

Piotr Kroczek

Church Teaching on Marriage and Family as an Instruction for the State Legislator in the Context of Poland

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Piotr Kroczek

The Pontifical University of John Paul II in Kraków, Poland

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Abstract: The Church has the right and duty “always and everywhere to proclaim moral principles, even in respect of the social order” (can. 747 §2), and the faithful are “to ensure that their actions are permeated with the spirit of the Gospel, and they are to heed the teaching of the Church proposed by the magisterium” (can. 227). The 20th anniversary of the publication of the Letter to Families from Pope John Paul II *Gratissimam Sane* is a great opportunity to recall the document and to bring to light some thoughts on family that would be useful instructions for those who, in the context of Poland, are bearing the legislative power. The paper presents five important ideas on marriage and family that must be, from catholic point of view, in some way present in state law. The ideas concern: marriage as sovereign society, marriage as heterosexual union, the threats of gender ideology for the family, the proper relations between the parents and children, and the professional work and the work within the family unit.

Keywords: *Gratissimam Sane*, John Paul II, family, marriage, law, legislation, Poland

The Importance of the Family for the State and the Church

Pope Paul VI called the Catholic Church a *humani generis ancilla*.¹ The Second Vatican Council believed that she was sent by Christ to all peoples

¹ Paulus PP. VI, *Homilia ad Patres conciliares*, December 7, 1965, Acta Apostolicae Sedis [AAS] 58 (1966): 57.

(LG 1),² and to all nations to preach the Gospel to every creature (LG 24). There is “the obligation and inherent right of the Church, independent of any human authority, to preach the Gospel to all peoples” (can. 747 § 1).³

The respect for the marriage is a common idea, both for the Church and states. Also, both the Church and states value the family very much. The Church, for example, calls the marriage and the family “one of the most precious of human values.”⁴ The family as “a community of persons and the smallest social unit” is “an institution fundamental to the life of every society.”⁵ It means that, according to the Church, the family is the primary institution of the Church society and the state society. Quite similarly, for the modern states, the family is “the natural and fundamental group unit of society and is entitled to protection by society and the State.”⁶ The sentence comes from the Universal Declaration of Human Rights (Art. 16, item 3), and although the document is not a part of international law, it has some “legal potential” and a great influence on the systems of law of many countries setting aims and establishing standards for states’ legal regulations.⁷

In light of common support for the marriage and the family, it is quite understandable that the Church fully supported the idea promoted by the United Nations Organization to announce the year 1994 the International Year of the Family.⁸ On this occasion, Pope John Paul II issued a special document—the Letter *Gratissimam Sane*. It is one of many church documents about family.⁹

² Sacrosanctum Concilium Oecumenicum Vaticanum II, Constitutio dogmatica *Lumen gentium* de Ecclesia, November 21, 1964, AAS 57 (1965): 5–75; English translation of Vaticanum II was taken from *The Documents of Vatican II*, in a new and definitive translation, with commentaries and notes by Catholic, Protestant, and Orthodox authorities, gen. ed. William Abbott (New York: Guild Press, 1966). Hereafter as LG.

³ Canons are citations from *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus*, AAS 75, part 2 (1983): 1–318; English translation: *Code of Canon Law Annotated*: Prepared under the responsibility of the Instituto Martín de Azpilcueta, ed. Ernest Caparros, Michel Thériault, Jean Thorn, Hélène Aubé, 2nd ed., rev. and updated of the 6th Spanish language edition (Montréal: Wilson & Lafleur, 2004).

⁴ Joannes Paulus PP. II, Adhortatio apostolica *Familiaris consortio* de Familia Christianae muneribus in mundo huius temporis, November 22, 1981, AAS 74 (1982): 81–191; English translation: John Paul II, Apostolic Exhortation *Familiaris Consortio* on the Role of the Christian Family in the Modern World (Boston 1981), here no. 1.

⁵ Joannes Paulus PP. II, Litterae *Gratissimam sane* familiis datae ipso volente sacro Familiae anno MCMXCIV, February 2, 1994, AAS 86 (1994): 868–925; English translation: John Paul II, Letter to Families *Gratissimam Sane* (Washington 1994), no. 17. Hereafter as GS.

⁶ Universal Declaration of Human Rights, art. 16, item 3, accessed January 10, 2015, <http://www.un.org/Overview/rights.html>.

⁷ Roman Kuźniar, *Prawa człowieka: prawo, instytucje, stosunki międzynarodowe* (Warszawa: Wydawnictwo Naukowe “Scholar,” 2004), 66–67.

⁸ GS, no. 3.

⁹ See e.g.: Pontificio Consiglio per la Famiglia, “Carta dei diritti della famiglia,” in *Enchiridion Vaticanum*, vol. 9, ed. Bruno Testacci, Guido Mocellin (Bologna: Edizioni Dehoniane Bologna, 1988), 538–52.

The letter in question was directed mainly to the Christian families, and those who are responsible for the families on behalf of the Church, that is, bishops, priests, religious families and consecrated persons, movements and associations of the lay faithful (cf. cc. 1063, 1064, 1067). The pope addressed his voice also to “brothers and sisters united by common faith in Jesus Christ, even while not yet sharing the full communion willed by the Savior; [...] to the great community of believers in the one God; to those who are the heirs of other spiritual and religious traditions; and to all men and women of good will.”¹⁰ It means that according to the pope, the letter conveyed a very universal message beneficial to many people in different cultural, religious, and ethnic circumstances or conditions. The enunciation in question summarizes the catholic teaching about marriage and family in the context of the modern world and contemporary challenges to traditional and Christian understanding of the marriage and the family.

The 20th anniversary of the publication of the document is a great opportunity to recall some ideas of the letter and consider them as clues or hints useful for the state legislator, especially in the context of Poland.¹¹

It must be remembered that the Church is deeply convinced that she has “the right always and everywhere to proclaim moral principles, even in respect of the social order, and to make judgments about any human matter in so far as this is required by fundamental human rights or the salvation of souls” (can. 747 § 2). Exercising the right by the Church does not break the principle of autonomy and division between the state and the Church, quite widespread and highly regarded among modern states.

Law, in Polish context, separates the two communities in question. The Constitution of the Republic of Poland of 2nd April, 1997,¹² states that “the relationship between the State and churches and other religious organizations shall be based on the principle of respect for their autonomy and the mutual independence of each in its own sphere, as well as on the principle of cooperation for the individual and the common good” (Art. 25, item 3). Both, the State and the Catholic Church, agreed also in the Concordat between the Holy See and the Republic of Poland,¹³ to be, each in its own domain—“independent and auto-

¹⁰ GS, no. 23.

¹¹ See: GS no. 17 and no. 21.

¹² Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. (Dz.U. Nr 78, poz. 483 z późn. zm.); English translation of the Constitution was taken from the official website of the Polish Sejm, accessed January 11, 2015, <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>.

¹³ Konkordat między Stolicą Apostolską i Rzeczpospolitą Polską podpisany w Warszawie dnia 28 lipca 1993 r. (Dz.U. z 1998 r. Nr 51, poz. 318). The document was signed on July 28, 1993, and it was ratified on February 23, 1998; English translation of the document was taken from http://www.concordatwatch.eu/showtopic.php?org_id=931&kb_header_id=1331, accessed June 23, 2013.

mous.” They are fully committed to respect this principle in all their mutual relations and in co-operating for the promotion of the benefit of humanity and the good of the community (Art. 1 of the Concordat 1993).

Of course, another factor must be taken into consideration. It is a legal as well as a moral obligation of all the Catholics, namely, lay members of Christ’s faithful community, “to ensure that their actions are permeated with the spirit of the Gospel, and they are to heed the teaching of the Church proposed by the magisterium” (can. 227). The duty also binds the persons who individually hold the legislative power, or those who are members of the legislative bodies like the Polish Parliament (Sejm and Senate—the lower and higher chamber of the Parliament of Poland).

The general aim of the legislators is to work for the increase of “the common good, that is, the sum of those conditions of social life which allow social groups and their individual members relatively thorough and ready access to their own fulfillment” (see GS 26).¹⁴ In doing so, they have “the special obligation to permeate and perfect the temporal order of things with the spirit of the Gospel. In this way, particularly in conducting secular business and exercising secular functions, they are to give witness to Christ” (can. 225 § 2). This norm was elaborated by the Polish Episcopate in *Dyrektorium duszpasterstwa rodzin* [Guidelines for the Pastoral Care of the Family] of 2003.¹⁵ The document states that the Catholics who hold public offices such as a member of parliament, a councilor, or any other official in self-government or government are obliged, in their conscience, to support the pro-family policy.¹⁶

Law as the Regulator of the Family Matters

It is an absolute truth that, as Pope Benedict XVI once said, *L’umanità non è “senza legge”*¹⁷ (“Mankind is not ‘lawless’”). Law is a phenomenon that ac-

¹⁴ Sacrosanctum Concilium Oecumenicum Vaticanum II, Constitutio pastoralis *Gaudium et spes* de Ecclesia in mundo huius temporis, December 7, 1965, AAS 58 (1966): 1025–115.

¹⁵ Konferencja Episkopatu Polski, *Dyrektorium duszpasterstwa rodzin*, dokument przyjęty podczas 322 Zebrania Plenarnego Konferencji Episkopatu Polski dnia 1 maja 2003 r., Warszawa 2003, no. 83.

¹⁶ *Dyrektorium duszpasterstwa rodzin*, no. 83.

¹⁷ Messaggio del Santo Padre Benedetto XVI per La Celebrazione sella XLI Giornata Mondiale Della Pace, January 1, 2008, AAS 100 (2008): 44, no. 13; English translation: Message of His Holiness Pope Benedict XVI for the Celebration of the World Day of Peace, 1 January 2008, accessed January 11, 2015, http://www.vatican.va/holy_father/benedict_xvi/messages/peace/documents/hf_ben-xvi_mes_20071208_xli-world-day-peace_en.html.

companies the humankind during its entire history.¹⁸ Firstly, it must be noticed, that law itself is a value for humanity. It is the achievement of civilization and the element of culture. Law is a specific “memory bank” of the civilizations or societies like nations or tribes that keeps safe and fosters the methods and ways of conduct or behavior, which were successfully used in the past.¹⁹ Secondly, law is in mutual connection with other values important to a man, as it incorporates them into the system of values and, what is more, law is a tool for successful realization of these values in everyday life.²⁰ These two arguments clearly indicate that both from the point of view of the legislator and the addressees of law, legal regulations are important and valuable.

The connection of the legal norms with the world of values opens another important problem, namely, the problem of the subjective foundations of the legislator’s decisions in the process of drafting law. It must be remembered that the legislator cannot stay outside his own culture; also, the legislator cannot put himself completely outside his own legal culture. The legislator is always determined by his life experience, by his outlook on life, or by his religious beliefs. In short: the legislator cannot become alienated from himself.

Having this philosophical assumption in mind, it must be here noticed that the Polish Constitution of 1997 obliges public authorities, that is, also those who bear legislative power, to be “impartial in matters of personal conviction, whether religious or philosophical, or in relation to outlooks on life” (Art. 25, item 3). The obligation is, of course, typical of the modern democratic states.

From the point of view of the Catholic anthropology and philosophy, the requirement of being objective in acting can be fulfilled only by the genuine subjectivity of the subject. As it was underlined by Bernard Lonergan—“Genuine objectivity is the fruit of authentic subjectivity.”²¹ This “authentic subjectivity” means that the legislator must “know himself” and “be himself.” According to the assumption, in the act of drafting law the whole man-legislator should be engaged. He must be aware of his limits and possibilities, personal preferences and prejudices. The legislator must not try to escape from his reality but he must approach himself with “attentiveness, intelligence, reasonableness, and responsibility.”²²

Both state and church law positively recognize the basic human rights. The norms of the law are derived from the human nature and simply express it in

¹⁸ Remigiusz Sobański, “Prawo jako wartość,” *Prawo Kanoniczne* 42, no. 3–4 (1999): 11.

¹⁹ See Piotr Kroczek, “Pamięć i tożsamość w prawie kanonicznym,” in *Lex tua veritas*, ed. Piotr Majer and Andrzej Wójcik (Kraków: Wydaw. Naukowe Uniwersytetu Papieskiego Jana Pawła II, 2010), 461–66.

²⁰ Sobański, “Prawo jako wartość,” 20.

²¹ Bernard Lonergan, *Philosophy of God, and Theology* (Philadelphia: Darton, Longman and Todd, 1973), 44.

²² Bernard Lonergan, *Method in Theology* (New York: Herder and Herder, 1972), 265.

legal form. Human law, both drafted and enacted by a legislative body or made by community in form of a legal custom, can also be positive law. It means that law can create reality, not imitate it.

The process of making law should be initiated not by the particular reasons of one's ideology, but by striving for the human welfare. Such law, as a regulator of man's behaviors, has an important and responsible task in the field of the marriage and the family. The importance of the mentioned institutions for any society, the state or the Church, causes that the marriage and the family cannot be considered as the private or hermetic institutions.²³ The possibility of intervention of the society into the marriage and the family, that is, into its shape and functioning, to some degree is justified.

On the other hand, it must not be forgotten that the role of human law in the field of the marriage and the family is always subsidiary to the functions, the tasks, and the assignments given to the marriage and the family by the divine law, whether natural or positive (see can. 199, no. 2). As it was noticed by the author of Letter to the Families—"Indeed, the family is a social reality which does not have readily available all the means necessary to carry out its proper ends."²⁴ Pope John Paul II firmly stated in the Letter to the Families that "whenever the family is self-sufficient, it should be left to act on its own; an excessive intrusiveness on the part of the State would prove detrimental, to say nothing of lacking due respect, and would constitute an open violation of the rights of the family. Only in those situations where the family is not really self-sufficient does the State have the authority and duty to intervene."²⁵ The quoted sentence clearly means that the help to the families in form of legal regulations must be limited to necessary minimum. It is a completely unjustified situation when the legislator transforms himself, one can say, into "the legislative and administrative idealist." The essence of the stance in question is built on an *a priori* deep conviction that any law in force will surely guarantee that the reality will be changed in a way desired by the authorities.

The subsidiarity of the legal regulations complements and confirms the fundamental character of the natural, and by this, inalienable law of every marriage or every family.²⁶ The Church warned—"Excessive intervention by the state can threaten personal freedom and initiative. The teaching of the Church has elaborated the principle of subsidiarity, according to which "a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of

²³ See Marek Rymysza, "Małżeństwo nie jest sprawą prywatną," *Więź* 11–12 (2009): 57–72.

²⁴ GS, no. 17.

²⁵ *Ibid.*

²⁶ Cf. GS, no. 16.

need and help to co-ordinate its activity with the activities of the rest of society, always with a view to the common good” (CCC, no. 1883).²⁷

The legislator must understand that, although the family is under the law in force (the church law and the state one), it is simultaneously “a firmly grounded social reality,” and also, “in a way entirely its own, [family is] a sovereign society, albeit conditioned in certain ways.”²⁸ In the letter, the pope underlines—“Indeed, the family is more a subject than any other social institution: more so than the nation or the State, more so than society and international organizations.”²⁹

The principle of sovereignty helps, according to the pope, to talk about “the rights of the family.” The rights in question “are not simply the sum total of the rights of the person, since the family is *much more* than the sum of its individual members. It is a community of parents and children, and at times a community of several generations. For this reason, its ‘status as a subject,’ which is grounded in God’s plan, gives rise to and calls for certain proper and specific rights.”³⁰ This conviction has found its expression in the Apostolic See’s document titled *The Charter of the Rights of the Family*.

Some Instructions Coming from the Letter to the Families

The Sovereignty of the Family

The first instruction that comes from the Letter to the Families relevant to the state legislator is that the family must have the sense of its own dignity, autonomy, and importance for the whole society. The pope wrote, “A truly sovereign and spiritually vigorous nation is always made up of strong families who are aware of their vocation and mission in history. The family is at the heart of all these problems and tasks. To relegate it to a subordinate or secondary role, excluding it from its rightful position in society would be to inflict grave harm on the authentic growth of society as a whole.”³¹ The sense in question can be given to the families by the law that will provide the autonomy for the family in the matters or fields in which the family can successfully act on its own.

²⁷ *Catechism of the Catholic Church* (New York 1995).

²⁸ GS, no. 17.

²⁹ GS, no. 15.

³⁰ GS, no. 17.

³¹ *Ibid.*

The state law should protect the independence of the family by preventing the strange subjects, such as government or self-government officials, to interfere with the life of the family, unless it is absolutely necessary for the protection of the essential rights of the members of the family or the family as a whole.³²

It appears that the Polish state legislator, at least in his legal assumptions, is deeply convinced about the rightness of the Church postulates in question. The law seems to respect the family as the “independent institution that takes main responsibility of the shape of the conditions of life and fate of family members.”³³ Of course, contrariwise, the conviction of the sovereignty of the family and the subsidiary role of the law enacted for the sake of the family must not paralyze the actions taken by the pro-family institutions, which are meant to provide the necessary and effective help for the families in distress or with other difficulties. Some kind of moderate state interventionism, as it was mentioned above, is necessary. Nevertheless, it is rather difficult to give sharp and certain answer to the question of when certain situations require the state intervention.³⁴

Heterosexuality of Marriage

Up till recently, it was very obvious that marriage is a heterosexual union contracted between a man and a woman. Any confirmation of this truth was considered as quite unnecessary. No one used to challenge the clear norm that comes, according to the Church, from the divine natural law and from the divine positive law (see Gen 1:27–28; Gen 2:23–24).³⁵ Also canon law confirmed this truth (see can. 1055 § 1, can. 1057 § 2).

The civil state law always used to respect God’s law in this matter. The tradition of Roman law considered the marriage as a union of a man and a woman, and the marriage was very important to the society.³⁶ This idea of marriage was

³² See art. 112³ ustawy z dnia 25 lutego 1964 r. Kodeks rodzinny i opiekuńczy (Dz.U. nr 9, poz. 59 z późn. zm.) (*The Family and Guardianship Code*) (hereinafter: FGC); English translation of the *The Family and Guardianship Code* was taken from Legalis. System Informacji Prawnej (*Legalis. System of Legal Information*).

³³ Uchwała Sejmu Rzeczypospolitej Polskiej z dnia 30 sierpnia 1996 r. w sprawie polityki państwa na rzecz rodziny (M.P. Nr 55, poz. 502) [The resolution of the Sejm of the Republic of Poland of 30 August 1996 on the state policy for families].

³⁴ See Piotr Kroczyk, *Wychowanie: optyka prawa polskiego i prawa kanonicznego* (Kraków: Wydaw. Naukowe Uniwersytetu Papieskiego Jana Pawła II, 2013), 53.

³⁵ Wojciech Góralski, “Prawo Boże jako źródło kościelnego prawa małżeńskiego w Kodeksie Prawa Kanonicznego Jana Pawła II,” in *Studia nad małżeństwem i rodziną* (Warszawa: Wydaw. Uniwersytetu Kardynała Stefana Wyszyńskiego, 2007), 17.

³⁶ *Iustiniani digesta*, in *Corpus Iuris Civilis, editio stereotypa quinta*, ed. Theodorus Mommsen, vol. I (Berolini: apud Weidmannos, 1889), 1–873, here: 23, 2, 1: “Nuptiae sunt coniunctio maris et feminae et consortium omnis vitae, divini et humani iuris communicatio”; *Iustiniani*

received by the legal tradition of Europe, and is still present in the international laws (see, e.g., European Convention on Human Rights of 1950, art. 12)³⁷, and Polish state laws (see Constitution of 1997, art. 18, or art. 1 FGC).

Unfortunately, nowadays, the self-evidence of the possibility of contracting marriage by opposite sex couples only is challenged by the postulate *de lege ferenda* to allow same sex couples to enter into marriage. In many countries the postulate in question has been realized.³⁸ Law of many states in Europe (and not only on the Old Continent) grants the possibility of contracting legal marriage between the two persons of the same sex.

In the Letter to the Families, the pope addressed the controversial issue in a direct form. He wrote “Marriage, which undergirds the institution of the family, is constituted by the covenant whereby ‘a man and a woman establish between themselves a partnership of their whole life,’ and which ‘of its own very nature is ordered to the well-being of the spouses and to the procreation and upbringing of children.’ Only such a union can be recognized and ratified as ‘marriage’ in society. Other interpersonal unions which do not fulfill the above conditions cannot be recognized, despite certain growing trends which represent a serious threat to the future of the family and of society itself.”³⁹

Gender Ideology

Usually the word ‘gender’ is used to denote ‘cultural sex.’ According to the definition of ‘gender’ given by World Health Organization, the word in question “refers to the socially constructed roles, behaviors, activities, and attributes that a given society considers appropriate for men and women.”⁴⁰ Gender ideology,

institutiones, in *Corpus Iuris Civilis*, editio stereotypa quinta, ed. Paul Krüger, vol. I (Berolini: apud Weidmannos, 1889), 1–56, here: 1, 9, 1: “Nuptiae autem sive matrimonium est viri et mulieris coniunctio, individuum consuetudinem vitae continens”, see: Marek Kuryłowicz, “Wokół istoty małżeństwa rzymskiego,” in *Finis legis Christus. Księga pamiątkowa W. Góralskiego* (Warszawa: Wydawnictwo Uniwersytetu Kardynała Stefana Wyszyńskiego, 2009), 1149–52.

³⁷ Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols No. 11 and No. 14, Rome November 4, 1950, accessed January 12, 2015, <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>.

³⁸ For examples see: Piotr Szukalski, “Rejestrowane związki osób tej samej płci we współczesnej Europie,” *Roczniki Socjologii Rodziny* 21 (2011): 169–184; *Legal Recognition of Same-Sex Relationships in Europe: National, Cross-Border and European Perspectives*, ed. Katharina Boele-Woelki and Angelika Fuchs (Cambridge: Intersentia, 2012).

³⁹ GS, no. 17.

⁴⁰ World Health Organization, *What Do We Mean by “Sex” and “Gender”?*, accessed January 9, 2010, <http://www.who.int/gender/whatisgender/en/index.html>; see: art. 3c of The Council of Europe Convention on preventing and combating violence against women and domestic violence, <http://conventions.coe.int/Treaty/EN/Treaties/Html/210.htm>.

as it is seen from the Church perspective, promotes principles contrary to the human reality and is not coherent with the integral way of thinking of a man. The ideology maintains that sex has no significance to the society, but only gender is relevant to it. It seems that according to the supporters of the ideology, gender can be freely formed and defined by the subject, independently from his or her sex, that is, detachably from the individual biological circumstances.⁴¹

The pope, as though sensing the threat of the ideology in question, wrote: “Through the communion of persons which occurs in marriage, a man and a woman begin a family. Bound up with the family is the genealogy of every individual: the genealogy of the person. Human fatherhood and motherhood are rooted in biology, yet, at the same time, transcend it.”⁴² And in other place he noticed, “when a new person is born of the conjugal union of the two, he brings with him into the world a particular image and likeness of God himself: the genealogy of the person is inscribed in the very biology of generation.”⁴³ The pope’s emphasis on the biological difference in sex as the fundamental factor for the marriage and the family, for the procreative function, as well as for education and upbringing of the children, must be taken into consideration in the process of enacting law.⁴⁴

Parents–Children Relations

Usually the state laws regulate, to some degree, relations between the parents and the children, for instance, determining the rights and the duties of parents towards children and *vice versa*. In Polish law, for example, the Family and Guardianship Code 1964 regulates parental authority, contact with a child, and maintenance obligation (see art. 87–144¹ FGC). The analysis of the provisions of the code and other laws leads to the impression that there is a tendency in legislation to overregulate the relations between the parents and the children. For instance, the provisions that contain the norms of mutual assistance in the family—“Parents and children are obliged to mutual respect and support each other” (art. 87 FGC),⁴⁵ or the obligation of obedience of the children who are

⁴¹ The Polish Episcopal Conference, *List pasterski na Niedzielę Świętej Rodziny 2013 r.* (Pastoral Letter for the Sunday of the Holy Family of 2013), accessed January 9, 2015, http://episkopat.pl/dokumenty/listy_pasterskie/5545.1,List_pasterski_na_Niedziele_Swietej_Rodziny_2013_roku.html.

⁴² GS, no. 9.

⁴³ *Ibid.*

⁴⁴ See Kroczek, *Wychowanie: optyka prawa*, 58–65.

⁴⁵ Cf. Jerzy Ignatowicz, art. 87, in *Kodeks rodzinny i opiekuńczy. Komentarz*, ed. Krzysztof Pietrzykowski (Warszawa: 2012), no. 6—“Article 87 normalizes the duty of mutual respect and support by the parents and the children.”

under parental authority to parents (art. 95 § 2 FGC).⁴⁶ These examples indicate that the Polish legislator is trying to normalize the relations which, because of their specific nature, simply fall outside the regulations and they are rather impossible to standardize.

The pope, in turn, taught that any provision that regulates the relations inside the family would be ineffective, if there would be lack of the stance of obedience to the 4th of the Ten Commandments—“Honor your father and your mother” (Ex 20:12). “This truth deserves to be emphasized and more deeply understood: indeed it brings out the importance of the fourth commandment for the modern system of *human rights*. Institutions and legal systems employ juridical language. But God says: ‘honor.’ All ‘human rights’ are ultimately fragile and ineffective if at their root they lack the command to ‘honor’; in other words, if they lack an acknowledgment of the individual simply because he is an individual, ‘this’ individual. Of themselves, rights are not enough.”⁴⁷ The pope warns against putting excessive hope in the legal regulations: “The age in which we live, notwithstanding the many juridical declarations which have been drafted, is still threatened to a great extent by ‘alienation.’ This is the result of ‘Enlightenment’ premises according to which a man is ‘more’ human if he is “only” human. It is not difficult to notice how alienation from everything belonging in various ways to the full richness of man threatens our times. And this affects the family.”⁴⁸

Gainful Employment and Work for the Family

Work is one of many aspects of human life. It is “a perennial and fundamental one, one that is always relevant and constantly demands renewed attention and decisive witness.”⁴⁹ Because of this the work is in constant reflection of the Church and it is a subject of numerous enunciations of the Magisterium.⁵⁰

⁴⁶ Cf. Krystyna Gromek, ed. art. 95, in *Kodeks rodzinny i opiekuńczy* (Warszawa: C.H. Beck, 2013), no. 3—“The obedience of the child to his/her parents is a duty of the child that comes from the parental authority.”

⁴⁷ GS, no. 15.

⁴⁸ *Ibid.*

⁴⁹ Joannes Paulus PP. II, *Litterae encyclicae Laborem exercens* de labore humano, September 14, 1981, AAS 73 (1981): 577–647; English translation: John Paul II, *On Human Work: Encyclical Laborem exercens* (Washington: Office of Publishing Services, United States Catholic Conference, 1981), no. 1.

⁵⁰ See, e.g., Leon XIII, Encyclical *Rerum Novarum*, May 15, 1891, in *Leonis XIII P.M. Acta*, vol. XI, Romae 1892), 97–144; Pius XI, Encyclical *Quadragesimo Anno*, May 15, 1931, AAS 23 (1931): 177–228; John XXIII, Encyclical *Mater et Magistra*, May 15, 1961, AAS 53 (1961): 401–64; Paul VI, Encyclical *Populorum Progressio*, March 26, 1967, AAS 59 (1967): 257–99;

In the context of family, Pope John Paul II wrote that among many human rights that concern family in an indirect way, the right to work is of special importance.⁵¹ In the opinion of the pope, the state—while not excluding private initiatives—can do a lot to safeguard the realization of the right in question. The help of the state can be provided to the workers in many different forms or means. They can provide, for example, some social benefits for them.⁵² The pope appealed that those who are responsible for legal regulations try to find proper solutions in this matter, because “unemployment is today one of the most serious threats to family life and a rightful cause of concern to every society.”⁵³

The pope also brought up the subject of the work of women within the family unit. He emphasized its importance and its burdensome nature. He wrote that the work should be both acknowledged and deeply appreciated. “The ‘toil’ of a woman who, having given birth to a child, nourishes and cares for that child and devotes herself to its upbringing, particularly in the early years, is so great as to be comparable to any professional work.”⁵⁴ He postulated two things. The first is that the work in question should be “clearly stated and upheld, no less than any other labor right.”⁵⁵ And the second postulate is that—“Motherhood [...] should be recognized as giving the right to financial benefits at least equal to those of other kinds of work undertaken in order to support the family during such a delicate phase of its life.”⁵⁶

Conclusion

In this day and age, one can observe many serious threats that put in danger the marriages and the families, as they are seen and defined by the Catholic Church. The situation calls for urgent attention, also from legislation point of view.

The Church has the right and the duty to demand that also the state law would support the marriage and the family. She can raise her voice in the matter of marriage and family, and loudly demand to respect the rights of the institutions, which are, in some degree autonomous and sovereign. The Church can

John Paul II, Encyclical *Laborem Exercens*, September 14, 1981, AAS 73 (1981): 577–647; John Paul II, Encyclical *Sollicitudo Rei Socialis*, December 30, 1987, AAS 80 (1980): 513–86.

⁵¹ GS, no. 17.

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

also suggest legal regulations that would be effective not only in the context of Catholic families, but also non-Catholic ones. Moreover, the Catholics, who are the members of the state legislative bodies, have a very important duty that comes from their faith, which is to take proper actions to put into regulations and the practice of the users of law, the Church's teaching on the marriage and the family. This concurrent action is necessary for the good of the society as a whole.

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Piotr Kroczek

L'enseignement de l'Église sur le mariage et la famille en tant qu'indice pour le législateur national dans le contexte de la Pologne

Résumé

L'Église a le droit et le devoir d'annoncer en tout temps et en tout lieu les principes de la morale, même en ce qui concerne l'ordre social (can. 747 § 2). Par contre, les fidèles de l'Église « auront soin d'imprégner leur action d'esprit évangélique et ils seront attentifs à la doctrine proposée par le magistère de l'Église » (can. 227).

Le vingtième anniversaire de la publication de la *Lettre aux Familles* de Jean-Paul II « *Gratissimam Sane* » est une excellente occasion de rappeler ce document et de mettre en plein jour quelques réflexions sur le mariage et la famille qui peuvent faire fonction d'utiles indices à ceux qui ont le pouvoir législatif en Pologne. Le présent article présente cinq réflexions importantes sur le mariage et la famille qui du point de vue catholique doivent être présentes — au moins à un certain degré — dans le droit national. Ces réflexions concernent : le mariage comme une communauté indépendante et autonome, le mariage comme une relation hétérosexuelle, le danger pour les familles que représente l'idéologie de genre, les bonnes relations entre les parents et leurs enfants, ainsi que le travail professionnel et le travail au profit de la famille.

Mots clés: « *Gratissimam Sane* », Jean-Paul II, famille, mariage, droit, législation, Pologne

Piotr Kroczek

L'insegnamento della Chiesa sul matrimonio e la famiglia come guida per i legislatori statali polacchi

Sommario

La Chiesa ha il diritto e il dovere di proclamare sempre e ovunque i principi morali che valgono anche per l'ordine sociale (can. 747 § 2). I fedeli della Chiesa devono invece fare in modo che "le loro azioni siano animate dallo spirito evangelico e prestino attenzione alla dottrina proposta dal magistero della Chiesa" (can. 227).

Il ventesimo anniversario della pubblicazione della lettera alle famiglie "*Gratissimam sane*" di Giovanni Paolo II è un ottimo modo per ricordarsi di questo documento e per mettere in luce

idee relative al matrimonio e la famiglia, le quali possono essere utili suggerimenti per coloro che detengono il potere legislativo in Polonia. Il presente articolo presenta cinque importanti riflessioni circa sul matrimonio e sulla famiglia, che dal punto di vista cattolico devono essere presenti, anche in parte, nelle leggi statali. Queste riflessioni riguardano: il matrimonio come comunità indipendente e autonoma, il matrimonio come legame eterosessuale, il pericolo che l'ideologia gender comporta per la famiglia, il giusto rapporto fra genitori e figli e infine il lavoro professionale rispetto al lavoro per sostenere la famiglia

Parole chiave: "Gratissimam sane", Giovanni Paolo II, la famiglia, matrimonio, diritto, legislazione, Polonia