From Editors

The title "Righteousness of the Law" refers to the classic distinction between *ius* and *lex*. The first, as *ars boni ac recti* (Celsus), is etymologically related to the idea of justice (*iustitia*), the second refers to the law, i.e. to the idea of positive law. Regardless of the complex issues of the origin of the concepts, one can say with a high degree of certainty that the observation that not every law is fair, when confronted with the universal desire for justice, already led in antiquity to some sort of terminological distinction between the two matters. In the Middle Ages, Thomas Aquinas wrote: *Nomen ius primo impositum est ad significandam ipsam rem iustam, postmodum autem derivatum est ad artem, qua cognoscitur quid sit iustum* ("In like manner, the word "ius" [right] was first of all used to denote the just thing itself, but afterwards it was transferred to designate the art whereby it is known what is just) (S. Th., II-II, q. 57, a. 1). Aquinas notes, however, that in everyday practice, we also deal with the use of the word *ius*, which can be described as abuse: "we say even that a man, who has the office of exercising justice, administers the *ius* even if his sentence be unjust" ibid.

The question of the righteousness of the law also appears in contemporary disputes. The specificity of these discussions is the fact that the concept of tyranny law is used in them, not only in relation to the legal systems in countries ruled by tyrants, but also appearing as an accusation in relation to countries generally recognised as democratic. In the past, the point of reference in these disputes was the idea of natural law. Today, as Benedict XVI [2011] noted in his speech in the Bundestag, the public debate is so dominated by legal positivism that one feels almost ashamed to even mention the term [natural law]. Paradoxically, this situation is relatively new. Immediately after World War II, there was a kind of renaissance in the

theory of natural law. Responsibility for the legal context in which mass crimes were legitimised was attributed to legal positivism. "National socialism" writes Radbruch, "managed to convince the entourage of soldiers on the one hand, and on the other – legions of jurists, using two elementary principles: "order means order" and "law means law" [2001: 211]. There is no reason to wonder about the soldiers, although also in their case "the duty of obedience ceases as soon as it turns out that the order was given in criminal intent or abusing the law." [ibid.: 209]. However, lawyers should be more intelligent. Meanwhile, they disarmed the system and made the society completely vulnerable to the coming totalitarianism: "It is the understanding of the law and its validity, called positivism," writes Radbruch, "that contributed to the fact that both lawyers and ordinary people became completely defenceless against the arbitrarily laws, inhuman and criminal. This theory ultimately placed a sign of equality between law and force: where there is force, there is also law. (...) the identification of the law with the alleged benefit or expected social benefit has made the state of law a lawless state." [ibid.].

The issue of righteousness is analysed in our journal from different angles. Bogdan Szlachta undertook a review of the recent documents of the Catholic Church about natural law and its relation to positive law. "Natural law," concludes Szlachta, "as a set of moral norms recognizable by human inherent reason is, according to the position adopted by Catholics, a proper and necessary reference point for legislative activity; it is a kind of 'higher law' not in the sense, however, that it would have a juridical value similar to that given by a man to normative provisions binding all their addressees, but in that it should be respected and taken into account in the decisions of entities wishing to preserve humanity, honor the proper nature of the species every human being". This is closely related to the need for rational reflection on the limits of political power and moral limits of the individual's actions.

Rev. Jacek Grzybowski recalls the Krakow school of law from the times of Paweł Włodkowic (Paulus Vladimir) and Stanisław from Skalbmierz (Stanislaus de Scarbimiria). More than 100 years before the school of Salamanca, they developed an original concept of the law of nations. It was formed during the dispute between the Polish-Lithuanian Commonwealth and the Teutonic Order. "Unfortunately, most people are not aware […] that it was Stanislaw of Skarbimierz, the Cracovian professor of law, who in his famous sermon *De bellis iustis* (About the Righteous Wars) spoke vehemently about the unacceptability of unjustified war: it is forbidden, according to him, to fight another human being without sufficient reason, while struggle can be justified only when it is aimed at justice, self-defence or restoring

and ensuring peace"- writes Fr. Grzybowski. The dispute over the rights of the Prussians, Lithuanians, Yotvingians and Poles had its continuation during the Synod in Konstanz (1414-1418), to which Polish representatives took both the "Treaty on the power of the Pope and emperor over infidels" written by Paweł Włodkowic and a group of Lithuanians baptised without the use of violence, who were living proof that the theories of evangelisation developing in Krakow prove themselves in practice.

Christine Jeangey discusses the contribution and activities of the Pontifical Decastery for Promoting Integral Human Development in the promotion of human rights on the international stage. She focuses in particular on cases such as the right to life, the death penalty and the right to a dignified life (right to health and freedom of religion). She proves that in the Vienna Declaration and Action Program adopted by the World Conference on Human Rights on June 25, 1993, we are dealing with a "classical" understanding of human rights, which is largely the result of the position taken during the conference by the Holy See.

John M. Czarnetzky analyzes problems that have arisen around the International Criminal Court, although it was eagerly awaited by the international community. Leading reflection from the point of view of Catholic Social Doctrine states that the central problem is erroneous anthropology adopted as the foundation of its action at the very time of its establishment.

Reflecting on the righteousness of law, it is impossible to avoid the question of the cultural determinants of both positive law and the very concept of natural law and its modern manifestation in the form of human rights. Brian Scarnacchia puts these questions in the context of disputes in the Association of Southeast Asian Nations (ASEAN). In these circumstances, the question arises of how to justify the universality of human rights; whether they should be strictly secular in nature or whether religious arguments are allowed, including the idea of the creation of man in the image and likeness of God. Scarnacchia states that some "aspects of the public trust doctrine, i.e., the natural use principle and the precautionary principle, are analogous to natural law principles and, because 'the book of nature is one', these environmental law principles may help jurists to recognise a theory of natural law liability in order to promote and defend authentic human rights."

Grégor Puppinck, an expert on human rights in the context of the Council of Europe's Human Rights Court, examines the problem of censorship by the Court regarding statements on Islam. He cites a specific case, i.e. an appeal in E. S. v.

Austria. The European Court of Human Rights has, in the past, passed sentences protecting individuals who were accused of blasphemy against Christianity. In the case in question, however, it decided to uphold the sentence handed down by the Austrian court which convicted Elisabeth Sabaditsch-Wolff for blasphemy. She described the fact that Mohammed had married an underage girl as publicly known pedophilia. In the case of both the Austrian court and the ECtHR, the decisive argument was not the truth about the facts, but the idea of religious tolerance. The Court thus suspended the previous case-law and censored statements criticising Islam, even if they were true. "This violation of freedom of expression is justified by a new positive obligation imposed on you by the Tribunal, consisting of "ensuring peaceful coexistence of all religions and those who do not belong to any religious group, by ensuring mutual tolerance." In this way, any statement, even a true one, can be considered reprehensible as an expression of religious intolerance, if it could lead to social tensions," writes Puppinck.

Ronald J. Rychlak argues with the decision of the United Nations Committee against Torture issued in 2014, which states that matters dealt with by the Vatican regarding sexual abuse by Catholic priests can fall under the concept of torture under international law. A petition containing the accusation of "crimes against humanity" was filed with the International Criminal Court against Pope Benedict XIV and other Church hierarchs. Rychlak argues that the identified cases do not meet legal standards, which according to international law, constitute torture or crimes against humanity. Persons who are guilty of abuse should be punished, but neither they nor the Church officials who took action in these matters (or neglected them), are responsible for torture or crimes against humanity.

Ewelina U. Ochab takes up the subject of crimes against women and girls committed by fighters of the so-called Islamic state. She points out that while mass crimes against women from religious minorities, such as rape and sexual slavery, are undoubtedly undeniable, Daesh fighters are only prosecuted for terrorism, completely disregarding their sexual offences. Ochab emphasises that in ongoing trials, victims are almost never admitted to the court as witnesses, and the voice of women is completely disregarded. She also analyses the changes in the approach to women that should take place both when it comes to Iraqi courts and the policy of Western states.

Michał Kmieć argues that even if the issue of religious freedom did not appear in the teaching of the Catholic Church until after the Second Vatican Council,

it is an element of traditional Catholic doctrine. It was referred to in the past, especially in the context of the state-Church relationship. The author starts his deliberations from the letter of Gregory I *Qui sincera* from 602, while recalling and analysing, also from the point of view of religious freedom, the breve of Pius VI *Quod aliquantum* from 1791. *Dignitatis humanae*, therefore, does not appear like *Deus ex machina*, but – according to Kmieć – is just another document in which the Church confirms her attachment to religious freedom.

Monika Maria Brzezińska presents the issue of an international leader, analysed from the point of view of morality. "The main hypothesis," writes Brzezińska, is the assumption that international actors, although their activities are determined by factors such as power and domination, are also guided by specific values in their activities." The author distinguishes four types of international leader, stating that each of them is guided by different set of values. A Hegemon is an actor striving to increase his power and dominance over others. A Stabilizer is a leader focused on improving his own security through "balancing" and cooperation. The Conservatist strives to maintain the status quo, while the Revisionist insists on changing the prevailing international order. Values represented by one type conflict with those valued by the other one. Brzezińska also refers in the text to the "leadership paradox". In external relations, leaders often violate moral values that they defend in the life of their own community.

Gérard-François Dumont discusses international migration movements. He points out that, although they attract widespread attention, almost 97% of humanity lives in the country of their origin and goes nowhere. The author analyses the changes that the phenomenon of migration is undergoing today. It is mainly about the transition from settlement migration to diasporic migration. "«Diasporisation» means that immigrants or their descendants, regardless of the reasons for migration, and even if they have retained citizenship of the country of origin, maintain actual or mythologised ties with their homeland and cultivate special relations with immigrants or descendants of immigrants of the same geographical, ethnic, linguistic or religious origin." Rational migration policy requires political leaders to understand the change of the nature of contemporary migration.

Rafał Prostak analyzes the issue of religious freedom and the idea of Church-state separation in the writings of the first Baptists. *Religion's Peace; a Plea for Liberty of Conscience* of 1614 is the first treatise to defend religious freedom written by a Baptist. "The Church is in the world, but is not the world," writes Prostak, "it

functions in areas occupied by individual states, but their borders do not define the scope of the Church. Thus, a state church, with universal (inclusive, virtually obligatory) membership, which the Church of England was intended to be – and its internal struggle, became the setting for the emergence of the Baptist movement – is implicitly a work of man, who sins with a lack of humility towards the Creator's plan. As a result, state church is not and cannot be an authentic Church."

Rev. Piotr Mazurkiewicz analyzes the difference between multicultural society and multiculturalism, referring first to the fact of living in the same territory of communities with a different cultural identity, and the second to the ideology according to which a culturally diverse society is considered better than a culturally homogeneous.

Urška Umek writes about attempts to balance the right to freedom of expression and the right to privacy in the activities of the Council of Europe. The conflict of two values: privacy and freedom of expression, most often occurs in the context of the media. Journalists sometimes violate the privacy of individuals due to the pursuit of fame and money. At the same time, journalistic duties include honestly informing citizens about the activities of public figures, which raises the question of the limits of privacy in the lives of those public figures.

The last two texts are a review of Rod Dreher's book "Benedict's Option" prepared by Rev. Robert Skrzypczak. In his lecture, he is searching the book mostly for a recipe for surviving the time of neopaganism. Bianka Speidl, on the other hand, discusses the conference 'Secularism as a challenge for politics and political science' that took place at the Institute of Political Science of the Cardinal Stefan Wyszyński University in Warsaw on 12-13.12.2019. The speakers were, among others, Joseph Weiler and Fabio Petito.

Bibliography

Benedict XVI (2011), *Address in Reichstag Building*, Berlin, http://www.vatican.va/content/benedict-xvi/en/speeches/2011/september/documents/hf_ben-xvi_spe_20110922_reichstag-berlin.html 05.05.2020.

Radbruch G. (2001), *Rechtsphilosophie. Studienausgabe*, C.F. Müller, Hidelberg.