostocką, która jest stroną podpisanej umowy z dnia 8 października 1999 r. z Uniwersytetem w Białymstoku.

Działalność dydaktyczna

W ramach działalności dydaktycznej pracownicy KTK przeprowadzili następujące wykłady:

Ks. dr hab. Andrzej Proniewski, prof. UwB (235 godzin)

- *Tajemnice Wszechświata. Dialog wiary z nauką* (wykład – 45 godz.), Wydział Nauk o Edukacji;
- seminarium magisterskie (100 godz.), Wydział Nauk o Edukacji;
- *Początki międzykulturowości Europy* (konwersatorium – 30 godz.), Instytut Studiów Kulturowych;
- seminarium magisterskie (60 godz.), Instytut Studiów Kulturowych;
- promotor 22 prac magisterskich;
- recenzent 3 prac magisterskich i 4 doktoratów.

Ks. dr Tadeusz Kasabuła, adiunkt (75 godzin)

- *Chrześcijańskie dziedzictwo Europy* (konwersatorium – 15 godz.), Wydział Historii i Stosunków Międzynarodowych;
- *Europejskość Europy. Ewolucja idei* (konwersatorium – 30 godz.), Wydział Historii i Stosunków Międzynarodowych;
- *Historia kultury* (wykład – 30 godz.), Instytut Studiów Kulturowych.

Reports,
Reviews

Ks. dr Marek Kowalczuk, asystent (80 godzin)

- *Bogowie i ludzie na Starożytnym Bliskim Wschodzie* (konwersatorium – 30 godz.), Instytut Studiów Kulturowych;
- *Ciało i dusza w historii* (wykład – 20 godz.), Wydział Nauk o Edukacji;
- *Spotkanie kultur: judaizm, chrześcijaństwo pierwotne i świat grecko-rzymski* (wykład – 30 godz.), Wydział Nauk o Edukacji.

Konferencje naukowe

Katedra Teologii Katolickiej UwB w okresie sprawozdawczym była współorganizatorem konferencji naukowych:

- *Eucharystia celebrowana* (Białystok, 8 stycznia 2022);
- *R(ewolucja) duszpasterstwa młodzieży* (Białystok, 23 kwietnia 2022);
- *Rodzina w myśli bł. ks. Michała Sopoćki* – konferencja międzynarodowa (Białystok, 24 września 2022).

Działalność naukowo-badawcza

Pracownicy KTK UwB w roku akademickim 2021/2022 opublikowali następujące artykuły naukowe:

Ks. dr hab. Andrzej Proniewski, prof. UwB

- A. Proniewski, M. Anikiej, *Synodalność Kościoła – czy na dzisiejsze czasy?*, „Społeczeństwo” 1 (2022) 157, s. 40-53.

- A. Proniewski, *Czym jest synodalność? Rozwój świadomości synodalności na przestrzeni historii Kościoła*, „Sympozjum” R. 26, nr 1(42) 2022, s. 11-32.
- A. Proniewski, *Benedykta XVI perspektywa dialogu miłości Stwórcy ze stworzeniem*, „*Studia Teologii Dogmatycznej*” 7 (2021), s. 145-164.
- A. Proniewski, *Charismatic Phenomena and Spiritual Discernment*, „*Rocznik Teologii Katolickiej*” 20 (2021), s. 73-87.

Ks. dr Tadeusz Kasabuła

- T. Kasabuła, *The Catholic Church in Cracow’s Influence on the Cathedral Chapter of Vilnius from the Fifteenth through Eighteenth Centuries*, „*Rocznik Teologii Katolickiej*” 20 (2021), s. 89-101.

Ks. dr Marek Kowalcuk

- M. Kowalcuk, *Dziecko jako wzór w nauczaniu Jezusa*, w: E. Kryńska, Ł. Kalisz, A. Suplicka (red.), *Dziecko w historii, Między godnością a zniewoleniem*, Białystok 2022, s. 155-171.

Reports,
Reviews

Ks. mgr lic. Leszek M. Jakoniuk

- L.M. Jakoniuk, J. Cieślik-Klauza, M.B. Nerkowski, *Les chants de Taizé*, „Istina”, R. 66, „*Musique et Œcuménisme*”, 2 (2021), s. 153-164.
- L.M. Jakoniuk, *Exsultet (wymiar katechetyczny)*, w: *Leksykon katechetyczny*, red. J. Kochel, J. Kostorz, Kielce 2022, s. 146-152.

Udział w konferencjach, zjazdach naukowych i wydarzeniach kulturalno-naukowych, referaty

W roku akademickim 2021/2022 pracownicy katedry oprócz uczestnictwa w wydarzeniach współorganizowanych przez KTK wzięli udział w sympozjach, zjazdach, wernisażach, wystawach:

Ks. dr hab. Andrzej Proniewski, prof. UwB

- 54 Tydzień Eklezjologiczny Kościół Świętych (KUL Lublin, 17-19 maja 2022), referat: *Teologia laikatu i synodalność jako droga realizacji powszechnego powołania do świętości*.
- Konferencja naukowa *Synodalność w życiu i misji Kościoła* (Wyższe Seminarium Misyjne UPJPII Kraków, 5 maja 2022), referat: *Czym jest synodalność Kościoła? Rozwój świadomości synodalności na przestrzeni historii Kościoła*.

Ks. dr Tadeusz Kasabuła

- Międzynarodowy festiwal sztuki fotograficznej „Interphoto”, wystawa fotograficzna Guido Kajonsa *Theme 011* – współpraca (Białystok, 23 września – 16 października 2021).
- Konferencja międzynarodowa *Polonica zagraniczne. Stan wiedzy i perspektywy badawcze*, z cyklu *Archiwa Kultury polskiej XX wieku: Londyn – Białystok – Turyn*, referat: *Archiwum Archidiecezjalne w Białymstoku. Powstanie i ewolucja zasobu*. Organizatorzy: Wydział Filologiczny UwB, Uniwersytet w Turynie, Archiwum Państwowe w Białymstoku, Biblioteka Polska POSK w Londynie (Białystok, 7-8 października 2021).
- Wernisaż wystawy *Dziecko Boże* – współpraca (Białystok, 10 listopada 2021).
- Wernisaż wystawy *W drodze do niepodległości. Kanadyjski przystanek. Obóz Kościuszko w Niagara on the Lake 1917-1918* – współpraca ze Stowarzyszeniem Weteranów Armii Polskiej w Ameryce (Białystok, 17 listopada 2021).
- Wernisaż wystawy *Kraków w drzeworytach Władysława Raczyńskiego* – organizacja (Białystok, 16 lutego 2022).
- Wernisaż wystawy *Błogosławieni męczennicy Archidiecezji Wileńskiej* – organizacja (Białystok, 4 maja 2022).
- Wernisaż wystawy *Ksiądz też człowiek i hobby mieć musi* – organizacja (Białystok, 14 maja 2022).

Wydawnictwo

Nakładem Wydawnictwa Uniwersytetu w Białymstoku w ramach działalności KTK ukazały się w roku akademickim 2021/2022 następujące pozycje:

- „Rocznik Teologii Katolickiej”, Białystok 2021, t. 20 (40 punktów);
- „Studia Teologii Dogmatycznej”, Białystok 2021, t. VII (5 punktów).

Projekty**Ks. dr Tadeusz Kasabuła**

- Projekt nr WND-RPPD.08.03.00-209048116 pod nazwą *Ochrona i cyfrowe udostępnienie obiektów dziedzictwa kulturowego znajdujących się w zasobach Archiwum i Muzeum Archidiecezjalnego w Białymstoku* realizowany w ramach Regionalnego Programu Operacyjnego Województwa Podlaskiego na lata 2014-2020 (w okresie trwałości do 2025 r.) – kierownik projektu.

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