

Jerzy Sojka

Religious Freedom in the Doctrine of the Evangelical (Lutheran) Church of the Augsburg Confession

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JERZY SOJKA

Christian Theological Academy in Warsaw, Poland

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Introduction

Due to the specifics of the evangelical tradition, which is characterised firstly by the lack of one institutional or personal centre defining the doctrine, and consequently, pluralism of thought and speech in many essential questions of the theological or ethical nature, the obligation to present the question within the doctrine of the Evangelical (Lutheran) Church of the Augsburg Confession poses, in the very beginning, an essential problem. First, the range of the material which should be the basis for the consideration has to be defined. Because of the independence of local Lutheran churches combined with their rooting in the modern theological heritage, as well as the fact of their wide cooperation on the forum of various international organisations, limiting the perspective only to the Evangelical (Lutheran) Church of the Augsburg Confession does not seem appropriate. In this situation, the natural reference point for the representatives of the Lutheran tradition seems to be the common acknowledgement of the 16th-century Reformation's doctrinal heritage in the *Book of Concord*, that is, in the complex of Lutheran confessions, also

called confessional books, as normative. However, in the case of the issue of religious freedom this point of reference is unfortunately not helpful, due to the fact that the Lutheran Confessions, because of their being conditioned by the 16th-century arguments, do not speak on this type of problems.

As the further reference point one can assume Martin Luther's thought. In this wide heritage one can find, among others, the statement condemned later in the *Exsurge Domine* bull: "We should overcome heretics with books, not with fire."¹ At the same time one should keep in mind that the Reformer from the Wittenberg saw the tasks of the secular authority in the following way: "[...] no ruler ought to prevent anyone from teaching or believing what he pleases, whether it is the gospel or lies. It is enough if he prevents the teaching of sedition and rebellion."² Such depiction was often accompanied by sharply formulated calls to the secular authority to deal with those who cause unrest and riots and motivate them with religion. It referred not only to the rebelling peasants — followers of Thomas Münzer, but also the Anabaptists, who evaded their responsibilities towards the secular authority. Such perspective referred not only to the opponents in the religious arguments, but also to the Lutheran preachers: "My Lutherans ought to be willing to abdicate and be silent if they observed that they were not gladly heard, as Christ teaches,"³ and further in the same text he added: "It is not a good thing that contradictory preaching should go out among the people of the same parish. For from this arise divisions, disorders, hatreds, and envyings which extend to temporal affairs also."⁴

The picture presented above allows to agree with two theses of modern evangelical ethicists. Martin Honecker states about Luther: "The thought of public freedom of teaching was unknown to him; he allowed only a personal freedom of belief and conscience."⁵ And Ulrich Körtner summarises the question of religious freedom in the Wittenberg Reformation as follows: "But also the Reformation itself did not bring religious freedom in the modern sense of the word, that is, as an individual right. Even as Luther argued in favour of the freedom of conscience and God's Word, he was convinced that the heretics were dangerous and that the secular

¹ M. LUTHER: "To the Christian nobility of the German nation concerning the reform of the Christian estate." In: *Luther's works*. Vol. 44. Saint Louis 1966, p. 196.

² IDEM: "Admonition to peace a reply to the Twelve Articles of the peasants in Swabia." In: *Luther's works*. Vol. 46. Saint Louis 1967, p. 22.

³ IDEM: "Psalm 82." In: *Luther's works*. Vol. 13. Saint Louis 1956, p. 63.

⁴ Ibidem.

⁵ M. HONECKER: *Das Recht des Menschen. Einführung in die evangelische Sozialethik*. Gütersloh 1978, p. 88.

authority should take coercive action against them when needed, not for religious reasons, but for the sake of political peace.”⁶

Looking for further points of reference for reflection on religious freedom in the Evangelical-Lutheran theological tradition, one should take into account Martin Honecker’s statement: “Human rights as a topic were discovered by the evangelical theology and the church in Germany only in 1970.”⁷ One should also give up limiting its scope to the German evangelical theology. The biggest international Lutheran organisation as well — the Lutheran World Federation — spoke on the subject of human rights only in the 1970 in the resolution of its Fifth General Assembly in Evian.⁸

Of the collection of thought of the evangelical churches and theologians on the topic of religious freedom, two German debates taking place in the 1970s will be presented below. Then, the positions of the Lutheran World Federation and the Community of Protestant Churches in Europe, to which also Lutheran churches belong. And at the end specific examples from the work of two national churches: Evangelical Church in Germany (to which also the Lutheran churches belong) and The Evangelical (Lutheran) Church of the Augsburg Confession in Poland.

The debate in the German theology in the 1970s

In the discussion on the human rights in German evangelical theology, there were several models of their theological reception. Below, two of them will be presented — a model by Martin Honecker, as well as the one by Heinz Eduard Tödt and Wolfgang Huber. In both of them we find significant references to the issue of religious freedom.⁹

⁶ U. H. J. KÖRTNER: *Evangelische Sozialethik. Grundlagen und Themenfelder*. Göttingen 1999, p. 164.

⁷ M. HONECKER: *Grundriß der Sozialethik*. Berlin 1995, p. 342

⁸ “Resolution zur Frage der Menschenrechte.” In: *Evian 1970. Offizieller Bericht der Fünften Vollversammlung des Lutherischen Weltbundes*. Eds. Ch. KRAUSE, W. MÜLLER-RÖMHELD. Witten-Berlin 1970, pp. 191–193.

⁹ On the model of human rights reception by M. HONECKER and H. E. TÖDT as well as on Wolfgang Huber in general see: M. HINTZ: *Etyka ewangelicka i jej wymiar eklezjalny. Studium historyczno-systematyczne*. Warszawa 2007, pp. 166 f., 170; overview of most interpretation models of the debate from the 1970s see: U. H. J. KÖRTNER: *Evangelische Sozialethik...*, pp. 160–167.

Martin Honecker

In his analysis of the human rights, Martin Honecker refers not to their theological justification, but to their obviousness, noticing in them a type of argumentation useful also for theology. A separate subchapter of his work is devoted to the analysis of the right to religious freedom as an example of the “seemingly individual human right.”¹⁰ After presenting his interpretation in the Western European and socialist tradition, as well as in Islam, and the presentation of the historical outline of the attitudes of Christianity to the idea of religious freedom, Honecker moves to presenting doubts and motions as to the right to religious freedom.¹¹

Firstly, he points to the connection of religious freedom with the freedom of conscience, as well as shows that the first does not only concern inviolability of merely the internal freedom of conscience and faith, but also the right to express them publicly and to practice their faith in communion with the others (freedom of worship practice). Hence, freedom of the churches is based on religious freedom.¹²

Secondly, he indicates the tension between the claims of each revelation of the truth, which necessarily includes the intolerance, and the requirement of respecting the religious freedom in the conditions of a worldview neutral state. Martin Honecker points out that the Christians and churches have to endure this tension. It is also necessary that they subject to critical analysis the missionary means they use, as well as the ways of public proclamation of faith, considering their admissibility from the perspective of religious freedom. This self-criticism should also comprise the evaluation of Church’s position in the state and the answer to the question whether it claims unjustified privileges. Honecker also points out that religious freedom is not limited to Christians. It also concerns atheists and radical critics of the Church.¹³

Thirdly, he points out that religious freedom is not an absolute freedom. Referring to the Art. 9 point 2 of the European Convention on Human Rights¹⁴ he shows that one must not, citing religious freedom,

¹⁰ M. HONECKER: *Das Recht des Menschen...*, p. 82.

¹¹ *Ibidem*, pp. 82—91.

¹² *Ibidem*, p. 91.

¹³ *Ibidem*, pp. 91 f.

¹⁴ “Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others” (Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols No. 11 and No. 14, <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm> (13.04.2015)).

harm other people (e.g. through starving during exorcism) or put a strain on them (e.g. with the noise of the bells at night). He also stresses that religious freedom is limited by rights and freedoms of others, and that public manifestation of the internal beliefs of faith and conscience can question social relations.¹⁵

Religious freedom also comprises the regulation of state-Church relations. The obligation of worldview neutrality of the former cannot cause atheism or religious indifference to gain a status of a state religion. Also, state's action in favour of an atheist worldview is a violation of religious freedom. Honecker thinks also that the principle of religious freedom can be reconciled with supporting religious communities or groups, while retaining the principle of their equity. A state which is neutral in matters of religion guards pluralism, also in the areas such as social work etc., which does not, however, exclude the possibility of cooperation with Churches and their institutions. It is possible insofar as the citizens expect it. It assumes possible changes of the ways religious freedom is realised depending on the changes in society.¹⁶

The question whether freedom of conscience and of confession is in force only within a community as a whole, or if an agreement within a Church itself is required, is considered by Honecker particularly important and difficult to solve. Because it is impossible for the Church to be religiously neutral, freedom of conscience cannot be preserved in the internal law of the Churches as it is in the state law. It does not, however, settle the use of other human rights within the Church. Again, it is impossible to simply transfer them from the state law, but some of them, like the ones referring to human dignity or responsibility should find their reflection in the Church law. It should however be actualised each time in a dialogue between the possibility of applying specific human rights and the mission of the Church.¹⁷

Martin Honecker stresses the significance of religious freedom for the regulation of order and social freedoms in face of ideological contradictions, because on its strength the state and Church resign from enforcing the truth by means of political sanctions. He refers in this context to the other freedoms: freedom of conscience and of expressing opinion. All of them, including religious freedom, are the basis for preserving peace based on mutual respect of other people's beliefs and dignity.¹⁸

He reminds us that until the Peace of Westphalia the religious freedom only had a collective character. However, he notices that with the develop-

¹⁵ M. HONECKER: *Das Recht des Menschen...*, p. 92.

¹⁶ Ibidem, pp. 92 f.

¹⁷ Ibidem, p. 93.

¹⁸ Ibidem, p. 95.

ment of the concept of religious freedom, it started to protect minorities and give them the possibility to disclose themselves. Honecker stresses the significance of the social dimension of religious freedom, as well as points to the significance it had won in the ecumenical debates. He also notices that in different legal systems this collective freedom has different forms: freedom to practice religion, freedom to undertake tasks of missionary, educational, or prophetic (understood as the criticism of the established social reality) nature, or for the activity in the field of social help and diaconia. There is also the fact of conditioning the images that actualise the collectively understood religious freedom by different confessional traditions.¹⁹

Heinz Eduardt Tödt and Wolfgang Huber

The theological model of interpretation of the human rights proposed by Heinz Eduardt Tödt and Wolfgang Huber is based on pointing both to the analogies and to differences between the theological theses and human rights. They concentrate their analysis around three rights that are essential in their opinion: right to freedom, to equality, and to participation. They put forward a thesis that these freedoms are reflected in the Christian faith, and at the same time they are “radicalised in a specific way.”²⁰ The particular topic of religious freedom appears in the context of analysing the rights to freedom and equality.

In the context of the former, Tödt and Huber point to the public character of Christian testimony, which demands religious freedom understood as a freedom of religious practices. They stress, however, that political freedom cannot be considered a prerequisite for religious freedom, because a place for it has not been foreseen in the human concept of organised world.²¹ The relationship of political and religious freedom is the opposite: “[...] the reality of the Christian freedom itself urges by the strength of its relation to the world also to realising political freedoms and works then of course together with various human incentives to anchor the freedom in law.”²²

¹⁹ Ibidem, pp. 93—95.

²⁰ W. HUBER, H. E. TÖDT: *Menschenrechte. Perspektive einer menschlichen Welt*. Stuttgart—Berlin 1977, p. 163.

²¹ Ibidem, p. 165.

²² Ibidem.

In context of the right to equality, Tödt and Huber refer to equality in being God's children based on Gal. 2, 26 ff. They point out that it presupposes a fundamental equality, independent from the disparities between different religions. This equality is not established by people, but it is promised to them and given in baptism. They also show that, while the analogy between the content of the Christian faith and legal reality point to a particular character of equality, one should remember that in the legal reality it is only guaranteed by the defined legal basis, whereas in case of the Christian community it is based on love.²³

Tödt and Huber conclude their analysis concerning human rights with a chapter entitled "Verantwortung für das Recht des Menschen" (Responsibility for the right of a human). In it they deal, among others, with implementing religious freedom. In the beginning they point to the particular responsibility of Churches for implementing the right to religious freedom taking into account the fact that it is an essential prerequisite for uninhibited public proclamation of the Gospel. They also stress that the right to religious freedom cannot be identified with right to freedom for the Churches. It is supported by the historical arguments, because the right to religious freedom was shaped in opposition to the Churches privileged in the state. This is why the right to religious freedom is not only the right to freedom for the Churches, but also the right to oppose the monopolistic claims of specific Churches reinforced by political sanction. The right to freely shape their own order for the Churches results from the right to religious freedom, but it is not identical with it. The right to religious freedom also includes the right to having no religious beliefs at all. And the support Churches grant to the religious freedom has to include showing support to freedom of those who think differently.²⁴

Tödt and Huber indicate that "freedom of belief and conscience constitutes [...] in a very principled sense the first human right. Because in it the inviolability of a person, and through it the basis for all human rights, is shown to advantage in the clearest way."²⁵ In reference to the ecumenical debate within the World Council of Churches they show further that the right to religious freedom is firstly the right of an individual, because the religious confession is always a confession of some individual. However, it is also expressed in the community, hence the right to religious freedom also has a corporate dimension. It concerns the right to public religious practices, but also to public activity. They stress that the right to religious freedom in the corporate sense not only means the right

²³ Ibidem, pp. 166 ff.

²⁴ Ibidem, p. 209.

²⁵ Ibidem, pp. 209 f.

to freely shape the internal basis, goals, practice, and order of the religious communities, but is also a right to public proclamation of political and social theses, resulting from religious convictions. Then they point to examples of violating such religious freedom not only in the countries of the former Eastern Bloc, but also in the Park regime in South Korea, or during the coup in Chile in September 1973. In the end, they point out that such presentation of the matter of defending religious freedom can cause allegations that this way the witness of the Church was conditioned by achieving certain conditions of political nature, and to be precise — realisation of religious freedom.²⁶ In response to this accusation they refer to Dietrich Bonhoeffer's concept, presented in his ethics of division to the Forelast and Last things.²⁷ Based on this distinction they find that the guarantees of religious freedom should be considered Forelast things and they state: "The fight of a Christian community for the human rights, also for freedom of religion, is actually a fight for the Forelast, for the sake of the Last."²⁸

International Organisations

Lutheran World Federation

For the first time, the issue of human rights appeared on the General Assembly of the Lutheran World Federation (further: LWF) in Evian (Switzerland) in 1970. They were a subject of interest for the section of the Assembly dealing with the topic: "Responsible participation in today's society." Its subsection "Economic justice and human rights" was prepared later and accepted by the Assembly Resolution on Human Rights. It recommended to the Churches that they undertake actions to familiarise their members with the Universal Declaration of Human Rights, as well as to reflect on possibilities of applying it in particular milieu, in which a particular Church lives and functions. It was also pointed out that in this process of education and analysis, special attention should be given to Art. 18 concerning the right to religious freedom.²⁹

²⁶ Ibidem, pp. 210—214.

²⁷ Cf. D. BONHOEFFER: *Ethik*, 7. Aufl. München 1966, pp. 142 ff.

²⁸ W. HUBER, H. E. TÖDT: *Menschenrechte...*, p. 215.

²⁹ "Resolution zur Frage der Menschenrechte..."

The next General Assembly, which took place in 1977 in Dar Es Salaam (Tanzania), also issued a statement dedicated to the human rights. In it we read: “We confirm our Christian task of supporting, together with those who think differently than us, realisation of full freedom of thought, conscience and religion, and at the same time we stress the right to practice a communion of faith over the national borders. We clearly confess that freedom of conscience also includes a right to not be affiliated with any religion.”³⁰ In the recommendations of the III Seminar of the Assembly dealing with the topic “In Christ — Responsible Care for Creation” there is also a declaration of the LWF and its member Churches that they will undertake further efforts to make the situation within the scope of religious freedom better, in cooperation with the ecumenical and political partners. There was also a call for prayer for the persecuted Churches and its members, and for undertaking all possible activities to help them in their situation. The importance of maintaining communication between Churches beyond state borders was stressed as well.³¹

The General Assembly in Budapest in 1984 also adopted a statement concerning human rights. As one of the particularly moving examples of violating the human rights, it was pointed to violating religious freedom in its many aspects: public or private worship, public statement of faith, upbringing of the youth or right to live in accordance with the conscience. The point of reference for defining these areas was the “Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief” from 25 January 1981.³² In the adopted statement, the Assembly “[...] condemns all attempts to violate the dignity of human being, a dignity that by right belongs to all people of whatever [...] faith.”³³

The last of the General Assemblies of the LWF dealing in its final documents directly with the issue of religious freedom, was the Assembly in Hong Kong in 1997. In its message, in the part entitled “Called to be a Witnessing Community,” in the section on advocacy, human rights, justice, peace, and reconciliation, there is a fragment dedicated to religious

³⁰ “Menschenrechte.” In: *Daressalam 1977. In Christus — eine neu Gemeinschaft. Offizieller Bericht der Sechsten Vollversammlung des Lutherischen Weltbundes*. Eds. H.-W. HENSLER, G. THOMAS. Frankfurt am Main, p. 211.

³¹ “Bericht Seminar III. In Christus — verantwortliche Sorge für die Schöpfung.” In: *Daressalam 1977...*, p. 166.

³² “Erklärung über Menschenrechte.” In: „*In Christus — Hoffnung die Welt*” *Offizieller Bericht der Siebenten Vollversammlung des Lutherischen Weltbundes. Budapest, Ungarn 22. Juli-5. August 1984*. Ed. C. H. MAU: *LWB-Report*, vol. 19/20 (1985), pp. 189 f. Cf.: *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, <http://www.un.org/documents/ga/res/36/a36r055.htm> (11.04.2015).

³³ “Erklärung über Menschenrechte”..., p. 190.

freedom. In it, it was stated that violating or ignoring the question of religious freedom and tolerance — one of the basic human rights — cannot take place in any of the modern countries claiming to be democratic. It was also stated that no religion or religious institution can propagate its faith in a way that would violate the inborn freedom of each man. And in face of the fact that in many parts of this world there is still a religious intolerance and discrimination, the Assembly called the member Churches of the LWF and the ecumenical community to stronger efforts to support and protect the religious freedom, both in particular countries, and internationally.³⁴

The Assembly in Hong Kong also adopted the Statement on Freedom of Religion. In it, it repeated the assertions included in the Message of the Assembly and supplemented it, firstly with the assertion that religious freedom is realised through assuming a chosen religion, or rejecting it. Secondly, with a criticism of fundamentalism, both religious and political, as contradictory to the basic values of human dignity and freedom. It was pointed out, that it is often the religious people who offence against these values the strongest. Thirdly, it was stated that the principles of ideological or fundamentalist character lead to violating the right to religious freedom also in the countries which have good legal solutions protecting religious freedom. Fourthly, it was demonstrated that the phenomena of intolerance and discrimination on religious grounds grow stronger also in those countries that have strong traditions of abiding human rights. Fifthly, the Churches were called to, on the occasion of the 50th anniversary of adopting the Universal Declaration of Human Rights, to pay attention in their activities to the issue of religious freedom in the context of other human rights: economic, social, cultural, citizen's, and political. As means of this work it was pointed to liturgical actions (prayers, worship, Bible studies), preparing educational materials and seminars, public appearances, cooperation with representatives of other religions, stepping out in front of state and religious authorities to defend individuals and groups whose religious freedom is limited or taken away from them.³⁵

The engagement for the human rights in the LWF has not only a declarative dimension, but also an institutional one. According to the recommendation of the General Assembly in Budapest, an Office for Human Rights was appointed in the Secretarial Office of the LWF

³⁴ "In Christus — Zum Zeugnis berufen Bericht und Verpflichtungen." In: *Im Christus — zum Zeugnis berufen. Offizieller Bericht der Neunten Vollversammlung des Lutherischen Weltbundes. Hong-Kong 8.-16. Juli 1997*, Genf, p. 60.

³⁵ "Erklärung zur Religionsfreiheit." In: *Im Christus — zum Zeugnis berufen...*, pp. 74 f.

in Geneva.³⁶ In the present structure of the so-called LWF Communion Office this topic is dealt with by the Department for Theology and Public Witness. As its major areas within international affairs and human rights it points to the activities towards advocacy, human rights, justice, peace, and religious freedom, describing its task closer as follows: “Advocacy is an LWF priority. We understand that holistic mission includes proclamation, service, and advocacy. We aim to be a reliable and effective voice for justice, peace, and human rights. We want our member Churches to have strong capacities for public witness on behalf of vulnerable and oppressed people.”³⁷ An expression of interest in the topic are the publications of LWF dedicated to the issue of human rights.³⁸

Community of Protestant Churches in Europe

In the founding document of the Leuenberg Church Fellowship, since 2003 called Community of Protestant Churches in Europe (further: CPCE), whose members are the Churches of Lutheran, Reformed, United, and Methodist tradition, as well as the Waldensian Church and the Church of the Czech Brethren, has included a commitment of its member Churches to undertake together studies, among other things, within the scope of the relations of Church and society.³⁹ In a series realising this commitment, *Leueberger Texte = Leuenberg Documents*, interest in the topic of human rights in general and religious freedom in particular is also voiced.

The topic appears for the first time in the CPCE studies on freedom, undertaken by the decision of the CPCE’s General Assembly in Strasbourg in 1987, which have fortunately coincided with the wave of freedom changes in the Eastern and Central Europe. The result was a study document “The Christian Witness on Freedom,” which reminds about the problem of religious freedom in a wider context of considering the

³⁶ “Berichte der Arbeitsgruppe und Ausschüsse der Vollversammlung. Arbeitsgruppe 11: Verwirklichung der Menschenrechte.” In: „*In Christus — Hoffnung die Welt*”..., p. 261.

³⁷ *International Affairs and Human Rights*, <http://www.lutheranworld.org/content/international-affairs-and-human-rights> (11.04.2015).

³⁸ *A Lutheran Reader on Human Rights*. Ed. J. LISSNER, A. SOVIK. “LWF Report”, vol. 1/2, September 1978; *Faith and Human Rights: Voices from the Lutheran Communion*. Ed. P. N. PROVE, L. SMETTERS, “LWF Documentation”, vol. 51 (2006).

³⁹ *Agreement between Reformation churches in Europe (The Leuenberg Agreement)*, <http://www.leuenberg.net/sites/default/files/media/PDF/publications/konkordie-en.pdf> (13.04.2015), pp. 5 f., nos. 37—41.

human rights, seen as an expression of the emancipation process of the nations, including also the emancipation of an individual. The process did not take place without tensions and conflicts. On this background it was pointed to religious freedom, next to the freedom of conscience, freedom of speech, freedom of press, etc. as those of freedoms whose wide and common observance makes conspiracy and oppression more difficult.⁴⁰

The works on the topic of freedom produced a second document, also entitled “The Christian Witness on Freedom.” It was prepared by the representatives of the Churches belonging to the regional group of southern Europe. It defines human rights as an expression of the modern man becoming free of any guardianship, also a spiritual and religious one.⁴¹

A wider study of the human rights’ issue with broader references to the question of religious freedom comes up in the document “Law and Gospel. A study, also with reference to decision-making in ethical questions,” which was created in the process of study work in the last decade of the 20th and the first decade of the 21st century. Human rights, beside the bioethical questions, have become a basis for the two examples of practical application of the document’s analyses of applying the teaching on Law and Gospel for building judgement in ethical questions. The choice of human rights as one of the two examples proves the importance of this issue to the CPCE member Churches. For the description of the problematic of religious freedom it is significant that from the human rights perspective this became, next to the equality of men and women, a subject of detailed analysis in the document in question.⁴²

The authors begin with presenting the understanding of human rights. Amongst it, following the trail of western liberalism’s tradition, they count religious freedom as one of the rights ensuring freedom within the scope of personal activity or living space, or protecting them from the interferences from outside, and especially from the side of the state. They add here that the right to religious freedom can be understood in two ways. As a negative freedom, that is, freedom from the obligation of participating in religious practices or disclosing one’s religious convictions,

⁴⁰ “The Christian Witness on Freedom. Findings of the project group on ethics following six consultations.” *Leuenberg Documents*, vol. 5 (1999), pp. 114 f. I presented the document wider in my study: “Wolność i kryteria etycznego osądu — tematyka encykliki Jana Pawła II *Veritatis splendor* z perspektywy ewangelickiej.” In: *Prawda oświeca rozum i kształtuje wolność. Encyklika Veritatis splendor Jana Pawła II po 20 latach*. Lublin 2014, pp. 63—69.

⁴¹ “The Christian Witness on Freedom. Findings of the South Europe Regional Group.” *Leuenberg Documents*, vol. 5 (1999), p. 164.

⁴² “Law and Gospel. A study, also with reference to decision-making in ethical questions.” *Leuenberg Documents*, vol. 10 (2007), pp. 161—296. I presented the document wider in the study: “Wolność i kryteria etycznego osądu...,” pp. 80—90.

or as a positive freedom, that is, freedom to unlimited practicing one's religion. They consider the first typical for the Western-European tradition, the latter — for the USA and Germany. They then point out that certain human rights groups (individual, social, rights of the so-called third generation) do not complement each other harmoniously, but there are tensions between them. It concerns especially the conflict between freedom and equality. As an example from the area of religious freedom they provide two questions: the presence of religious education in public schools, and the presence of religious symbols in the public sphere. In both cases it comes to a conflict between the freedom to practice religion and freedom from a religious constraint. The document's authors connect with the question of conflict within the scope of human rights also the question of how far particular human rights (e.g. religious freedom, equality of women) are to shape the records of a Church's internal law.⁴³

The next extensive issue, to which the described CPCE document refers, is the question of presence of the human rights in religious discussion, especially in Islam. They point to different starting points in the European tradition of human rights, which understands them as rights of a self-defining subject, established rationally and granted by the community, and the Islam's attitude, in which individual rights are subordinated to the superior Islamic community and fulfilment of the duties resulting from the Sharia law. This difference is especially visible in the understanding of religious freedom, which in the areas of Islam's reign is restricted only to the Jewish and Christian minorities. It is also unacceptable to leave the Islam community, that is, to change religion. Concerning the areas where Muslims are a minority, the superiority of the Islam community finds its expression in the acceptance of the local laws as far as they allow freedom of religious practices to the Muslims. It is also reflected in the declarations regarding human rights, created in the Islamic environment.⁴⁴

In the context of reflections on Islam and human rights, a problem of the right to wear a veil by Muslim women working on civil posts or in public education system in European countries appears. It has been pointed to different traditions of legal regulations concerning religion in various European countries, in which this topic is intensely discussed, which lead to different legal decisions (French secularity — a ban, German ideological neutrality of the state — a lack of ban, Austrian tradition of a multi-national state — lack of interest in the problem in public discussion). Then it was pointed to many factors which should be taken into

⁴³ Ibidem, pp. 269—273

⁴⁴ Ibidem, pp. 274—276.

consideration in the assessment of the phenomenon of wearing veils by Muslim women. Firstly, it is important to identify the actual significance of wearing the veil for the Muslim women themselves, while taking into consideration if in the answer to this question the right to self-defining of other cultures and of women were observed. In a situation when the state prefers a positive model of separating from religion, prohibiting wearing the veils understood as a religious symbol will lead to a negation of the principle of the citizen's equality. At the same time it was pointed out that if the veils are a political symbol (of self-separating of the Muslims in a society or of women's subordination) they contradict the constitutional values of the western countries and they cannot be tolerated in civil service or public schools. In the summary it was stated that in case of the Muslim women's veils we have to do with a conflict of many duties and freedoms: positive religious freedom of women teachers, negative religious freedom of the students, their parents' right to their upbringing, as well as an obligation to worldview neutrality of the country. It was pointed out that in this situation a solution is not to generally regard the veils as a suspicious symbol and ban them, because such solution strikes at the Western-European community of values.⁴⁵

The second part of the CPCE document dedicated to human rights deals with their evaluation from a theological perspective. It uses intensively and critically the insights of the debate in German theology in the 1970s. In reference to Law and Gospel it also points to the reserve towards the necessity of solely theological justification of human rights, as well as towards accepting their obviousness on a rational footing. In the latter context appears the issue of conditioning the mind by different interests, which often renders a purely rational justification of human rights impossible. It was pointed out here that for the evangelical tradition, a key issue for justifying human dignity is the theological truth about justification of the sinner by grace alone.⁴⁶

In the context of the last issue reappear detailed considerations of Muslim's religious freedom. The authors use here a model of analogy between the theological statements and human rights. They show that the event of justification is from its definition an asymmetrical acceptance by God, hence the human rights have a priority before the duties put on a person. This is why they have a superior character also in relation to the state legislators, who cannot use them freely, as well as determine their effectiveness based on mutuality from other countries. What follows is that the Churches are responsible for guaranteeing to the Muslims an

⁴⁵ Ibidem, pp. 276 f.

⁴⁶ Ibidem, pp. 277—279

intact freedom to practice their religion, independently of whether this right is guaranteed to them in the Muslim countries. They also bring into focus the importance of human rights for building a peaceful coexistence of Christians and Muslims in Europe. At the same time, one cannot speak in this context only about religious freedom, but also has to take into consideration the question of equality of men and women, which cannot be infringed by tradition or legal solutions.⁴⁷

Examples of the Evangelical Church's statements

Evangelical Church in Germany

Evangelical Church in Germany was interested in the issue of human rights in the 1970s. Its Kammer der EKD für öffentliche Verantwortung (Committee for Public Responsibility) published a document entitled "Human Rights in the Ecumenical Dialogue." The definition of religious freedom included in the document refers to the decisions of the consultation with the World Council of Churches concerning human rights in St. Pölten in October 1974: "There is a right to choose freely a religion or belief which includes freedom, either alone or in community with others and in public or private, to manifest his/her religion or belief in teaching, practice, worship, and observance."⁴⁸

In the second part of the document it was stated that every form of discrimination of individuals and groups, among others, for religious reasons cannot be reconciled with the idea of human rights. Then it was shown that the existence of political freedoms is not an assumption or a basis for preaching the Gospel and faith. Still, Christians aim at expressing their faith in Word and deed in the world, which results in the aspiration to gain an area of freedom, in which this faith can be realised and preserved. Within the concept of human rights, this possibility is ensured by religious freedom in political and social dimension. The authors point out that the Christian support and fulfillment of the idea of the right to religious freedom do not result only from socio-political reasons, but it is

⁴⁷ Ibidem, pp. 279 f.

⁴⁸ "Die Menschenrechte im ökumenischen Gespräch. Ein Beitrag der Kammer der Evangelischen Kirche Deutschland für öffentliche Verantwortung." In: *Die Denkschriften der Evangelischen Kirche in Deutschland*, vol. 1/2. Gütersloh 1978, p. 98 point 8.

also shaped in the perspective of realising the freedom of faith. Christian support for the right to religious freedom includes acknowledgement and protection of the individual's right to publicly express their religious or not religious views, right to change them and to demonstrate them on their own or in a community with others. Recognising by the Christians and Churches the right to religious freedom also means a claim to recognising the common right to freedom of conscience and thought, which should be respected also on the Churches' part. Support for the right to religious freedom as a human right was considered also by the authors of the document as an expression of the conviction that the state and society do not have unlimited rights towards a human.⁴⁹

The interest of the Evangelical Church in Germany in the issue of religious freedom found a new impulse in the decisions of the *Charta Oecumenica*,⁵⁰ regarding this question. As a reaction to the commitments made there, in the official book series of the Church — *EKD-Texte* — a volume on the situation of the persecuted Christians in various parts of the world was prepared. Beside the reports from places like Egypt, China, India, Indonesia, Pakistan, Russia, Sudan, and Turkey, there are introductory texts on history of the right to religious freedom, as well as the history of legal guarantees of religious freedom in the international law. Because of the volume's practical side, it also includes the third part with recommendations on how to get engaged in the parish work for the religious freedom.⁵¹

The issue of right to religious freedom also appeared in the document *Christlicher Glaube und nichtchristliche Religionen. Theologische Leitlinien* (Christian faith in non-Christian religions. Theological guidelines) prepared by the Kammer für Theologie der Evangelischen Kirche in Deutschland (Theological Committee of the Evangelical Church in Germany) in 2003. The task of the document was to refer from the Christian perspective to the challenge, which is the growing number of non-Christian minorities in Europe in the context of tensions, materialising among others in the form of terrorist attacks. In the document, the Committee referred to the question of religious freedom as follows: "Just like the state cannot be connected with any religion or worldview, also religion has to be free

⁴⁹ "Die Menschenrechte im ökumenischen Gespräch"..., pp. 101 f., point 13.

⁵⁰ It includes among others the commitment "to recognise the freedom of religion and conscience of these individuals and communities and to defend their right to practise their faith or convictions, whether singly or in groups, privately or publicly, in the context of rights applicable to all" — <http://cid.ceceurope.org/who-we-are/charta-oecumenica/> (13.04.2015).

⁵¹ *Bedrohung der Religionsfreiheit. Erfahrungen von Christen in verschiedenen Ländern. Eine Arbeitshilfe.* Hannover 2003

from state constraint and political power. Because each man must vouch for his own faith and for the conviction of his conscience. Confirming this, the Church also confirms the principle of the *religious freedom*, and through it the worthy of protection right of every religion to develop in our society.”⁵²

The Evangelical (Lutheran) Church of the Augsburg Confession in Poland

The topic of religious freedom appeared also on the background of the discussion in the Evangelical (Lutheran) Church of the Augsburg Confession in Poland surrounding Poland's joining the European Union. The arguments presented to support the positive assessment of the accession process, as well as hopes expressed concerning the place of the Church and Christians in the societies integrating within the EU assumed a positive reception of the concept of religious freedom referring both to the individuals and the Churches as organizational entities. The Synod's Council of the Evangelical (Lutheran) Church of the Augsburg Confession in Poland wrote in its statement from the year 2000: “We hope that, according to the clause included in the Final Act of the Amsterdam Treaty from 1991, we shall find in the European Union a partner ready for dialogue, acknowledging democratic principles, protecting the rights to diversity and differences of convictions, preserving regionalisms and one's own traditions, community in which the Christians will be able to build future on equal rights.”⁵³ At the same time this voice was supplemented by a support for pluralist model of society and a vision of the Church's place in it not as a community which rules, but one that serves.⁵⁴

The Church's Synod also stressed in its statement the standards of freedom in the European Union. This unity, created not by force but by law requires including in the integration process also on religious level.⁵⁵ Further, the Synod, referring to the equality towards God, also points to the

⁵² *Christlicher Glaube und nichtchristliche Religionen. Theologische Leitlinien. Ein Beitrag der Kammer für Theologie der Evangelischen Kirche in Deutschland.* Hannover 2003, p. 21.

⁵³ “Oświadczenie Rady Synodalnej Kościoła Ewangelicko-Augsburskiego w RP z 2000 roku.” *Przegląd Ewangelicki*, no. 1 (2003), p. 82.

⁵⁴ *Ibidem*.

⁵⁵ “Wspólna Europa. Stanowisko Synodu Kościoła Ewangelicko-Augsburskiego w RP wobec procesu integracyjnego w Europie.” *Przegląd Ewangelicki*, no. 1 (2003), p. 83.

equal rights of individuals, nations, or groups of people “in our common, European home,” regardless of the race and confession. The point of reference here is the European Convention on Human Rights and Church clause of the Amsterdam Treaty. Hope was also expressed that the principle of equality and observing the rights of minorities had been voiced not only in the declarative, but also in the practical sphere of European legal life.⁵⁶

Similarly sounded the ecumenical message prepared by three Consistories of the Evangelical Churches in Poland.⁵⁷ It gave not only a religious, but also socio-cultural significance to the evangelical model of “unity in *reconciled* diversity,”⁵⁸ pointing out that it, on the one hand, accepts the pluralism of modern societies, and on the other hand recommends looking for common spiritual foundations. Then the document’s authors formulated the following assessment: “That is why we are full of hope when we refer to the European integration as a process respecting the local, national, as well as confessional identity and diversity.”⁵⁹

Summary

The above examples of evangelical reflection on the right to religious freedom in the context of theological and church reception of the idea of human rights undertaken by the Lutheran Churches, organisations, or theologians, show that in the modern evangelical debate a positive reception of the right to religious freedom does not arouse any reservations. This right is understood both as a right of an individual, and of communities. It should be stressed that the right of an individual is fundamental, and the rights of communities, including Churches, are based on the individual’s religious freedom. The individual has a right to confess a chosen religion, to change it, but also to have no convictions of a religious character.

This individual accent of religious freedom does not, however, negate the right to express one’s religious convictions together with other people, not

⁵⁶ *Ibidem*, p. 85

⁵⁷ The Evangelical (Lutheran) Church of the Augsburg Confession in Poland, Evangelical Reformed Church in the Republic of Poland, and Evangelical Methodist Church in Poland.

⁵⁸ Cf. K. KARSKI: *Od Edynburga do Porto Allegre. Sto lat dążeń ekumenicznych*. Warszawa 2007, pp. 37 ff.

⁵⁹ “Stanowisko w sprawie integracji europejskiej przyjęte przez Konsystorze Kościołów ewangelickich w Polsce.” *Przegląd Ewangelicki*, no. 1 (2003), p. 87.

only in form of religious practices, but also missionary activity, upbringing of youth, as well as activity on the socio-political field, which results from certain convictions of religious communities. In the context of the community dimension of the right to religious freedom it is worth stressing that the quoted evangelical statements stress the protection of the right to religious freedom of those thinking differently, individuals as well as groups.

A negative opinion is expressed concerning monopolistic claims of the Churches to promote their religious concept by means of constraint typical of state machinery, as well as concerning the signs of fundamentalism and intolerance in the actions of people and religious communities. It is connected with the demand to constantly self-evaluate critically various activity of the Churches, both directly connected with realising their freedom of religious practices or missionary activity, and realised publically in the socio-political questions. It should be a constant question for the Churches, in how far their activities respect the individual's rights to religious freedom.

Finally, it is worth to point out the strong practical accents in the described reflection of the evangelical circles. It has more than once stressed the necessity of practical engagement of the Churches, both to educate their own members concerning the human rights, and to support those whose right to religious freedom is violated. This last area is seen as a field for cooperation both with the ecumenical partners and state or international institutions of a political character.

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JERZY SOJKA

Religious Freedom in the Doctrine of the Evangelical (Lutheran) Church of the Augsburg Confession

Summary

The article presents the reception of the right to religious freedom in the theological and church Lutheran debate, on the example of Martin Honecker, Heinz Eduard Tödt, and Wolfgang Huber's concept of human rights, as well as statements of the Lutheran World Federation, Community of Protestant Churches in Europe, Evangelical Church in Germany and the Evangelical (Lutheran) Church of the Augsburg Confession in Poland. The examples presented show a positive reception of the right to religious freedom by the Lutheran circles. It is interpreted firstly as an individual right, on which the rights of religious communities are based. A significant exception is that an important field of work for the Evangelical organisations is also practical engagement for the right to religious freedom.

JERZY SOJKA

La liberté religieuse dans la doctrine de l'Église protestante de la Confession d'Augsbourg

Résumé

L'article *La liberté religieuse dans la doctrine de l'Église protestante de la Confession d'Augsbourg* présente la réception du droit à la liberté religieuse dans le débat théologico-ecclésiastique luthérien à l'exemple de la conception de la réception des droits de l'homme de Martin Honecker et de Heinz Eduard Tödt, ainsi que de Wolfgang Huber et des discours de la Fédération luthérienne mondiale, de la Communion d'Églises protestantes en Europe, de l'Église évangélique en Allemagne et de l'Église protestante de la Confession d'Augsbourg en Pologne. Les exemples présentés montrent une réception positive du droit à la liberté évangélique par les milieux luthériens. En premier lieu, il est interprété comme un droit individuel sur lequel se fondent les droits revenant aux communautés religieuses. Ce qui est aussi important, c'est le fait qu'un engagement pratique pour le compte du droit à la liberté religieuse est un champ d'activité significatif pour les organisations protestantes.

Mots clés : droits de l'homme, liberté religieuse, Fédération luthérienne mondiale, Communion d'Églises protestantes en Europe, Église évangélique en Allemagne, Église protestante de la Confession d'Augsbourg en Pologne

JERZY SOJKA

La libertà religiosa nella dottrina della Chiesa Evangelico-Augustea

Sommario

L'articolo *La libertà religiosa nella dottrina della Chiesa Evangelico-Augustea* presenta la ricezione del diritto alla libertà religiosa nel dibattito teologico-ecclesiale luterano, sull'esempio della concezione della ricezione dei diritti dell'uomo di Martin Honecker, di Heinz Eduard Tödt e di Wolfgang Huber come pure sulle affermazioni della Federazione Mondiale Luterana, della Comunità delle Chiese Protestanti in Europa, della Chiesa Evangelica Tedesca e della Chiesa Evangelico-Augustea in Polonia. Gli esempi presentati mostrano la ricezione positiva del diritto alla libertà evangelica da parte degli ambienti luterani. Viene interpretato in primo luogo come diritto individuale su cui sono basati i diritti che spettano alle comunità religiose. Un tema essenziale è costituito dal fatto che un campo di azione importante per le organizzazioni evangeliche è rappresentato anche dall'impegno pratico in favore del diritto alla libertà religiosa

Parole chiave: diritti dell'uomo, libertà religiosa, Federazione Mondiale Luterana, Comunità delle Chiese Protestanti in Europa, Chiesa Evangelica Tedesca, Chiesa Evangelico-Augustea in Polonia