

LAW AS AN INSTRUMENT OF THE COMMUNIST AUTHORITIES IN THE FIGHT AGAINST ORDERS IN POLAND

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Summary. Law whose noble aim is to protect values important for man, the Nation and the state seen as the common wealth of people forming it, in its history has often been used for the fight against man and used for forceful imposing of systems unaccepted by the Nation. It was instrumentalised, becoming a tool of harm, pressure and planned repression. Instrumental treatment of law may be discerned in the cases when the behaviour of addressees of norms was manipulated in such a way that it raises moral stipulations, finding no grounds in particular either in the protection of rights of other people, or in the character, or the purpose of individual institutions.

Systematic and planned actions of the communist authorities in the Polish People's Republic aimed at limiting the significance of the Catholic Church in social life. To achieve this goal, all available means were used, among them legal regulations which were treated as an important instrument of anticlerical and antimonastic policy. If Catholics in communist Poland in principle were treated as second-class citizens (limited in promotion prospects, even if they were loyal towards the regime), nuns were treated as third-class citizens, incessantly pushed off to the margin of social life, deprived not only of social promotion, but above all of basic civil rights and liberties guaranteed to every Pole by the Constitution. With the help of appropriate interpretation of legal documents the authorities of the state tried to take total control of functioning of orders, their activity and the financial base. Forms of the fight against orders in the Polish People's Republic kept changing. In the sixties, direct coercive action was abandoned, like arrests and show trials which in the assessment of security service officers brought the opposite effect, because they „gave the Church more glory of martyrdom” – whereas harassment of monastic communities with administrative and penal administrative methods was getting more and more widespread. The change of methods did not mean the abandonment of purposes i.e. the liquidation of orders.

Key words: The Catholic Church, convents, repression, sisters, anti-Church policy

The legal situation of the Catholic Church in the Polish People's Republic is very well illustrated in a letter of March 1961 from primate Stefan Wyszyński to Władysław Gomułka, in which we read:

The Church is set up apart from all law, special norms are created as well as instructions and orders hostile to the Church but usually deprived of legal grounds in the Constitution and acts in force. In such a situation”, cardinal Wyszyński wrote, “nothing else remains but again to enumerate the most important forms of lawlessness used towards the Church.

It was unlawful for the school administration to function with the help of the Office for Denominations and security authorities, by means of facts and

pressure on children, parents and teachers, which led to removing religion from 75% schools, in spite of the regulation of the minister of Education, applying until then.

It is unlawful to destroy the remains of Catholic education, against the Agreement of 1950.

It is unlawful to subordinate Higher Episcopal Colleges to the act of 1932, stretched to these institutions with an ordering of the Prime Minister, that is against the constitution of the Polish People's Republic, against the principle of the separation of the Church and the state and against the decree on the freedom of conscience and faith.

It is unlawful to take over the entire property of the Catholic Church in the Western Territories as allegedly former German property, against clear interests of the state in this area.

It is unlawful to create a tax system for church institutions, for Episcopal Curia, seminaries, charity work, church construction.

It is also unlawful for various offices to limit the rights of representatives of the Church and Catholic institutions¹.

Law whose noble aim is to protect values important for man, the Nation and the state seen as the common wealth of people forming it, in its history has often been used for the fight against man and used for forceful imposing of systems unaccepted by the Nation. It was instrumentalised, becoming a tool of harm, pressure and planned repression. The legal position of the Catholic Church in Poland in 1945–1989 can be established on the basis of different fields of law: financial, administrative, constitutional, international, so spheres of public law, and, what is also essential, private law, in particular civil². The resolution of the Provisional Government of National Unity from 12 September 1945 stating the loss of the binding force of the concordat from 1925, simultaneously repealed all acts connected with the concordat, among others the announcement of the Ministry of Justice on the provisions of church law, concerning legal, church and monastic entities. A unilateral termination of the concordat by the communist authorities of People's Poland did not delegalise the Catholic Church, but it is no use searching, both in the very resolution and in later legal documents, for norms precisely determining principles of the relation between state institutions and the Catholic Church³. Also the issue of the legal entity of the Catholic Church as a whole and its organisational units was not determined,

¹ *List prymasa Stefana Wyszyńskiego z dnia 1 marca 1961 r. do Pierwszego Sekretarza KC PZPR*, in: P. Raina, *Kardynał Wyszyński. Czasy prymasowskie 1956–1961*, Warszawa 1994, pp. 152–153.

² *Represje wobec osób duchownych i konsekrowanych w PRL w latach 1944–1989*, ed. A. Grzesko-wiak, Lublin 2004, p. 6.

³ Cf. J. Dziobek-Romański, *Pozycja prawna Kościoła katolickiego w latach 1944–1989*, in: *Prawo i polityka wyznaniowa w Polsce Ludowej. Materiały II ogólnopolskiego sympozjum Prawa Wyznaniowego (Kazimierz Dolny, 26–28 październik 2004)*, ed. A. Mezglewski, P. Stanisławski, M. Ordon, Lublin 2005, pp. 145–164.

except for orders and religious congregations whose legal entity was established based on the decree from 5 August 1949 on the amendment to some provisions of the law on associations. The law constituted in the Polish People's Republic served specific political purposes, was supposed to dispose of people regarded as perilous, but first of all as opponents of the communist regime, and all clergymen and consecrated people were perceived as such.

Instrumental treatment of law may be discerned in the cases when the behaviour of addressees of norms was manipulated in such a way that it raises moral stipulations, finding no grounds in particular either in the protection of rights of other people, or in the character, or the purpose of individual institutions.

If Catholics in communist Poland in principle were treated as second-class citizens (limited in promotion prospects, even if they were loyal towards the regime), nuns were treated as third-class citizens, incessantly pushed off to the margin of social life, deprived not only of social promotion, but above all of basic civil rights and liberties guaranteed to every Pole by the Constitution⁴. „Special discriminatory policy is applied to Orders and Religious Congregations,” primate Wyszyński reprimanded the authorities, „whom after all our Nation and society owe so much in their history”⁵. Nuns were systematically deprived of apostolic activity and free choice of a career, they were denied the possibility of getting education, of using social security benefits such as health care, social insurance or pension benefits, tax regulations were used instrumentally. Planned atheisation afflicted all areas of activity of monastic communities. It assumed the character of institutional-legal solutions. The fight against the activity of orders was held „in all the majesty of the law”⁶.

Primate S. Wyszyński wrote in the letter to B. Bierut on the non-observance of the law by civil servants: „The policy of faits accomplis made by means of the methods which are offensive to a democratic state, is the most painful and touchiest of all, because it discriminates against clergymen. These methods based on bravado and officiousness of some clerks harm law and order directly, because in advance they settle and shatter the possibility of defence and effective appeal, they also cause the Resolution of the Council of the State and the Council of Ministers from 14 December 1950 on considering and settling of appeals and complaints to become a dead letter for this category of wronged citizens. [...] Clergymen are not regarded as rightful citizens”⁷. The episcopate defended monastic life. They knew that the fight against orders had always be-

⁴ Cf. A. Mirek, *Przystosowanie i opór żeńskich zgromadzeń zakonnych wobec władz komunistycznych w Polsce. Zarys problemu*, „Studia z Prawa Wyznaniowego” vol. 15(2012), pp. 217–220.

⁵ *Memoriał Episkopatu do rządu PRL z 15 kwietnia 1959 r.* in: P. Raina, *Kościół w PRL. Kościół katolicki a państwo w świetle dokumentów 1945–1989*, vol. 1, Poznań 1994, p. 700.

⁶ B.W. Zuber, T.M. Bach, *Ograniczenia w realizacji własnego charyzmatu przez instytucje zakonne w okresie rządów totalitarnych w Polsce*, „Roczniki Nauk Prawnych”, vol. 4 (1994), p. 87.

⁷ *List Prymasa S. Wyszyńskiego z 22 maja 1953 r. do Premiera B. Bieruta w sprawie nieprzestrzegania prawa przez urzędników państwowych*, w: P. Raina, *Kościół w PRL*, vol. 1, p. 429.

longed to the main repertoire of the majority of regimes which had ever fought with the Church⁸. As bishops wrote in the memorial to B. Bierut: „The situation of monasteries is one of the most alarming cases in the current position of the Church. Deprived of the possibility on charity field, deprived of remains of monastic properties, tormented with persecution, arrests and numerous committees, monasteries in Poland are in a particular plight”⁹.

The authority, freed from inconvenient fetters of the Concordat, gradually enforced provisions of law, aiming at the liquidation of all external activity of orders. Passed in 1952, the Constitution of the Polish People's Republic in article 82 provided freedom of conscience and faith for citizens. Yet, the programme atheisation was reaching ever-widening circles, because constitutional principles of the religious law subordinated to the main principle of the atheisation of the state were interpreted freely, and provisions of the religious legislation issued on their base, including those concerning orders, infringed the rights and freedoms arising from the Constitution instead of guaranteeing them¹⁰.

The questions of the Episcopate remained unanswered: „Where does such a law exist which gives superior powers the right to throw ceaseless charges at the hierarchy, clergy and calm people? Why should a calmly working man be a worse citizen, can be insulted and publicly admonished with impunity, only because he is a believing citizen, he trusts God and wants to remain under the religious-moral management of the Catholic Church?”¹¹.

To victimise clergymen and consecrated people not only provisions of the criminal procedure were used, often violating not only the right for defence, but also basic human rights, allowing to use tortures in order to extort desired testimonies; also an entire system of legal norms, regulating the organisation and functioning of bodies of the judiciary, was used for victimising¹².

Nuns also stood trials in communist courts, becoming victims of the fight of the atheist state against the Catholic Church. The majority of trials from the first decade of the Polish People's Republic in which nuns were in the dock had a political character. A mass propaganda campaign, saturated with hate, led in the press and on the radio, measured up against defendants, was their distinctive feature. An investigating officer from the Mokotów prison while examining sister Izabela Łuszczkiewicz, when she refused to sign the false statement, said: „you will rot

⁸ *Wspomnienia o współpracy międzyzakonnej Zgromadzeń Zakonnych Żeńskich w Polsce po II wojnie światowej do 1960 r.*, vol. 1, ed. M. A. Łączkówna, Warszawa 1984, p. 31.

⁹ *Pismo z dnia 12 września 1950 r. skierowane do B. Bieruta dotyczące krzywd zadanych Kościołowi*, in: P. Raina, *Kościół w PRL*, vol. 1, p. 260.

¹⁰ M. Pietrzak, *Prawo wyznaniowe*, Warszawa 1993, p. 157.

¹¹ *Memoriał Episkopatu do Rządu PRL o sytuacji Kościoła w Polsce z dnia 15 kwietnia 1959 r.*, in: P. Raina, *Kościół w PRL*, vol. 1, p. 692.

¹² Cf. *Zakony żeńskie w PRL. Prawo instrumentem walki władz komunistycznych z Kościołem i zakonami w Polsce*, ed. A. Mirek, Lublin 2009.

away in prison, because the law is for us, rather than we for the law”¹³. In the period of the Stalinist terror in 1946–1956, over 100 nuns were in prison, and their trials had nothing to do with the judiciary and real judicial proceedings¹⁴.

Repressions against the clergy and nuns in the form of official sentencing them in the legal action were not enough for the authorities. They often resorted to extrajudicial repressions, used mainly by officers of the Office of Public Security. The X 2 action was an example of an extrajudicial action, within which in August 1954 over a thousand of nuns were relocated from the Western Territories and put in eight labour camps created in the provinces of Cracow, Poznań and Bydgoszcz¹⁵. The communist authorities effected acts of terror towards nuns inhabiting the Western Territories and accused them of the German revisionism. It was directed mainly against autochthons, but not only. In the victimised group there were also nuns who arrived from the Eastern Borderlands¹⁶.

The communist authorities never brought official charges against nuns, displaced and kept in labour camps. Provisions of law, applied towards nuns, which the representatives of the Presidium of the Provincial People’s Council in Wrocław, Opole and Katowice referred to in the formal order to leave monastic houses, did not reflect the reality. Both the preliminary archival research and the investigation conducted in this case, demonstrated complete lack of evidence confirming the thesis promoted by the contemporary authorities that nuns’ deeds threatened safety, peace or public order. Also charges of revisionist activity and of conducting the hostile anti-state propaganda, were not backed up with specific evidence confirming their truth. Official letters of protest directed by congregations and representatives of the episcopate of Poland remained unanswered. Not only a lack of official charges against detained nuns was a special way of tormenting them, but above all lack of any prospects for the end of their seclusion. The form of repressions, applied by the communist authorities, which was nuns’ deportation to labour camps, particularly violated principles of personal freedom entitled to every citizen, guaranteed by the Constitution of the Polish People’s Republic, and negated the right of the subject to the freedom of conscience and faith. The criminality of the tactics of action applied by the communist authorities is emphasised by the fact that unlawful imprisonment did not concern single cases, but a group of 1296 people¹⁷.

Nuns’ mass displacement, used by the communist authorities in the Re-gained Territories in August 1954 did not considerably affect the situation of

¹³ J. Żurek, *Prawo jest dla nas, a nie my dla prawa... (duchowieństwo katolickie przed sądami komunistycznymi)*, in: *Represje wobec duchowieństwa Kościołów chrześcijańskich w okresie stalinowskim w krajach byłego bloku wschodniego*, ed. J. Myszor, A. Dziurok, Katowice 2004, p. 138.

¹⁴ Archive of the Institute of National Remembrance in Warsaw, sign.01283/845-846, Materials concerning judiciary and investigation cases, a list of arrested people.

¹⁵ A. Mirek, *Siostry zakonne w obozach pracy w PRL w latach 1954–1956*, Lublin 2009, p. 658.

¹⁶ *Ibid.*, p. 659.

¹⁷ *Ibid.*, p. 659.

monastic life in Poland. However, a series of events which led to the political crisis of 1956 forced the authorities to withdraw from this strategy. The crucial reason, for which communists in autumn 1956 had to withdraw from an earlier established coercive action directed at female orders, was an attitude of the primate of Poland, Card. Stefan Wyszyński, who in the conversation with Gomułka's envoys in Komańcza put the demand to liquidate camps of compulsory labour for nuns and their return to the institutions from which they were removed, as one of the conditions of his return to Warsaw. Thanks to this attitude of the Primate, the fate of nuns displaced as part of the X 2 action and kept in labour camps, stopped being a marginal case, an internal problem of orders, but gained the rank of one of crucial issues, which with the thaw and removal by the new authorities of "committed mistakes and abuses", demanded the immediate repeal and compensation. It is worth emphasising that it was an exception and the only decision of this type of the authorities in the entire communist bloc¹⁸.

The announcement of the Joint Committee of the representatives of the Government and the Episcopate from 8 December 1956 about the principles of regulating mutual relations formally ended the two-year internment of over a thousand of nuns in compulsory labour camps, giving them a possibility of the return to their former institutions¹⁹. However, in practice the realisation of these arrangements came across a lot of problems. Even though the representatives of the party-government authorities so grossly exceeded their entitlements towards religious congregations in 1954, no charges were raised against them and no appropriate measures were taken. This matter was consistently left unsaid for fifty years. Only an investigation undertaken in 2002 at the request of the lawyer, Dariusz Maciejuk, the attorney of Assemblies: of Sisters of St Elizabeth and Sisters of St Jadwiga, by the Institute of National Remembrance, the Department Commission for the Prosecution of Crimes against the Polish Nation in Katowice was the first step on the way to judging and punishing perpetrators. In the conducted investigation, public prosecutor Teresa Kurczabińska filed ten charges against the representatives of the highest state authorities, represented by the contemporary Prime Minister Józef Cyrankiewicz and the director of the Office for Denominations Roman Darczewski and people acting as heads of the Provincial People's Council in Wrocław, Szczepan Jurzak, in Opole, Jan Mrocheń, and in Katowice, Stanisław Stańczyk. The charges brought by prosecutors against the officers of the supreme administration authorities of the Polish People's Republic included among others the charge of exceeding their entitlements by making a decision, ordering the representatives of local authorities and public security officers to imprison 1296 nuns and prevent them from performing tasks arising from the character of their monastic life²⁰. It is worth noticing that the majority

¹⁸ Ibid., p. 660.

¹⁹ Ibid.

²⁰ Ibid., p. 661.

of charges brought by prosecutors were categorised as a communist crime against mankind.

In spite of such an evaluation of these acts, crimes committed towards nuns during the action with the code name X 2 will not be judged, because at the current stage of the proceedings the prosecutor's office has discontinued the investigation, in the face of the death of the chief accused J. Cyrankiewicz, R. Darczewski and on account of exhausting all conceivable evidence, allowing for the establishment and bringing other perpetrators to justice²¹.

A question arises why both religious congregations suffering from deportations and the church side did not demand the compensation for incurred, both moral and huge financial losses from the communist authorities? Why in that reality, which was revealed during the conducted investigation, did wronged sisters unwillingly undertake the cooperation with enforcement agencies? Unfortunately, the collected source material does not give unequivocal answers, but only allows for constructing hypotheses²².

Psychology suggests certain hints and asserts that situations of imprisonment and uncertainty of a more distant fate almost naturally induce people to seeking comfort and hope apart from the reality experienced by them and to driving it out from memory. However, a supernatural motive seems more real than the psychological one. Both deportations and the stay in labour camps were accepted by nuns as experience of faith which gave hope and let refer their own life and suffering to another, not only camp reality²³.

Forms of the fight against orders in the Polish People's Republic kept changing. In the sixties, direct coercive action was abandoned, like arrests and show trials which in the assessment of security service officers brought the opposite effect, because they „gave the Church more glory of martyrdom” – whereas harassment of monastic communities with administrative and penal administrative methods was getting more and more widespread. The change of methods did not mean the abandonment of purposes i.e. the liquidation of orders²⁴.

After a short change in the religious policy, enforced on the communist authorities by the Polish October of 1956, the new authorities returned to the anti-clerical policy immediately after strengthening their positions. In the field of the secularisation of social life in 1959–1963, the party managed indeed to achieve a lot of earlier established purposes, but also the methods which it used were exceptionally ruthless. Reports enumerated in detail how many nuns were „relocated” from hospitals, kindergartens and other institutions, in what way religion

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ *Protokół z posiedzenia Komisji KC ds. Kleru w dniu 26 lipca 1961 r.*, in: *Tajne dokumenty państwo-Kościół 1960–1980*, Londyn 1996, p. 19.

teaching and a possibility of the influence on young people were limited²⁵. The change of tactics of action was often perceived by the society as tempering the course towards the Church and orders. However, it was only an illusion, as for the communist authorities orders had always been an enemy difficult to work out. In the document drawn up in May 1959, as commanded by the Administrative Department of the Central Committee of the Polish United Workers' Party „Information about orders in Poland” it was noticed that activity of orders in People's Poland had not been rightly recognised so far. The party decided to rectify this mistake. However, the main obstacle to the achievement of this objective – in the assessment of security service officers – was a high degree of self-discipline and subordination of orders to Primate Wyszyński's policy²⁶.

In the summer of 1961, during the so-called „July war” – as Primate Wyszyński called the activity of the authorities directed at orders – the decision was made to remove all nuns from social and behavioural institutions run by „Caritas”. The Ministry of Education took over 476 kindergartens attended by 22.5 thousand children and run by nuns from „Caritas”. Kindergartens were taken over along with the premises, mainly owned by monastic communities. The Ministry of Education took over also 50 children's homes run by nuns. All children were put in state institutions. According to the party data, 2129 nuns, remunerated by „Caritas”, were dismissed from kindergartens and children's homes taken over by the state. The communist authorities were highly satisfied with such a solution which considerably reduced the income of orders, as if nuns working mostly where there were no people willing to work, received their salary for free²⁷.

During the meeting of the Central Committee's Commission for Clergy in July 1961, Zenon Kliszko who was known to be a limited dogmatist in the fight against the Church – called for the need to draw up a plan to limit the development of orders or their liquidation. As he noticed, „dismissing nuns from »Caritas« institutions poses a new problem: we will slow down monastic active members who will conduct clerical work. Therefore, it is necessary to consider the matter of quantitative limitation of orders, or their liquidation”. „If we want to lower the inflow of new people to orders”, Sztachelski argued during the next meeting of the Commission of the Central Committee, „one should just deprive them of the right of teaching, looking after, trips abroad, thus lowering attractiveness of their work, which in consequence will decrease the inflow to orders”²⁸.

²⁵ Ibid., p. 22.

²⁶ B. Fijałek, *Partia wobec religii i Kościoła w PRL*, vol. II, part II 1964–1970, Olsztyn 2001, p. 19.

²⁷ Ibid., p. 11.

²⁸ *Protokół z posiedzenia Komisji KC ds. Kleru w dniu 26 lipca 1961 r.*, in: *Tajne dokumenty państwo-Kościół 1960-1980*, p. 36.

The proposal was to begin this action with using tax and housing regulations. Orders painfully felt these unjustified surtaxes. Communities were harassed with taking the monastic property. By surprise, surcharge for the previous years was demanded. Seizing the monastic property was supposed to lead to making monastic communities dependent on the state, to depriving them of the possibility of action and in consequence to the liquidation of orders²⁹.

Systematic and planned actions of the communist authorities in the Polish People's Republic aimed at limiting the significance of the Catholic Church in social life. To achieve this goal, all available means were used, among them legal regulations which were treated as an important instrument of anticlerical and antimonastic policy. With the help of appropriate interpretation of legal documents the authorities of the state tried to take total control of functioning of orders, their activity and the financial base.

PRAWO INSTRUMENTEM WŁADZ KOMUNISTYCZNYCH W WALCE Z ZAKONAMI W POLSCE

Streszczenie. Prawo, którego szlachetnym celem jest ochrona wartości cennych dla człowieka, Narodu i państwa widzianego jako dobro wspólne tworzących go ludzi, często w swojej historii było używane do walki z człowiekiem i wykorzystywane do narzucania siłą ustrojów nieakceptowanych przez Naród. Było zinstrumentalizowane, stając się narzędziem krzywdy, ucisku i zaplanowanej represji. O instrumentalnym traktowaniu prawa można mówić w przypadkach takiego sterowania zachowaniem adresatów norm, które budzi zastrzeżenia moralne, nie znajdując w szczególności uzasadnienia ani w ochronie praw innych osób, ani w charakterze, ani celu poszczególnych instytucji.

Systematyczne i planowe działanie władz komunistycznych w PRL zmierzało do ograniczenia znaczenia Kościoła katolickiego w życiu społecznym. Dla osiągnięcia tego celu wykorzystywano wszelkie dostępne środki, a wśród nich regulacje prawne, które traktowano jako ważny instrument polityki antykościelnej i antyzakonnej. Jeżeli katolicy w komunistycznej Polsce byli z zasady traktowani jak obywatele drugiej kategorii (ograniczani w możliwościach awansu, nawet jeśli zachowali lojalną postawę wobec reżimu), to zakonnice były traktowane jak obywatele trzeciej kategorii, nieustannie spychane na margines życia społecznego, pozbawiane nie tylko możliwości awansu społecznego, ale przede wszystkim podstawowych praw i swobód obywatelskich gwarantowanych przez Konstytucję każdemu Polakowi. Za pomocą odpowiedniej interpretacji aktów prawnych władze państwowe usiłowały przejąć całkowitą kontrolę nad funkcjonowaniem zakonów, ich działalnością i bazą materialną. Formy walki z zakonami w PRL zmieniały się. W latach 60.XX w., zrezygnowano z bezpośrednich działań represyjnych, takich jak aresztowania i procesy pokazowe, natomiast coraz szerszy zasięg przybierało nękanie wspólnot zakonnych metodami administracyjnymi i karno-administracyjnymi. Zmiana metod nie oznaczała rezygnacji z celu, jakim była likwidacja zakonów.

Słowa kluczowe: Kościół katolicki, zakony, represje, siostry zakonne, polityka antykościelna

²⁹ Ibid., p. 22.