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Abstract: The Second Vatican Council in the Pastoral Constitution on the Church in the Modern World *Gaudium et Spes* concluded teaching relating to ecclesiastical public law. The Council, in a new way, read out the relations between the Church and the political community, defining the basic principles on which these two different types of communities should arrange their mutual relations. In the center of these references has been the human with his/her adherent and inalienable dignity that is the source of all rights and freedom. For this reason, the Council described the catalog of principles in accordance with which they are to be laid the Church–state relations. Among the four principles, the principle of respect for pluralistic society was not mentioned directly in *Gaudium et Spes*, but taking into account the nature of the Church and the history of mutual relations between her and the state, this principle should be considered as a point of departure for the directly indicated by the Council: religious freedom, autonomy and independence of Church and state and the mutual cooperation between them.

Key words: principles, ecclesial community, political community, pluralism, religious freedom, autonomy and independence, cooperation

Introduction

Making an actualization of the existing teaching and its reference to the world the Second Vatican Council courageously undertook the question of the Church–state relations, which has always been delicate and complicated. The Council made an attempt to introduce the issue from two perspectives, that is, stability and variability. The stability of these relations consists in the fact that these ones

were based on the principles which have been present in the Church from the beginning. Whereas their volatility is based on a new reading, which is required by modernity.¹ At the time of deepening and developing the modern doctrine of the Church and the state by the Second Vatican Council, a separate document regulating this issue was not originally envisaged. However, in the end, the conciliar commissions, in charge of the preparation of the Pastoral Constitution on the Church in the Modern World *Gaudium et Spes*,² have developed even 17 schemes of the constitution's number 76³—which is still the current position of the ecclesial community to the state. This teaching is not only binding, but it also takes a new meaning in the context of the situation in which the world is found after more than 50 years after the Council announced the principles in accordance with which the relations between the Church and the political community should be laid. Although explicitly proclaimed three principles: (1) religious freedom, (2) autonomy and independence of Church and state, and (3) the cooperation of the two communities for the good of humanity and the common good, it also refers to the phenomenon of pluralism, and respect for a pluralistic society through the prism of the said basic principles of Church–state relations. Currently, when one of the most important topics in the world is a phenomenon of migration, which in Christian Europe has grown even to the level of a problem, it is worth to recall one of the participants, and also eyewitnesses of Vatican II—Bishop Walenty Wójcik. He stated:

Pluralistic type of society becomes something normal today. Each group, although in different ways expressed therein their belief, have equal rights. Former scheme [...] distinguishing the religion of the majority becomes outdated. Recognition of this phenomenon puts the state (or rather political community) in a new situation and the Church makes it difficult and complicates existing relationships. For the state, it is necessary to keep certain distance from different groups of society, in order to give everyone equal opportunity. What is needed is neutrality, that is, refraining from identification

¹ Wiesław Łużyński, “Soborowa koncepcja relacji między państwem a Kościołem. Otwarcie epoki pokonstantyńskiej,” in *Studia soborowe. Historia i nauczanie Vaticanum II*, ed. Michał Białkowski (Toruń: Oficyna Wydawnicza FINNA, 2013), 510.

² Sacrosanctum Concilium Oecumenicum Vaticanum II, “Constitutio pastoralis de Ecclesia in mundo huius temporis *Gaudium et spes*” (7.12.1965), *Acta Apostolicae Sedis* [henceforth: AAS] 58 (1966): 1025–115.

³ On the projects and editorial of *Gaudium et Spes*, see: Janusz Zabłocki, *Kościół i świat współczesny. Wprowadzenie do soborowej konstytucji pastoralnej “Gaudium et spes”* (Warszawa: Ośrodek Dokumentacji i Studiów Społecznych, 1986), 51–153; Raúl Berzosa Martínez, “Relacja Kościół–wspólnota polityczna w świetle Soboru Watykańskiego II („*Gaudium et spes*” nr 76),” trans. Janusz Lekan, in Rada Naukowa Konferencji Episkopatu Polski, *Kościół w życiu publicznym. Teologia polska i europejska wobec nowych wyzwań*, t. I: *Wykłady i wprowadzenia do dyskusji grupowych* (Lublin: Wydawnictwo KUL, 2004), 332–50.

with any group or intervention which infringes the objectivity and justice distribution to all citizens without exception. For the Church, the recognition of the pluralistic society imposes the need to reduce their intervention and attitude to the service towards the general in implementing their principles in worldly life. The concern of the political community and the religious community at pluralism is the common good of the people professing different views.⁴

Before analyzing the existing principles of ecclesiastical public law formulated by the Second Vatican Council in the form of demands addressed to states, it is necessary to indicate the legal and theological basis for Church–state relations and clarify and explain their evolution in history.

Theological Foundations of Church–State Relations

A theological and legal foundations between Church and state can be found in the Holy Bible. Jesus Christ, the founder of the Church, said: “Then repay to Caesar what belongs to Caesar and to God what belongs to God” (Mt 22, 21). That is why the Church from the beginning of her history has expressed the opinion that there are two separate, original, and independent communities—Church and state.⁵ Both communities, come from God; the first one—directly, the other one—indirectly, as a consequence of the social human nature (Rom 13,1–2; 1 Pet 2,13–17). Both of them serve the man; the first one leads to the supernatural aim, the second one enables the realization of temporal purposes. The common origin from God and the service to humanity demands the existence of harmonious cooperation between those two communities. If this cooperation were in conflict with the law of God, that is, the secular power in contradistinction with the will of God, then the human beings should obey rules given by God rather than by people (Acts 5,29).

⁴ Walenty Wójcik, “Wytyczne w układaniu stosunków Kościół–Państwo według Vaticanum II,” *Duszpasterz Polski Zagranicą* 26, n. 1 (1975): 41–42.

⁵ Tarcisio Bertone, “Il rapporto giuridico tra Chiesa e Comunità politica,” in AA.VV., *Il Diritto nel mistero della Chiesa*, t. IV: *Diritto patrimoniale tutela della comunione e dei diritti Chiesa e comunità politica* (Roma: Pontificia Università Lateranense, 1980), 295–494; Lorenzo Spinelli, *Il diritto pubblico ecclesiastico dopo il Concilio Vaticano II. Lezioni di diritto canonico* (Milano: Giuffrè, 1985).

The history of relations between Church and the state knows various forms of mutual interconnection of those two communities. Also, many viewpoints concerning these relations have been expressed over the centuries. The year 380 is considered as the first official interference of the state in the affairs of the Church – it was the moment of the announcement of Christianity as the state religion by Emperor Theodosius the Great. Although this recognition led to the development of Christianity within the boundaries of the Roman Empire, it gave rise to danger of *caesaropapism*, according to which the civil authority and Church powers rest in the hands of the monarch.⁶ This system was adopted in the East, whereas in the West the view of the close relation between Church and state strengthened. Christian emperor was treated as the God anointed. The emperor by liturgical coronation obtained a certain participation in the spiritual power. In turn, the attempt to impose caesaropapism took other forms. As a result of the struggle for investiture⁷ at the time of Pope Innocent III (1161–1216) it came to *popecaesarism*—accumulation of spiritual and temporal power in the hands of the pope.⁸ The doctrine of the Church on the mutual independence of the ecclesiastical and state orders expounded in 494 (a letter of Pope Gelasius I in to Emperor Anastasius I⁹; in modern times—Pope Leo XIII in many encyclicals, especially *Immortale Dei* of 1885).¹⁰ The idea of the Church as a perfect community¹¹ and the idea of the Catholic state and its duty towards religion—according to the concept of Leo XIII—was proclaimed until the Second Vatican Council.

According to the Congregation for the Doctrine of the Faith, the Second Vatican Council reflecting on its attitude to the world and on its activities in it,¹² was in fact neither going to change, nor actually changed this learning,

⁶ Zygmunt Zieliński, “Cesaropapizm,” in *Encyklopedia Katolicka*, t. III, ed. Romuald Łukaszyk, Ludomir Bieńkowski, and Feliks Gryglewicz (Lublin: Towarzystwo Naukowe KUL, 1979), 41–42.

⁷ Anzelm Weiss, “Inwestytura,” in *Encyklopedia Katolicka*, t. VII, ed. Stanisław Wielgus, Jerzy Duchniewski, and Mirosław Daniluk (Lublin: Towarzystwo Naukowe KUL, 1997), 421–22.

⁸ Tadeusz Pawluk, *Prawo kanoniczne według Kodeksu Jana Pawła II*, t. I: *Zagadnienia wstępne i normy ogólne* (Olsztyn: Warmińskie Wydawnictwo Diecezjalne, 2002), 174–75; Bogdan Szlachta, “*Papocezaryzm*,” in *Encyklopedia Katolicka*, t. XIV, ed. Edward Gigilewicz (Lublin: Towarzystwo Naukowe KUL, 2010), 1309–310.

⁹ *Epistola VIII Gelasii Papae I ad Anastasium Imperatorem* (494), in *Sacrorum Conciliorum Nova et Amplissima Collectio*, ed. Joannes Dominicus Mansi, t. VIII (Florentiae: Expensis Antonii Zatta Veneti, 1762), 30–35.

¹⁰ Leo PP. XIII, “Epistola encyclica de civitatum constitutione Christiana *Immortale Dei*” (1.11.1885), AAS 18 (1885): 161–80.

¹¹ Henryk Insadowski, *Ustrój prawny Kościoła Katolickiego* (Lublin: [s.n.], 1926), 29–60.

¹² Jan Sieg, “Refleksja Soboru nad obecnością Kościoła w świecie współczesnym,” in *Kościół w świetle Soboru*, ed. Henryk Bogacki and Stefan Moysa (Poznań: Księgarnia św. Wojciecha, 1968), 491.

but only developed, deepened and expounded in a more explicit way.¹³ The Church deepened and renewed the doctrine relating to her mission in the world. The Council did this by interpreting typical for the Christian culture the religious-political dualism. The Council pointed to the need to extend this dualism on the relationship between the two communities of a different type: ecclesiastical and civil, to which at the same time, although other reasons include the same people.¹⁴ Indications of relations of the Church to the world were concentrated on the following principles: (1) respect for pluralist society; (2) respect for conscience and religion freedom in the individual, community, and institutional dimension; (3) the autonomy and independence of Church and state, each in its field; (4) cooperation between the Church and the state in achieving the common good of the human person.

The Principle of Respect for Pluralistic Society

The principle of respect for pluralistic society was not distinct from the model of Church–state relations. Therefore, it should be viewed in the broader context of the principles of these relations, analyzing the *Gaudium et Spes* constitution, according to “correct notion of the relationship between the political community and the Church” and together with the need to distinguish “between the tasks which Christians undertake, individually or as a group, on their own responsibility as citizens guided by the dictates of a Christian conscience, and the activities which, in union with their pastors, they carry out in the name of the Church” (n. 76). This strongly indicates that, despite the lack of distinct by the Council *explicite* this principle, Church—in place of the existing concepts, such as the Christian state and non-Christian state—moved away from the model of the state unified ideologically in favor of the pluralistic society.¹⁵ Whereas this pluralistic order has its origins in the family, and by various groups goes back to Church and to state.¹⁶ The Council has not announced the thesis that the state should be, but pointed out that it actually is, that is, on the global community in which exist both, the state and the Church. Confirmed the existence of a pluralistic society, in which the Church coexists with the

¹³ Congregatio pro Doctrina Fidei, “Responsa ad quaestiones de aliquibus sententiis ad doctrinam de Ecclesia pertinentibus” (29.06.2007), AAS 99 (2007): 604–08.

¹⁴ Józef Krukowski, *Kościół i państwo. Podstawy relacji prawnych* (Lublin: Redakcja Wydawnictw KUL, 2000²), 85.

¹⁵ Wójcik, “Wytyczne w układaniu stosunków Kościół–Państwo,” 41.

¹⁶ Henryk Krzemienowski, “W kierunku posoborowej koncepcji odniesień między Kościołem a państwem,” *Colloquium Salutis. Wrocławskie Studia Teologiczne* 9 (1977): 53.

state, and in which there are people with various ideological and religious convictions.¹⁷ According to Józef Krukowski: “global society, in which state and the Church exist is not a religious denomination monolithic [...]. With the existence of the pluralistic society there also arises the duty to respect both, by the Church and by the state, for the phenomenon of the pluralism of Churches, namely, existence in the same global society next to the Catholic Church of other Churches or religious communities, and consequently resigned in the future by the Church with all the privileges, if this would result in a feeling of discrimination on the side of other Churches or religious associations.”¹⁸ In this way, the Council directly acknowledged the worldview plurality, which was a *novum* in Church doctrine in the topic of relations to the political community.¹⁹ However, pluralism was seen in the previous teaching of the Church—also by Pope Leo XIII—therefore this *novum* could not and cannot be understood as making changes in this learning, but as the modernizing and adapting to the needs of the times and places.²⁰

The principle of respect for pluralistic society refers to pluralism as a social phenomenon. With it comes the possibility of recognition a state secularism by the Church. However, this phenomenon cannot relate to the recognition of equality of “religious doctrines” and “confessions of faith,” nor to recognize the state community as irreligious or anti-religious—laicized, but to equality of citizens with “different religious pedigrees.”²¹ Thus, pluralism means the existence of society with differentiated religious beliefs and worldviews. Such community should not be understood as an ideal condition, but as a normal status, which cannot raise neither surprise nor opposition. Besides the states, which were called “Catholic,” easily accepted the Church and the Catholic doctrine, and also carried out the assessment of its activities and individual faithful. In turn, at present times, when the Church has taken a reflection on their place in the world and recognized the existence of a pluralistic society, is hard to the so-called Catholic states to see and understand Church as it really is—made up of the divine and the human element and built on a hierarchical structure.²² Therefore, to avoid the misunderstandings, the Second Vatican Council pre-

¹⁷ Józef Krukowski, “Stanowisko Soboru Watykańskiego II wobec rozdziału Kościoła od państwa,” *Roczniki Teologiczno-Kanoniczne* 27, z. 5 (1980): 53–54.

¹⁸ Józef Krukowski, *Kościelne prawo publiczne. Prawo konkordatowe* (Lublin: Towarzystwo Naukowe KUL, 2013), 115–17.

¹⁹ Paweł Sobczyk, *Kościół a wspólnoty polityczne* (Warszawa: Santiago, 2005), 78.

²⁰ Anna Słowikowska, “Soborowa zasada współdziałania Kościoła i państwa w kontekście zasad ją warunkujących,” *Biuletyn Stowarzyszenia Absolwentów i Przyjaciół Wydziału Prawa Katolickiego Uniwersytetu Lubelskiego* 11, n. 2 (2014): 33.

²¹ Jacques Maritain, *Człowiek i państwo*, trans. Adam Grobler (Kraków: Wydawnictwo Znak, 1993), 181.

²² Mirosław Sitarz, “Zasada równouprawnienia Kościołów i innych związków wyznaniowych,” *Kościół i Prawo* 4 (17), n. 1 (2015): 147.

sented what it is, and explaining when the state has to deal with the action of the Church, and when with the action of her members,²³ because pluralism provides the coexistence of different views without the overwhelming hegemony of one of them and, in this way, people believe deeply that they create the reality, developing “a growing conviction that they themselves shape the reality in which there are more signs of their activities, and less of God.”²⁴ However, at the same time, the pluralistic society enables a man to mature and have conscious choice, consistent with his/her conscience, and consequently to the adoption of the Christian mission.²⁵ According to Krukowski, “this means the need to distinguish about two planes in the relations between the state and the Church in a democratic society, that is, the horizontal plane from the vertical one. In the horizontal plane the faithful may occur individually as fellow citizens, being organized, taking action on their own responsibility, guided by the Christian conscience. In the second plane, they may occur in relation to the state together with the bishops. This does not mean that the bishops cannot intervene in matters concerning the temporal order from the point of view of human rights, but they may take public activity in relations with state authorities, and only their activity is to be public on behalf of the Church.”²⁶ Whereas Paweł Sobczyk expresses the opinion that we need to respond more broadly to understand pluralism properly in the context of a social phenomenon:

In this lies the fundamental difference between the position of the Catholic Church and the assumptions of the liberal ideology, which sees pluralism as a core value. For Council Fathers the consequence of religious and world-view pluralism is the need to respect religious freedom, autonomy, and independence of Church and state and their healthy cooperation for the good of man and the common good.²⁷

²³ Andrzej Białczyk, *Rozdział między Kościołem a państwem w świetle nauki Kościoła katolickiego* (Lublin: mps w Archiwum KUL, 1978), 251–52.

²⁴ Ryszard Kamiński, *Duszpasterstwo w społeczeństwie pluralistycznym* (Lublin: Atla 2, 1997), 34–35.

²⁵ *Ibid.*, 36.

²⁶ Krukowski, *Kościelne prawo publiczne*, 116.

²⁷ Paweł Sobczyk, “Katolicka koncepcja państwa wyznaniowego,” in *Państwo wyznaniowe. Doktryna, prawo i praktyka*, ed. Jarosław Szymanek (Warszawa: Dom Wydawniczy Elipsa, 2011), 113–14.

The Principle of Religious Freedom

In the declaration on religious freedom the Second Vatican Council proclaimed the principle of social and civil freedom in religious matters (n. 2).²⁸ The right to religious freedom belongs to a catalog of fundamental rights of the human being. The basis of respect for this right is the human conscience, and the source—human dignity,²⁹ which should be the foundation of every law.³⁰ The Council also expounded the issue of religious freedom in the Pastoral Constitution on the Church in the Modern World and pointed teaching on its close relationship with the dignity of the human person,

since he stands above all things, and his rights and duties are universal and inviolable. Therefore, there must be made available to all men everything necessary for leading a life truly human, such as food, clothing, and shelter; the right to choose a state of life freely and to find a family, the right to education, to employment, to a good reputation, to respect, to appropriate information, to behave in accordance with the upright norm of one's own conscience, to protection of privacy and rightful freedom even in religious matters.³¹

The Second Vatican Council developed the concept of freedom of conscience and religion, and declared that the human person has the right to religious freedom. It consists in that all people should be free from coercion from the individuals, community groups or authority so that no one should be made to act contrary to his/her conscience and should not experience any obstacles when acting in accordance with it—both privately and publicly, individually and communally.³² The principle of religious freedom is manifested in two ways: at individual and community level. The first one concerns the subject of the freedom of the individual. This freedom is the fundamental human right to the freedom of conscience and religion and to equal participation in public life, regardless of religion. In turn, religious freedom in community (social) dimension whose

²⁸ Sacrosanctum Concilium Oecumenicum Vaticanum II, “Declaratio de libertate religiosa *Dignitatis humanae*” (7.12.1965), AAS 58 (1966): 929–46.

²⁹ Ioannes PP. XXIII, “Litterae encyclicae de pace omnium gentium in veritate, iustitia, caritate, libertate constituenda, *Pacem in terris*” (11.04.1963), AAS 55 (1963): 257–304.

³⁰ Tarcisio Bertone, “La dignita umana unico fondamento dei diritti dell'uomo,” in Tarcisio Bertone, *La Diplomazia Pontificia in un mondo globalizzato*, ed. Vincenzo Buonomo (Città del Vaticano: Libreria Editrice Vaticana, 2013), 241–79.

³¹ *Gaudium et Spes*, n. 26.

³² Mirosław Sitarz, “Zasady relacji Kościół–państwo w nauczaniu Soboru Watykańskiego II,” in *Reddite ergo quae sunt Caesaris Caesari et quae sunt Dei Deo. Księga jubileuszowa dedykowana Księdzu Profesorowi Józefowi Krukowskiemu z okazji 50-lecia pracy naukowej*, ed. Mirosław Sitarz, Piotr Stanisław, and Henryk Stawniak (Lublin: Towarzystwo Naukowe KUL, 2014), 244.

subject is the human community (collectivity), refers to a group of rights due to religious communities, thanks to which they can freely fulfill their tasks.³³ Both of these aspects of religious freedom are closely linked and mutually dependent. Where there is no individual freedom, neither is there social freedom, and where there is no social freedom, there cannot be individual dimension.³⁴ The Council demanded that the religious freedom should be for all recognized and respected, also in the relations between Church and state.³⁵ The Council Fathers recommended that the human person's right to religious freedom be in the legal order of society to make it statutory law.³⁶ The Council applied the principle of religious freedom in recognition of pluralism and teaches that: "In the conscience of many arises an increasing concern that the rights of minorities be recognized, without any neglect for their duties toward the political community. In addition, there is a steadily growing respect for men of other opinions or other religions."³⁷ Therefore, religious freedom is fundamental for Church in relations with the state. It is an essential condition for their mutual relations should be based on cooperation. Church wants freedom, not direct or indirect authority over the political community. This is the elementary right, realization of which is one of the fundamental tests of humanity in any political system, society or environment.³⁸ State authorities that reserve for themselves the right to direct religious acts or prohibit their practice, go beyond its competence,³⁹ because the Church should have, always and everywhere, true freedom in the proclamation of faith, in teaching, in the fulfillment of her mission, in passing moral judgment "in those matters which regard public order when the fundamental rights of a person or the salvation of souls require it."⁴⁰ Only when the principle of religious freedom is practically used is the Church gaining the legal conditions for the implementation of the principle of autonomy and independence of Church and state,⁴¹ and initiating the cooperation aiming at ensuring that everyone—not just the privileged individuals, are able to use their personal rights.⁴²

³³ Stanisław Stawny, "Niektóre aspekty wolności religijnej w listach pasterskich Prymasa i Episkopatu Polskich w latach 1945–1981," *Kościół i Prawo* 7 (1990): 203; Remigiusz Sobański, *Kościół jako podmiot prawa* (Warszawa: Akademia Teologii Katolickiej, 1983), 219.

³⁴ Sobański, *Kościół jako podmiot prawa*, 219.

³⁵ Piotr Hemperek, "Współpraca między Kościołem a państwem," *Kościół i Prawo* 4 (1985): 90.

³⁶ *Dignitatis Humanae*, n. 2.

³⁷ *Gaudium et Spes*, n. 73.

³⁸ Ioannes Paulus PP. II, "Litterae encyclicae *Redemptor Hominis*" (4.03.1979), AAS 71 (1979): 257–324, n. 17.

³⁹ *Dignitatis Humanae*, n. 3.

⁴⁰ *Gaudium et Spes*, n. 76.

⁴¹ *Dignitatis Humanae*, n. 13.

⁴² *Gaudium et Spes*, n. 73.

The Principle of Autonomy and Independence of Church and State

The Second Vatican Council, emphasizing the need for proper alignment relations between the Church—as a community of the People of God, and the state—as a political community, a special place admits the principle of autonomy and independence of the tasks for which they have been implementing. According to the Council: “The Church and the political community in their own fields are autonomous and independent from each other. Yet both, under different titles, are devoted to the personal and social vocation of the same men. The more both foster sounder cooperation between themselves with due consideration for the circumstances of time and place, the more effective will their service be exercised for the good of all.”⁴³

By “autonomy and independence” the Council highlighted the mutual respect for one institution to another. The autonomy inheres to the Church, which is situated within the boundaries of the state. The state also has the autonomy in relation to Church, but the boundaries of their autonomy define field of activity of both communities.⁴⁴ Therefore, the Council noticed the need for the delimitation of competences of Church and State. The Council pointed out that the Church is not identified in any way with the political community nor bound to any political system, but it is a sign and the defense of the transcendent human person,⁴⁵ and instrument of intimate union with God and of the unity of all mankind.⁴⁶ The basis of separation of the two communities is the mission of the Church and the current problems that need to be solved.

The state and the Church exist for the good of the people—the state for its citizens, and the Church for the good of her followers. The Church does not identify herself with the state and temporal things but represents herself only from the point of view of morality. However, she is able to contribute to temporal things as much as it is her own mission that requires it.⁴⁷ Since the Second Vatican Council, the Church strongly emphasizes her independence from the state. The political community also has its own values and its own rules, which the Church must respect. Its autonomy includes various forms of human activity, which should be directed to the common good.⁴⁸ At the

⁴³ Ibid., 76.

⁴⁴ Krukowski, “Stanowisko Soboru Watykańskiego II,” 55.

⁴⁵ *Gaudium et Spes*, n. 76.

⁴⁶ Sacrosanctum Concilium Oecumenicum Vaticanum II, “Constitutio dogmatica de Ecclesia *Lumen gentium*” (21.11.1964), AAS 57 (1965): 5–67, n. 1.

⁴⁷ *Gaudium et Spes*, n. 76.

⁴⁸ Józef Krukowski, “Autonomia i niezależność wspólnoty politycznej,” *Kościół i Prawo* 4 (1985): 58–59.

same time, the Church assumes the incompetence of the state in religious matters.⁴⁹ There should be no impact on the organization and activity of the Church. In this way, the Church demands the recognition of her independence from the state. Church and state are two separate legal systems—each of them is autonomous and independent due to their tasks, which must not be interchanged.

The obligation coming from significant differences between Church and state and the need to work in the same space and at the same time, for the same people, determines the legal relations between those institutions.⁵⁰ The principle of mutual autonomy and independence of the Church and the political community in their field includes not only the moral field, but also the legal one. In this aspect, the independence of each of these two different nature communities is identified with sovereignty.⁵¹ Sovereignty⁵² should be an attribute of each country, which is illustrated in the international custom, which distinguishes two types of sovereignty: the temporal and the spiritual one. The first is inherent to states (nations) and its representative authority bodies, the second—

⁴⁹ Hemptek, “Współpraca między Kościołem a państwem,” 89.

⁵⁰ Wójcik, “Wytyczne w układaniu stosunków Kościół-Państwo”, 44; cf. Paul Mikat, “Kirche und Staat,” *Sacramentum mundi. Theologisches Lexikon für die Praxis* 2 (1968): 1314.

⁵¹ Krukowski, *Kościół i państwo*, 121.

⁵² The term „sovereignty” derived from Latin *superanus*—higher; *superans*, *-ntis*—who has the advantage, dominant, unequaled, exceeding—Józef Korpany, ed., *Słownik łacińsko-polski*, t. II (Warszawa: Wydawnictwo Szkolne PWN, 2003), 806; Janusz Sondel, *Słownik łacińsko-polski dla prawników i historyków* (Kraków: Towarzystwo Autorów i Wydawców Prac Naukowych Universitas, 2009), 919. According to *Słownik wyrazów obcych* “sovereignty” means: (a) the independence of the authority government from any external factors, (b) supreme power, supremacy, (c) independence, indivisible supremacy over the territory of the state—Jan Tokarski, ed., *Słownik wyrazów obcych PWN* (Warszawa: Państwowe Wydawnictwo Naukowe, 1980), 714; Władysław Kopaliński, *Słownik wyrazów obcych i zwrotów obcojęzycznych z almanachem* (Warszawa: Muza, 1999²⁵), 481. In state law science, some scholars understand the supreme sovereignty as unlimited by anyone—outside the state—authority; other distinguished two attributes of this power, that is, self-motricity—legal independence from any external factors, and all-motricity—competence to standardization of all relations within the state. Self-motricity is defined as external sovereignty and all-motricity as internal sovereignty, Jacek Barcik and Tomasz Srogosz, *Prawo międzynarodowe publiczne* (Warszawa: Wydawnictwo C.H. Beck, 2007), 45; Ludwik Ehrlich, *Prawo międzynarodowe* (Warszawa: Wydawnictwo Prawnicze, 1958), 123. Nowadays sovereignty is understood at two levels: internal (*ad intra*) and external (*ad extra*). The first means that on the territory of the State there is no power above its central organs, which means that there are no other authorities, which they would not be the subject of political decision-making. Sovereignty in the external plane means state independence, or that the highest authorities of the state in making their political decisions are not subject to others authorities located outside its territory. State can independently make decisions within its territory and liabilities to other subjects of international law—Józef Krukowski, *Wstęp do nauki o państwie i prawie* (Lublin: Towarzystwo Naukowe KUL, 2004²), 23.

to Church, which is represented by the Holy See.⁵³ This sovereignty is the basis of the legal-public personality of the Holy See in international relations.⁵⁴ Therefore, in accordance with the principle of autonomy and independence, each of sovereign communities, both the Church and the state should take action within their competence so as to bring contribution to the common good of individuals and the whole society.

The Principle of Cooperation between Church and State

Among the fundamental principles which should underlay the relations between the state and the Church is the principle of cooperation and, in some cases, also collaboration.⁵⁵ The starting point for cooperation is the emphasis put on the menial role of the state and the Church. Service to personal and social vocation of the same people, which is implemented according to their tasks, both by the state and the Church, implies that the subject of cooperation is the common good (*bonum commune*). It involves respecting the rights and duties of the human person.⁵⁶ It includes the sum of the conditions of social life by which people can fully and quickly achieve their own perfection.⁵⁷ In order to create such conditions both the state and the Church are required, therefore their cooperation in the realization of the good is not only useful but also necessary.⁵⁸ The legal meaning of the common good comes down to it being the social order that allows anyone to enjoy the rights and freedoms flowing from the dignity of the human person.⁵⁹ The implementation of the common good is

⁵³ Krukowski, "Autonomia i niezależność Kościoła," 72–73; Krukowski, *Kościół i państwo*, 121.

⁵⁴ Krukowski, *Wstęp do nauki o państwie i prawie*, 22; Barcik and Srogosz, *Prawo międzynarodowe publiczne*, 152.

⁵⁵ Józef Krukowski, "Zasada współdziałania między państwem i Kościołem w ujęciu Prymasa Stefana Wyszyńskiego," *Roczniki Nauk Prawnych* 12, n. 1 (2002): 220. Krukowski explains that in Polish the equivalent of cooperation is rather "cooperation" rather than just "collaboration." In his opinion, cooperation occurs when the two parties perform the same task using the same resources; whereas in case of collaboration each party fulfills its own tasks, but both towards a common goal—Krukowski, *Kościół i państwo*, 124, ft. 21.

⁵⁶ *Pacem in Terris*, n. 60.

⁵⁷ Ioannes PP. XXIII, "Litterae encyclicae de rectionibus rerum socialium processibus ad Christiana praecepta componendis *Mater et Magistra*" (15.05.1961), AAS 53 (1961): 442, n. 58.

⁵⁸ Hemptek, "Współpraca między Kościołem a państwem," 93.

⁵⁹ Sieg, "Refleksja Soboru nad obecnością Kościoła w świecie," 506.

realized in view of the many forms of socialization. This starts in the family and then bifurcates into a variety of groups to finally reach to the Church and the state.⁶⁰ Common good is present in all aspects of social life and includes three basic components: the good of the person, the good of the family, and the good the nation.

Because the state and the Church were established to serve the same people, it is important that they work together. The Second Vatican Council recommended that the mutual cooperation of the two communities is healthy and should take into account “the diversity of times and circumstances.”⁶¹ The form and way in which it is made, have not been closely defined by the Council (*attentis locorum temporumque adiunctis*⁶²). The issue of relations and forms of cooperation has been left unresolved.⁶³ The Church does not have to provide ready solutions in temporal affairs. In different countries there are miscellaneous systems of government—their attitude to religion and to the Church is not the same. Therefore, no form of socialization is not competent to provide ready solutions to the world in this field. Constant amending the conditions and political systems in countries makes any attempt at drawing up a catalog of forms of cooperation between the Church and the state (which from the very beginning would be doomed to fail).⁶⁴ There are ways of cooperation, but they have contractual character. For their realization, cooperation between the state and the Church should be agreed by both parties.⁶⁵ In this regard, the Second Vatican Council proclaimed principle of healthy cooperation between Church and state for the common good, but not pointed out the ways and forms of its realization (issues of this can be explained by practice). According to Krukowski, agreeing on cooperation between the Church and the state should be guaranteed by the competent authorities of the two communities in the way of an agreement, for example, concordat. Of significance to these arrangements is a dialogue that would aim at understanding the parties as to the terms of cooperation or collaboration.⁶⁶ Staying at the level of equal dialogue between partners it is justified by the fact that the other party does not know the religious authority of the

⁶⁰ Krzemienowski, “W kierunku posoborowej koncepcji odniesień między Kościołem a państwem,” 53.

⁶¹ *Gaudium et Spes*, n. 76.

⁶² *Ibid.*

⁶³ Białczyk, “Rozdział między Kościołem a państwem w świetle nauki Kościoła katolickiego,” 255.

⁶⁴ See: Anna Słowikowska, “Origin of Principle of Cooperation between the Catholic Church and the State in Preparatory Documents for the Second Vatican Council. Outline,” *Teka Komisji Prawniczej. Polska Akademia Nauk Oddział w Lublinie* 6 (2013): 152–68.

⁶⁵ Krukowski, “Zasada współdziałania między państwem i Kościołem w ujęciu Prymasa,” 231–32.

⁶⁶ Józef Krukowski, “Podstawy współdziałania Kościoła i państwa,” *Kościół i Prawo* 8 (1992): 29.

Church and, at the same time, feels that it has the right to religious freedom. The Church considers it to be the right enjoyed by every human being. The recognition of human dignity and respect of human rights to proclaim their beliefs and to act according to their conscience are an essential condition for establishing authentic dialogue.⁶⁷ Church and state are equal partners in a dialogue and communicate their opinions in matters of mutual interest. Such mutual relations emphasize the relative autonomy of the world and temporal areas.

Conclusions

The above analysis of the basic principles of Church–state relations allows to draw the following conclusions:

1. Community—both the ecclesiastical and the civil community come from God. The basis of these relations is the command of Christ: “Then repay to Caesar what belongs to Caesar and to God what belongs to God” (Mt 22, 21).
2. In the history of Church–state relations there existed various forms of inter-connection.
3. The current rules of the Church–state relations were forwarded by the Second Vatican Council, which made the actualization of mutual relations with regards to time and place. Complexity of the discussion on working out the correct position on the issue of the relations confirms the necessity to take account of the nature of the Church, both *ad intra* and *ad extra*.
4. Creating a catalog of principles of the Church–state relations, the Second Vatican Council placed man in the center, with his/her adherent and inalienable dignity of the human person. Then acknowledged the existence of a pluralistic society and proclaimed the necessity to respect it. In the context of the principle of respect for pluralistic society, the Council proclaimed as existing principles: religious freedom, autonomy and independence of Church and state, and the mutual cooperation between them.
5. These four principles are the subject of ecclesiastical public law.

⁶⁷ Sieg, “Refleksja Soboru nad obecnością Kościoła w świecie,” 499.

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Miroslaw Sitarz

Les relations Église–État dans *Gaudium et Spes*

Résumé

Dans la Constitution pastorale sur l'Église dans le monde de ce temps *Gaudium et Spes*, le Concile Vatican II a inclus l'enseignement concernant le droit civil ecclésiastique. Il a réinterprété les relations entre l'Église et la communauté politique, tout en définissant les principes de base sur lesquels ces deux entités de différente nature devraient gérer leurs relations mutuelles. Au centre de ces réflexions, on a placé l'homme ayant droit à la dignité inaliénable qui, quant à elle, est la source de toutes les libertés et de tous les droits. Cela étant, le Concile Vatican II a établi un catalogue de principes sur la base desquels on devrait gérer les relations Église–État. Parmi quatre principes, c'est celui concernant le respect de la société pluraliste qui n'a pas été explicitement mentionné dans *Gaudium et Spes*, mais, en prenant en considération la nature de l'Église et l'histoire des rapports mutuels entre elle et l'État, il faut le considérer comme point de départ pour l'établissement de nouveaux principes, directement indiqué par le Concile : liberté religieuse, autonomie et indépendance de l'Église de l'État et coopération mutuelle entre eux.

Mots clés: principes, communauté ecclésiastique, communauté politique, pluralisme, liberté religieuse, autonomie et indépendance, coopération

Mirosław Sitarz

I rapporti tra Chiesa e stato nella *Gaudium et Spes*

Sommario

Il Concilio Vaticano II nella costituzione pastorale sulla Chiesa nel mondo contemporaneo *Gaudium et Spes* racchiuse l'insegnamento riguardante il diritto pubblico ecclesiastico. Rilesse le relazioni tra la Chiesa e la comunità politica definendo i principi fondamentali sui quali queste due società di tipo divergente debbano organizzare i rapporti reciproci. Al centro di tali riferimenti pose l'uomo con la dignità che gli appartiene ed è inalienabile la quale è fonte di tutte le libertà e tutti i diritti. Per tale ragione definì un catalogo di principi sulla base dei quali devono essere organizzate le relazioni tra la Chiesa e lo stato. Tra i quattro principi, la regola del rispetto della società pluralista non fu espressamente menzionata nella *Gaudium et Spes*, ma considerando la natura della Chiesa e la storia delle correlazioni reciproche tra essa e lo stato, occorre riconoscere tale principio come punto di partenza per i successivi, ossia per i principi indicati direttamente dal Concilio: libertà religiosa, autonomia ed indipendenza della Chiesa dallo stato e collaborazione reciproca tra loro.

Parole chiave: principi, società ecclesiastica, comunità politica, pluralismo, libertà religiosa, autonomia ed indipendenza, collaborazione