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Fides et Ratio (II)

In memory of

Professor Elżbieta Szczot



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Fides et Ratio (II)  
In memory of Professor Elżbieta Szczot

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Part One

# Canon Law



**Malwina Kędracka**

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# Professor Elżbieta Szczot at the John Paul II Catholic University of Lublin (1965–2024) – In Pursuit of Truth: a Scholarly Life Guided by Faith and Reason

**Abstract:** This article is a tribute to and a concise presentation of the scholarly, didactic, and social-organizational activity of Professor Elżbieta Szczot (1965–2024), a long-time staff member of the Faculty of Law, Canon Law and Administration at the John Paul II Catholic University of Lublin. She was an outstanding expert in the field of law, especially canon law, as well as a respected teacher and mentor to many generations of students. The text highlights the key areas of her research interests – from the law of the holy sacraments and the protection of marriage and the family, to issues related to European integration and the specific policies of the European Union. In her pursuit of academic truth, Professor Szczot harmonized faith and reason, remaining until the end a hardworking and humble person. Despite her illness, she did not cease her scientific activity. She passed away on March 10, 2024, in Warsaw, after a long and serious illness.

**Keywords:** Elżbieta Szczot, canon law, political science, family protection, The John Paul II Catholic University of Lublin

# Introduction

Among Polish canon law scholars, one can point to many outstanding individuals – experts in their field, both theorists and practitioners, mentors and educators of generations of university students. However, women remain few in this group, largely due to the fact that, for many years, the study of canon law was reserved for members of the clergy. Over time, this began to change, and canon law gradually became an area of scholarly interest for laypeople – both men and women. Against this backdrop, Elżbieta Szczot stands out as a distinguished figure. She was a student, a doctoral candidate, and later a long-time faculty member of the Faculty of Law, Canon Law, and Administration at the John Paul II Catholic University of Lublin. As a woman, wife, mother, and distinguished scholar, she demonstrated through her life and work that “Faith and reason are like two wings on which the human spirit rises to the contemplation of truth”<sup>1</sup> and that the Catholic Church actively participates in this pursuit. Professor Elżbieta Szczot passed away prematurely. She left behind a significant legacy in the fields of scholarship, teaching, community service, and academic organization – one that places her among the most respected canon law experts, alongside her own mentors. The aim of this article is to present the academic profile of Dr Elżbieta Szczot, Associate Professor at the Catholic University of Lublin, with particular emphasis on her contributions across various areas of academic life.<sup>2</sup>

## Academic Biography

Elżbieta Szczot was born on July 23, 1965, in Brzeg Dolny, near Wrocław, as the daughter of Józef Fojt and Władysława (née Wdowiarz). In 1972, after relocating with her family, she began her education at the primary school in Ropczyce-Witkowice (Sub-Carpathia), which she completed in 1980. She continued her

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<sup>1</sup> John Paul II, *Encyclical Letter Fides et Ratio* (14 August 1998), *Acta Apostolicae Sedis* 91 (1999): 5–88.

<sup>2</sup> This paper does not claim to provide an exhaustive account of the subject presented. For a more comprehensive analysis, the reader is referred to the article by Lidia Fiejdasz-Buczek, “Elżbieta Szczot (1965–2024): W służbie rodzinie, nauce, Kościołowi,” *Studia Prawnicze KUL*, no. 2 (2024): 7–40.

education at the Tadeusz Kościuszko High School in Ropczyce, where she completed her Matura examination on May 31, 1984.<sup>3</sup>

Starting in October 1985, she studied at the Catholic University of Lublin. Between 1985 and 1990, she pursued law studies in the Section of Legal Sciences at the Faculty of Canon and Secular Law of the Catholic University of Lublin, graduating with honours. Her master's thesis, titled *Kredytowanie działalności przedsiębiorstw na przykładzie Banku Depozytowo-Kredytowego w Lublinie i Banku Przemysłowo-Handlowego w Krakowie* [Financing of Business Activities on the Example of the Deposit and Credit Bank in Lublin and the Industrial and Commercial Bank in Kraków], was written at the Department of Financial Law under the supervision of Professor Wanda Wójtowicz.<sup>4</sup>

Already during her law studies, she showed an interest in canon law, particularly the law of the holy sacraments, which was taught by Fr. Prof. Bronisław W. Zubert OFM.<sup>5</sup> It is hard to argue when “faith asks that its object be understood with the help of reason,”<sup>6</sup> which is why Elżbieta Szczot began her studies in canon law in 1990, completing them in 1993. She earned a professional degree of Master of Canon Law and an academic degree of Licentiate in Canon Law based on her thesis titled *Udział wiernych świeckich w uświęcającym zadaniu Kościoła w świetle adhortacji apostoelskiej Jana Pawła II Christifideles laici* [The Participation of Lay Faithful in the Sanctifying Mission of the Church in the Light of the Apostolic Exhortation of John Paul II “Christifideles laici,”] written under the supervision of Fr. Prof. Bronisław W. Zubert OFM.<sup>7</sup>

She began doctoral studies in canon law and was employed at the Department of Sacramental Law as an assistant after completing her master's degree.<sup>8</sup> In 1998, the public defense of the doctoral dissertation titled *Prawo wiernego do Eucharystii według Kodeksu Prawa Kanonicznego z 1983 roku* [The Right of the Faithful to the Eucharist According to the Code of Canon Law of 1983], was conducted under the supervision of Father Prof. Bronisław W. Zubert OFM.<sup>9</sup> On October 1, 2001, she was appointed assistant professor at the Department of Sacramental Law.<sup>10</sup>

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<sup>3</sup> Lech Buczek and Lidia Fiejdasz-Buczek, “Elżbieta Szczot 1965–2024,” in *Profesorowie Prawa Katolickiego Uniwersytetu Lubelskiego Jana Pawła II*, ed. A. Dębiński, J. Misztal-Konecka, W. Sz. Staszewski, and K. Adamczewski, 3rd ed. (Lublin: Wydawnictwo KUL, 2024), 643.

<sup>4</sup> Katolicki Uniwersytet Lubelski Jana Pawła II. “Dr hab. Elżbieta Szczot, prof. KUL.” Accessed May 31, 2025.

<sup>5</sup> Fiejdasz-Buczek, “Elżbieta Szczot,” 10.

<sup>6</sup> John Paul II, *Fides et Ratio*, 42.

<sup>7</sup> KUL, “Dr hab. Elżbieta Szczot.”

<sup>8</sup> Fiejdasz-Buczek, “Elżbieta Szczot,” 11.

<sup>9</sup> KUL, “Dr hab. Elżbieta Szczot.”

<sup>10</sup> Fiejdasz-Buczek, “Elżbieta Szczot,” 13.

On 1 October 2011, to ensure the continuity of teaching and staffing activities at the Institute of European Studies of the Catholic University of Lublin, Prof. Elżbieta Szczot was appointed Head of the Department of Political Science. In this role, her research interests primarily concentrated on the integration processes of Central and Eastern European countries, with a specific emphasis on Ukraine's relations with the European Union. In collaboration with the National University of Ostroh Academy in Volhynia and various scientific centers in Ukraine, a series of Polish-Ukrainian conferences was organized.<sup>11</sup>

In 2011, Elżbieta Szczot was awarded the academic degree of Doctor of Letters in legal sciences, with a specialization in canon law and ecclesiastical family law, based on her scientific achievements and her dissertation titled *Prawo wiernego do Eucharystii według Kodeksu Prawa Kanonicznego z 1983 roku* [Protection of the Family in the Law of the Latin Church]. Two years later, on April 11, 2013, the Congregatio de Institutione Catholica granted her the *nihil obstat* for the position of Associate Professor at the John Paul II Catholic University of Lublin, where she began her tenure in the academic year 2014/2015. On October 1, 2017, Prof. Elżbieta Szczot resumed her duties at the Institute of Canon Law, taking a position at the Department of Canonization Law and the Holy Sacraments. On October 1, 2019, she started her service at the Department of History, General Norms, the Law of the Sacraments, and Institutes of Consecrated Life.<sup>12</sup>

In her scholarly work, Prof. Elżbieta Szczot addressed a broad spectrum of topics, including issues related to the law of the holy sacraments, the subjective rights of the faithful within the structures of the Church, as well as the canonical consequences of the situation of Catholics living in non-sacramental unions. Her research also focused on matters concerning the legal protection of marriage and the family, the functioning of social policy, the issue of poverty in the light of the law and the teachings of the Catholic Church, as well as the regional policy of the European Union.<sup>13</sup> She eagerly shared the results of her research during public appearances. She delivered around 40 lectures at national and international conferences, both in Poland and abroad, including the ones in Germany, Rome, the Czech Republic, Slovakia, and Ukraine.<sup>14</sup> Professor Szczot was deeply inspired by the message of *Fides et Ratio*, which states that "It must not be forgotten that reason too needs to be sustained in all its searching by trusting dialogue and sincere friendship."<sup>15</sup> Accordingly, she maintained extensive and cordial academic

<sup>11</sup> Fiejdasz-Buczek, "Elżbieta Szczot," 15.

<sup>12</sup> KUL, "Dr hab. Elżbieta Szczot."

<sup>13</sup> KUL, "Dr hab. Elżbieta Szczot."

<sup>14</sup> Fiejdasz-Buczek, "Elżbieta Szczot," 17.

<sup>15</sup> John Paul II, *Fides et Ratio*, 33.

relations with scientific centers, both in Poland and abroad. Between 2012 and 2016, she collaborated with the Academy of Canon Law in Brno, and in July 2018 she completed a research internship at the Academy of Orthodox Theology in Lutsk, Ukraine.<sup>16</sup>

Elżbieta Szczot had been honing her language skills since her student years. In 1995, she completed a Level II German language course organized by the Faculty of Theology at the Catholic University of Linz. Her advanced knowledge of the language enabled her to take part in scholarships in Germany and Austria. In August 1998, she participated in the 9th Europäische Sommerakademie in Bonn (Gustav-Stresemann Institut e.V.).<sup>17</sup>

The result of her scholarly inquiries, preserved in a written form, includes two monographs, 17 books, and over 60 peer-reviewed articles, all of which demonstrate a substantive value.<sup>18</sup> The most important monographs are the publications of her doctoral and habilitation theses: *Prawo wiernego do Eucharystii według Kodeksu Prawa Kanonicznego z 1983 roku* [The Right of the Faithful to the Eucharist According to the Code of Canon Law of 1983]<sup>19</sup> and *Ochrona rodziny w prawie Kościoła łacińskiego* [The Protection of the Family in the Law of the Latin Church].<sup>20</sup> The first of the aforementioned publications is currently one of the most frequently cited works in studies on the sacramental life of Catholics, particularly in the context of *Amoris laetitia*. This attests to the timeless relevance of the subject matter she addressed. As for the second one, Fr. Prof. Henryk Stawniak (the editorial reviewer) wrote: “I believe that Ms Szczot has successfully achieved her research objectives, making a valuable and original contribution to the study of the protection of the family in the law of the Latin Church, thereby enriching canon law with a noteworthy scholarly work. The book is a pleasure to read and can be recommended to families, married couples, canon lawyers, and all those who, through the good of the family, wish to contribute to the sanctification of the world.”<sup>21</sup> It is worth noting here that Elżbieta Szczot, together with her doctoral students — Fr. Damian Kwiatkowski and Fr. Wojciech Lech — published a scholarly monograph titled *Prawo sakramentów. Wybór źródeł Kościoła łacińskiego* [The Law of the Sacraments:

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<sup>16</sup> KUL, “Dr hab. Elżbieta Szczot.”

<sup>17</sup> Buczek and Fiejdasz-Buczek, “Elżbieta Szczot 1965–2024,” 644.

<sup>18</sup> Fiejdasz-Buczek, “Elżbieta Szczot,” 24.

<sup>19</sup> Elżbieta Szczot, *Prawo wiernego do Eucharystii według Kodeksu Prawa Kanonicznego z 1983 roku* (Lublin: Towarzystwo Naukowe KUL, 2000).

<sup>20</sup> Elżbieta Szczot, *Ochrona rodziny w prawie Kościoła łacińskiego* (Lublin: Wydawnictwo KUL, 2010).

<sup>21</sup> Henryk Stawniak, “Ochrona rodziny w prawie Kościoła łacińskiego, Elżbieta Szczot, Lublin 2010: [recenzja],” *Seminare. Poszukiwania naukowe* 31 (2012): 329.

a Selection of Sources of the Latin Church],<sup>22</sup> which clearly indicates her openness to collaboration with young researchers. Professor Szczot also reviewed — often *pro publico bono* — articles and other texts for academic journals and publishers, which constituted active participation in the scholarly process and contributed to elevating her profile as an expert in her field. Additionally, she was a member of the scientific committee of the journal *Волинський благовісник* and part of the editorial team of *Vergentis*, a biannual journal published by the Catholic University of Saint Anthony in Murcia, Spain.<sup>23</sup>

Elżbieta Szczot was an active member of numerous prestigious scholarly associations, including the Consociatio Internationalis Studio Iuris Canonici Promovendo based in Rome, the Society for Scientific Initiatives of the Catholic University of Lublin, the Association of Polish Canonists, and the Alumni Association of the Faculty of Canon Law at the John Paul II Catholic University of Lublin. She also served as Chairwoman of the Board of Founders of the *Pro Bono Futuro* Foundation. She was a co-founder and senior member of the Academic Corporation *Custodia*. From 2016 to 2024, she served on the Main Board of the Polish Association for European Studies (Polskie Towarzystwo Studiów Europejskich), where she held the position of Vice President from 2019 to 2024 and, since 2018, served as Coordinator of the Section for European Law and Institutions. At the same time, she headed the Lublin Branch of the Polish Association for European Studies as its President and represented it at the association's national conventions.<sup>24</sup>

In 2019, Prof. Elżbieta Szczot was appointed by the Minister of Science and Higher Education to the advisory team establishing the list of scientific journals and peer-reviewed materials from international conferences in the discipline of canon law. In 2022, she served as an expert for the evaluation of scientific activity within the Science Evaluation Commission operating under the Minister of Education and Science. As of January 1, 2024, she was a member of the Council for Scientific Excellence for the 2024–2027 term, representing the discipline of canon law.<sup>25</sup>

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<sup>22</sup> Elżbieta Szczot et al. (eds.), *Prawo sakramentów. Wybór źródeł Kościoła łacińskiego* (Lublin: Wydawnictwo KUL, 2017).

<sup>23</sup> Fiejdasz-Buczek, “Elżbieta Szczot,” 17.

<sup>24</sup> Fiejdasz-Buczek, “Elżbieta Szczot,” 15.

<sup>25</sup> Buczek and Fiejdasz-Buczek, “Elżbieta Szczot 1965–2024,” 645.

## Teaching Activity

As an academic teacher, Elżbieta Szczot had been continuously affiliated with the John Paul II Catholic University of Lublin since 1993. Over the course of more than 31 years of work, she taught dozens of different subjects. In the canon law program, she conducted courses in *The Law of the Holy Sacraments* (lectures and classes), *The Law of the Sacraments of the Eastern Catholic Churches* (lecture), *Non-Sacramental Acts of Divine Worship and Sacred Times and Places* (lecture), *Sacramental and Non-Sacramental Acts of Worship* (discussion classes), a *Canon Law Proseminar*, as well as *Sacramental Law Seminars* for students and doctoral candidates. For one academic year, she also taught *Law of Religious Institutes*. In the administration and European studies programs, she conducted lectures on *Social and Employment Policy in the EU*, *Social Policy and the Social Insurance System*, *EU Regional Policy*, *Financing and Control of EU Project Expenditures*, *Social Rights in Europe* (discussion classes), as well as *Master's Seminars on Political Science*, *Bachelor's Seminars on Political Science*, and *Doctoral Seminars on Legal Aspects of Regional and Social Policy*. Professor Szczot also included general faculty electives in her teaching portfolio – *Marriage and Family in the Religions of Europe* and *Sacraments of Christian Initiation*. In postgraduate studies, she lectured on *Social Security*, *Labor Law*, and *Civil Service Law*.<sup>26</sup>

Thanks to the research conducted by Prof. Lidia Fiejdasz-Buczek, it is known that the wide range of teaching activities undertaken by Prof. Szczot was positively evaluated during her habilitation proceedings. Reviewer Fr. Prof. Henryk Stawniak pointed out that her teaching activities demonstrate her active involvement “in educating academic youth, her love for this work, and her ability to convey knowledge acquired through many years of scholarly research.”<sup>27</sup> In a similar tone, many years earlier, Fr. Prof. Zubert spoke about the then young lecturer, writing: “Ms Elżbieta Szczot, M.A. [...] conducts her teaching duties with great diligence. [...] The classes she leads are an essential condition for students to grasp the difficult issues of sacramental law. The range of sources she analyzes – primarily documents of the Holy See – is very broad and does not constitute a mere repetition of lectures. She is able to interpret relevant legal norms insightfully, make use of both Polish and foreign canon law literature, and convey her knowledge to students in an accessible manner.”<sup>28</sup>

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<sup>26</sup> KUL, “Dr hab. Elżbieta Szczot.”

<sup>27</sup> Fiejdasz-Buczek, “Elżbieta Szczot,” 15.

<sup>28</sup> Buczek and Fiejdasz-Buczek, “Elżbieta Szczot 1965–2024,” 644.

It can be inferred From the aforementioned opinions that Professor Szczot's teaching methodology aligned with the appeal of John Paul II, who wrote in *Fides et Ratio*: "It is therefore necessary that the believer's reason acquire a natural, true, and ordered knowledge of created reality, of the world and of man, which is also the subject of Divine Revelation; all the more so should reason be able to express this knowledge through concepts and arguments."<sup>29</sup> Not every scholar is a good teacher, and not every teacher is able to excel in scientific research. Professor Szczot's activity in both areas allows us to conclude that she was able to skillfully pass on the knowledge she had acquired to academic youth.

Elżbieta Szczot served as the supervisor of eight doctoral dissertations in the field of legal sciences – five in canon law and three in law. She participated in numerous doctoral and habilitation proceedings, acting as a reviewer or member of the committees. She also supervised master's theses of sixty students, including many from the Czech Republic, Slovakia and Belarus — thirty-four in canon law and twenty-six in European studies. Additionally, she prepared sixteen reviews of master's theses and thirteen reviews of bachelor's theses.<sup>30</sup> From 1998 to 2008, she also lectured at the Higher School of Social Service of Fr. Franciszek Blachnicki in Suwałki.<sup>31</sup>

In her interactions with students, she was open to dialogue. She inquired about their academic interests and suggested interesting and feasible topics for master's theses. She also recommended appropriate literature, which reflected her broad reading and familiarity with recent publications. As an examiner – including examinations qualifying for the ecclesiastical licentiate in canon law – she was demanding. During exams, she evaluated according to the Latin maxim *suum cuique tribuere* ("to give to each their due"). She willingly asked questions to doctoral candidates presenting their research plans at the Institute of Canon Law. In doing so, she demonstrated knowledge that extended far beyond her area of scholarly specialization. Students "remember her as a reliable and conscientious lecturer who was demanding, but above all had a gift for teaching and encouraging young people to deepen their knowledge."<sup>32</sup> She was also "an exceptionally warm and kind person – a true 'Mother' to students and to all who drew from her knowledge and wisdom."<sup>33</sup>

<sup>29</sup> John Paul II, *Fides et Ratio*, 66.

<sup>30</sup> Buczek and Fiejdasz-Buczek, "Elżbieta Szczot 1965–2024," 648.

<sup>31</sup> KUL, "Dr hab. Elżbieta Szczot."

<sup>32</sup> Radio Plus, "KUL: Zmarła śp. prof. Elżbieta Szczot – przyczyniła się do wykształcenia pokoleń prawników i kanonistów." Accessed May 31, 2025.

<sup>33</sup> Marcin Dunaj, "Śp. dr hab. Elżbieta Szczot, prof. KUL (1965–2024)," *Biuletyn Stowarzyszenia Kanonistów Polskich* 34, no. 37 (2024): 347.

## Social and Organizational Activity

The social and organizational activity of Professor Elżbieta Szczot could, in fact, be the subject of a separate study. Here, only selected activities will be presented. First and foremost, it should be noted that Professor Elżbieta Szczot actively participated in the academic life of canon law students. Thanks to her efforts, in 2005, the first Canon Law Students' Academic Circle at the Faculty of Law at the John Paul II Catholic University was established, and she served as its first curator (academic advisor) from 2005 to 2008. In November 2005, together with the Canon Law Students' Circle, she organized a study trip to the headquarters of the Polish Episcopal Conference. The students were received by Bishop Piotr Libera (Secretary of the Polish Bishops' Conference), who delivered a lecture on the work of the Polish Bishops' Conference and discussed with the students the important issue of employment opportunities for canon lawyers in Poland.

A year later, from October 20 to 29, 2006, Elżbieta Szczot, together with the Canon Law Students' Circle, organized a study trip to Rome. The participants took part in a series of meetings and lectures titled *The Structure of the Roman Curia*. They visited, among others, the Congregation for Catholic Education, the Supreme Tribunal of the Apostolic Signatura, the Tribunal of the Roman Rota, and met with Ambassador Hanna Suchocka.<sup>34</sup>

Professor Szczot also made efforts to cultivate among students a remembrance of the deceased Professors of the Faculty. To this end, she twice initiated group visits to the cemetery on Lipowa Street in Lublin (in November 2005 and May 2008). During these visits, students not only paid respects at the graves of the departed but also had the opportunity to tour the cemetery, learn about its history, and explore places of worship located there.

Between 1994 and 1997, Elżbieta Szczot was also actively engaged as a student mentor. For Group A, she organized a visit to the Editorial Office of Publications at our University, where students became familiar with the process of preparing and publishing scholarly works. For Group B (the students studying between 1999 and 2004), she organized a ceremonial graduation event. On June 1, 2004, diplomas were handed out to graduates during a special gathering that included a commemorative address. It was the first time in the history of the Faculty that graduates of the canon law program had been given such a formal send-off.<sup>35</sup>

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<sup>34</sup> KUL, "Dr hab. Elżbieta Szczot."

<sup>35</sup> KUL, "Dr hab. Elżbieta Szczot."

Elżbieta Szczot's social and organizational contributions also included work for the benefit of the Faculty and the University. At the beginning of 2005, thanks to funds she secured, the library of the Chair of the Law of the Holy Sacraments was enriched with new resources. One such acquisition was *Enchiridion familiae. Textos del Magisterio Pontificio y Conciliar sobre el matrimonio y la familia (siglos I–XX)*. Professor Szczot also prepared descriptions for the collection *Monumenta Iuris Canonici* (vol. I–XXVII), commemorating a donation made by The Antonian Association of the Friends of St. Anthony of Padua to the Institute of Canon Law at the John Paul II University of Lublin in 2005.<sup>36</sup>

An important event in the life of the Faculty and the University was the 25th anniversary of the reactivation of law studies and the associated alumni reunion. Professor Szczot actively participated in organizing this celebration, which took place on May 19–20, 2006.<sup>37</sup> Thanks to the research she conducted in various archives, the history of the Faculties of Law and Canon Law was reconstructed. This led to the initial preparation of 40-page brochures in both Polish and English, followed by the publication of a 330-page album-style edition of the *Faculty of Law, Canon Law and Administration Prospectus* (Lublin 2005), as well as its abridged English version (*John Paul II Catholic University of Lublin. A Prospectus of the Faculty of Law, Canon Law and Administration*, Lublin 2006). In 2010, Professor Szczot, together with Lidia Fiejdasz and Piotr Stanisz, prepared an updated version of this prospectus.<sup>38</sup>

What was particularly endearing about Elżbieta Szczot was her rare ability to express gratitude – a virtue increasingly uncommon today. She expressed it in various ways, such as by preparing commemorative books. For Professor Bronisław Zubert, on the occasion of his 65th birthday, she dedicated the volume *Plenitudo legis dilectio* (Lublin 2000), and for his 70th birthday, the volume *Pro iure et vita* (Lublin 2005). Both books were presented during international academic conferences – the first focused on the legal regulation of the sacrament of penance and the second on the *forum externum* and *forum internum* in canon law.<sup>39</sup>

Professor Elżbieta Szczot played a key role in organizing and completing the collection of portraits of the deans of the Faculties of Law at the John Paul II Catholic University of Lublin from 1918 to 2011. She undertook the effort of searching for photographs of the deans both in Poland and abroad, producing prints and enlargements, preparing captions, arranging framing, and transporting the framed

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<sup>36</sup> KUL, “Dr hab. Elżbieta Szczot.”

<sup>37</sup> KUL, “Dr hab. Elżbieta Szczot.”

<sup>38</sup> Buczek and Fiejdasz-Buczek, “Elżbieta Szczot 1965–2024,” 649.

<sup>39</sup> Buczek and Fiejdasz-Buczek, “Elżbieta Szczot 1965–2024,” 650.

portraits. In total, 31 portraits were prepared, which can now be viewed in the Faculty Council Hall.<sup>40</sup> On May 28, 2025, a nationwide scientific conference dedicated to the memory of Prof. Bronisław W. Zubert and Prof. Elżbieta Szczot took place in this very hall. The participants discussed the law of the holy sacraments in the face of contemporary challenges. The event was conceived as the inauguration of a recurring academic series devoted to these distinguished canonists. Among them is Elżbieta Szczot, who was known as “a person of humble, deep faith: in love with her Lord, a ‘disciple of the Master’ and a faithful ‘daughter of the Church.’”<sup>41</sup>

## Conclusion

In the final words of *Fides et Ratio*, John Paul II proclaimed: “May Mary, Seat of Wisdom, be a sure haven for all who devote their lives to the search for wisdom.”<sup>42</sup> Professor Elżbieta Szczot, through the testimony of her life and professional activity, fulfilled this calling. Her contributions were recognized on numerous occasions – she received two individual Rector’s Awards (in 1998 and 2007), as well as several team Rector’s Awards: First Degree (in 2001) and Third Degree (in 2000, 2005, and 2006). In recognition of her service to the nation, she was awarded the Bronze Cross of Merit in 2005 by the President of the Republic of Poland. In January 2024, the Dean of the Faculty of Law, Canon Law and Administration submitted a request to the Rector of the University for the awarding of the Gold Medal for Long Service to Professor Szczot, emphasizing her exceptional professional and social commitment, as well as her attitude that served as an inspiration and model for generations of students and researchers.<sup>43</sup>

The story of Professor Elżbieta Szczot is an example of breaking barriers and setting new paths for women in the world of science. She was the first lay woman employed at the John Paul II Catholic University of Lublin in the field of canon law since its establishment in 1918. She was the first woman in Poland to obtain a doctorate in canon law. She also made history as the first Catholic woman to give a lecture at the Orthodox Theology Academy in Lutsk. Her innovative approach was also evident in her academic research, particularly on the situation of Catholics

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<sup>40</sup> KUL, “Dr hab. Elżbieta Szczot.”

<sup>41</sup> Dunaj, “Śp. dr hab. Elżbieta Szczot,” 347.

<sup>42</sup> John Paul II, *Fides et Ratio*, 108.

<sup>43</sup> Buczek and Fiejdasz-Buczek, “Elżbieta Szczot 1965–2024,” 646.

living in non-sacramental relationships and issues related to the sacraments and political science.<sup>44</sup>

Summing up the inspiring life and achievements of Prof. Elżbieta Szczot, especially in the field of canon law, it must be emphasized that she was a scholar of internationally recognized authority. Students, doctoral candidates, colleagues, and all those who were in personal contact with her could repeatedly witness her academic competence, diligence, and high standards. Her scientific research secures her an honorable place among Polish canonists and brings pride to the Faculty of Law, Canon Law and Administration, as well as to the entire John Paul II Catholic University of Lublin. Professor Szczot balanced her work at the university with her roles as a wife and mother. Despite her debilitating illness, she remained scientifically active until the end of her life. She never gave up her commitment, effort, and systematic approach. Her last works were published after her death in *Philosophy and Canon Law*.<sup>45</sup>

## Bibliography

- Buczek, Lech, and Lidia Fiejdasz-Buczek. "Elżbieta Szczot 1965–2024." In *Profesorowie Prawa Katolickiego Uniwersytetu Lubelskiego Jana Pawła II*, edited by A. Dębiński, J. Misztal-Konecka, W. Sz. Staszewski, and K. Adamczewski, 3rd ed., 643–656. Lublin: Wydawnictwo KUL, 2024.
- Dunaj, Marcin. "Śp. dr hab. Elżbieta Szczot, prof. KUL (1965–2024)." *Biuletyn Stowarzyszenia Kanonistów Polskich* 34, no. 37 (2024): 345–348.
- Fiejdasz-Buczek, Lidia. "Elżbieta Szczot (1965–2024): W służbie rodzinie, nauce, Kościołowi." *Studia Prawnicze KUL* 2, no. 2 (2024): 7–40.

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<sup>44</sup> Fiejdasz-Buczek, "Elżbieta Szczot," 31.

<sup>45</sup> Elżbieta Szczot, "Between Entitlement and Limitation of the Right to Sacraments During the SARS-CoV-2 Pandemic. Internet as a Means of Transmission and Communication with the Faithful," *Philosophy and Canon Law* 9, no. 2 (2023): 1–21; Elżbieta Szczot, "Ginter Dzierżon, *Dyspensacja w kanonicznym porządku prawnym. Studium prawnohistoryczne [Dispensation in the Canonical Legal Order: a Legal and Historical Study]*. Warszawa: Wydawnictwo Naukowe UKSW, 2020, pp. 186," *Philosophy and Canon Law* 9, no. 2 (2023): 1–4; Elżbieta Szczot, "Mirosław Chmielewski, Małgorzata Nowak, Piotr Stanisław, Justyna Szlich-Kałuża, and Dariusz Wadowski, *Komunikacja Kościoła Katolickiego w Polsce w okresie pandemii COVID-19. Raport z badań interdyscyplinarnych [Communication of the Catholic Church in Poland During the COVID-19 Pandemic. Interdisciplinary Research Report]*. Kraków: Wydawnictwo 'Scriptum', 2022, pp. 326," *Philosophy and Canon Law* 9, no. 2 (2023): 1–4.

- John Paul II. *Encyclical Letter Fides et Ratio*. 14 August 1998. *Acta Apostolicae Sedis* 91 (1999): 5–88.
- Katolicki Uniwersytet Lubelski Jana Pawła II. “Dr hab. Elżbieta Szczot, prof. KUL.” Accessed May 31, 2025.
- Szczot, Elżbieta et al. *Prawo sakramentów. Wybór źródeł Kościoła łacińskiego*. Lublin: Wydawnictwo KUL, 2017.
- Radio Plus. “KUL: Zmarła śp. prof. Elżbieta Szczot – przyczyniła się do wykształcenia pokoleń prawników i kanonistów.” Accessed May 31, 2025.
- Stawniak, Henryk. “Ochrona rodziny w prawie Kościoła łacińskiego, Elżbieta Szczot, Lublin 2010: [recenzja].” *Seminare. Poszukiwania naukowe* 31 (2012): 327–329.
- Szczot, Elżbieta. *Prawo wiernego do Eucharystii według Kodeksu Prawa Kanonicznego z 1983 roku*. Lublin: Towarzystwo Naukowe KUL, 2000.
- Szczot, Elżbieta. *Ochrona rodziny w prawie Kościoła łacińskiego*. Lublin: Wydawnictwo KUL, 2010.
- Szczot, Elżbieta. “Between Entitlement and Limitation of the Right to Sacraments during the SARS-CoV-2 Pandemic. Internet as a Means of Transmission and Communication with the Faithful.” *Philosophy and Canon Law* 9 (2023): 1–21.
- Szczot, Elżbieta. “Ginter Dzierżon, *Dyspensa w kanonicznym porządku prawnym. Studium prawno-historyczne*. [Dispensation in the Canonical Legal Order: A Legal and Historical Study] Warszawa: Wydawnictwo Naukowe UKSW, 2020, pp. 186.” *Philosophy and Canon Law* 9, no. 2 (2023): 1–4.
- Szczot, Elżbieta. “Mirosław Chmielewski, Małgorzata Nowak, Piotr Stanisław, Justyna Szlich-Kałuża, and Dariusz Wadowski, *Komunikacja Kościoła Katolickiego w Polsce w okresie pandemii COVID-19. Raport z badań interdyscyplinarnych*. [Communication of the Catholic Church in Poland During the COVID-19 Pandemic. Interdisciplinary Research Report]. Kraków: Wydawnictwo ‘Scriptum,’ 2022, pp. 326.” Kraków: Wydawnictwo ‘Scriptum,’ 2022, pp. 326.” *Philosophy and Canon Law* 9, no. 2 (2023): 1–4.

Malwina Kędracka

Professoressa Elżbieta Szczot presso l’Università Cattolica Giovanni Paolo II di Lublino (1965–2024) – Alla ricerca della verità :  
una vita accademica guidata dalla fede e dalla ragione

#### Résumé

Cet article rend hommage à l’activité scientifique, didactique et socio-organisationnelle de la professeure Elżbieta Szczot (1965–2024), membre de longue date de la Faculté de droit, de droit canonique

et d'administration de l'Université catholique Jean-Paul II de Lublin, et en présente une synthèse. Elle était une experte éminente dans le domaine du droit, en particulier du droit canonique, ainsi qu'une enseignante et une mentor respectée par de nombreuses générations d'étudiants. Le texte met en évidence les principaux domaines de ses intérêts de recherche, allant du droit des sacrements et de la protection du mariage et de la famille aux questions liées à l'intégration européenne et aux politiques spécifiques de l'Union européenne. Dans sa quête de la vérité académique, le professeur Szczot a su harmoniser la foi et la raison, restant jusqu'à la fin une personne travailleuse et humble. Malgré sa maladie, elle n'a pas cessé son activité scientifique. Elle est décédée le 10 mars 2024 à Varsovie, après une longue et grave maladie.

**M o t s - c l é s :** Elżbieta Szczot, droit canonique, sciences politiques, protection de la famille, Université catholique Jean-Paul II de Lublin

Malwina Kędracka

## Professeure Elżbieta Szczot à l'Université catholique Jean-Paul II de Lublin (1965–2024) – À la recherche de la vérité: une vie universitaire guidée par la foi et la raison

### Sommario

Questo articolo è un omaggio e una presentazione sintetica dell'attività accademica, didattica e socio-organizzativa della professoressa Elżbieta Szczot (1965–2024), membro di lunga data della Facoltà di Giurisprudenza, Diritto Canonico e Amministrazione dell'Università Cattolica Giovanni Paolo II di Lublino. Era un'eccezionale esperta nel campo del diritto, in particolare del diritto canonico, nonché un'insegnante e mentore rispettata da molte generazioni di studenti. Il testo mette in evidenza le aree chiave dei suoi interessi di ricerca: dal diritto dei sacramenti e la tutela del matrimonio e della famiglia, alle questioni relative all'integrazione europea e alle politiche specifiche dell'Unione Europea. Nella sua ricerca della verità accademica, la professoressa Szczot ha armonizzato fede e ragione, rimanendo fino alla fine una persona laboriosa e umile. Nonostante la malattia, non ha mai cessato la sua attività scientifica. È deceduta il 10 marzo 2024 a Varsavia, dopo una lunga e grave malattia.

**P a r o l e c h i a v e :** Elżbieta Szczot, diritto canonico, scienze politiche, protezione della famiglia, Università Cattolica Giovanni Paolo II di Lublino



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## About *Fides et Ratio*: Theological, Philosophical and Legal Reflections

**A b s t r a c t:** The dialogue between revealed Faith and Reason, i.e. between Theology and Philosophy, was initiated by St. Paul the Apostle, the one to whom the Lord's revelation on his way to Damascus was granted. This is how Saul's conversion to faith started. (*Acts* 9:3–20) This dialogue was made possible by the fact that the Apostle to the Gentiles had both a theological training with a rabbinic formation, and good familiarity with ancient Greek philosophy. It is not surprising, therefore, that the one whom God called the “chosen vessel” to bear the name of the Lord before “the Gentiles and their kings and to the people of Israel” (*Acts* 9:15) was also privileged to have his first debates with the pagan philosophers of his time. From the pages of this work – with their theological, philosophical and juridical content – the reader will be able to see that a dialogue between theology and philosophy cannot be conducted from the perspective of one of the two, that is from the perspective of religious faith or reason, but only through a syntony, that is through a joint concentration of the efforts of the servants of the two fields to discover and make explicit the revealed Truth. Some theologians and philosophers through their works on the dialogue between Theology and Philosophy have remained in the history of theological and philosophical culture as names of reference. Pope John Paul II has a special place among these theologians and philosophers. He managed to offer us a Theology of the dialogue between Faith and Reason through his pragmatic approach to enhancing the dialogue between Theology and Philosophy and through the statements in the texts of his papal *Apostolic Exhortation, Encyclicals, Messages*, etc. As a leading exponent of the approach to the renewal of the dialogue between Theology and Philosophy, the Roman Pontiff also contributed to the awareness of the urgent need to reconcile the two fields of theology and philosophy. It enables us to understand and express the Truth both through faith and through the contribution of reason, as the text of his Encyclical Letter *Fides et Ratio* amply confirms.

**Key words:** faith, reason, theology, philosophy, dialogue

# Introduction

One year after the publication of the Encyclical *Fides et Ratio*, Oxford University Press published a monumental collective work entitled *Faith and Reason*, edited by Paul Helm, who in his “Preface” stated that “*Faith and Reason* is an attempt to display in historical perspective some of the rich dialog and dialectic between faith and reason, and to show that this is part of the warp and woof of Western philosophy.”<sup>1</sup> But as will also be seen from the considerations and evaluations that I have presented on the pages of this paper on Pope John Paul II’s Encyclical *Fides et Ratio*, accompanied by some excerpts from the text, its content and approach are different from those of the book published in Oxford in 1999. The editorial team included some outstanding scholars who give the impression that they are strangers to “divine science”, which is Theology, and even more so to the Gospel of Christ, which is indeed the “hope of Europe” and humanity.

The 25th anniversary of the publication of the Encyclical *Fides et Ratio* has also provided an opportunity for theologians “to identify potential areas for defending the rationality of the Christian faith”<sup>2</sup>, and to point out the fact that “the exceptional opening of the Church to science occurred during the pontificate of John Paul II, who emphasized not only the necessity and possibility of dialogue between the Church and the sciences but also sought to define its subject matter and conditions more precisely”<sup>3</sup>. Andrzej Anderwald claimed that *Fides et Ratio* “continues to inspire the search for new forms of interaction between faith and reason within the Church’s openness to science and theology’s dialogue with other disciplines”<sup>4</sup>. Hence he concludes that “the dialog between theology and other sciences is crucial for justifying the rationality of faith”<sup>5</sup>. According to the teaching of the Apostle of the Gentiles, Paul of Tarsus in Cilicia, the knowledge of God means “the knowledge of the truth” (*I Timothy* 2:3–4) revealed by God (*Revelation* 1:1), but for the “revealing of the truth” (*II Corinthians* 1:2), “God has been revealed in the flesh” (*II Timothy* 1:10; *Hebrews* 9:8, 26; *I Peter* 1:20; *I John* 1:2, etc.).

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<sup>1</sup> P. Helm, ed., “Preface”, in *Faith and Reason* (Oxford/New York: Oxford University Press, 1999).

<sup>2</sup> A. Anderwald, “In Defense of the Rationality of Faith: the Relevance of the Encyclical Letter *Fides et Ratio*”, in *Poznańskie Studia Teologiczne* 46 (2024): 39.

<sup>3</sup> Anderwald, “In Defense of the Rationality of Faith: the Relevance of the Encyclical Letter *Fides et Ratio*”, 42.

<sup>4</sup> Anderwald, “In Defense of the Rationality of Faith: the Relevance of the Encyclical Letter *Fides et Ratio*”, 49.

<sup>5</sup> Anderwald, “In Defense of the Rationality of Faith: the Relevance of the Encyclical Letter *Fides et Ratio*”, 49.

In order to be endowed with this knowledge, “God, ..., freely created man to make him share in his own blessed life.”<sup>6</sup> The man is a rational being that has this freedom as one of spiritual powers making up “the image of God” (*Genesis* 1:27), that is “the image of the heavenly one” (*I Corinthians* 15:49) which has given him the possibility of becoming divine and attaining immortality. This freedom is first and foremost – according to the biblical text – a gift of God and a presence of the Holy Spirit in the human heart because only where “the Spirit of the Lord is, there is freedom” (*II Corinthians* 3:17). Indeed, only the man, the human being in which dwells the Spirit of the Lord, is a free one, and only this one “seeks the truth” and “lives by belief.”<sup>7</sup>

According to the teaching of the Catechism of the Catholic Church, “the person who seeks God discovers certain ways of coming to know him. These are also called proofs for the existence of God, not in the sense of proofs in the natural sciences, but rather in the sense of converging and convincing arguments, which allow us to attain certainty about the truth.”<sup>8</sup> There are two ways of knowing God, namely the way of faith and the way of reason, because “man stands in need of being enlightened by God’s revelation, not only about those things that exceed his understanding, but also about those religious and moral truths.”<sup>9</sup> In his Encyclical Letter *Fides et Ratio*, Pope John Paul II pointed out that without the perspective offered by Divine Revelation “the mystery of personal existence remains an insoluble riddle”<sup>10</sup>, and that “faith alone makes it possible to penetrate the mystery in a way that allows us to understand it coherently.”<sup>11</sup>

In other words, the dialogue between Theology and Philosophy can only be carried out from the perspective of Divine Revelation, which can only be understood through Faith. However, in the process of defining and clarifying the truths of faith, the man also needs the contribution of Reason, hence the need to renew and strengthen this dialogue. The same Roman Pontiff recognized that “there are religious truths which are to some degree grounded in philosophy, and which we find in the answers which the different religious traditions offer to the ultimate questions.”<sup>12</sup>

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<sup>6</sup> *Catechism of the Catholic Church*, revised in accordance with the official Latin text promulgated by Pope John Paul II. Washington, 2019, 9.

<sup>7</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 31.

<sup>8</sup> *Catechism of the Catholic Church*, II, 31: 14–15.

<sup>9</sup> *Catechism of the Catholic Church*, II, 31: 16.

<sup>10</sup> *Catechism of the Catholic Church*, II, 31: 12.

<sup>11</sup> *Catechism of the Catholic Church*. No. 13.

<sup>12</sup> *Catechism of the Catholic Church*. No. 30.

Faith is indeed the only way to “sharpen the inner eye, ..., to discover ... the workings of Providence”<sup>13</sup>, and thus to know Him who “made all things in heaven and on earth” (*Colossians* 1:16). A psalm of David tells us that “the vault of heaven”, that is the firmament, the starry heaven (cf. *Genesis* 1:8), “proclaims his handiwork” (*Psalms* 19:1). As for the Christian faith, St. John Chrysostom told his contemporaries that it is not “from us” because “if Christ had not come and called us, how could we have believed?”<sup>14</sup> The Christian faith is indeed a gift from God (cf. *Romans* 10:14; *I Corinthians* 12:9), namely from the One who was crucified, resurrected in Jerusalem, and was preached, formulated and made explicit so that people might know and understand it.

The Apostle Paul tells us that only the man who has a pure and uncorrupted mind (*δίανοία*), can reach the “things above, not on earthly things” (*Colossians* 3:2), since he received the gift of “wisdom” and “knowledge” which are the grace of the Holy Spirit (*I Corinthians* 12:8; *II Corinthians* 4:6; 8:7). We can acquire “the knowledge of Him who called us to glory” (*II Peter* 1:3) and, *ipso facto*, to the knowledge of “the truth” (*Romans* 2:20; *I Corinthians* 1:5, etc.). The same Apostle of Christ advised the Romans, the Corinthians, and the Ephesians that they should no “longer live as the Gentiles do, in the futility of their thinking” (*Ephesians* 4:17), since these ones “are darkened in their understanding and separated from the life of God because of the ignorance that is in them due to the hardening of their hearts.” (*Ephesians* 4:18) That the ignorance is “the mother of all wickednesses” (Evagrius Ponticus) was also recognized by philosophers.

According to the teaching of the ecumenical Church, God alone is “the True One” (*Romans* 3:14) and his law is true (cf. *Psalms* 119:142). Therefore, we Christians are called to live in the truth (cf. *Matthew* 5:37) and to live a life of faith, since only “*by faith*, man completely submits his intellect and his will to God.”<sup>15</sup> The same teaching tells us that “believing is possible only by grace and the interior helps of the Holy Spirit”<sup>16</sup>, and that “trusting in God and cleaving to the truths he has revealed are contrary neither to human freedom nor to human reason”<sup>17</sup>. In the act of faith, the mind and will of the man work together with the grace of the Holy Spirit. It is attested by some theologian-philosophers, such as Thomas Aquinas, who affirmed that faith “rests on the first truth (*fides innititur primae veritati*).”

<sup>13</sup> *Catechism of the Catholic Church*. No. 16.

<sup>14</sup> Apud I. Mircea, *Dicționar al Noului Testament* (Bucharest: Publishing House IBMBOR, 1995), 107.

<sup>15</sup> *Catechism of the Catholic Church*, III, 143:39.

<sup>16</sup> *Catechism of the Catholic Church*, III, 154: 42.

<sup>17</sup> *Catechism of the Catholic Church*, III, 154: 42.

(Art. 2, 2)<sup>18</sup> It also “perceives the unseen things of God ... in a way higher than natural reason.” (Art. 3, 3)<sup>19</sup> The same theologian added the clarification that “it is superfluous to accept by faith what can be known by natural reason.” (Art. 4, 1)<sup>20</sup> Hence, the statement of some theologians that Thomas Aquinas did not adopt Aristotelian philosophy, were reintroduced in Western Europe around the beginning of the 12th century in order to reconcile it with the Christian faith, or “to explain and defend faith.”<sup>21</sup>

According to the statements made by Thomas Aquinas, “science and faith are not about the same thing, ..., for science is about all that can be known by natural reason” (Art. 4, 2)<sup>22</sup>, but “it is necessary for man to accept by the mode of faith not only those things which are beyond reason, but also those things which can be known by reason.” (Art. 4, 3)<sup>23</sup> The renowned theologian stated, however, that “human reason is very deficient in regard to divine things, and the proof of this is that philosophers, who scrutinize by a natural investigation of human things, have erred.”<sup>24</sup> Therefore, he opined that “the divine” should be transmitted to men “by the mode of faith, as if spoken by God.” (Art. 4, 3)<sup>25</sup> The same western scholar, Thomas Aquinas, affirmed that the “light of faith” is “infused into man by the divine way” (Art. 3, 3)<sup>26</sup>, and known through the illumination of the power of divine grace, and not through natural reason.

On September 14, 1998, Pope John Paul II published the Encyclical Letter *Fides et Ratio*, in which among other things the Roman Pontiff asserted that “faith and reason are like two wings on which the human spirit rises to the contemplation of truth”<sup>27</sup>, and by this, we arrive to the knowledge of God by which we, the men, “may also come to the fullness of truth”<sup>28</sup> about ourselves. On October 16, 2008, on the occasion of the 10th anniversary of the publication of Pope John Paul II’s Encyclical *Fides*

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<sup>18</sup> Tomas de Aquino, *Summa Theologica*, III (IIa IIae), trans. S. Avram *et al.* (Iași: Publishing House Polirom, 2016), 27.

<sup>19</sup> de Aquino, *Summa Theologica*, III (IIa IIae), 29–30.

<sup>20</sup> de Aquino, *Summa Theologica*, III (IIa IIae), 30.

<sup>21</sup> C. Setiawan, “The Dialogue Between Faith and Reason According to John Paul II and Thomas Aquinas,” *FORUM Filsafat dan Teologi* 2 (2023): 72.

<sup>22</sup> de Aquino, *Summa Theologica*, III (IIa IIae), 30.

<sup>23</sup> de Aquino, *Summa Theologica*, III (IIa IIae), 30.

<sup>24</sup> de Aquino, *Summa Theologica*, III (IIa IIae), 30.

<sup>25</sup> de Aquino, *Summa Theologica*, III (IIa IIae), 30.

<sup>26</sup> de Aquino, *Summa Theologica*, III (IIa IIae), 29.

<sup>27</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.*

<sup>28</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.*

*et Ratio*, Pope Benedict XVI said that it “enables one to perceive admirably its lasting topicality; it reveals the farsighted depth of my unforgettable Predecessor.”<sup>29</sup>

From the same festive speech of Pope Benedict XVI – who proved himself to be an outstanding theologian, and who also valued the role of philosophy in the dialogue with Theology, like his illustrious predecessor Pope John Paul II – we also learn that “there exists a truth” that reason “will never be able to discover based solely on itself.”<sup>30</sup> It is of course about “the truth of Revelation” which “does not superimpose the truth achieved by reason; rather, it purifies and exalts reason, thereby enabling it to broaden its horizons to enter into a field of research as unfathomably expansive as mystery itself.”<sup>31</sup>

The same Roman Pontiff pointed out that both reason, which is “strong in its autonomy and its rich intellectual tradition”<sup>32</sup>, and faith in the revealed Truth, can find a common way to understand and serve “true Philosophy”, that is “the truth of Revelation”<sup>33</sup>, which St. Paul the Apostle proclaimed in the Aeropagus of Athens. Finally, Pope Benedict XVI also pointed out that “Science ... is unable to work out ethical principles; it can only accept them and recognize them as necessary to eradicate its potential pathologies. In this context, philosophy and theology become indispensable aids ... in maintaining vigilance about the sense of responsibility that reason possesses in regard to science, so that it stays on track in its service to the human being.”<sup>34</sup>

## On Knowledge of God by Faith and Reason

From the witness of Holy Scripture, we know that God called Himself “The One who is” (*Exodus* 3:14), that is an eternal existence (cf. *Revelation* 1:8; 4:3). The same biblical witness tells us that “God is Spirit”, and as such we have a duty to worship

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<sup>29</sup> Benedict XVI. *Address of His Holiness to Participants in a Congress Held on the Occasion of the 10th Anniversary of the Publication of Pope John Paul II’s Encyclical Fides et Ratio.*

<sup>30</sup> Benedict XVI. *Address of His Holiness to Participants in a Congress Held on the Occasion of the 10th Anniversary of the Publication of Pope John Paul II’s Encyclical Fides et Ratio.*

<sup>31</sup> Benedict XVI. *Address of His Holiness to Participants in a Congress Held on the Occasion of the 10th Anniversary of the Publication of Pope John Paul II’s Encyclical Fides et Ratio.*

<sup>32</sup> Benedict XVI. *Address of His Holiness to Participants in a Congress Held on the Occasion of the 10th Anniversary of the Publication of Pope John Paul II’s Encyclical Fides et Ratio.*

<sup>33</sup> Benedict XVI. *Address of His Holiness to Participants in a Congress Held on the Occasion of the 10th Anniversary of the Publication of Pope John Paul II’s Encyclical Fides et Ratio.*

<sup>34</sup> Benedict XVI. *Address of His Holiness to Participants in a Congress Held on the Occasion of the 10th Anniversary of the Publication of Pope John Paul II’s Encyclical Fides et Ratio.*

Him “in the spirit (ἐν πνεύματι)” and “truth (ἀληθεία)” (*John* 4:24). The same evangelist of the New Testament, St. John the Apostle, tells us that “God is light” (*John* 8:12; *I John* 1:5) and “love.” (*I John* 4:8) We, humans, can know God, as far as we are able, through the power of faith and reason. But, as biblical theologians also warn us, “God cannot be known in his being and deity, but only through his works and manifestations in the world.”<sup>35</sup>

In the words of the Holy Scriptures, “the knowledge of God” (*Ephesians* 1:17; *Colossians* 1:10), or the knowledge of the mystery of God (*Colossians* 2:2), is an innate ability of the human being (cf. *Matthew* 7:16–20; *Luke* 10:22; *John* 4:1; 5:42; *Romans* 5:19–21), offered by God (cf. *I Corinthians* 12:8; *II Corinthians* 4:6; 8:7), by means of which the man can attain “true knowledge” (*Colossians* 3:10), and *ipso facto* the “knowledge of salvation” (*Luke* 1:77), and of “the truth” (*Romans* 2:20; 11:33; *I Corinthians* 1:5; 7:1, etc.), and which is entirely distinct from “lying knowledge (ἐπίγνωσις).” (*I Timothy* 6:20) The same biblical text tells us that it is only through true knowledge, conditioned by living, working faith as a gift of the Holy Spirit (*I Corinthians* 12:9) that the man can understand the truths of faith. They cannot be understood rationally, for it is only by faith – defined by the Holy Apostle Paul as “blessings that we hope for” or use to “prove the existence of the realities that at present remain unseen.” (*Hebrews* 11:1) That is how we receive the grace of Christ.

Regarding the knowledge of faith, St. Paul tells us that it comes from hearing “God’s message” (*I Thessalonians* 2:13) which we find in the text of the Holy Scriptures, and that is why we must remain “in the faith of the truth” (*II Thessalonians* 2:13). But the Gospel of Christ does not come “merely in words alone but also in power and in the Holy Spirit with profound conviction.” (προφορία πολλῆ) (*I Thessalonians* 1:5). It is precisely this profound conviction that gives our faith its foundation in divine Revelation, which we must understand “in the light of the teaching of Scripture and of the entire Patristic tradition.”<sup>36</sup>

Bearing in mind the social realities and the mentality of the society in which mankind found itself at the end of the second millennium, Pope John Paul II made it clear that in “everyday life, ... each one of us is preoccupied by the pressure of a few fundamental questions”<sup>37</sup>, and that “there are religious truths which are to some degree grounded in philosophy.”<sup>38</sup> As it is defined by the ancient philosophers,

<sup>35</sup> Mircea, *Dictionar al Noului Testament*, 145.

<sup>36</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 8.

<sup>37</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 29.

<sup>38</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 30.

Philosophy is “the knowledge of divine and human things” (Pythagoras), “the art of the arts and the science of the sciences” (Aristotle), as well as “the likeness of the Divine” (Plato).

In the words of Plotinus (3rd century), “it was the blessed philosophers ... who discovered knowledge” (Aeneid, III, VII, 1), that is the knowledge of divine and human things. But the philosophers, those of yesterday and today, as the founder of Neoplatonism pointed out, are “but the exegetes of those ancient doctrines” (Aeneid, VII, 1, 9). A reputed 6th century Christian philosopher David, a native of Armenia, also reiterated that Philosophy is the “man’s striving to be like the Divine”<sup>39</sup>, and “he who strives to be like the Divine wants it both through knowledge and practicality.”<sup>40</sup> He wishes “to bring man’s character into harmony and to ensure the harmony of his being by cultivating the virtues.”<sup>41</sup> He also added that “the philosopher wishes both through knowledge and practice to imitate the Divine as far as it is possible for man to do.”<sup>42</sup>

As for imitating the Divine, David, the 6th century Christian philosopher, took Plato’s statement and the words “as far as it is possible for man to do.” Since these words were also reproduced in the text of their works by some Arabic-speaking Muslim philosophers of the 9th–12th centuries, it shows that they were accustomed to ancient philosophy and *ipso facto* to the knowledge of divine and human things. In fact, the works of the ancient Greek-language philosophers had been translated into Syriac before the advent of Islam, but these continued into the second phase of the history of the Caliphate (661–750), in which the Islamic state, which incorporated Mesopotamia, central and western Iran, Syria and Egypt, was ruled by the Umayyad dynasty. During the existence of the Abbasid dynasty (750–1250)<sup>43</sup>, Hārūn al-Rashīd (786–809), “the best-known ‘Abbasid’ sovereign figure”<sup>44</sup>, entered “the legend of the Thousand and One Nights”<sup>45</sup> and became “known in Europe for his relations with the Byzantine Empress Irina and Charles the Great.”<sup>46</sup>

With the conquest of Syria, the Arabs were to become neighbours of the Byzantines, which also helped to promote cultural contacts between the two worlds,

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<sup>39</sup> David, *Introduction to Philosophy*, trans. L. Liiceanu (Bucharest: Publishing House Academiei R.S.R., 1977), 101.

<sup>40</sup> David, *Introduction to Philosophy*, 101.

<sup>41</sup> David, *Introduction to Philosophy*, 101.

<sup>42</sup> David, *Introduction to Philosophy*, 100.

<sup>43</sup> V. Ciocîltan, “Arabii și Islamul până în secolul al XIII-lea II. Expansiunea islamică,” in *Analele Universității Dunărea de Jos din Galați. Seria Istorie* 2 (2003): 49.

<sup>44</sup> Ciocîltan, “Arabii și Islamul până în secolul al XIII-lea II. Expansiunea islamică,” 59.

<sup>45</sup> Ciocîltan, “Arabii și Islamul până în secolul al XIII-lea II. Expansiunea islamică,” 59.

<sup>46</sup> Ciocîltan, “Arabii și Islamul până în secolul al XIII-lea II. Expansiunea islamică,” 59.

i.e. the Byzantine, Christian, and the Arab, Islamic. These contacts also contributed to the translation of works of the ancient Greek philosophers by some clerics of the Jacobite Syrian Christian Church. This practice of translating the works of ancient Greek-speaking philosophers was to culminate in the translations made by some clerics of the Jacobite Church in the 9th century, as was the case of *Abū Zakariyā' ibn Adī* (893–974), a Jacobite Christian philosopher noted in the literature as “a famous translator of the works of Aristotle.”<sup>47</sup>

The translations of Aristotle’s works into Arabic had thus been preceded by those made into Syriac by some Christian clerics who had studied ancient philosophy. It served as a source of documentation and study for Arabic-speaking philosophers. One of these philosophers was Al-Fārābī († 950/951), who came into contact with Aristotle’s works through Christian clerics while studying in Baghdad, where he became acquainted with both Aristotelian and Neoplatonist philosophy. But with the help of philosophy, Al-Fārābī also discovered the finitudes or limits of human knowledge, which led him to admit that the Koranic text, which – according to Muslim theologians – constituted “the first foundations of the divine religions”<sup>48</sup>, i.e. of the two monotheistic religions (Mosaic and Christian). Koranic text, therefore, can only be known through the two ways of knowledge, i.e. through faith and reason, but, according to Al-Fārābī, reason is “the highest possible form of happiness: just as the divine mind rules the universe, man must be ruled by reason.”<sup>49</sup> He took a stand for “the primacy of reason and Philosophy”<sup>50</sup> over Muslim Theology.

Another Arabic-speaking philosopher, Ibn Sina (Avicenna) (980–1037), a Persian born in today’s Uzbekistan, wrote a work entitled “Kitab al-hudud” (*Book of Definitions*), which had “an enormous influence on the most important scholastic debates of the 13th and 16th centuries.”<sup>51</sup> This enormous influence was connected with the fact that Avicenna<sup>52</sup> made Aristotelian philosophical thought available to the West and had a decisive impact on Thomas Aquinas, “who took up some Avicenna’s ideas in Catholic theology, including the distinction between essence and existence. This distinction would become one of the foundations of Thomistic philosophy, *De ente et essential*, being tributary to a large extent to Avicenna’s thought.”<sup>53</sup>

<sup>47</sup> G. Tartler, *Înțeleptul singuratic* (Bucharest: Humanitas Publishing House, 2006), 35.

<sup>48</sup> *Coranul cel Sfânt. Traducerea sensurilor și comentariu* (Timișoara: Islam Publishing House, 1998), 6.

<sup>49</sup> G. Tartler, *Înțeleptul singuratic*, 25.

<sup>50</sup> G. Tartler, *Înțeleptul singuratic*, 25.

<sup>51</sup> Ibn Sīnā (Avicenna), *Cartea definițiilor* (Iași: Polirom Publishing House, 2012). 8.

<sup>52</sup> The name ‘Avicenna’ is in fact a corruption of his name due to the Hebrew pronunciation, Aven Sina, rendered in Latin by Avicenna (Ibn Sīnā (Avicenna), *Cartea definițiilor*, 145).

<sup>53</sup> Ibn Sīnā (Avicenna), *Cartea definițiilor*, 167.

It is also well known that other Catholic theologians with philosophical training, such as Albert the Great, Roger Bacon and Duns Scotus, also took up “some of the ideas of Avicenna”<sup>54</sup> and, *ipso facto*, Aristotelian philosophical thought. The same Persian philosopher, Avicenna, stated that “Philosophy is concerned with all that is, since it is concerned with divine things; it alone is legitimately called *theoria*.”<sup>55</sup> Consequently, the word ‘theoria’ (theory) comes from the “contemplation of divine things.”<sup>56</sup>

According to the philosopher David, Platonic philosophy “has to do with the soul” which “has two kinds of faculties: knowing and vital.”<sup>57</sup> Those of cognition are “intuitive intellect, discursive thought, opinion, representation, sensation.”<sup>58</sup> Only “intuitive intellect, discursive thought and rational opinion are rational cognitive faculties.”<sup>59</sup> The views of the 6th century Christian philosopher David, a native of Armenia, are certainly worthy of noting since he spent most of his life in the milieu of Greek philosophical culture. There he wrote his works on Theology and Philosophy, and on the contribution of the exponents of the two fields to the process of knowledge.

For example, in reference to Theology, the philosopher David tells us that the object of Theology is the “divine” things which, “being indivisible and unperceivable”, “are known more readily by conjecture than by exact knowledge.”<sup>60</sup> “The soul’s sight, weakened and darkened by the lust of the flesh, is brought to awakening and light by Philosophy”<sup>61</sup>, which also has a determining role in the argumentation and explanation of the truths of faith.

In the words of St. John Damascene († 749)<sup>62</sup>, “no one has ever known God except the one to whom he has revealed himself. No one, not only among men, but not even among the powers of the earth, not even among cherubim and seraphim.”<sup>63</sup> The knowledge of God was, therefore, gained only through the act of divine Revelation. When we speak about the knowledge of God, we must refer to the things

<sup>54</sup> Ibn Sīnā (Avicenna), *Cartea definițiilor*, 167.

<sup>55</sup> David, *Introduction to Philosophy*, trans. L. Liiceanu (Bucharest: Publishing House Academiei R.S.R., 1977), 99.

<sup>56</sup> David, *Introduction to Philosophy*, 99.

<sup>57</sup> David, *Introduction to Philosophy*, 100.

<sup>58</sup> David, *Introduction to Philosophy*, 102.

<sup>59</sup> David, *Introduction to Philosophy*, 102.

<sup>60</sup> David, *Introduction to Philosophy*, 76.

<sup>61</sup> David, *Introduction to Philosophy*, 100.

<sup>62</sup> On his life and work, see D. Fecioru: *Viața Sfântului Ioan Damaschin. Studiu de istorie literară creștină* (Bucharest, 1935).

<sup>63</sup> St. John Damascene, *Dogmatica*, trans. D. Fecioru (Bucharest: Publishing House IBMBOR, 2005), 15.

and realities revealed by divine Revelation, and not to those obtained by a purely cognitive act. Referring to the text of *Genesis* 1:26, when God decided to create man “in our image and likeness”, St. John Damascene specified that “in the image” meant “mind and freedom”, while “in the likeness” meant “likeness in virtue as far as possible.”<sup>64</sup>

The statement that God has made himself known to humans can be found in *The Dogmatics* of St. John Damascene. It testifies to us peremptorily that the Holy Father knew and used both the statements of Platonic philosophy and of Aristotelian philosophy in listing his arguments regarding the knowledge of God. The same Holy Father of the Ecumenical Church tells us about Faith that it “is twofold: one is faith of hearing” (*Romans* 10, 17) and the other is the confidence of things hoped for, which is the proof of things not seen (cf. *Hebrews* 11, 1).<sup>65</sup>

As for the “Godhead”, the famous Christian philosopher and theologian of Damascus, namely St. John Damascene, stated that it “is ineffable and incomprehensible.”<sup>66</sup> However, “God has not left us in complete ignorance, because the knowledge of God’s existence is sown by Him naturally in all men.”<sup>67</sup> Then, “God made himself known, as far as it is possible for us to understand him, first through the law and the prophets, and then through his Son, the only begotten, our Lord and God and Saviour Jesus Christ.”<sup>68</sup> Therefore, from the knowledge of God’s existence, naturally planted by Him in the mind of every mortal, the man has been able to know his Creator, “as far as it is possible for us to comprehend Him”, first through law and prophecy, and then through the Son of God, our Lord Jesus Christ, the Incarnate One, at the “fullness of time” (*Galatians* 4:4).

Under the impact of Platonic and Aristotelian philosophy, however, there were also some reputed Arabic-speaking philosophers whose works contain reference to the inability of the man to know the nature of the divine. For example, the philosopher Al-Kindi (c. 800–873), who dominated the landscape of Arab-Islamic philosophical culture with his treatise “On First Philosophy”, stated among other things that philosophy is defined as “the knowledge of things in their truth, as far as it is possible for man to know them.”<sup>69</sup>

Another Arabic-speaking philosopher, Ibn Rushd (Averroes) (1126–1198), who made use of both the text of the Koran and Aristotelian philosophy, stated in his

<sup>64</sup> *De Fide Orthodoxa*, lb. 2, chapter 12, in PG 94, col. 920.

<sup>65</sup> St. John Damascene: *Dogmatica*, 191.

<sup>66</sup> St. John Damascene: *Dogmatica*, 15.

<sup>67</sup> St. John Damascene: *Dogmatica*, 15.

<sup>68</sup> St. John Damascene: *Dogmatica*, 15.

<sup>69</sup> Al-Kindi, *On First Philosophy. Bilingual Edition*, trans. G. Grigore (Iasi: Polirom Publishing House, 2017), 31.

work titled *A Decisive Word on Establishing the Connection between Philosophy and the Revealed Law*<sup>70</sup> that “there is no insurmountable contradiction between Revelation, by which is meant here the Koran, and reason – by which is meant here philosophy – they can complement each other at certain levels as possible ways of access to truth.”<sup>71</sup> The same philosopher added that it was God who “opened the way ... to people who have taken the path of rational inquiry in their aspiration to know the truth”<sup>72</sup>, and that Revelation and Philosophy are “friends by nature, loving each other because of their innate essence and nature.”<sup>73</sup>

With the conquest of Baghdad by the Mongols in 1258, which put an “irreversible end to the Abbasid caliphate”<sup>74</sup>, the process of effervescent creativity of Greek philosophical thought in the Arab world also came to an end. The abolition of this Caliphate also brought about a new stage in the process of knowledge, implicitly in the dialogue between faith and reason, i.e. between Islamic theology and Islamic philosophy. It also had an impact on scholastic theology, which affirmed, among other things, that “fides quaerens intellectum” (Anselm, *Proslogin*), i.e. faith seeks understanding.

In referring to the knowledge of God, some Christian theologians of our days have also expressly referred to the “Reason of God,” for example, Rev. Prof. Iustin Popovici († 1979). He affirmed that there are “no delimitations between being and knowing. His knowledge, ..., is Self-knowledge”<sup>75</sup> because He is indeed “the Lord of knowledge” (*I Kings* 2:3) and “the depth of wisdom and knowledge.” (Romans 11:13) Another Orthodox theologian, Rev. Prof. Dumitru Stăniloae († 1993), familiar with the language of Philokalia and Philosophy, speaks both of “Natural Revelation as the basis of natural faith and of a meaning of existence”<sup>76</sup> and of “Supernatural Revelation as the source of Christian faith.”<sup>77</sup>

The same theologian affirmed that, “according to the patristic tradition, there is a rational or cataphatic knowledge and an apophatic or negated knowledge. The latter is superior to the former and complements the latter. However, God is not known in his being through neither of them.”<sup>78</sup> Then he adds that “rational knowledge

<sup>70</sup> Ibn Rušd, *Cuvânt hotărâtor privind stabilirea legăturii dintre filosofie și legea revelată*, trans. G. Grigore (Iași: Polirom Publishing House, 2020), 9.

<sup>71</sup> Rušd, *Cuvânt hotărâtor privind stabilirea legăturii dintre filosofie și legea revelată*, 9.

<sup>72</sup> Rušd, *Cuvânt hotărâtor privind stabilirea legăturii dintre filosofie și legea revelată*, 173.

<sup>73</sup> Rušd, *Cuvânt hotărâtor privind stabilirea legăturii dintre filosofie și legea revelată*, 171.

<sup>74</sup> Ciociltan, “Arabii și Islamul până în secolul al XIII-lea II. Expansiunea islamică,” 64.

<sup>75</sup> I. Popovici, *Dogmatic of the Orthodox Church*, trans. Z. Markovski (Iași: Publishing House Doxologia, 2017), 150.

<sup>76</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 9.

<sup>77</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 24.

<sup>78</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 115.

cannot be renounced either ... What it says must only be deepened by apophatic knowledge”<sup>79</sup>, which “when it wants to understand itself at all, must have recourse to the terms of intellectual knowledge.”<sup>80</sup> As far as the dogmas of the Church are concerned, he describes them as “revealed truths of saving faith.”<sup>81</sup> The dogmas of the Church are “natural dogmas”<sup>82</sup> and “supernatural dogmas.”<sup>83</sup>

In the context of “natural revelation”, we come to God “through thought”<sup>84</sup>, while “in supernatural revelation it is the divine personal Logos”<sup>85</sup> through which “the truths of our salvation are made known to us.”<sup>86</sup> Then, Professor Dumitru Stăniloae adds the clarification that, in the case of natural dogmas, “their self-evidence or truth is a function of their meaning, which is not imposed naturally, but by an act or a series of acts of God’s self-discovery or of God’s putting himself in evidence.”<sup>87</sup>

In the words of the same theologian, theology is an “ecclesial ministry of explaining and deepening the dogmas or plan of salvation and of revitalizing the Church’s ministry of service.”<sup>88</sup> This explication and deepening of the Church’s dogmas – which are “strict delimitations (horoi)” – must, however, be done by the Church’s theologians “on Holy Scripture and Holy Tradition”<sup>89</sup>, that is on the basis of both fundamental sources of the Christian Religion. On the contrary, another Orthodox theologian, Rev. Prof. Ioannis Romanidis († 2001), stated that “Theology has nothing to do with Philosophy, because the path of each is different. Theology is based on the sight of God, while Philosophy is based on the human word, on rational speculation.”<sup>90</sup> In his view, there can, therefore, be no connection between Theology and Philosophy.

Concerning the knowledge of God, the same theologian affirmed that it is “a spiritual one – a knowledge of the heart, and not of reason”<sup>91</sup>, and it is “acquired

<sup>79</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 115.

<sup>80</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 115.

<sup>81</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 72.

<sup>82</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 72.

<sup>83</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 72.

<sup>84</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 74.

<sup>85</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 73.

<sup>86</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 73.

<sup>87</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 73.

<sup>88</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 94.

<sup>89</sup> D. Stăniloae, *Teologia dogmatică ortodoxă* (Bucharest: Publishing House IBMO, 2010), 94.

<sup>90</sup> Ierotheos, Metropolitan of Nafpaktos, *Dogmatica empirică după învățăturile prin viu grai ale Părintelui Ioannis Romanidis*. Vol. II, trans. from Greek by T. Petrache (Iași: Publishing House Doxologia, 2014), 134.

<sup>91</sup> Ierotheos, *Dogmatica empirică după învățăturile prin viu grai ale Părintelui Ioannis Romanidis*. 53.

with the mind (νοῦς) and the heart. Reason (λογική) is incapable of acquiring the knowledge of God: it only formulates it in words, according to the possibilities it possesses.<sup>92</sup> The proper organ of the knowledge of God is the “mind”, perceived and defined by Prof. Ioannis Romanidis as “the noetic energy of the human soul.”<sup>93</sup> It has the capacity to be an organ of the knowledge of God “only after it has been illuminated and transfigured by divine energy.”<sup>94</sup> However, this definition directs us to the doctrine of St. Gregory Palamas and to the hesychast tradition, hence his apodictic statement that “Orthodoxy has not the slightest connection with Metaphysics”<sup>95</sup>, and therefore Theology should not be confronted “with the philosophical method.”<sup>96</sup>

Professor Ioannis Romanidis also made it clear that “the dogmas, the dogmatic decisions, were not formulated for philosophical reasons”<sup>97</sup>, but for pastoral reasons, namely “to protect the faithful from heretics and to catechize them in the life of Christ.”<sup>98</sup> The same Greek theologian – called “Teacher of Hesychasm and of the Empirical Dogmatic Theology of the Orthodox Church”<sup>99</sup> – also recalled that “in 794, at the Council of Frankfurt, the Franks condemned the decisions of the VII Ecumenical Council, ..., as well as the methodology of rational speculation in the knowledge of God, and consequently rejected the method of cure, enlightenment and deification, annulled the distinction between essence and energy in God (*actus purus*), and introduced the theory of the knowledge of the essence of God, Filioque, etc.”<sup>100</sup>

At the Council of 794, the Franks of Clovis did not condemn the methodology of rational speculation in the knowledge of God, but, on the contrary, it was

<sup>92</sup> Ierotheos, *Dogmatica empirică după învățăturile prin viu grai ale Părintelui Ioannis Romanidis*. 53.

<sup>93</sup> Ierotheos, *Dogmatica empirică după învățăturile prin viu grai ale Părintelui Ioannis Romanidis*. 53.

<sup>94</sup> Ierotheos, *Dogmatica empirică după învățăturile prin viu grai ale Părintelui Ioannis Romanidis*. 53.

<sup>95</sup> Ierotheos, *Dogmatica empirică după învățăturile prin viu grai ale Părintelui Ioannis Romanidis*. Vol. I, 53.

<sup>96</sup> Ierotheos, *Dogmatica empirică după învățăturile prin viu grai ale Părintelui Ioannis Romanidis*. Vol. II, 502.

<sup>97</sup> Ierotheos, *Dogmatica empirică după învățăturile prin viu grai ale Părintelui Ioannis Romanidis*. Vol. II, 503.

<sup>98</sup> Ierotheos, *Dogmatica empirică după învățăturile prin viu grai ale Părintelui Ioannis Romanidis*. Vol. II, 503.

<sup>99</sup> Ierotheos, *Dogmatica empirică după învățăturile prin viu grai ale Părintelui Ioannis Romanidis*. Vol. II, 560.

<sup>100</sup> Ierotheos, *Dogmatica empirică după învățăturile prin viu grai ale Părintelui Ioannis Romanidis*. Vol. II, 558–559.

the theologians of the Frankish kingdom who empowered rational speculation as a method of research for knowledge, including the knowledge of God. The excerpts presented in the above pages show that although philosophers and theologians sometimes have different views, we can see that both philosophers and theologians, when speaking about the knowledge of God, remained largely tributary to ancient philosophy (Platonic, Aristotelian and Neoplatonic). But both Catholic and Orthodox theologians agree that the two sure paths to knowledge of God remain Faith (religious) and Reason. And with both the man was endowed by God at his creation, that is “from the dust of the ground, and He breathed into him the breath of life, and man became a living soul.” (Genesis 2, 7)<sup>101</sup>

The man, therefore, being created by God can participate in the act of knowledge through faith as well as through rational knowledge, apophatic knowledge and natural knowledge. As the means of our dialogue with God, the man has a prayer and reason, which God has given him “as an organ” of knowledge of things of his hands, hence the statement of the theologians that the world is a “rational work of God”<sup>102</sup>, in which we identify the “reasons of things.”<sup>103</sup>

As an eminent theologian stated, “the rationality of the world is for man and culminates in man, not man is for the rationality of the world”<sup>104</sup> because “the very words addressed by God to us through things stimulate us to understand them, and their understanding provokes a response on our part. For there is no word understood by a man to which he does not take an attitude, that is, respond. He began to speak when he began to respond to God, having to respond, being compelled by God to respond through the things set before him by God, he began to actualize himself as a partner in dialogue with God.”<sup>105</sup>

In the spirit of these theological statements, we could therefore say that through the dialogue between Theology and Philosophy – for which Pope John Paul II was one of his main militants of our days – we will also be partners in dialogue with God. Certainly, through such a dialogue, under the power and light of the Holy Spirit, the man will also be able to realize that in order to know and understand the revealed truths of faith, he needs both faith and reason.

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<sup>101</sup> Apud, *Biblia sau Sfânta Scriptură. Ediție jubiliară a Sfântului Sinod*, edited and annotated by B. V. Anania (Bucharest: Publishing House IBMBOR, 2001), 24.

<sup>102</sup> D. Stăniloae, *Teologia dogmatică ortodoxă*. Vol. I, 360.

<sup>103</sup> D. Stăniloae, *Teologia dogmatică ortodoxă*. Vol. I, 364.

<sup>104</sup> D. Stăniloae, *Teologia dogmatică ortodoxă*. Vol. I, 366.

<sup>105</sup> D. Stăniloae, *Teologia dogmatică ortodoxă*. Vol. I, 367.

## On the Role of ‘Faith’ and ‘Reason’ in the Process of Formulating and Explaining the Truths of Faith

St. Paul the Apostle tells us that by faith alone “we are saved” (cf. *Matthew* 9:22; *Mark* 5:34; *Luke* 7:50, etc.). This faith, however, was “promised” and given by God “to Abraham” (*Hebrews* 6:13), which was an act of righteousness (*Romans* 3:30; *Galatians* 3:6 etc.). From the text of the book of Jesus, son of Sirach, we note that the “beginning of everything” is “the word” (*Wisdom of Jesus Son of Sirach* 37: 16), that is “the reason for a thing to exist, which implies the reason of the One who brings it into existence.”<sup>106</sup>

For the preaching and explanation of the truths of faith, the Church has used the contribution of Philosophy since the apostolic age. It is clearly attested by the dialogue of St. Paul the Apostle with “some of the Epicurean and Stoic philosophers”, who accused him that, among other things, he blesses “Jesus and the Resurrection.” (*Acts* 17, 18) In Aeropagus, St. Paul told indeed to the Athenians that, with the Resurrection of Christ, God passed over the ages of ignorance to the Gentiles (*Acts* 17:30) and that God, “from one single stock ... created the whole human race so that they could occupy the entire earth.” (*Acts* 17:26) Hence the Apostle’s exhortation to the Gentiles that they too “seek God” because “He is not far from any of us.” (*Acts* 17:27)

Therefore, according to the word of the Apostle Paul, people – including philosophers – can find God only if they seek him, hence the categorical imperative that people “seek the Lord (ζητετεῖν τὸν κυρίον)” (*Acts* 17:27) to find the “true philosophy”<sup>107</sup>, that is the faith in the risen Christ who sits at the right hand of the Father. This search for God has two ways, one by faith and the other by the power of reason, on which both theologians and some of the philosophers, in whose minds Paul’s preaching in Aeropagus had the gift of penetrating deeply and bearing fruit, were enrolled in the earliest centuries of the Church.

The history of the early Church has also noted that theologians, such as St. Justin Martyr and Philosopher, Origen etc., who also had a philosophical training, also used the logic and reasoning of philosophy to give Christian teaching a form accessible to the philosophers of the pagan world of their time. In this way, they enslaved Philosophy *nolens-volens* to the interests of Theology, of which St. Paul the Apostle remains the exponential founder.

<sup>106</sup> *Biblia sau Sfânta Scriptură. Ediție jubiliară, 1355* (note A to verse 16, ch. 37).

<sup>107</sup> *Clement of Alexandria, “Stromate”* I, 18, 90, 1, in *Sources Chrétiennes*, 30:15.

The message of St. Paul was to be even clearer in this regard when he urged the Colossians not to let their minds be deceived “by philosophy (διὰ τῆς φιλοσοφίας)”, that is by the teaching of philosophy, or by “the principles of the universe (τὰ στοιχεῖα τοῦ κόσμου)”, but to seek and follow “Christ.” (*Colossians* 2:8) Certainly, this reference of St. Paul the Apostle to the principles or to the elements of the universe proves without a doubt that he was also well acquainted with the philosophy of Plato and Aristotle about the universe and its creation.

This text from *Colossians* 2: 8 was the first in the history of Christianity to warn that those who bear the name of Christ, that is, Christians, should not be deceived by “deceptive arguments” (*Colossians* 2:4), since in Christ alone “are hidden all the treasures of wisdom and knowledge.” (*Colossians* 2:3) In order to have the full riches of the knowledge of the mystery of God (cf. *Colossians* 2:2) which “Paul, a prisoner of Christ Jesus” (*Ephesians* 3:1) was made acquainted with “by a revelation” (*Ephesians* 3:3), Christians must not, therefore, be deceived by the various philosophical systems, including the rational system of the Gnostics.

Following the example of St. Paul, around the beginning of the 3rd century, one of the first Roman jurists to adopt the Christian faith, namely Tertullian († 240), questioned himself whether there is anything in common between Christianity and pagan religion and, *ipso facto*, between theology and philosophy: “What does Athens have in common with Jerusalem? The Academy with the Church?”<sup>108</sup>

And yet Athens and Jerusalem also had something in common, namely the wealth of ancient philosophical thought, which even the Apostle to the Gentiles appropriated, as we know from his dialogue with pagan philosophers in the Aeropagus in Athens. This common dowry was to be used by the Church’s clerics and lay scholars to formulate those “Horoi” or “Definitiones fidei”, that in the Theology of the Eastern and Western Churches were to be known as “dogmas of the Church”, and which were formulated by the ecumenical Church as early as 325, that is during the first ecumenical Council (Nicaea 325).

But as the Roman Pontiff, Pope John Paul II, also stated, the interrogation of the famous Latin-speaking Christian jurist, writer and apologist “clearly indicates the critical consciousness with which Christian thinkers from the first confronted the problem of the relationship between faith and philosophy, viewing it comprehensively with both its positive aspects and its limitations.”<sup>109</sup> Both the negative and positive aspects, as well as the limits of the dialogue between the two fields of the search for and definition of Truth, were caused by the fact that over centuries,

<sup>108</sup> Tertullianus, “De Praescriptionem Haereticum”, VII, 9, in *Sources Chrétiennes*, 46: 98.

<sup>109</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 41.

the relationship between these fields of research practiced different ways and possibilities of searching for and defining Truth, and the diversity of the theologians' and philosophers' conceptions was also enhanced by the "divortia doctrinarum" (Cicero), i.e. by the separation into different systems and Schools of (philosophical or theological) thought.

In contemporary times, however, the relationship between the ministers of Theology and Philosophy shows a growing interest in the relationship between the two fields, Philosophy and Theology, because we live in a world in which different conceptions of the world and life are emerging, some of them produced by the new ideologies of the time. As for "Truth", for us Christians, and *ipso facto* for Christian theologians, "the Way, the Truth and the Life" (*John* 14:6) is Christ the Lord, who "wants everyone to be saved and reach full knowledge of the truth." (*I Timothy* 2:4) The same *New Testament* text tells us that this "Truth" alone makes us "free" (ἐλευθέροι). (*John* 8:32) Although ancient philosophy recognized that "no man is wise except God alone" (Pythagoras), yet it did not help the man "to come to the knowledge of the mystery of God" (*Colossians* 2:2) since he did not operate with the data provided by divine Revelation, but relied only on the power of reason and the logic of its rational arguments. They helped him to discover only some laws of nature (cf. *Romans* 2:14–16), which his Creator placed in man's heart when he was created. (cf. *Romans* 2:14)

According to Pope John Paul II, at the First Vatican Council the Fathers of the Council revealed "the supernatural character of God's Revelation"<sup>110</sup> because the rationalist critique at that time denied "the possibility of any knowledge which was not the fruit of reason's natural capacities."<sup>111</sup> As a result, the Fathers of the Council reaffirmed "emphatically that there exists a knowledge which is peculiar to faith, surpassing the knowledge proper to human reason."<sup>112</sup>

Taking into consideration the ways of knowing divine Revelation, and *ipso facto* of God, Pope John Paul II refers first to the knowledge that comes through faith, "based upon God's testimony"<sup>113</sup>, which enjoys "the supernatural assistance of grace."<sup>114</sup> Here then is the reason why "faith is of an order other than

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<sup>110</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 8.

<sup>111</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 8.

<sup>112</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 8.

<sup>113</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 9.

<sup>114</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 9.

philosophical knowledge which depends upon sense perception and experience, and which advances by the light of the intellect alone.”<sup>115</sup> The Roman Pontiff also mentioned the fact that “Philosophy and the sciences function within the order of natural reason, while faith enlightened and guided by the Spirit”<sup>116</sup>, and that “Revelation remains charged with mystery. ... Faith alone makes it possible to penetrate the mystery in a way that allows us to understand it coherently.”<sup>117</sup>

In the same Encyclical Letter *Fides et Ratio*, Pope John Paul II remarked that “the rationality of certain truths expressed in Sacred Scripture ... challenge reason to recognize that there is something true and rational lying far beyond the straits within which it would normally be confined.”<sup>118</sup> There is, therefore, rational truth beyond the boundaries of rationality, an area in which we need the “work of critical reason in the light of faith.”<sup>119</sup> Now, the rationality of some of the things expressed in Holy Scripture is precisely this work of critical reason in the light of revealed faith.

On the rationality of certain truths concerning the Divinity and its nature, a pioneering contribution was made by the ancient Greek-speaking philosophers, and in particular by those who had a special contribution in the constitution of the system of thought of the “First Philosophy”<sup>120</sup>, that is of the Metaphysics to which Aristotle referred. If the “First Philosophy”, identified also with the “Philosophy of Consciousness”<sup>121</sup>, is endowed with a metaphysical horizon and content, it can indeed “allow the *intellectus fidei* to give a coherent account of the universal and transcendent value of revealed truth.”<sup>122</sup>

According to the statement of Pope John Paul II, “theology needs philosophy as a partner in dialogue in order to confirm the intelligibility and universal truth of its claims. It was not by accident that the Fathers of the Church and the Medieval

<sup>115</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 9.

<sup>116</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 9.

<sup>117</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 13.

<sup>118</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 76.

<sup>119</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 77.

<sup>120</sup> N. V. Dură, “From ‘Proti Philosophia’ to Nietzsche’ Thinking. Some Considerations as Philosophical Knowledge Is Concerned”, *Philosophical-Theological Review* 5 (2015): 9–25.

<sup>121</sup> N. V. Dură: “The Theology of Conscience and the Philosophy of Conscience”, *Philosophical-Theological Review* 1 (2011): 20–29.

<sup>122</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 84.

theologians adopted non-Christian philosophies.”<sup>123</sup> Indeed, “because of its noble and indispensable contribution”<sup>124</sup> to the field of theological research, which “pre-supposes and requires in all its research a reason formed and educated to concept and argument”<sup>125</sup>, philosophy is therefore an indispensable tool for any theologian who wishes to formulate and explain the truths of faith set forth in the revealed text of the Holy Scriptures. And, fully aware of this reality, Pope John Paul II pointed out both “the necessity of the link between the two sciences and the impossibility of their separation”<sup>126</sup>, which also confirms the imperative of our times.

From the Catechism of the Catholic Church, we retained also the fact that God “can be known with certainty from the created world by the natural light of human reason”<sup>127</sup>, and that “without this capacity” the man “would not be able to welcome God’s revelation.”<sup>128</sup> For the definition of the knowledge of God, the authors of the Catechism – published at the Vatican in 1992 – reproduced the definition of the First Vatican Council (D.S. 3004). However, they considered necessary to add the clarification that “in the historical conditions in which he finds himself, . . . , man experiences many difficulties in coming to know God by the light of reason alone”<sup>129</sup> since there are indeed “things that exceed their understanding”<sup>130</sup>, and there are also difficulties with penetrating the meaning of “those religious and moral truths which of themselves are not beyond the grasp of human reason.”<sup>131</sup>

The Holy Scripture tells us that the man can also know God “through reason”, by which he “recognizes the voice of God”<sup>132</sup>, and can come to a natural knowledge of God “on the basis of his works”<sup>133</sup>, that is from “his handiwork.” (*Psalms* 19, 1). But, as it is stated in the Catechism of the Catholic Church, “we must also face the fact that certain attitudes” derive “from the *mentality* of ‘this present world’”<sup>134</sup>,

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<sup>123</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 76.

<sup>124</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 77.

<sup>125</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 77.

<sup>126</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 77.

<sup>127</sup> *Catechism of the Catholic Church* I, III 36: 16.

<sup>128</sup> *Catechism of the Catholic Church* I, III 36: 16.

<sup>129</sup> *Catechism of the Catholic Church* I, III, 37: 16.

<sup>130</sup> *Catechism of the Catholic Church* I, III, 38:16.

<sup>131</sup> *Catechism of the Catholic Church* I, III, 38:16.

<sup>132</sup> *Catechism of the Catholic Church* I, III, 38:16; III, 1, 1706: 425.

<sup>133</sup> *Catechism of the Catholic Church* I, II, 50: 19.

<sup>134</sup> *Catechism of the Catholic Church* IV, 2, I: 654.

such as the fact “that only that is true which can be verified by reason and science.”<sup>135</sup>

We Christians also know that “God desires all men to be saved and to come to the knowledge of the truth; that is, God wills the salvation of everyone through the knowledge of the truth. Salvation is found in the truth”<sup>136</sup>, and that “this knowledge of faith is possible only in the Holy Spirit: to be in touch with Christ, we must first have been touched by the Holy Spirit.”<sup>137</sup> In his Encyclical *Fides et Ratio*, Pope John Paul II set out the content of the Church’s faith in a language that allowed him to participate in the reflection of the two ways of knowledge, namely by faith and by reason, or, in theological terms, by Theology and by Philosophy. His theological and philosophical training allowed the Pontiff to make also some adequate remarks in reference to the process of knowing God, and thus to bring more clarifications to the texts of the Second Vatican Council and of the Catechism of the Catholic Church.

By these remarks, which have the gift of precious theological-philosophical contributions, the need that the dialogue between Philosophy and Theology to move from its state of divergences of an ideational nature to convergent ideas and opinions<sup>138</sup> is more than evident. The fact that the Church is the guardian of revealed truth, and that her bishops are “the witnesses to the truth”<sup>139</sup>, obliges her to point out “the elements in a philosophical system which are incompatible with her own faith”<sup>140</sup>, hence the duty of any philosopher to appreciate “*recta ratio*, or of reason reflecting rightly upon what is true.”<sup>141</sup>

Despite this critical discernment of the Church in relation to the various philosophies of the time that contradicted “Christian doctrine”<sup>142</sup>, there were “signs of a resurgence of *fideism*, which fails to recognize the importance of rational knowledge and philosophical discourse for the understanding of faith, indeed for the very

<sup>135</sup> *Catechism of the Catholic Church* IV, 2, I: 654.

<sup>136</sup> *Catechism of the Catholic Church* IV, 2, I: 654; I, II, 851: 225.

<sup>137</sup> *Catechism of the Catholic Church* I, II, III, 683: 179.

<sup>138</sup> N. V. Dură: “Despre Filosofie și Teologie. De la divergențe de natură ideatică, la idei și păreri convergente,” *Studii filosofice* II (2016), 111–129.

<sup>139</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 50.

<sup>140</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 50.

<sup>141</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 50.

<sup>142</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 50.

possibility of belief in God.”<sup>143</sup> As it is known, the recognition of the importance of reason in the process of knowledge also led to its absolutization, and implicitly to primacy of reason over faith, hence the reaction of the Catholic Church in 17th century France against Enlightenment rationalism. At the same time, the denial that reason is not important for the explicitness of religious faith led the First Vatican Council to condemn both Fideism and Rationalism in the Constitution *Dei Filius*.

Aware of this reality, Pope John Paul II made it clear in his Encyclical *Fides et Ratio* that “since the middle of the last century ..., not a few Catholics felt it their duty to counter various streams of modern thought with a philosophy of their own”<sup>144</sup>, which obliged the Magisterium of the Catholic Church to prohibit “on the one hand, *fideism* and *radical traditionalism*, for their distrust of reason’s natural capacities, and, on the other, *rationalism* and *ontologism* because they attributed to natural reason a knowledge which only the light of faith could confer.”<sup>145</sup>

The Roman Pontiff added that “the positive elements of this debate were assembled in the Dogmatic Constitution *Dei Filius*, in which for the first time an Ecumenical Council – in this case the First Vatican Council – pronounced solemnly on the relationship between reason and faith. The teaching contained in this document strongly and positively marked the philosophical research of many believers and remains today a standard reference-point for correct and coherent Christian thinking in this regard.”<sup>146</sup> By this Christian reflection on the relationship between faith and reason, the Second Vatican Council really searched to eliminate both the doctrine of Fideism, theorized by the Catholic priest Félicité Robert de La Mennais (Lamennais † 1854) – a philosopher and political scientist, and the doctrine of Rationalism based on the ideas of John Locke, René Descartes, Gottfried Wilhelm Leibniz, Immanuel Kant etc., according to which human knowledge must find its source in the powers of reason alone.

In his Encyclical of 1998, Pope John Paul II did not reject the contribution of reason, and *ipso facto* of Philosophy, in the act of knowledge. He also did not limit it to the text of Scripture as the doctrinalists of Protestantism, but he put Faith and Reason at the service of the knowledge of the supreme Truth, that is God, who can be seen peremptorily from its pages. To define the notion of faith, the traditional

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<sup>143</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 55.

<sup>144</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 52.

<sup>145</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 52.

<sup>146</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 52.

theologians of the Eastern Church have in fact reiterated the words of the Apostle Paul, according to which faith is the confidence of things hoped for and the proving of things not seen. (cf. *Hebrews* 11:1) In the interpretation given by these theologians, it is “the confidence of things not seen as though they were seen, and the desire and hope of things hoped for as though they were present.”<sup>147</sup>

In the spirit of the traditional Catechism of the Eastern Church, a *sine qua non* for the “salvation of the soul” is “the knowledge of the true God and the right faith.”<sup>148</sup> Therefore, in the same Catechism of the Eastern Church, it is stated that “in the teaching of the faith there is need not only of knowledge, but also of faith”<sup>149</sup>, and that “knowledge belongs properly to the mind.”<sup>150</sup> Faith also belongs “to the heart, although it has its beginning in reason.”<sup>151</sup> In the Catechism of the Romanian Orthodox Church published in 1957, it is stated that the “teaching of the Church” is the result of “divine Revelation” and that “the power by which we receive as unquestionable truth all that God has revealed and teaches the holy Church” is “the faith.”<sup>152</sup>

As can be seen from the text of these Catechisms, it follows that for the knowledge of God, faith is needed first of all, but also reason, namely the philosophy, which the theology uses “as an instrument of truth in order to establish conclusions which are not philosophical but theological.”<sup>153</sup> Although the philosopher Jacques Maritain stated that Philosophy can no longer be labelled as “ancilla Theologiae”, i.e. the handmaid of Theology, because Theology “treats Philosophy according to its own laws”<sup>154</sup>, he also questioned himself whether there is a “Christian Philosophy”<sup>155</sup>, whose authors use indeed the contribution of reason to unravel the mystery of revealed Truth.

Among those who have called on the contribution of this Christian Philosophy is also the Church, which “reaffirms the need to reflect upon truth”<sup>156</sup>, both through faith and reason. “Theologians and philosophers” should “explore the different aspects of truth, ... in order to offer some reflections on the path which leads

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<sup>147</sup> St. Philaret, Metropolitan of Moscow, *Orthodox Catechism*, trans. G. Ciocoi (Alexandria: Publishing House Sofia, 2007), 7.

<sup>148</sup> *Orthodox Catechism*, 7.

<sup>149</sup> *Orthodox Catechism*, 8.

<sup>150</sup> *Orthodox Catechism*, 9.

<sup>151</sup> *Orthodox Catechism*, 9.

<sup>152</sup> Iustin, Metropolitan of Moldavia and Suceava: *Catehismul creștinului dreptcredincios* (Iași, 1957), 15.

<sup>153</sup> J. Maritain: *An Essay on Christian Philosophy*.

<sup>154</sup> Maritain: *An Essay on Christian Philosophy*.

<sup>155</sup> Maritain: *An Essay on Christian Philosophy*.

<sup>156</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 6.

to true wisdom.”<sup>157</sup> Our reflection leads us to the true wisdom which is Emmaus (cf. *Luke* 24:13), where Luke and Cleopas, the two disciples of Christ from the group of the seventy, met our Lord Jesus Christ when they shared bread (cf. *Luke* 24:13–35), the prototype of the Holy Eucharist<sup>158</sup> – one of the seven Holy Sacraments of the Church.

From the very beginning, the Church has been aware that the Eucharist is “the most necessary (spiritual) nourishment” of every Christian, as it is stated in the “ancient and canonical law” (ὁ παλαιὸς καὶ κανονικὸς νόμος / *lex antiqua regularisque*) of the Ecumenical Church. (can. 13 of the First Ecumenical Council)<sup>159</sup> In the Western world, roles of Faith and Reason in the processes formulating and explaining the truths of faith were defined by the renowned theologian Thomas Aquinas, for whom “credo ut intellegam” and “intellego ut credam” presupposed a dialogue between Theology and Philosophy.

Pope John Paul II had also a meritorious contribution in the affirmation of the role of philosophy in the process of formulating and explicating the truths of faith mostly through his Encyclical *Fides et Ratio*. In its text, the main thrust of his thought was to find more effective ways to reconcile faith and reason, *recte* Theology and Philosophy. It can only be achieved by harmonizing the contributions of the two fields of research in order to understand and make explicit divine Revelation.

## The Need to Reactivate and Enhance the Dialogue Between Theology as the ‘Science of Faith’ and Philosophy as the ‘Science of Wisdom’

In some scholarly works, the dialogue between faith and reason is still perceived and defined “from the perspective of the secular rationalism”<sup>160</sup>, which does not

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<sup>157</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 6.

<sup>158</sup> C. Mititelu, “The Celebrant of the Holy Sacrament of the Eucharist. Rules and Canonical Norms of the Orthodox Church”, *Annales Canonici* 10 (2014), 135–148.

<sup>159</sup> G. A. Rhali, M. Potli, *Σύνταγμα τῶν θείων καὶ ἱερῶν κανόνων*. Vol. II (Athens, 1852), 143.

<sup>160</sup> G. F. McLean, *Faith, Reason and Philosophy Lectures at the al-Azhar, Qum, Tehran, Lahore and Beijing* (Washington, 2000), 5.

promote the legal protection of fundamental human rights<sup>161</sup>, such as the right to Religion.<sup>162</sup> It implies a social dialogue<sup>163</sup> and inter-religious cohabitation<sup>164</sup> but, on the contrary, affirms the principle of secularism in terms of the divorce between the “sacred and profane.”<sup>165</sup> It may entail manifestations of forms of discrimination based on religion or religious belief.<sup>166</sup>

Aware also of these realities of our times, in his Encyclical Letter *Fides et Ratio* Pope John Paul II urged “theologians and philosophers ... to explore the different aspects of truth, and all those who are searching.”<sup>167</sup> At the same time, the Roman Pontiff exhorted the theologians and philosophers to rethink “in positive terms the relation of faith and reason and their mutual complementarity.”<sup>168</sup> In his scholarly endeavour, Pope John Paul II did not ignore or conceal the need “to revisit in a more systematic way the issue of the relationship between faith and philosophy”<sup>169</sup>, and to envision both “the value of philosophy for the understanding of the faith, as well as the limits which philosophy faces when it neglects or rejects the truths of Revelation.”<sup>170</sup>

The Roman Pontiff did not fail also to notice that, from the point of view of human thought, “the progress of humanity”<sup>171</sup> was produced by “the encounter

<sup>161</sup> C. Mititelu, “Provisions of Principle with European Constitutional Value on the ‘Person’s’ Right to Freedom and Security”, *Journal of Danubius Studies and Research* VI (2016), 158–165; C. Mititelu: “The European Convention on Human Rights”, *10th Edition of International Conference: the European Integration – Realities and Perspectives* (Galati: Danubius University Press, 2015), 243–252.

<sup>162</sup> N. V. Dură, “The Right to Religion: Some Considerations of the Principal International and European Juridical Instruments”, *Religion and Equality. Law in Conflict*, ed. W. C. Durham, Jr. and D. Thayer (Routledge, 2016), 15–24; C. Mititelu, “About the Right to the Freedom of Religion”, *Rethinking Social Action. Core Values*, coord. A. Sandu et al. (Medimond, 2015), 833–838.

<sup>163</sup> N. V. Dură, “The Requirements for an Ecumenical Dialogue According to Pope John Paul II’s Encyclical Letter *Ut unum sint*”, *Ecumeny and Law*, 10 (2) 2022: 91–118; C. Mititelu: “The Service of the Romanian Orthodox Church to Migrants”, *Ecumeny and Law* 9 (2021), 45–66.

<sup>164</sup> N. V. Dură, “About the Freedom of Religion and the Laicity. Some Considerations on the Juridical and Philosophical Doctrine”, *Bulletin of the Georgian National Academy of Sciences*, 13 (2019), 156–164; C. Mititelu, “The ‘Globalization Era’ and the Right of the Church to Preach the Gospel to All Peoples. Canonical-Juridical Considerations and Assessments”, *Ecumeny and Law* 5 (2017), 127–146.

<sup>165</sup> N. V. Dură, “Le sacré et les fêtes religieuses”, *Dionysiana* III, 1 (2009), 9–18.

<sup>166</sup> N. V. Dură, “The Right to Freedom of Religion”, *Annales Canonici* 10 (2014), 27–40.

<sup>167</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 6.

<sup>168</sup> G. F. McLean, *Faith, Reason and Philosophy Lectures*, 6.

<sup>169</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 100.

<sup>170</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 100.

<sup>171</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 101.

between philosophy and theology”<sup>172</sup>; the latter “endowed as it is with an openness and originality which allow it to stand as the science of faith”, “challenged reason to remain open to the radical newness found in God’s Revelation.”<sup>173</sup> Hence the finding of the Roman Pontiff that Theology has “duty to recover its true relationship with philosophy.”<sup>174</sup> “For the benefit and development of human thought”, IT “should recover its relationship with theology”<sup>175</sup>, in which it will find “the wealth of a communal reflection”<sup>176</sup> because “in the search for truth” it is supported “by the tradition of the People of God.”<sup>177</sup> The Church of Christ promotes “the defence of human dignity and the proclamation of the Gospel message.”<sup>178</sup>

In the same context of his thoughts on the relationship between Theology and Philosophy, Pope John Paul II added that, “through the mediation of a philosophy which is also true wisdom, people today will come to realize that their humanity is all the more affirmed the more they entrust themselves to the Gospel and open themselves to Christ.”<sup>179</sup> Referring to the pressing need to reactivate and enhance the dialogue between theology and philosophy, the Pope asked theologians to have philosophical training, “to pay special attention to the philosophical implications of the word of God and to be sure to reflect in their work all the speculative and practical breadth of the science of theology.”<sup>180</sup> At the same time, they are asked “to recover and express to the full the metaphysical dimension of truth in order to enter into a demanding critical dialogue with both contemporary philosophical thought and with the philosophical tradition in all its aspects, whether consonant with the word of God or not.”<sup>181</sup> Therefore, in their research work, the theologians must not limit their theological reflection

<sup>172</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.* No. 101.

<sup>173</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.* No. 101.

<sup>174</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.* No. 101.

<sup>175</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.* No. 101.

<sup>176</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.* No. 101.

<sup>177</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.* No. 101.

<sup>178</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.* No. 102.

<sup>179</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.* No. 102.

<sup>180</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.* No. 102.

<sup>181</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason.* No. 105.

to only one of the two aspects, speculative or practical, but must also appeal to “Proti-Philosophy”, namely to Metaphysics, through which the theologian and the philosopher can enter critical and demanding dialogue that expresses the entire metaphysical dimension of the truths of God’s Revelation, and in which theologians and philosophers can indeed find the richness of a common reflection in the search for Truth.

The postulate of the search for truth, which Pope John Paul II outlined in the text of his Encyclical *Fides et Ratio*, is found in the ancient texts of philosophers, in the text of some “Books” of wisdom, such as the *Panchatantra*, and in ancient legal texts, such as the Code of Hammurabi and The Code of Manu. They, in turn, also served sources of inspiration for the authors of ancient Roman law (Gaius, Julian, Ulpianus, Modestinus, etc.). For example, the “Manava Dharma Sastra (The Code of Manu)” is believed to have been written by a Brahman in India between the 13th–7th centuries B.C.<sup>182</sup> It states that in court “the truth must be spoken” (lb. VIII, 13)<sup>183</sup> because “where justice is stifled by injustice and truth by falsehood before the eyes of the judges, there the judges are lost.” (lb. VIII, 14)<sup>184</sup> “Justice is the only friend that accompanies man after death, for every other bond is subject to perdition like time.” (lb. VIII, 17)<sup>185</sup>

For the anonymous Brahman, the notion of justice was therefore related to truth, hence the fact that, according to the precepts of *The Code of Manu*, the king could also appoint “as judge a Brahman who is not a cleric, but who must be from a good family,” (lb. VIII, 20)<sup>186</sup> thus to protect him from the temptations of corruption, to offer him the possibility of good education, and to help him “to distinguish between what is lawful and unlawful.” (lb. VIII, 24)<sup>187</sup> In the text of *The Code of Hammurabi*, we learn that “truth” comes “to light”<sup>188</sup> through prayers, and that “truth and justice”<sup>189</sup> cannot be known unless “justice is done to people on earth.”<sup>190</sup>

In this Code, the notions of *truth* and *justice* have always been related to divine justice, understood by the Roman jurists as “the science of what is just and unjust” (*iusti atque in iusi scientia*)<sup>191</sup>, and called “*veram philosophiam*”<sup>192</sup> (true

<sup>182</sup> *Cartea Legii lui Manu* (Bucharest: Publishing House Aldo Press, 2001), 6.

<sup>183</sup> *Cartea Legii lui Manu* (Bucharest: Publishing House Aldo Press, 2001), 135.

<sup>184</sup> *Cartea Legii lui Manu* (Bucharest: Publishing House Aldo Press, 2001), 135.

<sup>185</sup> *Cartea Legii lui Manu* (Bucharest: Publishing House Aldo Press, 2001), 135.

<sup>186</sup> *Cartea Legii lui Manu* (Bucharest: Publishing House Aldo Press, 2001), 135.

<sup>187</sup> *Cartea Legii lui Manu* (Bucharest: Publishing House Aldo Press, 2001), 135.

<sup>188</sup> *The Code of Hammurabi*, trans. O. Tămaș (Baia-Mare: Publishing House Proema, 2009), 19.

<sup>189</sup> *The Code of Hammurabi*, trans. O. Tămaș (Baia-Mare: Publishing House Proema, 2009), 20.

<sup>190</sup> *The Code of Hammurabi*, trans. O. Tămaș (Baia-Mare: Publishing House Proema, 2009), 20.

<sup>191</sup> Ulpianus, “Libro primo regularum”, *Justiniani Digestorum seu Pandectarum* lb. I, I, X, in *Corpus Juris Civilis*. Vol. I, ed. T. Mommsen (New Jersey: Lawbook Exchange, 2010), 1.

<sup>192</sup> Ulpianus, “Libro primo institutionum”, in *Justiniani Digestorum seu Pandectarum* lb. I, I, I, I, in *Corpus Juris Civilis*, 1.

philosophy). There is no escaping the fact that the text of the laws of antiquity did not lack the notion of the sacred and the reference to prayers is also attested by *Jus romanum antiquum*. For example, Gaius, one of its leading exponents, tells us that at the “confarratio”, i.e. religious marriage<sup>193</sup>, was made “quoddam genus sacrificii” (a certain kind of sacrifice).<sup>194</sup> Juppiter Farreus was the patron of marriage and the main ritual was the prayer offered by the flamines (priests of Juppiter), including the “rex sacrorum” (pontiff of the priests). (Gaius, *Institutiones*, lb. I, 112)<sup>195</sup> In fact, during the Roman Empire (27 BC–476 AD), there were also “flamines imperatoris” (the priests of the emperor)<sup>196</sup>, which attests to the fact that during that period there was no divorce between the sacred and the profane even among the Romans.

In his Encyclical *Fides et Ratio*, Pope John Paul II referred not only to Theology and Philosophy, but also to the “prayer of the Church”<sup>197</sup>, and, last but not least, to the Philosophy of Law, which – according to his words – remains “the basic form of philosophical knowledge which is evident to this day in the postulates which inspire national and international legal systems in regulating the life of society.”<sup>198</sup> The reputed jurisconsults of the classical era of Roman law (1st–3rd centuries) also left us testimonies about the philosophical knowledge of law, according to whom jurisprudence was defined as “divinarum atque humnarum rerum notitia”<sup>199</sup> (knowledge of divine and human things), and which was in fact a Philosophy of Law. Therefore, the famous jurisconsults constituted the thesaurus of the Roman legal thought.<sup>200</sup>

Based on this knowledge of divine and human things, the Roman jurisconsults “were permitted to create law” by “decisions and opinions” which they took

<sup>193</sup> On the history and legal status of a religious marriage, see C. Mititelu, “Emperor Justinian’s Novel 74 and Its Importance for European Marriage Law” in *Teologia* 81 (2019), 26–37; C. Mititelu, “Matrimonium (Marriage) in Roman Law. The Impact of the Provisions of ‘Jus Romanum’ on International and National Matrimonial Law”, *Bulletin of the Georgian National Academy of Sciences* 14 (2020), 120–130; C. Mititelu, “On the ‘Concordat Marriage’ and its Legal Regime. Considerations and Assessments”, *Teologia* 90 (2022), 59–85.

<sup>194</sup> *The Institutes of Gaius*, trans. W. Gordon and O. Robinson (London: Gerald Duckworth & Co. Ltd, 1988), 75.

<sup>195</sup> *The Institutes of Gaius*, trans. W. Gordon and O. Robinson (London: Gerald Duckworth & Co. Ltd, 1988), 75.

<sup>196</sup> G. Guțu, *Dicționar latin-român* (București: Publishing House Științifică și Enciclopedică, 1983), 1483.

<sup>197</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 108.

<sup>198</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 3.

<sup>199</sup> *Justiniani Digestae seu Pandectarum* lb. I. I. 10.

<sup>200</sup> N. V. Dură, “‘Responsa Jurisprudentium’ (Responses of the Roman Jurisconsults) about ‘Jus’ (Law) and ‘Justitia’ (Justice)”, *Dionysiana* 1 (2021/2022), 286–295.

in various cases, and which constitute those “*responsa prudentium*” (answers of the jurisconsults – Justiniani Institutiones lb. I, II, 8), and from which we learn that “*jus est ars boni et aequi*” – the law is the art of godness and fairness (Justiniani Digestae lb. I, I, I, 1), a definition which has entitled jurists to be called “priests” (sacerdotes) (Justiniani Digestae lb. I, I, I, 1) of justice and equity.

The same reputed Roman jurisconsults claimed that word ‘Jus’ (Right) “derives from the word Justitia” (justice) and that it has a pronounced “philosophical” connotation (Ulpianus, Institutiones lb. I, I, I, 1). The Roman jurist Lactatius († 325) added that the “*aequitas*” (equity) must characterize any judicial system.<sup>201</sup> It is, therefore, desirable that theologians and philosophers, in their endeavor to reactivate and strengthen their dialogue, should also appeal to the “*jus gentium*” (international law), which “*vero naturalis ratio inter omnes homines constituit*” (which natural reason makes for all mankind). (Gaius, Institutiones lb. I, I, I, 1)<sup>202</sup> “Priests”, this time Christians, must also create a legal framework for the development and promotion of the dialogue between Theology, as the science of faith, and Philosophy, as the science of wisdom. The jurisprudence of Roman Law promoted “law” (lex) as a “*ratio scripta*” (written rational explanation).

The biblical text confirms that for the followers of the two monotheistic religions (Mosaic and Christian), “wisdom, understanding, knowledge of the Law, . . ., come from the Lord” (*Ecclesiasticus* 11:15) and, consequently, both theologians and philosophers cannot “contradict the truth” (*Ecclesiasticus* 4:25) that was given to mankind by the One who is “the Way, the Truth and the Life.” (*John* 14:6) In this spirit, the truths of faith were also perceived and expressed by Pope John Paul II when he invoked Holy Scripture and Sacred Tradition as their basis and condemned “one currently widespread symptom of this fideistic tendency”<sup>203</sup>, known as “Biblicism.” It “tends to make the reading and exegesis of Sacred Scripture the sole criterion of truth. In consequence, the word of God is identified with Sacred Scripture alone, thus eliminating the doctrine of the Church that the Second Vatican Council stressed quite specifically.”<sup>204</sup>

Hence the statement of Pope John Paul II that “Scripture, therefore, is not the Church’s sole point of reference”<sup>205</sup> because “the ‘supreme rule of her faith’

<sup>201</sup> N. V. Dură, *Annales canonici* 15 (2019), 9–38.

<sup>202</sup> *The Institutes of Gaius*, 18–19.

<sup>203</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 55.

<sup>204</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 55.

<sup>205</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 55.

derives from the unity which the Spirit has created between Sacred Tradition, Sacred Scripture and the Magisterium of the Church.”<sup>206</sup> There are, therefore, three decisive factors in matters of faith, namely Holy Tradition, Holy Scripture and the Magisterium of the Church, and not just “sola Scriptura” as in the Churches of the Reformation and, by implication, in all the neo-Protestant communities that have emerged.

According to the teaching of the Orthodox Church, the two fundamental sources in matters of faith are Holy Tradition and Holy Scripture, and the Church can only formulate and make explicit the latter through its collegial-synodal bodies, such as the Ecumenical Synods, and through individual Church bishops. In this regard, the theologians of the Orthodox Church also speak about “ways of preserving supernatural Revelation”<sup>207</sup>, about “Sacred Tradition and its connection with the Church and Scripture.”<sup>208</sup> The same theologians also add that “Tradition is the permanence of the Church’s dialogue with Christ. The content of Scripture received by faith handed down from the Apostles to the community of the Church, not being a human product but being inspired by the Holy Spirit, must on the one hand be preserved and on the other deepened in its unaltered meanings received from the Holy Apostles. Scripture is, therefore, required according to a tradition unchanged from the Apostles. This is – wrote Rev. Prof. Dumitru Stăniloae – another form of preserving and using in its continuing effectiveness the integral Revelation realized in Christ.”<sup>209</sup>

The same Orthodox Theology affirms – also through its prominent exponents today – that it is Tradition which, “at the same time as preserving its authenticity”<sup>210</sup>, also has “the quality of making Scripture truly explicit”<sup>211</sup>, and that it is Sacred Tradition which actualizes “the content of Revelation ... contained in the text of Holy Scripture.”<sup>212</sup> Therefore, “the identity of the knowledge of Christ ... is made known through the Church.”<sup>213</sup> The statement of the same reputed Orthodox theologian Rev. Prof. Dumitru Stăniloae about the fact that “Tradition, whose basis is given by the Apostles”<sup>214</sup>, that is, by the Apostolic Tradition, is in fact a “perpetuation

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<sup>206</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 55.

<sup>207</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 53.

<sup>208</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 65.

<sup>209</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 59.

<sup>210</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 59.

<sup>211</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 59.

<sup>212</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 59.

<sup>213</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 60.

<sup>214</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 60.

of the Revelation completed in Christ”<sup>215</sup>, but “its continuous newness, manifested through Tradition.”<sup>216</sup>

As for the claim of some Protestant and neo-Protestant theologians that “Scripture ... would not need Tradition, an explanation that would preserve unaltered its original apostolic meanings.”<sup>217</sup> The same theologian stated that in this case, “it would be absurd to admit after it a lived explanation”<sup>218</sup>, although Scripture needs “the completion by tradition”<sup>219</sup> through which we Christians, in Eastern and Western Europe, have received the mystery of faith in Christ.

From the teaching of faith of both the Catholic and the Orthodox Church, it follows that the dialogue of faith with reason, i.e. of Theology with Philosophy, also needs first of all the thesaurus of faith of the One, Holy, Apostolic and Catholic (Ecumenical) Church, which has been received and transmitted both through Sacred Tradition and Sacred Scripture. Thus, considering the teaching of the two Churches, Eastern and Western, we can conclude that we are saved not only by faith, as the theologians of the Protestant and neo-Protestant Churches still affirm, but by the teaching of faith preserved and transmitted by Holy Tradition in the area in which the revealed text of Holy Scripture appeared.

However, the formulation and explanation of faith attested by the ancient sources, that is by the Sacred Scripture and Sacred Tradition, were the responsibilities of the Church, which received a mandate from its Founder. Our Lord Jesus Christ endowed the Church with the task of receiving, preserving and transmitting the truth of faith. Moreover, it should not be an ignored or hidden fact that both Sacred Tradition and Sacred Scripture are the dowry and property of the Church (cf. Tertullian), namely “The One, Holy, Apostolic and Catholic (Universal) Church” which by divine mandate is the sole legatee and depository of her truths of faith.

## Conclusion

From the introductory part of the work, the reader was able to see that in order to come to the knowledge of God, Faith and Reason must be enlightened by God’s Revelation. We have exemplified and explained this reality in Part I of the work

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<sup>215</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 60.

<sup>216</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 60.

<sup>217</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 61.

<sup>218</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 61.

<sup>219</sup> Stăniloae, *Teologia dogmatică ortodoxă*, 61.

both based on the testimonies of the biblical text and of some of the renowned philosophers and theologians. In Part II of our study, we referred both to the text of *Holy Scripture* and to the works of theologians and philosophers, culminating of course in the excerpts from Pope John Paul II's Encyclical *Fides et Ratio*, from which it is clear that only Faith allows us to 'enter' the mystery of divine Revelation. In addition to knowledge through faith, there is also knowledge specific to the natural capacities of Reason, whose role is indispensable in the field of theological research.

Finally, in Part III of our paper, we showed that the reconciliation of the two sciences, namely the 'Science of Faith', i.e. Theology, and the 'Science of Wisdom', i.e. Philosophy, is only possible through dialog which must be carried out by those who master the knowledge of both fields. In his Encyclical *Fides et Ratio*, the Roman Pontiff suggested to theologians and philosophers to rethink positively the relationship between the two fields, so that their contribution might be complementary and reconciliatory.

According to Pope John Paul II, the "priests" of the two sciences, i.e. Theology, the science of faith, and Philosophy, the science of wisdom, should work "*in solidum*", but each of them must remain distinct and autonomous. This is the only way "the science of faith", i.e. Theology, and "the science of wisdom", i.e. Philosophy, can make a real contribution to the dialogue aimed at bringing about the much coveted "reconciliation of opposites." Nicolaus Cusanus (1401–1464) suggestively called it "*coincidentia oppositorum*." It can be achieved by eliminating contradictory and demonstrable statements, i.e. logical and semantic paradoxes which depend on the notion of reference to Truth.

To achieve this solid collaboration between the two Sciences, the dialogue between Theology and Philosophy – for which Pope John Paul II consistently advocated – needs to be renewed, as stated by the Roman Pontiff in his Encyclical Letter *Fides et Ratio*<sup>220</sup>, and about which the reader of our paper found more details in Part III of this study. Regarding this "renewal" of the dialogue between Theology and Philosophy, a distinguished Catholic prelate remarked that from the Encyclical of the Roman Pontiff, *Fides et Ratio*, one can learn both "the philosophical charism proper to Karol Wojtyła", and his frank invitation for "a sapiential renewal of the activity of thinking."<sup>221</sup>

Catholic bishop Angelo Scola remarked that the way in which Pope John Paul II managed to overcome the inadequacies "between, and autonomy proper to the two

<sup>220</sup> Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason. No. 100.

<sup>221</sup> A. Scola: "Human Freedom and Truth According to the Encyclical *Fides et Ratio*", *COMMUNIO: International Catholic Review* 26 (1999): 492.

dimensions, invites all to pursue an integral conception of truth”<sup>222</sup>, since the Roman Pontiff laid the foundations for a “new beginning, confident in the capacity of man – of his reason and freedom – to accede to the foundation of truth.”<sup>223</sup> However, as the other Roman-Catholic theologian confessed, it remains to be seen to what extent “faith supports reason and how theology supports philosophy.”<sup>224</sup> That is indeed the question.

From the text of this study, with a pronounced interdisciplinary character (theological, philosophical and juridical), the reader may also learn that the reflections on the dialogue between faith and reason oblige us to return *ad fontes* in order to reconsider and evaluate – even if only briefly – the statements of some prestigious theologians and philosophers about both Divine Revelation and the relationship between Faith and Reason, and *ipso facto* between Philosophy and Theology.

One of these scholars was Pope John Paul II, who returned to main sources and managed to bring a meritorious contribution to the reconciliation of the two Science, namely Theology and Philosophy, and to the reactivation of the dialogue between them. Indeed, in his Encyclical *Fides et Ratio* the Roman Pontiff put back into circulation the strong ideas of the Catholic Church’s teaching on the relationship between Reason and Faith. They still remain the ways of knowing and preaching the truths of faith.

In his scholarly approach, Pope John Paul II took as his main basis the text of the Holy Scriptures, the texts of the two Ecumenical Councils (First Vatican and Second Vatican), some papal Encyclicals, such as Pope Leo XIII’s Encyclical *Aeterni Patris* of 1879, and finally the texts of leading theologians of the Catholic Church. Its Catechism of 1992 provided the Latin-Rite Christian world with a reliable guide not only as to how the members of this Church can know and confess the truths of faith, but also as to how theology and philosophy can be reconciled so that, through their constructive dialogue in search of the Truth, the truths of faith can be better formulated and explicated. There is no escaping the fact that “there exists a knowledge which is peculiar to faith, surpassing the knowledge proper to human reason, which nevertheless by its nature can discover the Creator.”<sup>225</sup> It is declared by the Second Vatican Council and Pope John Paul II.

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<sup>222</sup> Scola: “Human Freedom and Truth According to the Encyclical *Fides et Ratio*”, 499.

<sup>223</sup> Scola: “Human Freedom and Truth According to the Encyclical *Fides et Ratio*”, 509.

<sup>224</sup> J. E. Fagan, *Fides et Ratio*. Available at: <https://catholiceducation.org/en/education/fides-et-ratio-faith-and-reason.html>.

<sup>225</sup> *Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason*. No. 8.

# Bibliography

- Al-Kindi. *On First Philosophy. Bilingual edition.* Translated by G. Grigore. Iași: Polirom Publishing House, 2017.
- Anderwald, A. "In Defense of the Rationality of Faith: the Relevance of the Encyclical Letter *Fides et Ratio*." *Poznańskie Studia Teologiczne* 46 (2024): 39–51.
- Benedict XVI. *Address of His Holiness to Participants in a Congress Held on the Occasion of the 10th Anniversary of the Publication of Pope John Paul II's Encyclical Fides et Ratio. Biblia sau Sfânta Scriptură. Ediție jubiliară a Sfântului Sinod*, edited and annotated by B. V. Anania. Bucharest: Publishing House IBMBOR, 2001.
- Cartea Legii lui Manu.* Bucharest: Publishing House Aldo Press, 2001.
- Catechism of the Catholic Church.* Revised in accordance with the official Latin text promulgated by Pope John Paul II. Washington, 2019.
- Ciociltan, V. "Arabii și Islamul până în secolul al XIII-lea II. Expansiunea islamică." *Analele Universității Dunărea de Jos din Galați. Seria Istorie* 2 (2003): 49–65.
- Clement of Alexandria. "Stromate" I, 18, 90, 1. *Sources Chrétiennes*, 30.
- The Code of Hammurabi.* Translated by O. Tămaș. Baia-Mare: Publishing House Proema, 2009.
- Coranul cel Sfânt. Traducerea sensurilor și comentariu.* Timișoara: Islam Publishing House, 1998.
- Corpus Juris Civilis.* Vol. 1., edited by T. Mommsen. New Jersey: Lawbook Exchange, 2010.
- Damascene, J. *Dogmatic.* Translated by D. Fecioru. Bucharest: Publishing House IBMBOR, 2005.
- David. *Introduction to Philosophy.* Translated by L. Liiceanu. Bucharest: Publishing House Academiei R.S.R., 1977.
- Dură, N. V. "About 'Justitia' (Righteousness) and 'Aequitas' (Equity). The Contribution of Lactantius († 325) in the Specifying of the Content of the Two Constituent Elements of the 'Jus'." *Annales canonici* 15 (2019): 9–38.
- Dură, N. V. "About the Freedom of Religion and the Laicity. Some Considerations on the Juridical and Philosophical Doctrine." *Bulletin of the Georgian National Academy of Sciences* 13 (2019): 156–164.
- Dură, N. V. "Despre Filosofie și Teologie. De la divergențe de natură ideatică, la idei și păreri convergente." *Studii filosofice* II, 1 (2016): 111–129.
- Dură, N. V. "From 'Proti Philosophia' to Nietzsche' thinking. Some Considerations as Philosophical Knowledge Is Concerned." *Philosophical-Theological Review* 5 (2015): 9–25.
- Dură, N. V. "Le sacré et les fêtes religieuses." *Dionysiana* III, 1 (2009): 9–18.
- Dură, N. V. "'Responsa Jurisprudentium' (Responses of the Roman Jurisconsults) about 'Jus' (Law) and 'Justitia' (Justice)." *Dionysiana* 1 (2021/2022): 286–295.

- Dură, N. V. "The Requirements for an Ecumenical Dialogue According to Pope John Paul II's Encyclical Letter *Ut Unum Sint*." *Ecumeny and Law* 10 (2022): 91–118.
- Dură, N. V. "The Right to Freedom of Religion." *Annales Canonici* 10 (2014): 27–40.
- Dură, N. V. "The Right to Religion: Some Considerations of the Principal International and European Juridical Instruments." In *Religion and Equality. Law in Conflict*, edited by W. C. Durham Jr. and D. Thayer. Routledge 2016: 15–24.
- Dură, N. V. "The Theology of Conscience and the Philosophy of Conscience." *Philosophical-Theological Review* 1 (2011): 20–29.
- Fagan, J. E. *Fides et Ratio*. Available at: <https://catholiceducation.org/en/education/fides-et-ratio-faith-and-reason.html>.
- Faith and Reason*, edited by P. Helm. Oxford/New York: Oxford University Press, 1999.
- Fecioru, D. *Viața Sfântului Ioan Damaschin. Studiu de istorie literară creștină*. Bucharest, 1935.
- Guțu, G. *Dicționar latin-român*. București: Publishing House Științifică și Enciclopedică, 1983.
- Rușd, Ibn. *Decisive Word on Establishing the Connection Between Philosophy and Revealed law*. Translated by G. Grigore. Iași: Polirom Publishing House, 2020.
- Sinā (Avicenna), Ibn. *Cartea definițiilor (ediție trilingvă)*. Iași: Polirom Publishing House, 2012.
- Ierotheos, Metropolitan of Nafpaktos. *Empirical Dogmatics According to the Oral Teachings of Father Ioannis Romanidis*. Vol. 1. Translated by T. Petrache. Iași: Publishing House Doxologia, 2014.
- Iustin, Metropolitan of Moldavia and Suceava. *Catehismul creștinului dreptcredincios*. Iași, 1957.
- John Paul II. *Encyclical Letter Fides et Ratio*.
- Justiniani Digestae seu Pandectarum*. lb. I. 10.
- Maritain, J. *An Essay on Christian Philosophy*.
- Mclean, G. F. *Faith, Reason and Philosophy Lectures at the al-Azhar, Qum, Tehran, Lahore and Beijing*. Washington, 2000.
- Mircea, I. *Dicționar al Noului Testament*. Bucharest: Publishing House IBMBOR, 1995.
- Mititelu, C. "About the Right to the Freedom of Religion." In *Rethinking Social Action. Core Values*, coord. A. Sandu et al., 833–838. Bologna: Medimond, 2015.
- Mititelu, C. "Emperor Justinian's Novel 74 and Its Importance for European Marriage Law." *Teologia* 81 (2019): 26–37.
- Mititelu, C. "Matrimonium (Marriage) in Roman Law. The Impact of the Provisions of 'Jus Romanum' on International and National Matrimonial Law." *Bulletin of the Georgian National Academy of Sciences* 14 (2020): 120–130.
- Mititelu, C. "On the 'Concordat Marriage' and Its Legal Regime. Considerations and Assessments." in *Teologia* 90 (2022): 59–85.

- Mititelu, C. "Provisions of Principle with European Constitutional Value on the 'Person's' Right to Freedom and Security." *Journal of Danubius Studies and Research* VI, 2 (2016): 158–165.
- Mititelu, C. "The 'Globalization Era' and the Right of the Church to Preach the Gospel to All Peoples. Canonical-Juridical Considerations and Assessments." *Ecumeny and Law* 5 (2017): 127–146.
- Mititelu, C. "The Celebrant of the Holy Sacrament of the Eucharist. Rules and Canonical Norms of the Orthodox Church." *Annales Canonici* 10 (2014): 135–148.
- Mititelu, C. "The European Convention on Human Rights." *10th Edition of International Conference: the European Integration – Realities and Perspectives*. Galati: Danubius University Press, 2015: 243–252.
- Mititelu, C. "The Service of the Romanian Orthodox Church to Migrants." *Ecumeny and Law* 9 (2021): 45–66.
- Philaret, Metropolitan of Moscow. *Orthodox Catechism*. Translated by G. Ciocioi. Alexandria: Publishing House Sofia, 2007.
- Popovici, I. *Dogmatic of the Orthodox Church*. Vol. 1. Translated by Z. Markovski. Iași: Publishing House Doxologia, 2017.
- Rhali, G. A. And M. Potli: *Σύνταγμα τῶν θείων και ἱερῶν κανόνων*. Vol. 2. Athens, 1852.
- Scola, A. "Human Freedom and Truth According to the Encyclical Fides et Ratio." *COMMUNIO: International Catholic Review* 26 (1999): 486–509.
- Setiawan, C. "The Dialogue Between Faith and Reason According to John Paul II and Thomas Aquinas." *FORUM Filsafat dan Teologi* 52 (2023): 66–78.
- Stăniloae, D. *Teologia dogmatică ortodoxă*. Vol. 1. Bucharest: Publishing House IBMO, 2010.
- Tartler, G. *Înțeleptul singuratic*. Bucharest: Humanitas Publishing House, 2006.
- Tertulianus. "De Praescriptionem Haereticum", VII, 9. In *Sources Chrétiennes*, 46.
- The Institutes of Gaius*. Translated by W. Gordon and O. Robinson. London: Gerald Duckworth & Co. Ltd, 1988.
- Tomas, de Aquino. *Summa Theologica*, III (IIa IIae). Translated by S. Avram *et al.* Iași: Publishing House Polirom, 2016.

Nicolae V. Dură

## À propos de *Fides et Ratio* Réflexions théologiques, philosophiques et juridiques

### Résumé

Le dialogue entre la foi révélée et la raison, c'est-à-dire entre la théologie et la philosophie, a été initié par saint Paul l'Apôtre, celui à qui la révélation du Seigneur a été accordée alors qu'il se rendait à Damas. C'est ainsi qu'a commencé la conversion de Saul à la foi. (*Actes* 9, 3–20) Ce dialogue a été rendu possible par le fait que l'Apôtre des Gentils avait à la fois une formation théologique et rabbinique, et une bonne connaissance de la philosophie grecque antique. Il n'est donc pas surprenant que celui que Dieu a appelé le « vase d'élection » pour porter le nom du Seigneur devant « les païens, leurs rois et le peuple d'Israël » (*Actes* 9:15) ait également eu le privilège d'avoir ses premiers débats avec les philosophes païens de son temps. À la lecture de cet ouvrage – avec son contenu théologique, philosophique et juridique – le lecteur pourra constater qu'un dialogue entre la théologie et la philosophie ne peut être mené du point de vue de l'une ou de l'autre, c'est-à-dire du point de vue de la foi religieuse ou de la raison, mais uniquement par une syntonie, c'est-à-dire par une concentration conjointe des efforts des serviteurs de ces deux domaines pour découvrir et rendre explicite la Vérité révélée. Certains théologiens et philosophes, grâce à leurs travaux sur le dialogue entre la théologie et la philosophie, sont entrés dans l'histoire de la culture théologique et philosophique comme des figures de référence. Le Pape Jean-Paul II occupe une place particulière parmi ces théologiens et philosophes. Il a su nous offrir une théologie du dialogue entre la foi et la raison grâce à son approche pragmatique visant à renforcer le dialogue entre la théologie et la philosophie, ainsi qu'à travers les déclarations contenues dans ses textes : *Exhortations Apostoliques*, *Encycliques*, *Messages*, etc. En tant que figure de proue de l'approche visant à renouveler le dialogue entre la théologie et la philosophie, le Souverain Pontife a également contribué à faire prendre conscience de l'urgence de réconcilier ces deux domaines. Cela nous permet de comprendre et d'exprimer la Vérité tant par la foi que par la contribution de la raison, comme le confirme amplement le texte de son encyclique *Fides et Ratio*.

M o t s - c l é s : foi, raison, théologie, philosophie, dialogue

Nicolae V. Dură

## Informazioni su *Fides et Ratio* Riflessioni teologiche, filosofiche e giuridiche

### Sommario

Il dialogo tra la fede rivelata e la ragione, ovvero tra teologia e filosofia, fu avviato da san Paolo Apostolo, colui al quale fu concessa la rivelazione del Signore durante il suo viaggio verso Damasco. Fu così che ebbe inizio la conversione di Saulo alla fede. (*Atti* 9, 3–20) Questo dialogo fu reso possibile dal fatto che l'Apostolo delle Genti possedeva sia una preparazione teologica con una formazione rabbinica, sia una buona familiarità con la filosofia greca antica. Non sorprende, quindi, che colui che Dio chiamò

“strumento eletto” per portare il nome del Signore davanti “ai Gentili e ai loro re e al popolo d’Israele” (*Atti* 9,15) abbia avuto anche il privilegio di intrattenere i suoi primi dibattiti con i filosofi pagani del suo tempo. Dalle pagine di quest’opera – con il loro contenuto teologico, filosofico e giuridico – il lettore potrà vedere che un dialogo tra teologia e filosofia non può essere condotto dalla prospettiva di una delle due, cioè dalla prospettiva della fede religiosa o della ragione, ma solo attraverso una sintonia, cioè attraverso una concentrazione congiunta degli sforzi dei servitori dei due campi per scoprire e rendere esplicita la Verità rivelata. Alcuni teologi e filosofi, grazie alle loro opere sul dialogo tra teologia e filosofia, sono entrati nella storia della cultura teologica e filosofica come figure di riferimento. Papa Giovanni Paolo II occupa un posto speciale tra questi teologi e filosofi. È riuscito a offrirci una Teologia del dialogo tra Fede e Ragione attraverso il suo approccio pragmatico volto a rafforzare il dialogo tra Teologia e Filosofia e attraverso le affermazioni contenute nei testi delle sue *Esortazioni Apostoliche, Encicliche, Messaggi*, ecc. In qualità di esponente di spicco dell’approccio al rinnovamento del dialogo tra Teologia e Filosofia, il Pontefice ha anche contribuito alla presa di coscienza dell’urgente necessità di riconciliare i due campi della teologia e della filosofia. Ciò ci permette di comprendere ed esprimere la Verità sia attraverso la fede sia attraverso il contributo della ragione, come ampiamente conferma il testo della sua Lettera Enciclica *Fides et Ratio*.

**Parole chiave:** fede, ragione, teologia, filosofia, dialogo



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## Law in God's Law

**Abstract:** The concept of God's law is rooted in theology and canon law. However, the content expressed by this concept is very extensive. In addition, this concept is replaced by many others indicating the proper content for them. Therefore, the usefulness of the concept of divine law remains questionable. The author of the study expresses the opinion that the concept of law and the reality expressed by it are not adequate to properly grasp the meaning of the concept of God's law. The consideration of law in God's law should be carried out in the symbiosis of faith and reason, the acceptance of God's will and its expression in the appropriate way of realizing the ecclesiastical form of the Christian religion.

**Keywords:** God's law, covenant, faithfulness, faith, reason

## Introduction

The concept of divine law is present in the language of theology, philosophy and law, including the law of religious communities. It includes two elements: God and law, which together indicate the reality of law that refers to God. To Him is attributed the perpetration of the reality referred to as law. In religions, especially monotheistic ones, the reality encompassed by the concept of God's law largely determined the understanding of the law itself. On the other hand, the phenomenon of law rooted in human reality influenced the understanding of God's law and, consequently, the issues of the relationship between God's law and human law also go beyond the realm of the religious community<sup>1</sup>.

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<sup>1</sup> The issue of divine law characteristic of monotheistic religions has been discussed in detail in the following books: Silvio Ferrari, *Lo spirito dei diritti religiosi. Ebraismo, cristianesimo e islam*

It is difficult, if not impossible, to encapsulate the entire issue within the framework of the very concept that combines two realities so differently understood within different religions of reality: God and law. For this reason, the following reflection focuses on the Christian religion and the canonical order of the Catholic Church, in which the concept of God's law is present in normative texts. The reflection concerns one component of the concept of God's law, namely law. The phrase God's law carries conceptual cognitive content as an effort by the human intellect to understand revealed reality accepted as truth.

Like other cognitive objects, the experience of revealed reality can also be conceptualized, grasped and then expressed and communicated in various ways. The area between the successive stages of this process carries the environmental conditions of cognitive possibilities, which must be included in the evaluation of the properties and purposefulness of the formulated conclusions in a dogmatic form. The entire process of receiving the word of God, its articulation and confession, "is temporally conditioned" while "specific imaginative models, perspectives, circulating opinions, etc. are connected with God's revelation."<sup>2</sup> "Dogmatic sentences relating to God are formulated only by analogy" because "dogmas are co-determined by social, psychological and other kinds of factors"<sup>3</sup>. God's law is part of the cognitive scheme: reality (Revelation) – cognitive content – concept – idea.

## Divine Law as a Religious Phenomenon

The common element of the appeal to law justified by divine authority is its presence in the community of believers along with man-made norms which cannot oppose or be incompatible with divine norms. This is where the similarities end. In Judaism and Islam, the norms of divine law do not integrate with human norms other than through their adaptation. They develop over time in the life of the religious community within the framework of jurisprudential art and practice. In Christianity, on the other hand, within the canonical order of the Catholic Church, divine law forms, together with human law, a single legal order in which what comes from

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*a confronto* (Bologna: Il Mulino, 2002) and Rémi Brague, *Prawo Boga. Filozoficzna historia Przymierza* (Warszawa: Teologia Polityczna, 2014).

<sup>2</sup> Karl Rahner and Herbert Vorgrimler, "Dogmat," in *Mały słownik teologiczny*, (Warszawa: Instytut Wydawniczy PAX, 1987), 85.

<sup>3</sup> Rahner and Vorgrimler, "Dogmat," 85.

God coexists with what comes from the man. In Judaism and Islam, divine law remains unchanged in its unambiguous and clear formulations which only require adaptation, while in the case of canon law, the Church interprets divine law, integrates it with state law and expresses it as such in its normative statements. God's law in the canonical order is an element of the legal text, a fragment of the norm<sup>4</sup>. It exists only in man-made forms of law.

The interpretation of God's law and integration into a single legal order derives from the sacramental nature of the Church, through which its salvific nature is expressed. The sacramental structure of the Church does not require the constant intervention of God whether in ethical issues or in matters of governance, administration and conduct. The constant penetration of the Trinity in the life of the believer is a sign of God's presence<sup>5</sup>. Hence, God's law for canon law is not a once and for all pronounced truth, but a reality that is constantly actualized<sup>6</sup>. In Judaism and Islam, on the other hand, the unchanging divine law exists as God's absolute mediation in human life<sup>7</sup>.

The juxtaposition in one formulation of God and law suggests a certain idea of reinforcing one term with the other, thus emphasizing the power of law, which has something of the divine authority in it, and the firmness of God's stipulations along the lines of law, which inspires respect and enjoys causal authority. The propositions of God with which he addresses the man would thus acquire meaning by becoming

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<sup>4</sup> Carlo Fantappiè, *Il diritto canonico nella società postmoderna. Lezioni universitarie*. (Torino: G. Giappichelli Editore, 2020), 161.

<sup>5</sup> The Trinitarian dogma is the starting point for thinking about the Church not only in the genetic sense, but also in the current sense. Paul VI, addressing the auditors of the Roman Rota, stated: "Siamo lieti di avere potuto svolgere queste riflessioni insieme a voi sulle esigenze della vostra missione, sulla natura del diritto canonico e sul mistero della Chiesa [...] *"Ecclesia de Trinitate*. La Chiesa è questo *Christus totus* che, nello Spirito, unisce l'umanità alla vita divina dove il Padre dei Lumi si esprime nel Suo Verbo per unirsi ambedue in questo mutuo amore che è lo Spirito Santo. La Chiesa è il sacramento di questo amore ecco perché essa è madre degli uomini creati a immagine di Dio e salvati dal Verbo fatto carne; essa è segno di vita divina e strumento di salvezza," Paul VI, "Ad Praelatos Auditores et Officiales Tribunalis Sanctae Romanae Rotae, a Beatissimo Patre novo litibus iudicialis ineunte anno coram admissos," AAS 65 (1973), 102–103.

<sup>6</sup> A prominent example of this understanding of God's law in the Church is the dispensation from a validly contracted and unfulfilled marriage, which can be granted by the highest legislator in the Church. In dispensing from God's law, he invokes God's law, thereby indicating that it is up to the Church to preach and interpret what follows from this law and to help the faithful find themselves in the face of God's law. The Church does not dispense from God's law but interprets it for the benefit of the faithful within the limits set by tradition, Remigiusz Sobański, *Nauki podstawowe prawa kanonicznego. T. 2, Teologia prawa kościelnego* (Warszawa: Wydawnictwo UKSW, 2001), 79.

<sup>7</sup> Angelo Scola, "Il Ius divinum e la cultura contemporanea," in *Il Ius divinum nella vita della Chiesa. XIII Congresso Internazionale di Diritto Canonico*. Venezia 17–21 settembre 2008, eds Juan I. Arrieta and Costantino-M. Fabris (Venezia: Marcianum Press, 2010), 64.

law, a binding relationship of a dutiful nature. God's law, regardless of its conceptual presentation in different religions, or within the same religion, shows one common feature. The normative basis of such law is provided by certain facts, the source of which, stating very generally, is not found in the will of the people who make up the religious community.

Defining law with the attributive God leads to questions about the similarities and differences (different levels of normativity, scopes of compliance, degrees of binding force, authorship) between it and human law. Questions arise: are we dealing with law in both cases? Is the answer to be sought within the framework of philosophical or scientific (legal) knowledge? For whenever we want to talk about God's law we realize that the God of Revelation has not given us a definition of law. We are condemned to grasp divine law in the categories of human law, to subject the divine law to legal and philosophical knowledge, with the human mind and knowledge to embrace, understand, explain, and accept the requirements coming from God by reading the legal character in them and calling them divine law. We need to integrate divine law with human law within one legal order, which is the Church. Such a combination presupposes the legal character of two realities within one divine-human community, which is again the Church.

The law in God's law indicates that, on the one hand, it belongs to theological concepts through which God's will is expressed and, on the other hand, it is an element of human reality. The combination of God and law integrates, at least intuitively, two possible ways of knowing: God, who is the object of theological knowledge through faith, and law which is characteristic of the activity of reason in its cognitive efforts. The consequences of such a combination remain unambiguous for the religious community, but not necessarily for the state or international community, especially if these do not identify with a particular religion.

God's law understood in this way is the basic measure and determinant of all normative solutions, including, first of all, legal ones, since it is law, but no less doctrinal or moral solutions that invoke God's law. God's law, therefore, is not a concept only of the language of law (it appears in the legal texts of the Church). It is a concept found in theology and in the Church's teaching, albeit quite rarely in the latter<sup>8</sup>. T. Jiménez Urresti expressed the conviction that there is no other concept used by the Magisterium, in theology or in canonology, as flexible in its content as the concept of divine law.

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<sup>8</sup> T. Jimenez Urresti researched all the documents of the universal councils and found only eight references to God's law in them. The Second Vatican Council does not use the term. Teodoro I. Jiménez Urresti, "El «ius divinum». Noción, grados, y lógica de su estudio," *Salamanticensis* 39 (1992): 37–38. It occurs only eight times in the 1983 Code of Canon Law.

Thanks to its broad scope, the concept of God's law has become a convenient reference for justifying the solutions and content proposals undertaken within the framework of religion. The variety of terms and designations of the concept forms the basis of the question of law, as it determines the meaning of the concept. It is not an isolated statement that the concept of divine law is not only useless in theology or canonistics (Rahner, Congar, Jiménez Urresti). It also hinders dialogue and evangelization if the values are replaced by a legal solution.

## Two Examples of Invoking God's Law

As a starting point, I would like to draw your attention to two statements that are in line with the above statements. The first are the words of the homily during the Feast of the Assumption of the Blessed Virgin Mary in Częstochowa (15.08.2018). Archbishop Wacław Depo stated there that Poland was unfortunately ruled by the Constitution instead of the Gospel<sup>9</sup>. The statement provoked numerous comments concerning various points of view. Although the archbishop did not use the phrase God's law, the reference of the gospel to the constitution as a legal act resulted in the identification of the gospel with God's law, and once again revived the academic dispute over the superiority of God's law over state law.

All sorts of long-standing arguments lose much of their relevance when they reduce the dispute at a conceptual level to a legal area delineated, on the one hand, by state law, the expression of which is the constitution, and by God's law, which has its meaning more within the framework of theology than in the area of law. For theology does not pose the question concerning what the law (*quid ius*) occurring in this formulation is. The answers concerning God's law revolve around its content (*quid iuris*). For this reason, it is worth moving the discussion to the level of law or, as far as the Catholic Church is concerned, to the level of canonical considerations, where the relationship between theology and law is marked significantly and inseparably. The question of God's law first concerns the law itself and the connection of the law to God, or rather God to the law. In a discussion in the area of law, the proper point of reference should be legal concepts, not theological on the one hand and legal on the other.

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<sup>9</sup> Bogumił Łoziński, "Ewangelia ponad konstytucją," *Gość Niedzielny* 35 (2018), accessed November 2, 2022, <https://www.gosc.pl/doc/4991033>. Ewangelia-ponad-konstytucja.

The transition from the gospel to God's law is firmly rooted in Catholic thought in the form of claims that God's law is contained in the gospel or the Decalogue. The starting point of such claims was the belief that there were norms or institutions from God's law, for which a legitimate source had to be found. The reverse order: from the Decalogue to the law or from the gospel to the law (from the Word of God to the law) no longer provides such a clear basis for statements about God's law contained in the Decalogue or the gospel. This is because it requires an initial determination of the reality of the law from the point of view of the Decalogue and the gospel in order to move on to its content.

This is the path in the field of canonistics taken by representatives of the current of thought derived from Klaus Morsdorf. They use the concept of divine law and point to its rationale in the very salvific activity of God. As an example, we can use the statement of the Polish professor Remigiusz Sobański, recognized in the world of canon law science, who stated: "It should be noted that in the biblical texts, law appears among the terms that God uses to describe his salvific activity"<sup>10</sup> Thus, God's law has its origin in God's salvific activity, and the salvific offer was also expressed in legal form. Therefore, God establishes contact with the man by revealing His will through the law, and the law itself is a way of manifesting God's will. Such a view does not bring us any closer to understanding the law itself and explaining why God uses the concept of law. It only points to God's authority and His salvific initiative.

Authority is not an element that distinguishes and gives legal character to the requirements coming from Him, unless they fall within the framework of the legal relationship defined as commonly accepted, regardless of the concept of law, features of intersubjectivity, duty-obligation (*debitum*) and subjective equality capable of satisfying the requirements of justice. Close to this issue becomes the question of whether God establishes relations between Himself and the man and between believers in Him on the basis of legal categories, or whether they arise only from and are postulated by the social form of the Christian religion. In deliberations about the law in God's law, there is a place for the symbiosis of faith and reason, accepting what God wants (God's will) and expressing it in a suitable way of implementation.

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<sup>10</sup> Remigiusz Sobański, "Prawo w prawie: prawo Boże i prawo ludzkie," *Teologia Polityczna* 2 (2004–2005): 268.

# Faith and God's Law

## 1. The Covenant Versus Law

The concept of law acquired meaning in the language of theology thanks to its reference to the basic concept of theology, which is the concept of God. It was placed within the framework of the reality created by God (natural law), which made it possible to refer to it subsequently as a reference model to the reality of the world created by the man. It also found application to the salvific activity of God (positive divine law). Among the many categories describing the work of creation and salvation, there was also a place for law.

Unlike many other terms in the field of theology that do not require the use of the attributive "God" (revelation, grace), the concept of law loses its meaning as a theological term without additional reference to the divine essence. This indicates that law is a reality characteristic of human life, and by reference to God it acquires not so much a new meaning, but only a content complement. It is not possible to characterize the divine persons or the relations prevailing in the Trinity with the use of this particular term. The God of Revelation is described as faithful, just, merciful. God is love as St. John says (1 John 4:8). At no point is God and the relationships between the divine persons referred to as law. He is referred to by terms known in the language of the law as God the Just. Righteous, however, is the one who keeps the Covenant. The biblical concept of justice goes significantly beyond its jurisprudential formulation. God is not faithful because He is just by keeping the law, but He is just because He is faithful. The concept of law is foreign to the concept of God.

Defining God as righteous is not the basis for stating the existence of law in Him. He is just because he is faithful to His covenant with the man. Experiencing it on the part of the man as a legal issue indicates that the law has its reference to the revelation taking place in history and taking historical form in the history of the people of the old and new covenants. The revelation of God in history does not involve the revelation of the theologically objectified law, but reveals the phenomenon of law anthropologically grounded. The legal phenomenon is an original element of human experience through which the man expresses himself including his own religious experience within his own culture<sup>11</sup>. The separation of the Covenant and law, while privileging the latter, resulted in the image of God imposing his laws in a firm, unambiguous, unchangeable way, and not one who makes promises

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<sup>11</sup> Umberto R Del Giudice, *Teologia del diritto canonico ed istanze antropologiche. Relazioni storiche ed applicazioni attuali* (Città del Vaticano: Lateran University Press, 2021), 127–129.

to the man (*diatheke, testamentum*) and goes out to the man with a proposal concerning his life with God and other people. This particular image is inappropriate and detrimental to theology. The starting point of theology is the ability to listen to the word of God, which is what God says to the man instead of what the man says about God<sup>12</sup>.

## 2. Creation Versus Law

In Christian thought, the lawful reference to God found its justification through the category of creation. In the Christian legal tradition referring to Augustine, Thomas, and Suarez, law went beyond its modern understanding. It was an integral part of the reality created by God, in which the relations existing in the universe find their origin and purpose. The ordered reality with its hierarchically subordinated goods and purposes was the place for the consideration of law, which was grasped in relation to the purpose and order of the world and the man<sup>13</sup>. Ultimately, even the accentuated difference between *ius* and *lex*, but along with the perceived relationship between them<sup>14</sup>, was irrelevant to the recognition of a single order created by God with its characteristic goods and purposes existing and being realized in both the natural and supernatural states. The order established by God and expressed as *lex* made reference to the external, interpersonal relations of justice created by *ius*. Legal relations were thus characteristic of the order existing in the universe and as such were referred to as God's law.

However, the relationship between the Creator and His creation did not require legal relations in terms of social relations. Between the Creator and the creation there is an ontological (metaphysical) relationship in which the man has read and reads the principles inherent in the functioning of entities, not a legally regulated relationship<sup>15</sup>. In the concept of divine law in the Judeo-Christian tradition, law

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<sup>12</sup> “Theology in its essence is a conscious effort made by the believer to listen to the authentic, historically proclaimed word of God's revelation, an effort to know that word ... it therefore presupposes revelation in the word rather than creating it ... proper theology therefore presupposes a due hearing of the word of God for the sake of salvation and ultimately wants to serve that hearing” [own translation], Karl Rahner, Karl and Herbert Vorgrimler, “Teologia,” in *Mały słownik teologiczny* (Warszawa: Instytut Wydawniczy PAX, 1987), 466.

<sup>13</sup> Eduardo Molano, “Precisiones en torno al «Ius Divinum»,” *Ius Canonicum* 22 (1982): 786.

<sup>14</sup> Javier Hervada, *Prawo naturalne. Wprowadzenie* (Kraków: Petrus, 2011): 158-159. The two aspects of one reality remain in relation to each other creating legal ties and relations of justice in the natural community and the Church.

<sup>15</sup> Paolo Gherri, *Lezioni di Teologia del Diritto Canonico* (Roma: Lateran University Press, 2004), 151.

appears neither in reference to the person of the God of Revelation or to His creative acts, nor in the modes of operation within the created reality.

## Reason versus God's Law

### 1. Judaism

The legal experience in Judaism was shaped in the perspective of the experience of the Covenant offered by God and the faith of the chosen people. We learn about them through the written biblical text and through the shaping tradition (written and oral Torah). Israel's religious experience and its relationship with God, while taking place in the midst of pagan religions with which Israel shares territories and customs and finds similar-sounding laws, differs significantly from them. Israel's righteousness goes far beyond interpersonal relations signifying in the first place a moral obligation and responsible response to the Covenant offered to them, which nothing can replace or equal it. A righteous man is the one who keeps the Covenant and remains faithful, in and through whom God's wisdom is revealed. Wisdom and law are, as they were, the tools (means) by which the chosen people keep the Covenant<sup>16</sup>. Hence, the commandment and the law coexist not as two opposing ways of realizing the Covenant, but as interchangeable tools for its realization. A commandment that contains an element of normativity does not necessarily specify it in juridical form. It is far from rules of behavior of legal generality and abstractness. God directly addresses the man by establishing an interpersonal relationship with him on the principle of master and disciple, to whom He offers a way of dealing with Himself. The word-instruction (Torah) and the law-order (Torah) maintain a continuity that shows that God's Word to the man is capable of forming in him a moral attitude and social justice. Therefore, the law of the Old Testament reveals its nature as an indication (message) of freedom and salvation, and not as a legal order (organization)<sup>17</sup>.

Religious experience exists in cultic attitudes and in the ways of worshipping God that express them. Their inclusion in the Pentateuch (Torah) had the effect of transferring the concept to denote specific behaviors read in legal terms (Torah –

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<sup>16</sup> Del Giudice, *Teologia del diritto canonico ed istanze antropologiche*, 164.

<sup>17</sup> Del Giudice, *Teologia del diritto canonico ed istanze antropologiche*, 169.

law). The observance of these laws was a condition of social identity and religious belonging to the chosen people<sup>18</sup>. The positively formulated laws, written down and alive in oral tradition, remain in close relation to Revelation. In this sense, they have a theological justification which, however, must be read in the perspective of the chosen people's experience of the Covenant offered to them.

The terms and meanings of religious experience expressed in human language begin to function in relation to God and acquire theological autonomy. Such a situation is encountered in the case of natural experience and the determination of law. Relating to God, human categories expressing the mutual relationship of relational subjects transferred to the relationship with God acquire a theological character. It results, as in the case of law, in referring to religious experience as a basis justifying the creation of legal orders, institutions, specific normative solutions, or even the superiority of religious institutions over the state<sup>19</sup>. However, the axis of God's relationship with the man is realized in terms of the Covenant – election – faithfulness. Adopting the paradigm of law as a divine-human relationship has become convenient for expressing what is essential in this relationship, namely: intersubjectivity, permanence, responsibility, which are expressed in the first place in faithfulness.

## 2. Christianity

The object of a canonist's interest is the law of the Church. What makes it specific and distinguishes it from other forms of legal experience is the Church community. The canonist looks at the Church. However, his attitude is different than the one presented by a theologian, for whom, among many other topics of scientific interest, it is also necessary to justify the existence of law in the Church as an element of the reality of the Church. The Church also exists in the legal aspect. This aspect, and not the legal aspects of the Church, is the point of reference and interest of canonistics. What gives canonistics a specificity of approach is the indication of the place that the law of the Church occupies in the mystery of salvation present in it and realized by it. The nature and specificity of this community will determine the relational subjectivity and its content. For the subjects of legal relations in the Church are persons implanted in Christ, and the bonds between them grow directly out of the saving will of God. The sacramental character of the Church and the social char-

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<sup>18</sup> Del Giudice, *Teologia del diritto canonico ed istanze antropologiche*, 146–148.

<sup>19</sup> Severino Dianich, *Diritto e teologia. Ecclesiologia e canonistica per una riforma della Chiesa* (Bologna: Edizioni Dehoniane, 2015), 55.

acter of the salvation process growing out of it find their explanation in the social nature of the man<sup>20</sup>.

Canonical studies, therefore, deal with the Church and its law, but do so differently from theology by focusing on the communal requirements of the life of the faithful as members of a single community. Thus, it differs from those branches of theology that deal primarily with individual aspects of the lives of Christians (moral theology, spirituality). The interests of canonical theology revolve around the communal identity of Christ-centered believers in the context of their faith (Magisterium, teaching, externalization, errors, etc.) and specific and faith-driven behaviors (sacraments, positions and tasks in the community, offices, offenses, etc.)<sup>21</sup>.

The Christian approach to the issue of God's law emphasizing the unity between the two testaments places a boundary between the two. It is about the law of the Church, not the law of Israel. The law remains in connection with the faith of the community that Christ organized around His person and which He then sent to proclaim the good news of salvation after His resurrection by making Himself sacramentally present. The object of the Church's law, therefore, is the legal experience of the community gathered around Christ in imitation of the apostles. Within the Christian community, the relations corresponding to that group, including the legal ones, are formed. They constitute the object of the law of the Church.

The legal experience of rising Christianity was shaped as a continuation of God's revelation. Similarly to the Judaic religion, it was expressed in the emerging institutional forms and norms which, more than the legal dimension, emphasized their moral specificity resulting from the bonds existing between the adherents aroused by the presence of Christ among and in them through His Spirit. Despite the significant difference between the religious communities of the Old and New Testaments, there is a similarity in their reading and experiencing of the legal dimension within the framework of previous religious experience.

The radicalism of Jesus's moral teaching does not warrant statements about a clear separation of the legal and moral, or cultic spheres in the Judaic religion of his contemporary era. A clear distinction between the moral and legal spheres is not peculiar to the times of Jesus and the rising faith and Christian community. To look for the source of legal provisions in Jesus is as erroneous as looking for them in God's original revelation to the chosen people. Between the "data" of the revelation from the life of Jesus and his legislative "will" there is a level of understanding and

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<sup>20</sup> Sobański, *Nauki podstawowe prawa kanonicznego*, 30.

<sup>21</sup> Paolo Gherri, *Introduzione critica alla teologia del diritto canonico* (Torino: G. Giappichelli Editore, 2019), 193.

transmission aimed at the specific commune (community). The Gospel narrative is a reinterpretation of His teaching present in the community to bring out the existential experience of faith, rather than the legal norm directly willed by Christ.

The legal experience of the old and new Israel takes place in the perspective of the Covenant. In the New Testament, it is the Covenant made in the blood of Jesus Christ<sup>22</sup>. In the perspective of this Covenant, the new commandment also becomes understandable. It is not tantamount to a release from the law as rules of behavior, but reinforces it as a new law in Christ shaping the mutual relations between his believers. Relations between Christ's followers, among them also the legal ones, are different from those that bind the followers to Him alone, although in this relationship they find their origin and justification.

## A Few Comments

Is the concept of God's law needed at all? Does God work through the law? Does God use the law as it exists in the chosen people to fill them with the content of divine authority, or does He reveal His word as law? The consideration of God's law carries a burden of theological solutions, which indicates the constant need to revise the methods and content of the data it offers. The same problem applies to the conceptualization of conceptual formulations, including the notion of God's law which is present in theology and canon law science, and which has been, as it were, alienated from the reality of election and the Covenant made between God and the man. The two realities remain in a close relationship. Between them there is a relationship of subordination, in which legal experience is a consequence of the Covenant previously offered.

Describing the covenant very generally, it can be said that it contains an element of legal experience resulting from a binding obligation<sup>23</sup>. This is how it could be read by those to whom it was addressed, and then expressed by an experience close to social coexistence within a communal identity. The reference of the law to the manifested God consequently led to its designation as divine. On the one

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<sup>22</sup> Mt 26, 27–28.

<sup>23</sup> Francesco D'Agostino, "Fondazione del diritto," in *Fondazione del diritto. Tipologia e interpretazione della norma canonica. XXVII Incontro di Studio Centro Dolomiti «Pio X»* – Borca di Cadore (BL) 26 giugno – 30 giugno 2000, ed. Gruppo Italiano Docenti Di Diritto Canonico, 11–26. Milano: Glossa, 2001), 19.

hand, the term indicates the nature of the law and its reference to God, and on the other hand, it indicates the conceptual unity of the law expressed in the common element of the two laws, which is its commanding and obliging nature. However, the Word of God as a promise does not identify with a once and for all definite and immutable reality that can be expressed and encapsulated by human normative provisions<sup>24</sup>.

The legal expression of religious experience does not prove to be a sufficient argument for its designation as God's law. It points out that the content referred to by this term has a historical dimension, experiencing human interpretation in concrete situations as a response to the covenant offered by God. This human element also makes it apparent that God's law does not exist outside Revelation. God who addresses the man does not do so in the form of a coercive response resulting in an obligation. He does not deprive the man of his freedom. On the contrary, he respects human freedom and responsibility to the letter.

## Bibliography

Brague, Rémi. *Prawo Boga. Filozoficzna historia Przymierza*. Warszawa: Teologia Polityczna, 2014.

D'Agostino, Francesco. "Fondazione del diritto." In *Fondazione del diritto. Tipologia e interpretazione della norma canonica. XXVII Incontro di Studio Centro Dolomiti «Pio X» – Borca di Cadore (BL) 26 giugno – 30 giugno 2000*, edited by Gruppo Italiano Docenti Di Diritto Canonico, 11–26. Milano: Glossa, 2001.

D'Agostino, Francesco. "La Teologia del Diritto positivo: Annuncio cristiano e Verità del Diritto." In *«Evangelium vitae» e diritto. Acta Symposii Internationalis in civitate Vaticana celebrati 23–25 maii 1996*, edited by Alphonsius L. Trujillo, Julianus Herranz, Aelius Sgreccia, 121–131. Città del Vaticano: Libreria Editrice Vaticana, 1997.

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<sup>24</sup> Francesco D'Agostino, "La Teologia del Diritto positivo: Annuncio cristiano e Verità del Diritto," in *«Evangelium vitae» e diritto. Acta Symposii Internationalis in civitate Vaticana celebrati 23–25 maii 1996*, ed. Alphonsius L. Trujillo, Julianus Herranz, Aelius Sgreccia, (Città del Vaticano: Libreria Editrice Vaticana, 1997), 113–115; Francesco D'Agostino, "La Teologia del Diritto positivo: Annuncio cristiano e Verità del Diritto," in *«Evangelium vitae» e diritto. Acta Symposii Internationalis in civitate Vaticana celebrati 23–25 maii 1996*, edited by Alphonsius L. Trujillo, Julianus Herranz, and Aelius Sgreccia (Città del Vaticano: Libreria Editrice Vaticana, 1997), 121–122.

- D'Agostino, Francesco. "Teologia del diritto alla prova del fondamentalismo." In *Ius divinum. Fondamentalismo religioso ed esperienza giuridica*, edited by F. D'Agostino, 113–123. Torino: G. Giappichelli Editore, 1998.
- Del Giudice, Umberto R. *Teologia del diritto canonico ed istanze antropologiche. Relazioni storiche ed applicazioni attuali*. Città del Vaticano: Lateran University Press, 2021.
- Dianich, Severino. *Diritto e teologia. Ecclesiologia e canonistica per una riforma della Chiesa*. Bologna: Edizioni Dehoniane Bologna, 2015.
- Fantappiè, Carlo. *Il diritto canonico nella società postmoderna. Lezioni universitarie*. Torino: G. Giappichelli Editore, 2020.
- Ferrari, Silvio. *Lo spirito dei diritti religiosi. Ebraismo, cristianesimo e islam a confronto*. Bologna: Il Mulino, 2002.
- Gherri, Paolo. *Introduzione critica alla teologia del diritto canonico*. Torino: G. Giappichelli Editore, 2019.
- Gherri, Paolo. *Lezioni di teologia del diritto canonico*. Roma: Lateran University Press, 2004.
- Hervada, Javier. *Prawo naturalne. Wprowadzenie*. Kraków: Petrus, 2011.
- Jiménez Urresti, Teodoro I. "El «ius divinum». Noción, grados, y lógica de su estudio." *Salamanticensis* 39 (1992): 35–77.
- Łoziński, Bogumił. "Ewangelia ponad konstytucją." *Gość Niedzielny* 35 (2018), accessed November 2, 2022, <https://www.gosc.pl/doc/4991033>. Ewangelia-ponad-konstytucja.
- Molano, Eduardo. "Precisiones en torno al «Ius Divinum»." *Ius Canonicum* 22 (1982): 782–796.
- Paul VI. "Ad Praelatos Auditores et Officiales Tribunalis Sanctae Romanae Rotae, a Beatissimo Patre novo litibus iudicialis ineunte anno coram admissos." *AAS* 65 (1973): 95–103.
- Rahner, Karl, and Herbert Vorgrimler. "Dogmat." In *Mały słownik teologiczny*, 84–86. Warszawa: Instytut Wydawniczy PAX, 1987.
- Rahner, Karl, and Herbert Vorgrimler. "Teologia." In *Mały słownik teologiczny*, 466–471. Warszawa: Instytut Wydawniczy PAX, 1987.
- Scola, Angelo. "Il Ius divinum e la cultura contemporanea." In *Il Ius divinum nella vita della Chiesa. XIII Congresso Internazionale di Diritto Canonico. Venezia 17–21 settembre 2008*, edited by Juan I. Arrieta and Costantino-M. Fabris, 49–67. Venezia: Marcianum Press, 2010.
- Sobański, Remigiusz. *Nauki podstawowe prawa kanonicznego. T. 2, Teologia prawa kościelnego*. Warszawa: Wydawnictwo UKSW, 2001.
- Sobański, Remigiusz. "Prawo w prawie: prawo Boże i prawo ludzkie." *Teologia Polityczna* 2 (2004–2005): 267–273.

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## La loi dans la loi de Dieu

### Résumé

Le concept de loi divine trouve ses racines dans la théologie et le droit canonique. Cependant, le contenu exprimé par ce concept est très vaste. De plus, ce concept est remplacé par de nombreux autres qui indiquent leur contenu propre. Par conséquent, l'utilité du concept de loi divine reste discutable. L'auteur de l'étude exprime l'opinion que le concept de loi et la réalité qu'il exprime ne sont pas suffisants pour saisir correctement le sens du concept de loi divine. La réflexion sur la loi dans la loi divine doit être menée dans la symbiose de la foi et de la raison, l'acceptation de la volonté de Dieu et son expression dans la manière appropriée de réaliser la forme ecclésiastique de la religion chrétienne.

Mots-clés : la loi de Dieu, l'alliance, la fidélité, la foi, la raison

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## La legge nella Legge di Dio

### Sommario

Il concetto di legge divina affonda le sue radici nella teologia e nel diritto canonico. Tuttavia, il contenuto espresso da questo concetto è molto ampio. Inoltre, tale concetto è sostituito da molti altri che ne indicano il contenuto appropriato. Pertanto, l'utilità del concetto di legge divina rimane discutibile. L'autore dello studio esprime l'opinione che il concetto di legge e la realtà da esso espressa non siano adeguati a cogliere correttamente il significato del concetto di legge di Dio. La considerazione della legge nella legge di Dio dovrebbe essere effettuata nella simbiosi tra fede e ragione, nell'accettazione della volontà di Dio e nella sua espressione nel modo appropriato di realizzare la forma ecclesiastica della religione cristiana.

Parole chiave: la legge di Dio, l'alleanza, la fedeltà, la fede, la ragione



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# Law as *ratio scripta*

**Abstract:** The paper examines the relationship between law and rationality from multiple perspectives. As early as the Middle Ages, the canonist Gratian attempted to reconcile conflicting legal provisions using rational criteria in his monumental work. The humanist legal theorist Hugo Grotius referred to the ancient codifications of Roman law issued by Emperor Justinian as “written reason.” Grotius also identified “the dictate of right reason” within natural law. Civil law codifications of the 19th and 20th centuries, beginning with the Napoleonic Code, drew upon both Roman and natural law, aspiring once again to perfect rationality. The Catholic Church joined this endeavor by organizing canonical material into the first *Code of Canon Law*, promulgated in 1917. The ecclesiastical legislator further adopted Justinian’s division of matters into persons, things, and actions. The current *Code of Canon Law* also operates with rationality, exemplified by its requirement that a custom must be “reasonable.” What contravenes natural law is deemed irrational, for example the ecclesiastical legislator establishes the impediment of consanguinity as a norm of natural divine law. As an example of irrational law, the article highlights the Slovak legislator’s requirement that a petition for the recognition of a new church or religious society by the state must be accompanied by more than 50,000 signatures. It is evident that no unregistered religious society could meet this requirement, nor could the majority of churches already recognized by the state.

**Key words:** natural law, Roman law, canon law, civil law, legislator, code, codex, statute, custom, church, rationality

## Philosophical Foundations of Law

The ancient authorities, as they were received and recognized in the Middle Ages, suffered a major blow with the rise of the Humanist movement. Aristotle’s barren “Organon” was replaced by Francis Bacon’s (1561–1626) *The New Organon* (*Novum organum*). What happened in the realm of philosophy was also reflected in relation to law. In the Middle Ages, the rediscovered Justinian codifications were commented upon in a rather uncreative fashion (*non glossant glossas sed glossarum glossas*),

while Humanism discussed Justinian's great work with the use of historical-critical methods. The ancient codifications, thus, lost the aureole of authoritative and inviolable sources. Nevertheless, they were not discarded. Even under these new circumstances, Roman law had earned a special respect expressed by its designation as "written reason" (*ratio scripta*).<sup>1</sup> Grotius's (1583–1645) theoretical grasp of modern international law was also based on reason. Indeed, through natural law as derived from reason Grotius completed the whole construction of international law.<sup>2</sup> In natural law, Grotius sees the dictates of right reason (*dictatus rectae rationis*).

The great modern European codifications of civil law, starting with Napoleon's *Civil Code* (1804), were inspired not only by the old Roman private law but also by natural law thought. This synthesis was regarded as 'written reason'. For example, this is also the case of the Austrian General Civil Code (*Allgemeines bürgerliches Gesetzbuch* – ABGB, 1811), which was valid on the territory of the present-day Czech and Slovak Republics.<sup>3</sup> The explicit manifesto of natural law can be found in the famous provision of this code (§ 16), the first part of which states that "everyone has inborn rights, known already by reason alone, and is to be considered a person."

However, this does not mean that in the Middle Ages one would not seek rationality in law. According to Thomas Aquinas (1225–1274), rationality is a conceptual feature of law itself. This proves his famous definition of law: "*Ordinatio rationis ad bonum commune, ab eo qui curam communitatis habet promulgata*."<sup>4</sup> Moreover, about a century before St. Thomas, the canonist Gratian had already concluded that true rationality in law cannot be achieved if different legal rules concerning the same subject matter are contradictory. Therefore, in his "Decree", he uses the method of *concordantia discordantium canonum* (c. 1140), which gave the name to his entire

<sup>1</sup> "If in this view the Justinian code lost its authoritative halo, the same cannot be said of the Humanist view of Roman law. On the contrary, the more this relationship loosened on the one hand, the more it gained strength on the other. Roman law was thus becoming the very embodiment of certain intrinsic values, beginning to appear as good and reasonable law. The content of the Justinian codification was simply something that captured this law, it was, in a word, 'written reason' (*ratio scripta*)." Valentin Urfus, *Historické základy novodobého práva soukromého* (Praha: C.H. Beck, 1994), 55.

<sup>2</sup> "He shook the domain of Roman texts whenever they were not suited to actual decisions. They form a law partly Roman, partly customary and partly deduced from reason. It forms a new legal system based on reason." Alexandra Kršková, *Dejiny politickej právnej filozofie* (Trnava: Universitas tyrnaviensis, 2011), 298.

<sup>3</sup> "These codes – but not only them – which used to be generally regarded as the written expression of natural law (in Austria the ABGB was regarded as *ratio scripta*, i.e. written reason), brought about a situation in which the codification activity was abandoned for a long time and replaced by exegesis, i.e. essentially a mindless interpretation of the legal text as a linguistic expression of natural law. The efforts to understand the law and its social development in legal science were thus curtailed." Viktor Knapp, *Velké právní systémy: úvod do srovnávací právní vědy* (Praha: C.H. Beck, 1996), 120–121.

<sup>4</sup> *Summa theologiae* I–II, q. 90, a. 4.

monumental work, and forms the first part of the volume of legal sources, later referred to as the “*Corpus iuris canonici*” (published in 1582).

In terms of the scope, Gratian is already close to a historical-critical approach, but his method is primarily scholastic-dialectical, similar to the one developed in the field of philosophical and theological research by Abelard (1079–1142) in his compendium “*Sic et non*” (“Yes and No”). Gratian arranged the various norms on the basis of key rational criteria: in terms of meaning (*ratio significationis*, *spiritus normae*), time of origin (*ratio temporis*), territorial scope (*ratio loci*) and, finally, the possibility of dispensation (*ratio dispensationis*). Gratian, though an ecclesiastical jurist, was no stranger to the heritage of the old Roman civil law, which tended to attract the ever-increasing attention in his times.<sup>5</sup>

## The Need for a Clear Canonical Codification

Although Gratian produced a rationally structured and comprehensively conceived legal corpus, the later increase in the production of canon law sources in the Middle Ages and, subsequently, in the modern period made them highly opaque and unadaptable. It is not surprising, therefore, that at a time when the culture of civil codes had already been flourishing throughout the world, the desire for complexity, stability, clarity and rationality in legal regulation also reached the Catholic Church. At the turn of the 19th and 20th centuries, the Catholic Church still had a highly fragmented legal order based on the medieval collections contained in the *Corpus iuris canonici*. Thus, a need arose to organise the entire body of law into a single and clear legislative act.

The opportunity to propose the adoption of such a legal instrument came at a moment when Pope Pius IX (1846–1878) was summoning the First Vatican Council. When the bishops started to respond to the papal letter convening the Council (from 1865 onwards), many of them expressed their desire for a clear and uncontroversial regulation of canon law. The bishops of France aptly expressed the possible dangers of legal chaos and nihilism which could negatively impact the atmosphere in the Church: “It is obvious and already known by everyone and proclaimed everywhere that some revision or reform of canon law is necessary and even urgent.

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<sup>5</sup> “Although several scholarly conclusions suggest that the assimilation of civil Roman law into canon law was only extended with the later commentators on the Decree, some of Gratian’s knowledge of Roman law may be evidenced by his *dicta*.” Vojtech Vladár. *Dejiny cirkevného práva*. (Praha: Legeas, 2017), 278.

Indeed under such serious circumstances and in light of the changes within human society, many laws, including useless ones, are impossible to observe or [are possible to observe, but only with] great difficulty. There is ambiguity about countless canons as to whether or not they are still in force. And finally with the passage of the ages, the number of ecclesiastical laws has increased, and more laws are still being added to various Collections of law, so that we can say in a certain sense: We are weighed down by law. All of this results in inextricable difficulties in determining the limits of the study of canon law and allows controversies and protracted procedures to occur; this gives rise to a thousand crises of conscience and drives one toward contempt for law.”<sup>6</sup>

The codification work, however, was left to wait until the coming 20th century. It is no coincidence that by the early 1900s, the German Civil Code (*Bürgerliches Gesetzbuch* – BGB) came into force. This fact, too, must have been one of the important stimuli for the increased legislative efforts in the Church, and would influence the title of the planned legal collection. It was also decided that the new comprehensive codification of canon law would not be called a *corpus*, but a *codex*. Pope Pius X (1903–1914) in order to investigate the need for a new codification, convened the curial cardinals. Having heard their opinions, he issued the *motu proprio Arduum sane munus (De Ecclesiae legibus in unum redigendis)*.<sup>7</sup> With the publication of this document in 1904, the codification commission began its operation, led by an outstanding canonist Cardinal Pietro Gasparri.

As regards the structure of the Code, the reminiscences of Roman law, as well as the structure of *personae-res-actiones* were again evident. These three parts form the title and content of the second to fourth books of the Code (Book Two: *Persons*; Book Three: *Things*; Book Four: *Various Proceedings*). The volume is framed by Book One on general norms (*Normae generales*) and Book Five on crimes and punishments (*De delictis et poenis*).<sup>8</sup> Thus for the early twentieth-century church legislator the Roman civil law still represented written reason (*ratio scripta*).

The subject matter of ecclesiastical law is, however, in many respects very different from civil law, especially because the scope of ecclesiastical law is not only

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<sup>6</sup> Quoted from the English translation of the 1917 Code of Canon Law available online at <https://cdn.restorethe54.com/media/pdf/1917-code-of-canon-law-english.pdf>.

<sup>7</sup> *Acta Sanctae Sedis* 36 (1903–1904), 549–551.

<sup>8</sup> “In fact, the old Pio-Benedictine Code abandoned the medieval division of canon law material based on the systematics introduced by the so-called first ancient compilation (*Compilatio antiqua prima*) of Bernard of Pavia († 1213) of 1198 and replaced it with a much older systematics originating in the very early Institutions of Gaius (2nd century) and which was later adopted in *Institutiones seu Elementa* (533) of the Emperor Justinian.” Ignác Antonín Hrdina and Miloš Szabo, *Teorie kanonického práva* (Praha: Karolinum, 2018), 200.

facts and relationships formed “in the natural order”, but also phenomena based on spiritual values and religious beliefs. Their focus thus goes beyond the normative intention of civil legislators. While the civil legislators moved to a new systematization of civil law based on civil law jurisprudence,<sup>9</sup> in the third book of the *Code (De rebus)* the ecclesiastical legislator attempted to bring together quite incommensurable issues: in addition to the Church’s movable and immovable property, also, for example, the discipline of the administration of the sacraments or the legal rules for the propagation of the faith.

Since the first *Code* of the Catholic Church was published at a time of heightened interest in scholastic, especially Thomistic thought (after the publication of Leo XIII’s encyclical “*Aeterni patris*” on the renewal of Christian philosophy in 1879),<sup>10</sup> one would expect the inclusion of the statutory definition of law itself according to Thomas Aquinas. Necessarily, this would have emphasized the rational character of law. However, the legislator correctly assessed that this was not sufficiently suitable for a definition specifically applicable to canon law.<sup>11</sup>

## The Rationality of Customary Law

The requirement of reasonableness, however, can be found in relation to the rules on customary law. Customary law is not a mere custom. Should customs acquire the legal binding force and enforceability, legal theory requires their long use (*usus longaevis*) and the conviction of the necessity to observe them (*opinio iuris sive necessitatis*).<sup>12</sup> For the validity of a custom, however, the canonical legislator

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<sup>9</sup> “Today’s basic classification into the general part, the rights *in rem*, the law of obligations, the law of the family (matrimonial) and the law of inheritance, as we know it from various textbooks of civil law, but also from textbooks of Roman law, is a product of German Pandectist from the early 19th century. A. Heise, who published it in 1807 in the book *Grundriß eines Systems des gemeinen Civilrechts zum Behufe von Pandektenvorlesungen*.” Viktor Knapp, *Velké právní systémy*, 127–128.

<sup>10</sup> *Acta Sanctae Sedis* 12 (1879), 97–115.

<sup>11</sup> “This definition expresses some elements that are not peculiar to law but are shared with other normative systems. Moreover, it applies only to positive law, not to natural or eternal law; to these, it can be applied by analogy. It is not, however, a definition of ecclesiastical law; rather, it can be applied to political decisions within civil society.” Julio García Martín, *Le norme generali del Codex Iuris canonici* (Roma : Ediurcla, 1996), 48.

<sup>12</sup> “*Usus longaevis* is the sign whose fulfilment gives rise to a custom. This does not mean, however, that such a custom has a legal character. It still requires *opinio iuris*, i.e. the awareness within the society that it is a legal custom. We can also speak of the recognition of a legal custom by the state

establishes an additional condition, namely its reasonableness, thus placing the custom on the level of law. Nevertheless, he does not explicitly speak of the reasonableness of law in the spirit of St Thomas's definition: "A custom that is expressly reprobated (*expresse reprobatur*) in law is not reasonable."<sup>13</sup> The 1917 Code required a forty-year period for the establishment of a custom and its "reasonableness": "A custom beyond the law (*consuetudo praeter legem*), if it has been knowingly observed by a community with the intention of obliging itself, leads to law, if the custom was equally reasonable and legitimately observed for forty continuous and complete years."<sup>14</sup> The 1983 Code of John Paul II requires not a forty-year, but only a thirty-year period of retention.<sup>15</sup>

Both codes, however, require formal confirmation of the custom by the legislator.<sup>16</sup> An example of a custom approved by the legislator is the 2002 implementing provision of the Archbishop of Prague on the issue of clerical dress: "On the territory of the Archdiocese of Prague, diocesan clergy is obliged to wear ecclesiastical clothing on festive occasions or at official meetings where they speak on behalf of the Church, or whenever it seems beneficial to the apostolate, the prime goal of this provision. For this reason, therefore, in our circumstances and on the basis of the proven experience of the past decades, it is also necessary to respect, as a reasonable custom, the less conspicuous dress of the clergy; this has made it easier to approach people, often those who are non-believers, and to proclaim the Gospel to them, without causing in them any negative prejudice in advance. Let apostolic benefit therefore be the main motivation. In doing so, one must refrain from controversies, uncultured and scandalous conduct, as well as ostentation."<sup>17</sup> Such an assertion of ecclesiastical authority makes this custom, which is otherwise inaccurately also called "unwritten law", into written reason (*ratio scripta*); thus it *de facto* becomes a law.

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and its subsequent enforcement by state power. This feature causes the custom to become part of the valid law, creating subjective rights and, if necessary, it can also be claimed by way of a legal claim (*actio*).” Jaromír Harvánek, *et al.*, *Teorie práva* (Plzeň: Aleš Čeněk, 2008), 263.

<sup>13</sup> CIC/1917, can. 27 § 2; cf. CIC/1983, can. 24 § 2.

<sup>14</sup> CIC/1917, can. 28.

<sup>15</sup> Cf. CIC/1983, can. 26.

<sup>16</sup> Cf. CIC/1917, can. 25; CIC/1983, can. 23.

<sup>17</sup> "Usnesení České biskupské konference o oděvu duchovních. Prováděcí ustanovení arcibiskupa", in *Sbírka právních norem arcidiecéze pražské z let 1945–2009* by Marie Kolářová (Praha: Arcibiskupství pražské, 2009), 300.

## Aspects of Rationality in Code Law

In John Paul II's *Code of Canon Law*, we find the qualification of the authentic authority of the Church, which is distinct from the "divine and catholic faith" whose object is the dogmas of the Church itself. It is a doctrine which the Pope and the bishops continually proclaim without definitively declaring it as immutable. "Although not an assent of faith, a religious submission of the intellect and will (*religiosum intellectus et voluntatis obsequium*) must be given to a doctrine which the Supreme Pontiff or the college of bishops declares concerning faith or morals when they exercise the authentic magisterium, even if they do not intend to proclaim it by definitive act; therefore, the Christian faithful are to take care to avoid those things which do not agree with it."<sup>18</sup> Here we already encounter the theme of the rational grasp of faith, which the same Pope John Paul II develops in his encyclical *Fides et Ratio*.<sup>19</sup> The very search for the truth about God and the Church is bound up with the rational effort and knowledge of the individual: "All are bound to seek the truth in the matters which concern God and his Church; when they have found it, then by divine law they are bound, and they have the right, to embrace and keep it."<sup>20</sup>

According to the encyclical *Fides et Ratio*, the exclusion of rationality from speculative thought in many modern philosophical movements hinders this authentic search for faith: "In the wake of these cultural shifts, some philosophers have abandoned the search for truth in itself and made their sole aim the attainment of a subjective certainty or a pragmatic sense of utility. This in turn has obscured the true dignity of reason, which is no longer equipped to know the truth and to seek the absolute."<sup>21</sup> It is no surprise, therefore, that seminarians in seminaries and theological faculties are to be taught, above all, a philosophy that allows the mutually enriching encounter between faith and human thought: "Philosophical instruction must be grounded in the perennially valid philosophical heritage (*patrimonium philosophicum perenniter validum*) and also take into account philosophical investigation over the course of time. It is to be taught in such a way that it perfects the human development of the students, sharpens their minds, and makes them better able to pursue theological studies."<sup>22</sup>

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<sup>18</sup> CIC/1983, can. 752.

<sup>19</sup> *Acta Apostolicae Sedis* 91 (1999), pp. 5–88.

<sup>20</sup> CIC/1983, can. 748 § 1.

<sup>21</sup> *Fides et Ratio* 47,3.

<sup>22</sup> CIC/1983, can. 251.

*The Code of Canon Law* itself contains norms of divine law, both positive, divinely decreed, and natural, inscribed by God in nature, intelligible to men even without the divine “decree.”<sup>23</sup> Natural divine law, transformed into canonical norms, exhibits its rational character which is the work of the Creator Himself. Thus, for example, the canonical impediment of blood kinship, explicating the norm of natural divine law, is formulated by the norm prohibiting the granting of dispensation: “A dispensation is never given from the impediment of consanguinity in the direct line or in the second degree of the collateral line.”<sup>24</sup>

## Rationality of Law

The rationality of legal system and law as a normative legal act also includes the capacity of a legislator to come up with a generally formulated norm. In its application, the rationality of the text of a statutory norm intersects with the rationality of the entity which applies the general law to a particular case, be it a judicial or administrative body. However, this balance may be skewed, particularly in favour of the law itself. This was the case during the French Revolution, when the importance of the legal acts as fundamental sources of law increased enormously, overshadowing the active interpretive role of judges.<sup>25</sup> Already before the Revolution, in the Age of the Enlightenment, law had become the expression of the general will of the people (*volonté générale*). This position was articulated in the legal philosophy of Jean-Jacques Rousseau (1712–1778). Thus, *cum grano salis*, it can be said that the law was no longer ‘written reason’ but ‘written will’. However, the role of interpretation of the law while applying should not be underestimated. After all,

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<sup>23</sup> “At a certain stage of self-knowledge, man discovered that his being consists of something which no law may ‘touch,’ and he called it *physis, natura*, nature. Thus he obtained the third starting-point for moral reasoning (the development thus went from *ethos* through *nomos* to *physis*.)” Jiří Skoblík, *Přehled křesťanské etiky* (Praha: Karolinum, 1997), 70.

<sup>24</sup> CIC/1983, can. 1078 § 3.

<sup>25</sup> “The law becomes omnipotent because, as a matter of fact, it determines the legal status of persons. In relation to the law, the importance of the judge also decreases, whose role is henceforth limited to a more or less mechanical application of the legal text. Comprehensive legislation should include all standards. A judge has no choice but to open the code where he is to find immediate guidance on how to resolve the legal cases before him. There is no longer to be any place in clearly laid down rules of law for judicial discovery of the law or for its loose interpretation, as was the custom before the Revolution.” Kolektiv Autorů Právnické fakulty UK: *Dějiny evropského kontinentálního práva* (Praha: Leges, 2018), 290.

one of the auxiliary rules of statutory interpretation is to ascertain what the intention of the legislator was. This principle presupposes reasonableness, i.e. *ratio legis*. The interpretation of legal norms guided by this method is called historical interpretation.<sup>26</sup>

It was another French Enlightenment thinker, Charles Louis de Montesquieu (1689–1755), who formulated the theory of the division of power into its legislative, executive and judicial branches. Such a concept presupposes the autonomy and independence of each of the three powers. In this context, the American constitutional theory speaks of a system of *checks and balances*. If, for example, legislation is extended into the executive, the law loses its generally normative character and deals directly with individual cases.

Clearly, it is not rational to lay down the resulting solutions instead of the general rules. Moreover, such legislation may contain errors, the correction of which is far more challenging in the realm of legislation than in the judiciary or the executive. An example, albeit excusable given the revolutionary time of its issuance, is the Czech restitution “first aid” law passed in the year 1990, after 40 years of communist injustice. It returned to religious orders at least some properties confiscated by the totalitarian regime to allow the communal form of life (*vita communis*) thrive. Since 1950, this form of life was completely denied to male religious orders in communist Czechoslovakia. The enumerated restitution law, however, sets out lists of ready-made solutions instead of general parameters, and an unfortunate factual error has entered the text of the law itself.<sup>27</sup>

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<sup>26</sup> “It is used to ascertain the meaning of a statute in relation to the intention of the legislator. The legislator is supposed to articulate the aims of the legislation normatively and directly in the text of the law. From this point of view, the general provisions of the law are particularly important in terms of interpretation, possibly including the basic principles of interpretation of specific provisions, as well as the preamble (usually in the case of constitutional laws, international treaties).” Aleš Gerloch, *Teorie práva* (Plzeň: Aleš Čeněk, 2004), 150.

<sup>27</sup> “A Czech example may be found in Act No. 298/1990 Coll. declaring certain immovable property to be the property of religious orders and congregations or of the Archbishopric of Olomouc. The ownership relations are determined in the supplement of the law by individual signs (i.e., property by cadastral numbers of land and descriptive numbers of buildings, individual orders by their names as well as the previous owners and users of the property). Thus, instead of setting rules, the law directly contains the actual individual solutions. An error in the documents used in the preparation of the law meant that by law the property of the Order of St. Ursula of the Roman Union was erroneously declared to be the property built for the National Theatre. The question of a legislative remedy was challenging, last but not least in view of the protection of property guaranteed by Article 11 of the Charter of Fundamental Rights and Freedoms.” Jiří Boguszak, Jiří Čapek, and Aleš Gerloch, *Teorie práva* (Praha: ASPI, 2004), 47–48.

## The Legislator Makes Mistakes

It is thus obvious that in a “revolutionary” period, i.e. when a totalitarian state is being transformed back into a democratic one, mistakes and “unreasonableness” in the law can occur in a sincere effort to help subjects previously subjected to adversity and discrimination in an oppressive regime. This was also the case with the state recognition of new churches and religious societies through registration with the Ministry of Culture. In order to register a new religious society, a 1992 Act of the Czech National Council (*Česká národní rada*)<sup>28</sup> set the minimum number of applicants to 10,000 adults residing in the Czech Republic. In addition, however, it also stipulated that in the case of member churches or religious societies of the World Council of Churches, mere 500 persons would suffice. However, a brief analysis shows that such a situation practically could not occur.<sup>29</sup>

If, in the above case, the legislator did not consider that the provisions of the Act on member entities of the World Council of Churches were practically inapplicable, the 2017 amendment to the Slovak Act on Churches could be cited as a deliberately inapplicable and thus completely unreasonable law. The amendment was adopted under pressure because of the concerns regarding the then ongoing migration crisis and the fear of the uncontrollable spread of Islam. The original – already high – numerical census of 20,000 adhering to the new religious society was raised to 50,000,<sup>30</sup> which is effectively one percent of the entire population of the Slovak Republic. Most of the churches registered in Slovakia today would fail to reach this number of adherents.<sup>31</sup> However, only a law which could be implemented by at least some of them may be considered reasonable (in this case I refer to a law provid-

<sup>28</sup> Zákon č. 161/1992 Sb., o registraci církví a náboženských společností.

<sup>29</sup> “It hardly ever happens that any of the foreign national churches that are members of the WCC have more than 500 adult members on the territory of the Czech Republic. If the members of several such national churches of the same denomination join together to form a new church in the Czech Republic, then this church may have more than 500 adult members, but it will not yet be a member of the WCC, which accepts churches as members only after the number of members reaches 10,000. And if such a new church in the Czech Republic is formed by splitting off some of its members from an existing church in the Czech Republic, it may not be admitted to the WCC immediately.” Jiří Rajmund Tretera, *Stát a církve v České republice* (Kostelní Vydří: Karmelitánské nakladatelství, 2002), 73, note No. 107.

<sup>30</sup> Zákon č. 39/2017 Z. z.

<sup>31</sup> “The amendment, as its authors admitted, was motivated by fear that the Muslim community would get registered. However, the explanatory memorandum states that its aim is to eliminate speculative registrations of alleged churches and religious societies with the main objective of registration, i.e., obtaining financial contributions from the state.” Lucia Grešková, “Náboženstvo, štát a slovenská spoločnosť”, *Dingir. Religionistický časopis o súčasnej náboženskej scéne* 4 (2017), 129–131.

ing certain authorisations to relevant subjects of legal rights). An analogue of this requirement is the canonical provision on privileges, which are practically “private laws” (*lex privata*).<sup>32</sup> Indeed, every privilege is to be interpreted in such a way that “the beneficiaries of a privilege actually obtain a certain favour.”<sup>33</sup>

At other times, on the contrary, the legislator seeks to facilitate the enforcement of its provisions. Given that the Czech Law on Property Settlement with Churches and Religious Societies established, among other things, the conditions for restitution of church property, the legislator also demanded the considerate helpfulness of all relevant authorities and other entities that will participate in restitution processes. Thus, one can speak of “a favour in favour of restitution” (*favor restitutionis*): “In applying this law, its purpose, which is to alleviate the property injustices caused to registered churches and religious societies during the given period, must be respected. The public authorities shall provide assistance to the persons entitled, in particular by providing them, without undue delay and free of charge, with extracts and copies of records and other documents which may contribute to the clarification of their claims.”<sup>34</sup> This clear order of the legislator was unfortunately not taken heed of, and the Catholic Church in particular was constantly confronted with various obstructions by state authorities, the formalistic approach of the courts and the reluctance of the entities obliged to hand over the property.<sup>35</sup>

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<sup>32</sup> “Privilege (from *lex privata* – ‘private’ law, also ‘privilege’) is an advantage granted by a special individual legal act (as in the case of dispensation), which as a rule also consists in permission to behave differently than the legal norm stipulates, but without the necessity of immediate spiritual benefit (‘favour’). Thus, the privilege cannot be granted by the executive alone, but only by the legislator (the Pope, and within the limits of his competence, the diocesan bishop).” Ignác Antonín Hrdina, Miloš Szabo, *Teorie kanonického práva*, 171.

<sup>33</sup> Cf. CIC/1983, can. 77.

<sup>34</sup> Zákon č. 428/2012 Sb., § 18 odst. 4.

<sup>35</sup> “Thus, from 2013 onwards, churches and religious societies in the process of property restitution could hope that the legislation and the relevant case law of the Constitutional Court were on their side and that after two decades of waiting for the redress of the wrongs of the communist era, the chapter of ‘restitution of stolen property’ would be closed within the first or at most the second year. Very soon, however, they were to see that the reality would be quite different. Almost daily, churches and religious societies were discovering how difficult these processes of requesting, supplementing, appealing or even suing for the return of property could be, and how the general climate and political pressures [...] were not conducive to a sympathetic administration.” Marián Bartoloméj Čačík, “In favorem restitutionis – teorie a praxe,” *Revue církevního práva* 3 (2019), 84.

## Conclusion

The issue of the rationality of law and its normative provisions is themetised both in legal doctrine as well as in applied legal practice. The historical heritage of canon law jurisprudence highlights Thomas Aquinas's definition of law. He understands the rationality of law as its fundamental and defining element. In the periods of Humanism and the Enlightenment, the requirements on law's rationality were further intensified. In particular, the French Revolutionary concept of law expected the legislature to produce truly perfect rational law which could be applied accurately and easily by judges, without the excessive use of the tools of creative interpretation. The prime example of rational law is undoubtedly the meticulously drafted civil codes, starting with Napoleon's Civil Code. The Catholic Church took the comprehensive civil law codifications of the 19th century as attractive models to be emulated in its own canon law. Indeed, this is how the idea of the *Code of Canon Law* came to exist. It was put into practice twice in the course of the 20th century, namely in 1917 and in 1983. Moreover, the *Code of Canon Law* itself manifests that not only the law but also the ecclesiastical custom as a source of law should exhibit rational character if they are to match the efficacy and legal force of law. However, neither the ecclesiastical nor the civil legislator can possibly avoid a situation in which the legislation, which is being enforced, lacks rationality. However, this cannot be seen as an argument against the rationality of law, quite the contrary: the continuous process of law-making makes it possible to remedy it in such a way that the law continues to serve the public good (*bonum comune*)<sup>36</sup> in civil law and the eternal salvation (*salus animarum*) of its addressees in the case of canon law.<sup>37</sup>

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<sup>36</sup> "Unlike *familiae*, where the goal was assumed to be the welfare of the individual, the ordered *societas naturalis* aims – at least in theory – at the general welfare. If the *bonum commune*, or *salus publica*, is at the forefront of the aspirations of a purpose-formed natural society, it is an organized society with a territorial base." Jan Pinz, *Přirozenoprávní theorie a moderní právní stát* (Nymburk: OPS 2009), 73.

<sup>37</sup> Cf. CIC/1983, can. 1752.

# Bibliography

- Boguszak, Jiří, Čapek, Jiří, and Gerloch, Aleš. *Teorie práva*. Praha: ASPI, 2004.
- Codex iuris canonici auctoritate Ioannis Pauli PP. II promulgatus. Acta Apostolicae Sedis* 75, Pars II (1983): 1–317.
- Codex iuris canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus. Acta Apostolicae Sedis* 9, Pars II (1917): 5–593.
- Čačík, Marián Bartoloměj. “In favorem restitutionis – teorie a praxe.” *Revue církevního práva* 3 (2019): 81–96.
- García Martín, Julio. *Le norme generali del Codex Iuris canonici*. Roma: Ediburca, 1996.
- Gerloch, Aleš. *Teorie práva*. Plzeň: Aleš Čeněk, 2004.
- Grešková, Lucia. “Náboženstvo, štát a slovenská spoločnosť.” *Dingir. Religionistický časopis o súčasnej náboženskej scéne* 4 (2017), 129–131.
- Harvánek, Jaromír, et al. *Teorie práva*. Plzeň: Aleš Čeněk, 2008.
- Hrdina, Ignác Antonín and Szabo, Miloš. *Teorie kanonického práva*. Praha: Karolinum, 2018.
- Ioannes Paulus PP. II: *Fides et Ratio. Acta Apostolicae Sedis* 91 (1999), 5–88.
- John Paul II. *Faith and Reason (Fides et Ratio): Encyclical Letter Fides et Ratio of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship between Faith and Reason*. London: Catholic Truth Society, 1998.
- John Paul II. *The Code of Canon Law: New Revised English Translation*. London: HarperCollins, 1997.
- Knapp, Viktor. *Velké právní systémy: úvod do srovnávací právní vědy*. Praha: C.H. Beck, 1996.
- Kolářová, Marie. *Sbírka právních norem arcidiecéze pražské z let 1945–2009*. Praha: Arcibiskupství pražské, 2009.
- Kolektiv Autorů Právnické fakulty Univerzity Karlovy. *Dějiny evropského kontinentálního práva*. Praha: Leges, 2018.
- Krsková, Alexandra. *Dejiny politickej právnej filozofie*. Trnava: Universitas tyrnaviensis, 2011.
- Leo PP. XIII: *Aeterni patris. Acta Sanctae Sedis* 12 (1879), 97–115.
- Pinz, Jan. *Přirozenoprávní teorie a moderní právní stát*. Nymburk: OPS, 2009.
- Pius PP. X. *Arduum sane munus. Acta Sanctae Sedis* 36 (1903–1904), 549–551.
- Skoblík, Jiří. *Přehled křesťanské etiky*. Praha: Karolinum, 1997.
- The 1917 or Pio – Benedictine Code of Canon Law in English Translation*, San Francisco, 2001.  
The translation is available online at <https://cdn.restorethe54.com/media/pdf/1917-code-of-canon-law-english.pdf>.
- Aquinas, Thomas. *Summa Theologiae – I Complete Set (Latin-English Opera Omnia)*. Steubenville: Emmaus Academic, 2018.
- Tretera, Jiří Rajmund. *Stát a církev v České republice*. Kostelní Vydří: Karmelitánské nakladatelství, 2002.

- Urfus, Valentin. *Historické základy novodobého práva soukromého*. Praha: C.H. Beck, 1994.
- Vladár, Vojtech. *Dejiny cirkevného práva*. Praha: Leges, 2017.
- Zákon č. 161/1992 Sb., o registraci církví a náboženských společností.
- Zákon č. 428/2012 Sb., o majetkovém vyrovnání s církvemi a náboženskými společnostmi a o změně některých zákonů (zákon o majetkovém vyrovnání s církvemi a náboženskými společnostmi).
- Zákon č. 39/2017 Z. z., ktorým sa mení a dopĺňa zákon č. 308/1991 Zb. o slobode náboženskej viery a postavení cirkví a náboženských spoločností v znení neskorších predpisov.

Rev. Stanislav Příbyl

## Le droit en tant que *ratio scripta*

### Résumé

Cet article examine la relation entre le droit et la rationalité sous plusieurs angles. Dès le Moyen Âge, le canoniste Gratian a tenté de concilier des dispositions juridiques contradictoires à l'aide de critères rationnels dans son ouvrage monumental. Le théoricien humaniste du droit Hugo Grotius qualifiait les anciennes codifications du droit romain promulguées par l'empereur Justinien de « raison écrite ». Grotius identifiait également « le diktat de la raison droite » dans le droit naturel. Les codifications du droit civil des XIX<sup>e</sup> et XX<sup>e</sup> siècles, à commencer par le Code Napoléon, s'inspiraient à la fois du droit romain et du droit naturel, aspirant une fois de plus à la rationalité parfaite. L'Église catholique s'est jointe à cet effort en organisant le matériel canonique dans le premier Code de droit canonique, promulgué en 1917. Le législateur ecclésiastique a en outre adopté la division des matières en personnes, choses et actions proposée par Justinien. Le Code de droit canonique actuel fonctionne également selon le principe de rationalité, comme en témoigne son exigence selon laquelle une coutume doit être « raisonnable ». Ce qui contrevient au droit naturel est considéré comme irrationnel. Par exemple, le législateur ecclésiastique établit l'empêchement de consanguinité comme une norme du droit naturel divin. À titre d'exemple de loi irrationnelle, l'article souligne l'exigence du législateur slovaque selon laquelle une demande de reconnaissance d'une nouvelle Église ou communauté religieuse par l'État doit être accompagnée de plus de 50 000 signatures. Il est évident qu'aucune communauté religieuse non enregistrée ne pourrait satisfaire à cette exigence, pas plus que la majorité des Églises déjà reconnues par l'État.

**M o t s - c l é s :** loi naturelle, droit romain, droit canonique, droit civil, législateur, code, codex, statut, coutume, Église, rationalité

Rev. Stanislav Přibyl

## Il diritto come *ratio scripta*

### Sommario

Il documento esamina il rapporto tra diritto e razionalità da molteplici prospettive. Già nel Medioevo, il canonista Graziano tentò di conciliare disposizioni giuridiche contrastanti utilizzando criteri razionali nella sua opera monumentale. Il teorico giuridico umanista Hugo Grotius definì le antiche codificazioni del diritto romano emanate dall'imperatore Giustiniano come "ragione scritta." Grotius identificò anche "il dettato della retta ragione" all'interno del diritto naturale. Le codificazioni del diritto civile del XIX e XX secolo, a partire dal Codice Napoleonico, attinsero sia dal diritto romano che dal diritto naturale, aspirando ancora una volta alla perfezione della razionalità. La Chiesa cattolica si unì a questo sforzo organizzando il materiale canonico nel primo Codice di Diritto Canonico, promulgato nel 1917. Il legislatore ecclesiastico adottò inoltre la divisione di Giustiniano delle materie in persone, cose e azioni. Anche l'attuale Codice di Diritto Canonico opera con razionalità, come dimostra il requisito che una consuetudine debba essere "ragionevole." Ciò che contravviene al diritto naturale è considerato irrazionale, ad esempio il legislatore ecclesiastico stabilisce l'impedimento della consanguineità come norma del diritto naturale divino. Come esempio di legge irrazionale, l'articolo sottolinea il requisito imposto dal legislatore slovacco secondo cui una petizione per il riconoscimento di una nuova chiesa o comunità religiosa da parte dello Stato deve essere accompagnata da oltre 50.000 firme. È evidente che nessuna comunità religiosa non registrata potrebbe soddisfare tale requisito, né potrebbe farlo la maggior parte delle chiese già riconosciute dallo Stato.

**Parole chiave:** legge naturale, diritto romano, diritto canonico, diritto civile, legislatore, codice, codice, statuto, consuetudine, chiesa, razionalità



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# The Duty to Love for the Truth. On the *signum specificum* of Benedict XVI's Judicial Petrine Ministry

**Abstract:** When Pope Benedict XVI crowned with allocution the ministry of Shepherd and Judge in 2013, the final memento so close to his heart, he referred to those who “saveguard truth and justice” — and he did it in a general way, without personal emphasis (somewhat understandably). Only Pope Francis was able, in his first address to the Roman Rota, to show implicitly the genius of his Predecessor’s judicial ministry as *Cooperator Veritatis*. These circumstances gave rise to a scholarly reflection on the magisterial output of Pope Joseph Ratzinger in question. The primary source giving a comprehensive (and essentially complete) insight into Benedict XVI’s idea of exercising the office of the Church’s supreme judge is a collection of addresses to the Roman Rota from 2006 to 2013. It is in this collection that the very core of the ecclesial ministry at the service of justice can be successfully identified — the ministry whose nature is well reflected by the combination of the formulas: *pastor bonus* and *iustus iudex* — according to the personalistic paradigm: in the Church justice and the administration of justice are animated by love (*caritas*). A methodical study of segments of this original doctrine — through the prism of the principle of *sentire cum Ecclesia* and the accompanying postulate of harmonization *vetera et nova* — made it possible to accomplish the research task outlined in the title, namely, an attempt to identify the *signum specificum* of Benedict XVI’s judicial Petrine ministry.

**Keywords:** Benedict XVI, addresses to the Roman Rota, process of the nullity of marriage, judicial *diaconia*, service to truth in justice, pastoral sensitivity, unity in the application of laws

# Introduction:

## *Cooperator Veritatis* – Benedict XVI’s Original Implementation of the Shepherd-judge Ministry

The members of the Church’s judiciary will certainly remember the recent Rotal allocution delivered at the inauguration of the judicial year 2024 as a speech in which Pope Francis made an important synthesis of the special magisterium addressed to this particular group by his predecessor on the See of Peter, the great Co-worker of Truth (*Cooperator Veritatis*)<sup>1</sup>, Benedict XVI. Disclosed not explicitly, the current Holy Father’s intention is already given away by the nodal idea of the speech in question, proclaimed with the sentence: “The discernment of the judge requires two great virtues: prudence and justice, which must be informed by charity.”<sup>2</sup> After all, it is difficult not to connect this idea (*nota bene* minted in the title of the allocution: “Giudicare con prudenza e giustizia...”) from the original edition of *L’Osservatore Romano*<sup>3</sup> to the leading theme of Benedict XVI’s famous<sup>4</sup> 2007 “Address to the Roman Rota”: “the love of truth emerges as a point of convergence between processual research and the pastoral service of the person.”<sup>5</sup> Suffice it to recall the context of another statement by Francis: “The law and judgement are always at the service of truth, justice

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<sup>1</sup> Joseph Ratzinger, a humanist thinker and theologian, always understood his ministry of a bishop and pope as a service to the truth, as highlighted by the motto of the pontificate: “*Cooperatores Veritatis*.” See *Cooperatores Veritatis. Scritti in onore del Papa emerito Benedetto XVI per il 90° compleanno – Tributes to Pope Emeritus Benedict XVI on his 90th Birthday*, ed. Pierluca Azzaro and Federico Lombardi (Città del Vaticano: LEV, 2017).

<sup>2</sup> Francis, “Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year (January 25, 2024).”

<sup>3</sup> Francesco, “Giudicare con prudenza e giustizia liberi da ogni pregiudizio. Discorso al Tribunale della Rota Romana in occasione dell’inaugurazione dell’anno giudiziario,” *L’Osservatore Romano*, 25 gennaio 2024.

<sup>4</sup> “Il «servizio alla verità nella giustizia» di cui parla papa Benedetto XVI nel *Discorso alla Rota romana* [del 2007 – A.P.] è tutt’altro che una lode gratuita agli operatori del diritto o una manifestazione retorica di una dottrina ecclesiastica. In quel *servizio* [...] nel difendere e promuovere la comprensione della verità del matrimonio con la sua natura giuridica intrinseca, si gioca, nel presente frangente storico, un elemento di civiltà.” Fernando Puig, “Sulla verità e l’intrinseca natura giuridica del matrimonio,” *Ius Ecclesiae* 19 (2007): 494. Cf. Ombretta Fumagalli Carulli, “Verità e giustizia nella giurisprudenza ecclesiale,” *Ius Ecclesiae* 20 (2008): 476–477; Andrzej Pastwa, “Pillars of the System of *ius matrimoniale canonicum* According to Remigiusz Sobański,” in “*Nomos – Ethos – Oikonomia*.” *In Memory of Professor Remigiusz Sobański*, ed. Andrzej Pastwa, *Philosophy and Canon Law* 8, no. 2, (2022): 7–26.

<sup>5</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 27, 2007).”

and the evangelical virtue of charity”<sup>6</sup> – with the added (in the ideological setting of the synodality of procedures *in processu matrimoniali*) words of explanation: “the administration of justice in the Church is a manifestation of the care of souls, which requires pastoral solicitude in order to be servants of salvific truth and mercy.”<sup>7</sup>

At this point it is already worth asking what specific standards does the official requirement to respect the truth in undertaking acts of Church administration of justice carry? Is it sufficient today to confront the deontology and pragmatics of the judge’s service only with the dimension of the “ratio” and “telos” – in classical<sup>8</sup> approaches such as: “the search for truth constitutes the directive principle of the process for assessing the nullity of marriage”<sup>9</sup>. Does the special magisterium of the post-conciliar popes not provide new impulses to open wide the horizon of perception of the service in question to the spirit of authentic personalism,<sup>10</sup> and thus definitively cease to perceive the judicial office in a narrow, formalistic framework,<sup>11</sup> ignoring the obvious truth: *dietro ogni pratica, [...] ogni causa, ci sono persone che attendono giustizia*<sup>12</sup>?

The magnificent magisterial output of Pope Joseph Ratzinger gives every reason to believe that focusing the reflection in this study on selected elements of *iuris doctrina Benedicti* will make it possible to answer these and other questions. In turn, a methodical search of these elements – through the prism of the principle of *sentire cum Ecclesia* and the accompanying postulate of harmonization *vetera et nova*<sup>13</sup> – will make it possible to accomplish the research task outlined in the title, namely an attempt to identify the *signum specificum* of Benedict XVI’s judicial Petrine ministry.

<sup>6</sup> Francis, “Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year (January 27, 2022).”

<sup>7</sup> Francis, “Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year (January 27, 2022).”

<sup>8</sup> Remigiusz Sobański, “Prawda jako entelechia procesu o nieważność małżeństwa w świetle przemówień Piusa XII do Roty Rzymskiej,” *Ius Matrimoniale* 13 (2008): 29–41.

<sup>9</sup> Carlos M. Morán Bustos, “La ricerca della verità, ‘ratio’ e ‘telos’ del processo canonico di nullità del matrimonio,” *Ius Ecclesiae* 33 (2007): 467 [Abstract].

<sup>10</sup> Giovanni Paolo II, “Discorso ai Membri del Tribunale della Sacra Romana Rota (26 febbraio 1983).”

<sup>11</sup> The aforementioned Prof. Carlos M. Morán Bustos, the Dean of the Spanish Rota – not inclined to hide his source of inspiration – skillfully completes his interesting discourse: “[...] ‘amore alla verità’ è la caratteristica di tutto l’impegno forense del giudice canonico, è il criterio ispiratore della deontologia del giudice,” 476.

<sup>12</sup> Francesco, “Discorso al Tribunale della Rota Romana per l’inaugurazione dell’anno giudiziario (24 gennaio 2014).” *Nota bene* the pronunciation of the Pope’s words in the Italian original of the address, unlike those in the English edition, underscores the personocentric core of the Pope’s thought.

<sup>13</sup> Benedict XVI, “Address for the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 21, 2012).” See Antoni Stankiewicz, “*Sentire cum Ecclesia* e l’interpretazione della legge canonica,” *Periodica de re canonica* 102 (2013): 379–402.

In order to fully satisfy the requirements of the methodology and methodics of scientific study, it is appropriate to point out that the primary source giving a comprehensive (and essentially complete) insight into Benedict XVI's idea of exercising the office of Church's supreme judge is a collection of addresses to the Roman Rota from 2006 to 2013. It is in this collection that the very core of the ecclesial ministry at the service of justice can be successfully identified, a ministry, the nature of which is well reflected by the combination of the formulas: *pastor bonus* and *iustus iudex* – according to the personalistic paradigm: in the Church justice and the administration of justice are animated by love (*caritas*).<sup>14</sup>

Here it seems appropriate to go back to January 2006, ten months after Joseph Ratzinger–Benedict XVI took the helm of the Peter's boat. A series of events and meetings with the newly elected Pope are still underway according to the general calendar of papal audiences. January in that calendar is traditionally the time of the expected audience for judges and staff of the apostolic Tribunal of the Roman Rota, with an address<sup>15</sup> to all members of the Church judiciary.

A speech such as this one: inaugural – in the double sense,<sup>16</sup> used to be called programmatic, especially when it meets two conditions. The first condition is to refer to the established ideas and achievements of the thought of the predecessor in the office of the Bishop of Rome, in the broad spectrum of the activity of the shepherd-legislator-judge. The second condition – is to outline the author's (!) ideological perspective of serving the office in question.

Indeed, it is the fulfillment of these criteria that determines the uniqueness of the 2006 Rotal allocution, which should be regarded as one of Benedict XVI's programmatic<sup>17</sup> speeches.<sup>18</sup> In the substantive layer of the allocution, attention is

<sup>14</sup> John Paul II, "Address to the Prelate Auditors, Officials and Advocates of the Tribunal of the Roman Rota (January 18, 1990)." See Andrzej Pastwa, "Przymierze miłości małżeńskiej." *Jana Pawła II idea małżeństwa kanonicznego* (Katowice: Wydawnictwo Uniwersytetu Śląskiego, 2009): 205–208.

<sup>15</sup> Benedict XVI, "Address to the Members of the Tribunal of the Roman Rota (January 28, 2006)."

<sup>16</sup> It is about an event inaugurating simultaneously: the apostolic ministry of the new shepherd (legislator and judge) of the universal Church and (customarily) another year of judicial work.

<sup>17</sup> The programmatic idea of Benedict XVI's first speech has been aptly expressed by Joaquín Llobell in the chapter titles of his study in the journal *Ius Ecclesiae*: (1) *Nuove considerazioni assiologiche sul diritto e sul dovere al processo giudiziale ispirate dal magistero di Benedetto XVI circa la necessità di "agire secondo ragione" nell'attività ecclesiale*; (2) *Lecclesialità del processo giudiziale secondo l'impostazione della legge come "ordinatio rationis" e il positivo influsso dell'illuminismo giusnaturalista per il "ricupero" in ambito canonico di qualche elemento essenziale del diritto al giusto processo*; (3) *Lequilibrio fra la tutela dei diritti della comunità e del singolo: il diritto-dovere dei sacri pastori al giusto processo*. Joaquín Llobell, "Il diritto e il dovere al processo giudiziale nella Chiesa. Note sul magistero di Benedetto XVI circa la necessità di 'agire secondo ragione' nella riflessione ecclesiale," *Ius Ecclesiae* 19 (2007): 55–75.

<sup>18</sup> Massimo del Pozzo, "Nella verità, la giustizia. Considerazioni a margine della prima Allocuzione benedettina alla Rota," *Ius Ecclesiae* 18 (2006): 503–523.

drawn, not only to the respectful emphasis on John Paul II's magnificent legacy in the field of canon law – with the crowning work being the *Instruction "Dignitas connubii"*, but above all to the reference to the two famous rotal addresses: perhaps the most important (as can be judged by the number of quotations and commentaries) from 1990<sup>19</sup> and the most recent from 2005.<sup>20</sup> Both are united by the falsification of the thesis of the contradiction between law and pastoral care.<sup>21</sup> Significantly, the development of this topic in the keynote address in question deserves special attention. Pope Benedict, stressing the exceptional timeliness of his Predecessor's ideas, explicitly states that in his first speech inaugurating a year of judicial work, he wishes to focus attention on what constitutes the fundamental meeting point between canon law and pastoral ministry, namely on love for the truth.<sup>22</sup>

These circumstances alone sufficiently explain the decision to borrow – in the first part of the title of this study – the words of Benedict XVI, as a warp and starting point, in order to attempt identification of the *signum specificum* – from the second part of the title. It is precisely the title context thus designed that prepares the ground to seek confirmation of the hypothesis of Benedict XVI's original realization of the aforementioned paradigm of pastoral-judicial ministry: in the Church justice and the administration of justice are animated by love (*caritas*).

Obviously, the adopted framework of the study will not allow to address all<sup>23</sup> the detailed issues/questions that can be expected to be answered. The most important ones are as follows: what are the implications of adopting such a profiled optics of love/respect for truth in ecclesiastical procedural law? Does the perspective of love (*caritas*) create the conditions for a better resolution of potential problems

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<sup>19</sup> John Paul II, "Address to the Prelate Auditors, Officials and Advocates of the Tribunal of the Roman Rota (January 18, 1990)."

<sup>20</sup> "Address to Members of the Tribunal of the Roman Rota (January 29, 2005)."

<sup>21</sup> Andrzej Pastwa, "L'alleanza sistemica del diritto e della pastorale. Osservazioni sull'arte dell'applicazione del diritto nell'intera preparazione canonica alla celebrazione del matrimonio," *Annuarium Iuris Canonici* 2 (2015): 75–93; see also Eduardo Baura, "Pastorale e diritto nella Chiesa." In *Vent'anni di esperienza canonica: 1983–2003: Atti della Giornata Accademica tenutasi nel 20. anniversario della promulgazione del Codice di diritto canonico* (Città del Vaticano: LEV, 2003): 159–180.

<sup>22</sup> "Fin dalla sua prima allocuzione alla Rota Romana, Benedetto XVI ha trattato dell'amore per la verità come del «fondamentale punto di incontro tra diritto e pastorale» per cui il processo canonico per il riconoscimento della eventuale nullità di un matrimonio ha un «valore pastorale, che non può essere separato dall'amore alla verità»." Paolo Bianchi, "Il servizio alla verità nel processo matrimoniale," *Ius canonicum* 57 (2017): 92.

<sup>23</sup> For example, a broad insight into the legal doctrine of Pope Benedict XVI is offered in the monograph by Massimo del Pozzo, *Il magistero di Benedetto XVI ai giuristi* (Città del Vaticano: LEV, 2013).

of administration of justice, such as that arising from the tension between the good of the community (*bonum commune*) and the good of the individual (*bonum personae*). Finally, in what sense does this judicial *diaconia* – in truth and love – define any ministerial service of judicial inquiry into the truth about marriage and its declaration in *de nullitate matrimony* cases?

## Love for the Truth and Pastoral Sensitivity

“It is necessary to encourage in all sectors, and in a particular way in the field of marriage and of the family, a positive dynamic, sign of profound harmony between the pastoral and the juridical.”<sup>24</sup> These words of Benedict XVI, which constitute the essence of the important 2011 “Address to the Roman Rota”, certainly did not surprise any of the members of this august body. Needless to say, the aforementioned representatives of the Church judiciary, without difficulty, discovered the ideological ‘thread’ connecting this important enunciation with the contents of the aforementioned first rotal address of Pope Ratzinger. All the more so since there was no lack of explicit reference on the part of the Holy Father himself to the audience five years before.<sup>25</sup> What is also noteworthy, the Pope, recalling the context of the legal adagium *salus animarum suprema lex*,<sup>26</sup> did not fail to mention the famous “Address to the Roman Rota” of 1990, especially the passages deconstructing the harmful stereotype of dichotomizing what is legal with what is pastoral. “It is not true, John Paul II said at the time, that to be more pastoral, the law should become less juridical.”<sup>27</sup>

With such a credo, Benedict XVI took up at the threshold of his pontificate – the challenge that comes with the office of the Church’s supreme legislator and judge.<sup>28</sup> In the Pope’s opinion, the aforementioned field of marriage and of the family

<sup>24</sup> Benedict XVI, “Address on the Occasion of the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 22, 2011).”

<sup>25</sup> “At my first meeting with you in 2006 I tried to highlight the authentic pastoral meaning of causes of the nullity of marriage founded on love for the truth (*cf.* “Address to the Roman Rota (28 January 2006).”) Today I would like to pause to consider the juridical dimension that is inherent in the pastoral activity of preparation and admission to marriage, to seek to shed light on the connection between this work and the judicial matrimonial process.”

<sup>26</sup> Cf. CIC/1983, can. 1752.

<sup>27</sup> John Paul II, “Address to the Prelate Auditors, Officials and Advocates of the Tribunal of the Roman Rota (January 18, 1990).”

<sup>28</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 28, 2006).”

(and we are talking about “one of the most precious of human values”<sup>29</sup>) is a sensitive<sup>30</sup> area that by all means calls for the careful building of a bridge between love for the truth and pastoral sensitivity. It is not without reason that the Italian edition of *L'Osservatore Romano* introduced this significant phrase (“Amore per la verità e sensibilità pastorale”) to address the last – let us add, crucial in the context of the study – part of the 2006 allocution.<sup>31</sup>

As a kind of introduction to the exposition of the programmatic thought of Benedict XVI-Judge, we should consider his earlier words reminding us that the canonical proceedings for the nullity of marriage are in its essential structure, an institution serving justice and peace, and directly – a means of ascertaining the truth about the conjugal bond. Moreover, if we recall Pope John Paul II's 2005 teaching on the fundamental relationship that the process has with the search for objective truth and the special responsibility of bishops (since they are by divine law judges in their own communities, and on their behalf the tribunals administer justice)<sup>32</sup> – it becomes clear that matrimony is not a commodity that spouses can dispose of. This is why Pope Benedict insists that under no circumstance can any kind of self-declaration replace canonical proceedings – first, because of the twofold natural and sacramental dimension of marriage, and second, because of its social and public nature.<sup>33</sup> The Pope's thought culminates in the following statement: “Here, the parties are not contending for some possession that must be attributed to one or the other. The trial's aim is [...] to declare the truth about the validity or invalidity of an actual marriage, in other words, about a reality that establishes the institution of the family and deeply concerns the Church and civil society. Consequently, it can be said that in this type of trial the Church herself is the one to whom the request for the declaration is addressed.”<sup>34</sup>

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<sup>29</sup> John Paul II, *Apostolic Exhortation 'Familiaris consortio'* (November 22, 1981).” See Wojciech Góralski and Andrzej Pastwa, *Rodzina suwerenna – Kościół domowy. W nurcie współczesnej myśli prawnej Kościoła powszechnego i Kościoła w Polsce* (Katowice: Wydawnictwo Uniwersytetu Śląskiego, 2015): 7.

<sup>30</sup> “The good that the Church and society as a whole expect from marriage and from the family founded upon marriage is so great as to call for full pastoral commitment to this particular area. Marriage and the family are institutions that must be promoted and defended from every possible misrepresentation of their true nature, since whatever is injurious to them is injurious to society itself.” Benedict XVI, *Apostolic Exhortation 'Sacramentum Caritatis'* (February 22, 2007). Cf. Francis, *Apostolic Exhortation 'Evangelii Gaudium'* (November 24, 2013).” See also Gerhard Ludwig Müller, *La speranza della famiglia* (Milano: Edizioni Ares, 2014): 31–33.

<sup>31</sup> Benedetto XVI, “Allocuzione alla Rota Romana” (28 gennaio 2006). *L'Osservatore Romano*, 29 gennaio 2006, 5.

<sup>32</sup> John Paul II, “Address to Members of the Tribunal of the Roman Rota (January 29, 2005).”

<sup>33</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 28, 2006).”

<sup>34</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 28, 2006).”

This important theme of the 2006 allocution (with the nodal phrase: the trial's aim is to declare the truth) served as an ideological leverage for the Pope to originally extend the horizon of *caritas* to the entire dynamic determined by the finality of ecclesiastical administration of justice. The aforementioned paradigm of pastoral-judicial ministry perfectly fits into this horizon. The key to the realization of this *diaconia* is the love of (and respect for) truth, that of substance and that of trial. The affirmation of truth in the former corresponds to an integral view of the person (in all the richness of sex-differentiated personal structure) in the dimension of self-giving in self-transcendence<sup>35</sup> – in the light of evangelical values, with consistent resistance to individualistic and utilitarian approaches. Here, too, is situated the task of faithful communication of the doctrinal truth of the sacrament and the great responsibility of the judge not to give away the doctrine when deciding upon the individual *causa matrimonii*. Finally, it is a matter of taking into account the educational value of jurisprudence through the reliable transmission (promotion) of the Church's concept of marriage.<sup>36</sup> In turn, the same reliably implemented *diaconia* on the procedural plane should verify itself, as the esteemed expert Paolo Bianchi rightly points out, especially in giving careful attention to the transparency of procedures, so as to make each stage of the proceedings and the final judgment fully understandable.<sup>37</sup>

The present indications in this segment of the original 2006 papal lecture on the adequate realization of ecclesial ministry at the service of justice – in examining (in the canonical process) the validity of each particular marriage – is concluded. “Just as the dialectic of the proceedings leads us to understand the criterion of the search for the truth, so it can help us grasp the other aspect of the question: its pastoral value, which cannot be separated from love for the truth.”<sup>38</sup> The importance of this last *memento* cannot be overestimated, for it sheds light on an

<sup>35</sup> Cf. Pastwa, *Przymierze miłości małżeńskiej*, 32–41.

<sup>36</sup> Cf. Bianchi, “Il servizio alla verità,” 85–86.

<sup>37</sup> “Fare riferimento a questa dimensione non vuol dire necessariamente porsi su un piano inaccessibile alla comprensione dei fedeli o lontano dalla loro realtà esistenziale. Significa invece – anche avendo cura il più possibile di rendere comprensibili la procedura e le decisioni dei tribunali (perché gli eccessi di astrattezza sono pure possibili) – aiutare a collocare e a leggere le singole esperienze individuali nel quadro complessivo della comprensione cristiana della persona umana e del matrimonio, così come tutelate dall'ordinamento canonico. Una separazione radicale fra realtà (esperienza esistenziale) ed idea (i valori protetti dall'ordinamento) appare poco sostenibile: a meno che si voglia teorizzare che le regole non siano altro che le concrete esperienze esistenziali. Il che, peraltro, sarebbe a sua volta una idea, una affermazione teorica, un'opzione ideologica.” Bianchi, 87.

<sup>38</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 28, 2006).”

important parameter of the *diaconia* in question, namely the realization by judges and all those serving in ecclesiastical judicial proceedings of a “grave obligation” (as the Pope calls it), which is a duty of “pastoral sensitivity”: “However, the truth sought in processes of the nullity of marriage is not an abstract truth, cut off from the good of the people involved. It is a truth integrated in the human and Christian journey of every member of the faithful. [...] It is nonetheless a grave obligation to bring the Church’s institutional action in her tribunals ever closer to the faithful. [...] That same pastoral sensitivity to the real situations of individuals must nonetheless lead to safeguarding the truth and applying the norms prescribed to protect it during the trial.”<sup>39</sup>

Thus, as a result of a systematic and in-depth discourse, the doctrinal message was given expression and the impact of Benedict XVI’s first Rotal allocution was amplified. This is attested to by the Pope himself when, in the subsequent years of creating the special magisterium in question,<sup>40</sup> he returns again and again to the main idea that can be associated with the *signum specificum* of Benedict VI’s judicial Petrine ministry. It is largely synthesized in the final proclamation of the 2006 allocution: “[...] love of the truth links the institution of canonical causes of the nullity of marriage with the authentic pastoral sense that must motivate these processes.”<sup>41</sup>

Next year (2007), in a similar audience for the Tribunal of the Roman Rota, Pope Ratzinger presents a brief and yet meaningful synthesis of an earlier lecture: “Last year, at my first meeting with you, I sought to explore ways to overcome the apparent antithesis between the institution of causes of the nullity of marriage and genuine pastoral concern. In this perspective, the love of truth emerges as a point of convergence between processual research and the pastoral service of the person.”<sup>42</sup>

It is worth adding that the Pope – strongly attached to the paradigmatic idea of “harmonization” (central to the Council’s *aggiornamento*)<sup>43</sup> – closes this topic with a significant statement that sticks in the memory (because it continues to

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<sup>39</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 28, 2006).”

<sup>40</sup> See Ombretta Fumagalli Carulli, “Le Allocuzioni di Benedetto XVI alla Rota Romana,” in *Iustitia et iudicium. Studi di diritto matrimoniale e processuale canonico in onore di Antoni Stankiewicz*, vol. 3, eds Janusz Kowal and Joaquín Llobell (Città del Vaticano: LEV, 2010): 1376–1381.

<sup>41</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 28, 2006).”

<sup>42</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 27, 2007).”

<sup>43</sup> See Ombretta Fumagalli Carulli, “Il Concilio Vaticano II e il matrimonio canonico: capacità e consenso nella convergenza tra pastorale e diritto,” *Jus* 60, no. 2 (2013): 211–229.

take the form of a warning and an appeal)<sup>44</sup>: “in causes of the nullity of marriage, the legal truth presupposes the ‘truth of the marriage’ itself.”<sup>45</sup>

Yet another very instructive illumination of the issue in question is brought by the 2010 Roman Rota allocution.<sup>46</sup> Pope Benedict extends an invitation to the members of the apostolic tribunal, right at the outset, to reflect in depth on the meaning/profile of the judicial *diaconia*: “Today I wish to reflect on the essential nucleus of your ministry, seeking to analyze its relationship with justice, charity and truth.”<sup>47</sup> In the last part of this allocution, as if to summarize the lecture of the supreme legislator and judge, important words are said: “Regarding truth, in my Addresses to this Apostolic Tribunal in 2006 and 2007, I stressed that it is possible to arrive at the truth on the essence of marriage and the reality of every personal situation that is submitted to the judgement of the tribunal, and also the truth of matrimonial processes (cf. *Dignitas Connubii*, artt. 65 §§ 1–2, 95 § 1, 167, 177, 178). Today I wish to emphasize that both justice and charity postulate love for truth and essentially entail searching for truth. In particular, charity makes the reference to truth even more exacting.”<sup>48</sup>

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<sup>44</sup> “Il Santo Padre non solo espresse la disapprovazione nei riguardi dei canonisti che introducevano clandestinamente il pensiero soggettivistico-positivistico nella matrimonialistica ecclesiastica (tra l’altro dell’amministrazione della giustizia) e che nel contempo apportavano, nell’ordine giuridico della Chiesa, il frutto avvelenato dell’ermeneutica della discontinuità e della rottura. Ma, cosa ancora più importante, il papa [...] autorizzò espressamente la logica dell’alleanza della collocazione dello *ius matrimoniale* sul fondamento antropologico autentico con ‘la via tradizionale della Chiesa nella comprensione della dimensione giuridica dell’unione coniugale’, confermando (principalmente per ragioni teologiche, che affondavano le radici nell’insegnamento di Cristo e nelle sue interpretazioni di san Paolo) la posizione centrale nel sistema dello *ius* menzionato dei segmenti sia antropologico-etici, sia etico-giuridici della lezione del vescovo di Ippona sui *bona matrimonii: proles, fides, sacramentum*.” Andrzej Pastwa, *Il bene dei coniugi. L’identificazione dell’elemento ad validitatem nella giurisprudenza della Rota Romana*, [Biblioteca Teologica, Sezione Canonistica, 7], Lugano–Siena: Eupress FTL–Edizioni Cantagalli, 2018, 127–128; cf. Puig, “Sulla verità, 490–491.

<sup>45</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 27, 2007).”

<sup>46</sup> Benedict XVI, “Address on the Occasion of the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 29, 2010).” See a comment to this speech – Massimo del Pozzo, “Caritas in veritate, salva iustitia,” *Ius Ecclesiae* 22 (2010): 496–507.

<sup>47</sup> Benedict XVI, “Address on the Occasion of the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 29, 2010).”

<sup>48</sup> Benedict XVI, “Address on the Occasion of the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 29, 2010).” The commentator’s remark proves absolutely accurate: “Il Santo Padre ha preso spunto insomma dal collegamento tra carità e verità per illuminare il ruolo degli amministratori della giustizia. [...] L’insegnamento benedettino non si limita a mettere in guardia contro una falsa ‘carità pseudopastorale’ e un’ingannevole ‘verità relativistica’, promuove ancora una volta la forza della ragione e la fermezza del giurista.” Pozzo, “Caritas in veritate,” 497.

## Unity in the Interpretation and in the Application of Laws

The mastery of Benedict XVI's object discourse is most evident when the Pope raises the issue of the objectivity of judicial discernment<sup>49</sup> – with an “opening” indication behind which the authority of the Church's supreme legislator clearly stands: “in the hermeneutics of the law is it confirmed that the authentic horizon is that of the juridical truth to love, to seek out and to serve.”<sup>50</sup> It is no coincidence that Pope Francis, referring to the legacy of his Predecessor's thought, has implicitly identified the exploration concerning the theme of discernment of the judge as one of the main determinants of his contribution to the legal doctrine of ecclesiastical jurisprudence.<sup>51</sup> After all, the objectivity of judicial discernment – or, as Benedict XVI puts it: “the objective assessment of the facts in the light of the Magisterium and the law of the Church”<sup>52</sup> – is inherent in the whole dynamic of the process of *de nullitate matrimonii*, culminating in the achievement of moral certainty<sup>53</sup> regarding nullity, overcoming in the concrete case the presumption of validity.<sup>54</sup>

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<sup>49</sup> Prelude to a positive lecture on the implementation by the ecclesiastical judge of the authentic *ministerium veritatis*, i.e. to be servants of salvific truth and mercy, are words of caution: “In most recent times, some currents of thought have warned against an excessive attachment to the laws of the Church, starting with the Codes, judging them, as a case in point, to be a manifestation of Legalism. As a consequence, hermeneutical paths had been proposed which grant an approach more consonant with the theological foundations and goals, also pastoral, of the canonical norm, leading to a juridical creativity in which a singular situation would become the decisive factor to ascertain the authentic meaning of the legal precept in a concrete case. Mercy, Equity, the *Oikonomia* so dear to the Oriental Tradition, are some of the concepts invoked in such interpretative operations. It is immediately appropriate to note that this framework does not overcome the Positivism which it denounces, limiting itself to substituting it [Positivism] with another in which interpretive human work rises to the level of protagonist in establishing that which is juridical. It lacks the meaning of an objective law which one is to seek because it remains at the mercy of considerations which claim to be theological or pastoral, but in the end are exposed to the risk of arbitrariness.” Benedict XVI, “Address for the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 21, 2012).”

<sup>50</sup> Benedict XVI, “Address for the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 21, 2012).”

<sup>51</sup> Francis, “Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year (January 25, 2024).”

<sup>52</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 26, 2008).”

<sup>53</sup> See Zenon Grocholewski, “La certezza morale come chiave di lettura delle norme processuali,” in *Ius Ecclesiae* 9 (1997): 417–450; Joaquín Llobell, “La certezza morale nel processo canonico,” in *Il diritto ecclesiastico* 109, no. 1 (1998): 655–699.

<sup>54</sup> Francis, “Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year (January 25, 2024).”

An instructive papal statement resonates with this thought: “The only way to give a solid foundation to the jurisprudential task is to conceive of it as a true exercise of *prudentia iuris*. This prudence is quite the opposite of arbitrariness or relativism, for it permits events to reveal the presence or absence of the specific relationship of justice which marriage is, with its real human and saving meaning. Only in this way do jurisprudential maxims acquire their true value without becoming a compilation of abstract and repetitive rules, exposed to the risk of subjective or arbitrary interpretations.”<sup>55</sup>

The current Pope gives expression to the momentousness of this segment of Benedict XVI’s magisterium when, in the 2024 Rotal allocution,<sup>56</sup> he quotes an extensive passage from his predecessor’s teaching. It is exposed by an invocation of the hermeneutical paradigm: *sentire cum Ecclesia*<sup>57</sup>, and explicitly by noting the maxim initiating the quote in question: “It follows that the interpretation of canonical law must take place within the Church.”<sup>58</sup> Indeed, Benedict XVI’s discourse in question – with a model of ecclesial ministry at the service of justice “founded on love for the truth”<sup>59</sup> – reaches its crowning moment in raising the issue of “unity in the interpretation and in the application of laws.”<sup>60</sup> With the latter, the Pope ties the marking/affirmation of the importance of the special papal magisterium in addresses to the Roman Rota and to the exemplary character of rotal jurisprudence.<sup>61</sup>

Thus, in an important allocution on the occasion of the 100th anniversary of the jurisprudential activity of the Tribunal in question (2008),<sup>62</sup> the following

<sup>55</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 26, 2008).”

<sup>56</sup> Francis, “Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year (January 25, 2024).”

<sup>57</sup> Cf. Stankiewicz, *Sentire cum Ecclesia*, 386–393. See also Eduardo Baura, “La realtà disciplinata quale criterio interpretativo giuridico della legge,” *Ius Ecclesiae* 24 (2012): 705–717.

<sup>58</sup> “It follows that the interpretation of canonical law must take place within the Church. This is not a matter of mere external circumstance, subject to the environs: it is a calling to the same humus of Canon Law and the reality regulated by it. *Sentire cum Ecclesia* takes on meaning also within the discipline, by reason of the doctrinal foundations that are always present and operative within the legal norms of the Church. In this manner, is also applied to Canon Law that hermeneutics of renewal in continuity of which I spoke in reference to the Second Vatican Council, so closely bound to the current canonical legislation.” Benedict XVI, “Address for the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 21, 2012).”

<sup>59</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 28, 2006).”

<sup>60</sup> Benedict XVI, “Address for the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 21, 2012).”

<sup>61</sup> Cf. Pastwa, *Il bene dei coniugi*, 75–94.

<sup>62</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 26, 2008).”

passage draws attention: “All rulings must always be based on the principles and common norms of justice. This requirement, common to any juridical order, has specific significance in the Church to the extent that the requirements of communion are at stake. This involves the protection of what is common to the universal Church, entrusted in a particular way to the Supreme Authority and to the bodies that participate *ad normam iuris* in its sacred authority.”<sup>63</sup>

These words – also because of the uniqueness of the event (the aforementioned jubilee) – should be treated with all seriousness, especially due to the fact that they turn out to be a prelude to the development – in a further passage of the allocution – of a thought in which the title resonates: the duty to love/respect the truth. It is about the passage in which the Pope highlights the importance of annual addresses to the Roman Rota as an indispensable tool for the pursuit of truth<sup>64</sup> in marriage nullity trials: “The value of interventions of the Ecclesiastical Magisterium on matrimonial and juridical issues, including the Roman Pontiffs Discourses to the Roman Rota, should [...] be seen in this realistic perspective. They are a ready guide for the work of all Church tribunals, since they authoritatively teach the essential aspects of the reality of marriage.”<sup>65</sup>

That this papal statement should not be taken as thrown in passing is well illustrated by the combination of the terms in the Pope’s statement: “guide” and “authority”, a combination that is highly accurate and certainly intentional. Is it not the task of the supreme ecclesiastical authority holding the Petrine office to secure, from the substantive and functional side, ways of interpreting/applying the law that are consistent with *mens legislatoris*<sup>66</sup> – i.e. with the will of the legislator pertaining to the sphere of “principals, fundamental decisions, essential ideas, values and higher goals?”<sup>67</sup> All this is done in order to serve the realization of *communio Ecclesiae*,<sup>68</sup> to meet the need for “hermeneutical unity.” It is precisely to create the elementary

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<sup>63</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 26, 2008).” See Remigiusz Sobański, “La tutela del matrimonio nel diritto processuale canonico,” in “*Iustitia et iudicium.*” *Studi di diritto matrimoniale e processuale canonico in onore di Antoni Stankiewicz*, vol. 3, eds Janusz Kowal and Joaquín Llobell (Città del Vaticano: LEV, 2010): 1487–1504.

<sup>64</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 26, 2008).”; Antoni Stankiewicz, “L’unità della giurisprudenza e il ruolo della Rota Romana,” *Ius Ecclesiae* 22 (2010): 591–610.

<sup>65</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 26, 2008).”

<sup>66</sup> Cf. *Code of Canon Law* (promulgated: January 25, 1983), can. 17.

<sup>67</sup> Georg May, Anna Egler, *Einführung in die kirchenrechtliche Methode* (Regensburg: Pustet, 1986): 206.

<sup>68</sup> Remigiusz Sobański, “Zu den Interpretationsregeln des kirchlichen Gesetzbuches,” in “*Iustus Iudex.*” *Festgabe für Paul Wesemann zum 75. Geburtstag*, edited by Klaus Lüdicke, Heinz Mussinghoff and Hugo Schwendenwein (Essen: Ludgerus, 1990): 703–707.

conditions for achieving the latter,<sup>69</sup> and more specifically, to ensure the necessary coherence in the interpretation and application of the marriage canons in accordance with the principles of justice that the addresses to the Roman Rota<sup>70</sup> are intended to serve in the first place.

Thus, a clear answer to the question of why Benedict XVI, in his penultimate “Rotal Address (2012)”, so emphatically links to the judicial *diaconia* – updating the duty to love/respect the truth – “all juridically binding means which tend to ensure that unity in the interpretation and in the application of laws,”<sup>71</sup> i.e. the means that serve hermeneutical unity. On this issue of such importance, it also remains to the credit of the aforementioned Pope that in as many as three<sup>72</sup> addresses he has focused (not episodically, but incisively and systemically!) his Shepherd and Judge lecture on the importance of the jurisprudence of the Roman Rota. It, perhaps, resonates most strongly in the aforementioned 2011 allocution,<sup>73</sup> in which Benedict XVI gives expression to the ideological affinity of his teaching with the thought of his great Predecessor.<sup>74</sup>

“Rotal jurisprudence should be seen as exemplary juridical wisdom carried out with the authority of the Tribunal permanently constituted by the Successor of Peter for the good of the whole Church.”<sup>75</sup> This directive, which is the final one to be quoted, explains more than clearly the servile and indispensable role of the jurisprudence of the Roman Rota in updating the idea of “hermeneutic unity.”<sup>76</sup> As a kind

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<sup>69</sup> Relating the principle of “hermeneutical unity” to the work of the Church’s tribunals, Benedict XVI underscored its importance with a neat phrase: “[...] to practice in an exemplary manner, in the application of judicial and administrative institutes, communion in discipline, the essential aspect of the unity of the Church.” Benedict XVI, “Address for the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 21, 2012).”

<sup>70</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 26, 2008).”

<sup>71</sup> Benedict XVI, “Address for the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 21, 2012).”

<sup>72</sup> It is about Rotal allocutions of 2008, 2011 and 2012.

<sup>73</sup> Benedict XVI, “Address on the Occasion of the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 22, 2011).”

<sup>74</sup> “All this requires that the work of ecclesiastical tribunals transmit a univocal message on what is essential in marriage, in harmony with the Magisterium and with canon law and speaking unanimously. Given the need for the unity of jurisprudence, entrusted to the care of this Tribunal, the other ecclesiastical tribunals must conform to the rotal jurisprudence.” Cf. John Paul II, “Address to the Tribunal of the Roman Rota (January 17, 1998).”

<sup>75</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 26, 2008).”

<sup>76</sup> “Benedetto XVI richiama in merito la sottolineatura della esemplarità della giurisprudenza rotale fatta da Giovanni Paolo II nel 1998, ma egli stesso, nella allocuzione del 2008, attirava l’attenzione sul valore di tale giurisprudenza e sulla necessità che essa sia sempre più unitaria. L’autorità morale e scientifica, nonché la forza argomentativa delle decisioni rotali, soprattutto laddove esse diano vita a una vera e propria giurisprudenza.” Paolo Bianchi, “«Non esiste [...] un matrimonio della vita e un

of buckle, it ties together the directive content present in the 2008 address: first, in recalling the rule that the tribunal of the Roman Rota “fosters unity of jurisprudence and, by virtue of its decisions, provides assistance to lower tribunals”<sup>77</sup> and, second, in the task (implied by this rule): “to make rotal jurisprudence more and more manifestly unitive as well as effectively accessible to all who exercise justice, in order to ensure its uniform application in all Church tribunals.”<sup>390</sup> The same directive character has – in the final part of the papal lecture – an appeal to judicial prudence (*prudencia iuris*) to completely eliminate, or at least minimize, “a risk that ‘local forms of jurisprudence’ develop, *sensim sine sensu*, ever more distant from the common interpretation of positive law and also from the Church’s teaching on matrimony.”<sup>78</sup>

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When in 2013 Pope Benedict XVI crowned with allocution the ministry of Shepherd and Judge, the final memento so close to his heart, he referred to those who “save-guard truth and justice”<sup>79</sup> – and he did it in a general way, without personal emphasis (somewhat understandably). Only Pope Francis was able, in his first address to the Roman Rota,<sup>80</sup> to show implicitly the genius of his Predecessor’s judicial ministry as *Cooperator Veritatis*, brilliantly created in words and confirmed by personal testimony. The present Holy Father, recalling the same context: “a service to truth in justice”, describes the ministry in question as a true *diaconia*<sup>81</sup>, whose authenticity is expressed *par excellence* in “strengthening the full communion between individual members of the faithful, and between them and the ecclesial body.”<sup>82</sup>

Following such a model, an ecclesiastical judge – “having a genuine spirit of service,” and thus understanding the duty to love for the truth – can and should

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altro del diritto»: Lesigenza di una seria pastorale prematrimoniale e di una coerente prassi giudiziaria,” *Ius Ecclesiae* 23 (2011): 483.

<sup>77</sup> John Paul II, *Apostolic Constitution “Pastor Bonus”* (March 19, 2022), Art. 126; Francis, *Apostolic Constitution “Praedicate Evangelium”* (March 19, 2022), Art. 200 § 1.

<sup>78</sup> Benedict XVI, “Address to the Members of the Tribunal of the Roman Rota (January 26, 2008).”

<sup>79</sup> “Dear Brothers, I invoke God’s help upon you and upon all those in the Church who strive to safeguard truth and justice with regard to the sacred bond of marriage and, for this very reason, the Christian family,” Benedict XVI, “Address for the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 26, 2013).”

<sup>80</sup> Francis, “Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year (January 24, 2014).”

<sup>81</sup> Pastwa, *Przymierze miłości małżeńskiej*, 235–239.

<sup>82</sup> Francis, “Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year (January 24, 2014).”

“treat and judge the condition of the faithful, who with confidence turn to him by imitating the Good Shepherd caring for the wounded lamb. That is why he must be inspired by pastoral charity – the charity which God poured into our hearts through ‘the Holy Spirit who has been given to us.’”<sup>83</sup>

## Bibliography

- Baura, Eduardo. “Pastorale e diritto nella Chiesa.” In *Vent’anni di esperienza canonica: 1983–2003*: Atti della Giornata Accademica tenutasi nel 20. anniversario della promulgazione del Codice di diritto canonico. Città del Vaticano: LEV, 2003, 159–180.
- Baura, Eduardo. “La realtà disciplinata quale criterio interpretativo giuridico della legge.” *Ius Ecclesiae*, vol. 24, (2012): 705–717.
- Bianchi, Paolo. “L’interpretazione positivistica del momento costitutivo del matrimonio.” *Periodica de re canonica*, vol. 101, (2012): 463–476.
- Bianchi, Paolo. “«Non esiste [...] un matrimonio della vita e un altro del diritto»: Lesigenza di una seria pastorale prematrimoniale e di una coerente prassi giudiziaria.” *Ius Ecclesiae*, vol. 23, (2011): 472–485.
- Bianchi, Paolo. “Il servizio alla verità nel processo matrimoniale.” *Ius canonicum*, vol. 57, (2017): 83–104.
- Benedict XVI. “Address to the Members of the Tribunal of the Roman Rota (January 28, 2006).”
- Benedict XVI. “Address to the Members of the Tribunal of the Roman Rota (January 27, 2007).”
- Benedict XVI. “Address to the Members of the Tribunal of the Roman Rota (January 26, 2008).”
- Benedict XVI. “Address on the Occasion of the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 29, 2010).”
- Benedict XVI. “Address on the Occasion of the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 22, 2011).”
- Benedict XVI. “Address for the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 21, 2012).”
- Benedict XVI. “Address for the Inauguration of the Judicial Year of the Tribunal of the Roman Rota (January 26, 2013).”

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<sup>83</sup> Francis, “Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year (January 24, 2014).”

- Benedict XVI. "Address to the Roman Curia Offering them his Christmas Greetings (December 22, 2005)."
- Benedict XVI. *Apostolic Exhortation 'Sacramentum Caritatis'* (February 22, 2007).  
*Code of Canon Law* (promulgated on 25 January 1983).
- Cooperatores Veritatis. Scritti in onore del Papa emerito Benedetto XVI per il 90° compleanno-Tributes to Pope emeritus Benedict XVI on his 90th birthday*, eds Pierluca Azzaro and Federico Lombardi. Città del Vaticano: LEV, 2017.
- Francis. "Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year (January 24, 2014)."
- Francis. "Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year" (January 25, 2024).
- Francis. *Apostolic Constitution 'Praedicate Evangelium'* (March 19, 2022)."
- Francis. *Apostolic Exhortation 'Evangelii Gaudium'* (November 24, 2013)."
- Fumagalli Carulli, Ombretta. "Le Allocuzioni di Benedetto XVI alla Rota Romana." In "*Iustitia et iudicium*". *Studi di diritto matrimoniale e processuale canonico in onore di Antoni Stankiewicz*, vol. 3, eds Janusz Kowal and Joaquín Llobell. Città del Vaticano: LEV, 2010, 1361–1386.
- Fumagalli Carulli, Ombretta. "Il Concilio Vaticano II e il matrimonio canonico: capacità e consenso nella convergenza tra pastorale e diritto." *Jus* 60, no. 2 (2013): 211–229.
- Fumagalli Carulli, Ombretta. "Verità e giustizia nella giurisprudenza ecclesiale." *Ius Ecclesiae* 20 (2008): 463–478.
- Góralski, Wojciech, and Andrzej Pastwa. *Rodzina suwerenna – Kościół domowy. W nurcie współczesnej myśli prawnej Kościoła powszechnego i Kościoła w Polsce*. Katowice: Wydawnictwo Uniwersytetu Śląskiego, 2015.
- Grochowski, Zenon. "La certezza morale come chiave di lettura delle norme processuali." *Ius Ecclesiae* 9 (1997): 417–450.
- Giovanni Paolo II. "Discorso ai Membri del Tribunale della Sacra Romana Rota (26 febbraio 1983)."
- John Paul II. "Address to the Prelate Auditors, Officials and Advocates of the Tribunal of the Roman Rota (January 18, 1990)."
- John Paul II. "Address to the Tribunal of the Roman Rota (January 17, 1998)."
- John Paul II. "Address to Members of the Tribunal of the Roman Rota (January 29, 2005)."
- John Paul II. *Apostolic Constitution 'Pastor Bonus'* (March 19, 2022).
- John Paul II. *Apostolic Exhortation 'Familiaris consortio'* (November 22, 1981).
- Llobell, Joaquín. "La certezza morale nel processo canonico." *Il diritto ecclesiastico* 109, no. 1 (1998): 655–699.
- Llobell, Joaquín. "Il diritto e il dovere al processo giudiziale nella Chiesa. Note sul magistero di Benedetto XVI circa la necessità di 'agire secondo ragione' nella riflessione ecclesiale." *Ius Ecclesiae* 19 (2007): 55–75.

- May, Georg; Egler, Anna. *Einführung in die kirchenrechtliche Methode*. Regensburg: Pustet, 1986.
- Morán Bustos, Carlos M. “La ricerca della verità, ‘ratio’ e ‘telos’ del processo canonico di nullità del matrimonio.” *Ius Ecclesiae* 33 (2007): 467–492.
- Müller, Gerhard Ludwig. *La speranza della famiglia*. Milano: Edizioni Ares, 2014.
- Pastwa, Andrzej. “L’alleanza sistemica del diritto e della pastorale. Osservazioni sull’arte dell’applicazione del diritto nell’intera preparazione canonica alla celebrazione del matrimonio.” *Annuario Iuris Canonici* 2 (2015): 75–93.
- Pastwa, Andrzej. “Pillars of the System of *ius matrimoniale canonicum* According to Remigiusz Sobański.” In “*Nomos – Ethos – Oikonomia*.” In *Memory of Professor Remigiusz Sobański*, ed. Andrzej Pastwa. *Philosophy and Canon Law* 8, no. 2 (2022): 7–26.
- Pastwa, Andrzej. *Il bene dei coniugi. L’identificazione dell’elemento ad validitatem nella giurisprudenza della Rota Romana* [Biblioteca Teologica, Sezione Canonistica, 7]. Lugano–Siena Eupress FTL–Edizioni Cantagalli, 2018.
- Pastwa, Andrzej. “*Przymierze miłości małżeńskiej*.” *Jana Pawła II idea małżeństwa kanonicznego*. Katowice: Wydawnictwo Uniwersytetu Śląskiego, 2009.
- Pozzo, Massimo del. “*Caritas in veritate, salva iustitia*.” *Ius Ecclesiae* 22 (2010): 496–507.
- Pozzo, Massimo del. “Nella verità, la giustizia. Considerazioni a margine della prima Allocuzione benedettina alla Rota.” *Ius Ecclesiae* 18 (2006): 503–523.
- Pozzo, Massimo del. *Il magistero di Benedetto XVI ai giuristi*. Città del Vaticano: LEV, 2013.
- Puig, Fernando. “Sulla verità e l’intrinseca natura giuridica del matrimonio.” *Ius Ecclesiae* 19 (2007): 490–494.
- Sobański, Remigiusz. “Prawda jako entelechia procesu o nieważność małżeństwa w świetle przemówień Piusa XII do Roty Rzymskiej.” *Ius Matrimoniale* 13 (2008): 29–41.
- Sobański, Remigiusz. “La tutela del matrimonio nel diritto processuale canonico.” In “*Iustitia et iudicium*.” *Studi di diritto matrimoniale e processuale canonico in onore di Antoni Stankiewicz*, vol. 3, eds Janusz Kowal and Joaquín Llobell. Città del Vaticano: LEV, 2010, 1487–1504.
- Sobański, Remigiusz. “Uwagi o funkcji sędziego w procesie o nieważność małżeństwa.” *Ius Matrimoniale* 3 (1998): 45–59.
- Sobański, Remigiusz. “Zu den Interpretationsregeln des kirchlichen Gesetzbuches.” In “*Iustus Iudex*.” *Festgabe für Paul Wesemann zum 75. Geburtstag*, eds Klaus Lüdicke, Heinz Mussinghoff and Hugo Schwendenwein. Essen: Ludgerus, 1990, 694–707.
- Stankiewicz, Antoni. “L’unità della giurisprudenza e il ruolo della Rota Romana.” *Ius Ecclesiae* 22, (2010): 591–610.
- Stankiewicz, Antoni. “*Sentire cum Ecclesia* e l’interpretazione della legge canonica.” *Periodica de re canonica* 102 (2013): 379–402.

Rev. Andrzej Pastwa

## Le devoir d'aimer la vérité. Sur le signum specificum du ministère pétrinien judiciaire de Benoît XVI

### Résumé

Lorsque le pape Benoît XVI a couronné par une allocution le ministère de berger et de juge en 2013, dernier souvenir qui lui tenait tant à cœur, il a fait référence à ceux qui « sauvegardent la vérité et la justice » – et il l'a fait de manière générale, sans insister sur les personnes (ce qui est assez compréhensible). Seul le pape François a été capable, dans son premier discours à la Rote romaine, de montrer implicitement le génie du ministère judiciaire de son prédécesseur en tant que *Cooperator Veritatis*. Ces circonstances ont donné lieu à une réflexion savante sur la production magistérielles du pape Joseph Ratzinger en question. La principale source donnant un aperçu complet (et essentiellement exhaustif) de la conception de Benoît XVI quant à l'exercice de la fonction de juge suprême de l'Église est un recueil de discours prononcés devant la Rote romaine entre 2006 et 2013. C'est dans ce recueil que l'on peut identifier avec succès le cœur même du ministère ecclésial au service de la justice – ministère dont la nature est bien reflétée par la combinaison des formules *pastor bonus* et *iustus iudex* – selon le paradigme personnaliste : dans l'Église, la justice et l'administration de la justice sont animées par l'amour (*caritas*). Une étude méthodique de certains segments de cette doctrine originale – à travers le prisme du principe *sentire cum Ecclesia* et du postulat d'harmonisation *vetera et nova* qui l'accompagne – a permis d'accomplir la tâche de recherche décrite dans le titre, à savoir tenter d'identifier le *signum specificum* du ministère pétrinien judiciaire de Benoît XVI.

**Mots-clés :** Benoît XVI, discours à la Rote romaine, procédure de nullité du mariage, diaconie judiciaire, service de la vérité dans la justice, sensibilité pastorale, unité dans l'application des lois

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## Il dovere di amare per la verità. Sul signum specificum del ministero petrino giudiziario di Benedetto XVI

### Sommario

Quando nel 2013 Papa Benedetto XVI ha coronato con un'allocuzione il ministero di Pastore e Giudice, l'ultimo ricordo così caro al suo cuore, ha fatto riferimento a coloro che « salvaguardano la verità e la giustizia » – e lo ha fatto in modo generico, senza enfasi personale (il che è in qualche modo comprensibile). Solo Papa Francesco è stato in grado, nel suo primo discorso alla Rota Romana, di mostrare implicitamente il genio del ministero giudiziario del suo predecessore come *Cooperator Veritatis*. Queste circostanze hanno dato origine a una riflessione accademica sulla produzione magisteriale di Papa Joseph Ratzinger in questione. La fonte primaria che fornisce una visione completa (e sostanzialmente esaustiva) dell'idea di Benedetto XVI sull'esercizio della funzione di giudice supremo della Chiesa è una raccolta di discorsi alla Rota Romana dal 2006 al 2013. È in questa raccolta che si può identificare con successo il nucleo stesso del ministero ecclesiale al servizio della giustizia – ministero

la cui natura è ben riflessa dalla combinazione delle formule: pastor bonus e iustus iudex – secondo il paradigma personalistico: nella Chiesa la giustizia e l'amministrazione della giustizia sono animate dall'amore (caritas). Uno studio metodico di segmenti di questa dottrina originale – attraverso il prisma del principio sentire cum Ecclesia e il postulato di armonizzazione vetera et nova che lo accompagna – ha permesso di portare a termine il compito di ricerca delineato nel titolo, ovvero il tentativo di identificare il signum specificum del ministero petrino giudiziario di Benedetto XVI.

**Parole chiave:** Benedetto XVI, discorsi alla Rota Romana, processo di nullità del matrimonio, diaconia giudiziaria, servizio alla verità nella giustizia, sensibilità pastorale, unità nell'applicazione delle leggi



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# Life and Death

## The Legal Dimension of Truth

**A b s t r a c t:** Referring to the encyclical of John Paul II *Fides et ratio*, the article addresses the problem of truth in its legal dimension. That is, what is truth for law? What truth does law serve? In other words, does truth that law aims at correspond to the real and natural order of things, i.e. is it possible to reach the absolute truth by means of speculations and legal constructs? On the contrary, even the most existential experiences, such as ‘life’ and ‘death’, will not agree with the truth as a result of certain legal actions, creating a different nature and reality. The analysis carried out showed that law uses a specific category of truth, i.e. a formal and procedural truth which does not necessarily correspond to the absolute truth about which Pope John Paul II writes in his encyclical. If this specific, formal and procedural legal truth is subordinated to the implementation of the guiding principle of achieving the absolute truth, then such a situation should not raise concern. It will be worse if law starts to deviate from the pursuit of absolute truth, succumbing only to some *ad hoc*, pragmatic criteria based on erroneous beliefs that everything should be subordinated to technology and the will of the majority because fundamental standards common to all people do not exist or cannot be indicated.

**Key words:** truth, formal truth, procedural truth, legal fiction, legal presumptions, prohibitions of evidence, *res judicata*

## Introduction

The fundamental keynote of John Paul II’s encyclical *Fides et ratio* is the question of truth – the question of how to attain, recognise and cherish it. As Joseph Ratzinger once aptly put it: “Can a person recognize the truth – the fundamental truths about themselves, their origin, and their future – or do they live in darkness and ultimately have to return to the question about usefulness?”<sup>1</sup> Thus, the dimension of truth

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<sup>1</sup> Joseph Ratzinger, *Wiara – prawda – tolerancja. Chryścijaństwo a religie świata*, trans. Ryszard Zajączkowski (Wydawnictwo Jedność–Herder, Kielce 2004), 147–167.

the Pope refers to is utter, absolute, and even divine, because the fullness of truth is God revealing himself to the men.

How does one reach this truth which is absolute, which constitutes the foundation and a point of reference, and which has a specific form and name for Christians? The Pope observes that we arrive at that truth either through rational (philosophical) speculation, i.e. *ratio*, or through faith in the revelation, which is *fides*: “Faith and reason are like two wings on which the human spirit rises to the contemplation of truth; and God has placed in the human heart a desire to know the truth – in a word, to know himself – so that, by knowing and loving God, men and women may also come to the fullness of truth about themselves.”<sup>2</sup>

Drawing on that papal thought, let us contemplate the idea of truth and pose questions concerning truth, specifically its legal dimension. In other words, what does truth mean for law? What truth does law pursue? What truth does it serve? After all, it would seem evident that law should be consonant with truth, that is with the real and natural order of things. This is evident even in the etymological affinity between these Polish terms: ‘prawo’ (law) and ‘prawda’ (truth); both are closely and strictly related. In the Middle Ages, the verb ‘prawić’ meant ‘to speak the truth’ and ‘to support a case in court’, while the school of legal glossators argued that the law should be interpreted according to truth.<sup>3</sup> Therefore, the principle of truth appears to be an essential premise of the legal system.

Meanwhile, there is no single notion of ‘truth’ in the legal system. In fact, one could argue that truth has many facets, including material, objective and factual truths, as well as formal truths based on fiction and legal presumptions, and procedural truths built on *res judicata*, evidentiary prohibitions and limitations, consent of the parties or moral certainty. Which truth is it then? Does the truth that the law strives to attain align with the actual and natural order of things? In other words, can absolute truth be reached through speculation and legal constructs? Or, conversely, might certain legal acts (e.g. pronouncing a missing person dead under Polish law or declaring a presumed death in canon law) result in even the most existential experiences, such as ‘life’ and ‘death’, without corresponding to the truth, creating an alternative (and therefore untrue) nature and reality?

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<sup>2</sup> Jan Paweł II, „Encyklika Fides et ratio,” in *Encykliki Ojca Świętego Jana Pawła II* (Kraków: Dom Wydawniczy „Rafael”), 699.

<sup>3</sup> Waław Uruszczyk, „Prawo a prawda, czyli o fikcjach prawnych uwagi historyka prawa,” *Z Dziejów Prawa* 13 (2022), 25–35.

## Legal Fiction and Legal Presumptions

The discrepancy between absolute truth and the truth that the law leads to or even creates is most evident in the so-called formal truth, which is constructed on the basis of legal fiction or legal presumptions. The concept of formal truth is not new. Even in ancient times, there were paradigms and norms prescribing the recognition of legal facts that had not actually occurred. For example, a Roman citizen was deemed deceased if he was taken captive by his enemies (i.e. the moment of capture was recognised as the moment of death). However, if such a citizen returned to his homeland, his period of captivity was treated as if it had never taken place. Under applicable law, his original legal status and property would be restored.<sup>4</sup>

Roman law was also familiar with other legal fictions. For example, when it came to financial matters, such as inheritance, children were considered to have been born even if they had not been born yet. If they were born after the death of their parents, they were treated as if they had been born during their parents' lifetime.<sup>5</sup> Similarly, adoption – understood here as a legal recognition of someone else's child as one's own – is a legal fiction too.

Canon law elaborated on legal fictions. Here, one could refer to the institution of legal representation and the power of attorney in particular. This essentially involved empowering a plenipotentiary to perform legal acts on behalf of and at the expense of the principal. By virtue of legal fiction, the plenipotentiary was treated as an independently acting principal who had been granted the power of attorney. Another example of legal fiction is the legitimacy of an extramarital child arising from the marriage of their parents. Once again, through legal fiction, such a child was considered one of the legitimate offspring. Yet another example of legal fiction was the legitimacy of a child born out of wedlock as a result of his parents' marriage. Such a child was considered legitimate on the basis of legal fiction. Again, by way of legal fiction, such a child was included among the legitimate progeny.<sup>6</sup>

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<sup>4</sup> Marek Kuryłowicz and Adam Wiliński, *Rzymskie prawo prywatne. Zarys wykładu* (Warszawa: Wydawnictwo Wolters Kluwer, 2013), 90.

<sup>5</sup> Lucjan Świto, „Osobowość prawna ‘nasciturusa’ w prawie kanonicznym i polskim,” *Prawo Kanoniczne* 40(1997), 233–248.

<sup>6</sup> Waław Uruszczyk, „Kościelne źródła instytucji pełnomocnictwa. Liber Sextus. 5, 12, Regulae iuris 68 et 72,” in *Semper Fidelis. Prace dedykowane pamięci Profesora Janusza Sondla*, eds Dorota Malec, Łukasz Marzec, and Tomasz Palmirski (Kraków: Wydawnictwo: Poligrafia Salezjańska, 2017), 429–442; Lucjan Świto, *Zawarcie małżeństwa przez pełnomocnika w formie wyznaniowej ze skutkami cywilnymi w prawie polskim* (Olsztyn: Wydawnictwo UWM, 2019).

In the early seventeenth century, Antoine Dadine d'Auteserre (1602–1682), a professor at the University of Toulouse and the author of the treatise *De fictionibus iuris* (Parisiis 1659), distinguished five types of legal fiction: (1) as to the person – e.g. if a husband died leaving a pregnant wife, he is not considered to be childless; (2) as to the object – e.g. in the case of lending an object, it is not considered to be returned if it has been damaged; (3) as to the legal act – e.g. a symbolic, in other words, fictitious transfer of possession (4) as to the time – e.g. when the legal effects of a legal act occur *ex tunc*, i.e. earlier than actually predicted (the fulfilment of a condition precedent to the contract); 5) as to the location – e.g. a clergyman who was absent due to studying abroad was deemed to be discharging the obligation of residency.<sup>7</sup>

Thus, constructing fiction is a legal technique reserved for the legislator. It is a 'lie of the law' whereby a state contrary to reality is acknowledged in order to cause a legal effect to ensue. In the case of a legal presumption, a fact or form of law is assumed to have been proven. This is because a presumptive conclusion is probable, whereas it could not arise at all as part of legal fiction if that fiction were not established by a norm.

Even today, numerous cases of legal fiction and presumptions are applied, including:

- treating a resolution passed by the majority as a resolution adopted by all;
- considering democracy to be the rule of all the nations, meaning all citizens, when in fact the role of a citizen is limited to electing Members of Parliament or Senators;
- attributing paternity to a man who is not the biological father of a child, either following his acknowledgment of the child or based on the presumption of his paternity;
- deeming substituted service effective when the addressee is not at his address and has been notified of the mail twice; the fiction also operates if, e.g. the addressee refuses to accept the mail;
- treating an unworthy heir as if he had died before the testator's death. He had not lived to see the opening of the succession and was therefore excluded from it;
- considering the convicted person innocent due to the expungement of the sentence.

Undoubtedly, the use of legal fiction or presumption is always exceptional. As contrived and essentially contradictory constructs, they cannot be formulated at

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<sup>7</sup> Antonio Dadino Altesserra, *De fictionibus iuris tractatus quinque*, Parisiis 1659, 14; Uruszczak, „Prawo a prawda, czyli o fikcjach prawnych uwagi historyka prawa” 31.

will. They are only justified by considerations of equity and the common good. Under no circumstances may legal fictions be created by courts or other bodies that interpret the law. If this happens, it amounts to an abuse of power or even lawlessness. Therefore, devising legal fictions should be the exclusive domain of lawmakers. Nevertheless, legal fictions tend to be either judicial or administrative.<sup>8</sup> For example, in a number of court proceedings held in Warsaw in reference to the expropriation or restitution of real estate, administrative authorities or courts took advantage of the legal fiction involving an unknown place of residence of a deceased person.

Even though the fact of a person's death was known, proceedings to ascertain the acquisition of estate and identify the heirs were not instituted. Instead, the relevant authorities deemed the deceased to be of unknown abode, which distorted reality and undermined the truth. This subsequently enabled the appointment of a guardian *ad litem* for the deceased and the continuation of expropriation or re-privatisation proceedings. Clearly, a deceased person cannot be included among living persons of unknown whereabouts. Even if the death of a person has not been legally confirmed, it is common sense that someone aged 118 years at the start of proceedings, particularly if this person has been appointed a guardian *ad litem*, should be considered deceased.<sup>9</sup>

## Establishing the Truth in a Trial

The incompatibility of the law with absolute truth, that is with the real and natural order of things, is manifested in the so-called procedural truth. It is constructed on the basis of the rules that govern court proceedings. Similar to formal truth, which is based on fiction or legal presumptions, procedural truth serves to ascertain the truth in a trial and has its origins in ancient legislation.<sup>10</sup> Examples of procedural truth include *res judicata*, limitations and prohibitions on evidence, and moral certitude in canon law.

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<sup>8</sup> Uruszczak, „Prawo a prawda, czyli o fikcjach prawnych uwagi historyka prawa,” 33.

<sup>9</sup> Uruszczak, „Prawo a prawda, czyli o fikcjach prawnych uwagi historyka prawa,” 32–33.

<sup>10</sup> Izabela Pilarczyk, „Poszukiwanie prawdy w procesie cywilnym,” *Studia Prawnicze. Rozprawy i Materiały* 15(2014), 169–180.

## *Res Judicata*

The legal formula *Res judicata pro veritate habetur* (“a matter adjudged is taken as truth”) denotes inadmissibility of re-examining and resolving a case that has already been judged.<sup>11</sup> Consequently, the dispute between the litigants has been definitively ended as a result of the final, non-appealable and enforceable adjudication. A definitively resolved case is considered *res judicata*, while the resulting judgment is considered just regardless of its reference to objective truth. An exception may be found within the framework of canon law, where cases concerning the status of persons never become *res judicata*.<sup>12</sup>

The principle of *res judicata* is an eloquent example which demonstrates that truth and its ascertainment are not the only values that the trial serves because it is subordinated to other values as well. The most frequently invoked value is the common good which consists in ensuring the certainty of legal transactions in order to avoid continual litigation between the same parties over the same subject matter. Indeed, public good demands that a dispute not be protracted indefinitely.

## Evidentiary Prohibitions and Limitations

Prohibitions or limitations pertaining to evidence span those legal rules which prohibit taking evidence under certain conditions or restrict the possibility of obtaining evidence. Evidentiary prohibitions and limitations are provided for both in Polish law (in civil, criminal and administrative proceedings) and in canon law. An evidentiary prohibition (in Polish and canonical procedures alike) can seriously inhibit ascertaining the truth in a trial if a confessor does not disclose the knowledge obtained during the confession or (in a canonical procedure) the evidence acquired in a wrongful manner is not used.

The primary reasons for introducing evidentiary prohibitions into a trial include respecting human dignity and intimacy, safeguarding vital interests of the state, protecting familial relations and close relationships of the witness with other persons, and preserving confidentiality of the classified and professional information. Prohi-

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<sup>11</sup> Krzysztof Burczak, Antoni Dębiński, and Maciej Jońca, *Łacińskie sentencje i powiedzenia prawnicze* (Warsaw: Wydawnictwo C.H. Beck, 2007), 192.

<sup>12</sup> Can. 1643 of the Code of Canon Law

bitions and limitations pertaining to evidence can be either complete and unconditional, or conditional, that is waived when certain conditions are met.<sup>13</sup> Evidentiary prohibitions or limitations offer yet another example of how the principle of material truth need not be absolute for the law (or legal proceedings in this case). After all, it may happen that without information falling under an evidentiary prohibition, the judge will deliver a verdict that is inconsistent with the facts.

## Moral Certainty

Moral certainty that the ecclesiastical lawmaker demands from the judge regarding the case he is to adjudicate does not ensure that ecclesiastical judgements will always reveal the truth to the letter. Moral certainty is an inner conviction about something. It is a judgement based on the belief in the truth or falsity of that thing, derived from certain premises. According to can. 1608 § 1 of the CCL, the judge is required to develop moral certitude concerning the cases he is to rule on. On the one hand, the level of moral certitude that the judge must reach cannot be merely a subjective conviction, a conjecture or likelihood, however high. On the other hand, it cannot be an absolute certainty that precludes any doubt or possibility of error. It is sufficient if it eliminates all reasonable doubts and uncertainties.<sup>14</sup>

This moral certainty, based on an uninhibited evaluation of the evidence in accordance with the judge's conscience, should result from analysing each piece of evidence in relation to the entire case, taking into account scientific knowledge, life experience, and the principles of logic. The judge's conviction is rooted in his certainty that the conclusions drawn from a comprehensive analysis of the evidence are objective.

In addition, it may be noted that a judge cannot make a judgment relying on private knowledge, even if he knows it is confirmed, but should always be informed by the knowledge that the case file provides. If the available information does not align with the judge's personal knowledge, the judge should seek to supplement the evidence in the manner provided for by procedural law. However, according to can. 1550 § 2(1) of the CCL, he cannot act in the capacity of a witness himself.

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<sup>13</sup> Lucjan Świto, „Tajemnica duszpasterska,” *Biuletyn Stowarzyszenia Kanonistów Polskich* 32 (2022), 183–196.

<sup>14</sup> Tadeusz Pawluk, *Prawo Kanoniczne według Kodeksu Jana Pawła II*, vol. 4, *Doczesne dobra Kościoła. Sankcje w Kościele. Procesy* (Olsztyn: Wydawnictwo WWD, 1990), 290–292.

Although it is crucial for the ecclesiastical lawmaker that court judgments contain objective truth – a goal which the judge’s obligation to substantiate the judgment in legal or factual terms and the institution of appeal serve as well – the truth may not always be reflected in ecclesiastical judgments. This is because they are not based on absolute certainty, which only God can possess, but on the judge’s moral certitude.

## Conclusion

Trying to answer the questions posed here, namely whether the law serves the truth, seeks the truth, or identifies itself with the truth, one could ask – paraphrasing Pilate – which truth is that? After all, as outlined above, the manner in which the law pursues the truth may involve a specific category of truth, i.e. formal-procedural truth, which does not necessarily correspond to the absolute truth on which Pope John Paul II elaborates in his encyclical.

However, if that particular formal-procedural legal truth, employed in legal systems for centuries, somehow serves to realise the superior principle of attaining absolute truth, such a situation should not constitute a cause for concern. Things will take a turn for the worse if law begins to deviate from the pursuit of absolute truth, succumbing solely to some expedient, pragmatic criteria derived from the erroneous belief that everything should be governed by technology and the will of the majority.

The phenomenon of law beginning to elude any control and creating a new reality that utterly contradicts the natural order and its most fundamental principles should, at the very least, provoke reflection. At present, when reality appears as a domain of unlimited choice, the question of the “truth in law” becomes particularly significant. Today, when truth is no longer linked to fact and all paradigms are disrupted, law claims the prerogative of being a super-censor of truth. It is the law which happens to determine the beginning and the end of human existence. It tells us whether a human being is already complete or *merely* a foetus, an embryo or a cluster of cells. It also tells us whether a human being who breathes is alive or not (due to the death of the brainstem). Should he continue his life if he is alive then? It defines human life and death. It is in courtrooms that one decides nowadays whether a human being is male or female (depending on which gender they feel like being at the moment) and whether he or she has two mothers or several parents. It is the law that dictates today whether a person is entitled to the truth (e.g. of their descent etc.). And yet, is this right?

## Bibliography

- Burczak, Krzysztof, Dębiński, Antoni, and Maciej Jońca. *Łacińskie sentencje i powiedzenia prawnicze* (Warszawa: Wydawnictwo C.H. Beck, 2007).
- Dadino Altesserra, Antonio. *De fictionibus iuris tractatus quinque*. Parisiis, 1659.
- Jan Paweł II. *Encyklika „Fides et ratio.”* In *Encykliki Ojca Świętego Jana Pawła II*. Kraków: Dom Wydawniczy „Rafael.”
- Kuryłowicz, Marek, and Adam Wiliński. *Rzymskie prawo prywatne. Zarys wykładu*. Warszawa: Wydawnictwo Wolters Kluwer, 2013.
- Pawłuk, Tadeusz. *Prawo Kanoniczne według Kodeksu Jana Pawła II*, vol. 4, *Doczesne dobra Kościoła. Sankcje w Kościele. Procesy*. Olsztyn: Wydawnictwo WWD, 1990.
- Pilarczyk, Izabela. „Poszukiwanie prawdy w procesie cywilnym.” *Studia prawnicze. rozprawy i materiały* 15, (2014): 169–180.
- Ratzinger, Joseph. *Wiara – prawda – tolerancja. Chryścijaństwo a religie świata*, trans. Ryszard Zajączkowski. Wydawnictwo Jedność–Herder, Kielce 2004, s. 147–167.
- Świto, Lucjan. „Osobowość prawna ‘nasciturusa’ w prawie kanonicznym i polskim,” *Prawo Kanoniczne* 40 (1997), 233–248.
- Świto, Lucjan. „Tajemnica duszpasterska,” *Biuletyn Stowarzyszenia Kanonistów Polskich* 32 (2022), 183–196.
- Świto, Lucjan. *Zawarcie małżeństwa przez pełnomocnika w formie wyznaniowej ze skutkami cywilnymi w prawie polskim*. Olsztyn: Wydawnictwo UWM, 2019.
- Uruszczak, Waław. „Kościelne źródła instytucji pełnomocnictwa. Liber Sextus. 5, 12, Regulae iuris 68 et 72.” In *Semper Fidelis. Prace dedykowane pamięci Profesora Janusza Sondla*, eds Dorota Malec, Łukasz Marzec, and Tomasz Palmirski. Kraków: Wydawnictwo: Poligrafia Salezjańska, 2017, 429–442.
- Uruszczak, Waław. „Prawo a prawda, czyli o fikcjach prawnych uwagi historyka prawa.” *Z dziejów prawa* 13 (2022), 25–35.

Rev. Lucjan Świto

### La vie et la mort : la dimension juridique de la vérité

#### Résumé

Se référant à l'encyclique de Jean-Paul II *Fides et ratio*, l'article aborde le problème de la vérité dans sa dimension juridique. Autrement dit, qu'est-ce que la vérité pour le droit ? À quelle vérité le droit sert-il ? En d'autres termes, la vérité à laquelle le droit aspire correspond-elle à l'ordre réel et naturel

des choses, c'est-à-dire est-il possible d'atteindre la vérité absolue au moyen de spéculations et de constructions juridiques ? Au contraire, même les expériences les plus existentielles, telles que la « vie » et la « mort », ne s'accorderont pas avec la vérité résultant de certaines actions juridiques, créant ainsi une nature et une réalité différentes. L'analyse effectuée a montré que le droit utilise une catégorie spécifique de vérité, à savoir une vérité formelle et procédurale qui ne correspond pas nécessairement à la vérité absolue dont parle le pape Jean-Paul II dans son encyclique. Si cette vérité juridique spécifique, formelle et procédurale est subordonnée à la mise en œuvre du principe directeur de la recherche de la vérité absolue, alors une telle situation ne devrait pas susciter d'inquiétude. La situation sera pire si le droit commence à s'écarter de la recherche de la vérité absolue, succombant uniquement à certains critères ad hoc et pragmatiques fondés sur des croyances erronées selon lesquelles tout devrait être subordonné à la technologie et à la volonté de la majorité, car il n'existe pas de normes fondamentales communes à tous les peuples ou celles-ci ne peuvent être indiquées.

**Mots-clés :** vérité, vérité formelle, vérité procédurale, fiction juridique, présomptions juridiques, interdictions de preuve, chose jugée

Rev. Lucjan Świto

## Vita e morte: la dimensione giuridica della verità

### Sommario

Facendo riferimento all'enciclica di Giovanni Paolo II *Fides et ratio*, l'articolo affronta il problema della verità nella sua dimensione giuridica. Che cosa è la verità per il diritto? A quale verità serve il diritto? In altre parole, la verità a cui mira il diritto corrisponde all'ordine reale e naturale delle cose, ovvero è possibile raggiungere la verità assoluta attraverso speculazioni e costrutti giuridici? Al contrario, anche le esperienze più esistenziali, come la "vita" e la "morte", non saranno in accordo con la verità come risultato di determinate azioni giuridiche, creando una natura e una realtà diverse. L'analisi effettuata ha dimostrato che il diritto utilizza una categoria specifica di verità, cioè una verità formale e procedurale che non corrisponde necessariamente alla verità assoluta di cui scrive Papa Giovanni Paolo II nella sua enciclica. Se questa verità giuridica specifica, formale e procedurale è subordinata all'attuazione del principio guida del raggiungimento della verità assoluta, allora tale situazione non dovrebbe destare preoccupazione. Sarà peggio se il diritto inizierà a deviare dalla ricerca della verità assoluta, soccombendo solo ad alcuni criteri ad hoc e pragmatici basati su credenze errate secondo cui tutto dovrebbe essere subordinato alla tecnologia e alla volontà della maggioranza perché non esistono o non possono essere indicati standard fondamentali comuni a tutte le persone.

**Parole chiave:** chiave: verità, verità formale, verità procedurale, finzione giuridica, presunzioni giuridiche, divieti di prova, res iudicata

Part Two

# Reviews



Antoni Dębiński, Joanna Misztal-Konecka,  
Wojciech Szczepan Staszewski,  
Karol Adamczewski (eds.),  
*Profesorowie Prawa Katolickiego Uniwersytetu  
Lubelskiego Jana Pawła II*  
[Professors of Law at the John Paul II  
Catholic University of Lublin].  
Lublin: Wydawnictwo KUL, 2024, pp. 775

The professors of law at the Catholic University of Lublin, in their search for educational and scientific role models, studied the biographies of their masters. Their biographies and academic achievements were analyzed for various purposes. Sources compiled in such a way were used in presentations at scientific conferences and for the presentation of memorial books or published to honor the memory of professors who passed away. The main intention of the authors was to prepare a publication to “honor the creators and masters of the school of law at the Catholic University of Lublin.” (9) They were initially staff that came from other university centers, especially the Jan Kazimierz University in Lviv. Many of them were graduates of the Catholic University of Lublin. The publication in question, *Profesorowie prawa Katolickiego Uniwersytetu Lubelskiego Jana Pawła II*, is the third edition on the initiative of Rev. Prof. Antoni Dębiński who, together with Wojciech Sz. Staszewski and

Monika Wójcik, prepared and published a collection of biographies of the professors who have already passed away.

The first collective publication appeared in 2006, followed by another one two years later. The third from 2024, on the other hand, in 2024, contained the biography of Prof. Elżbieta Szczot who passed away on March 10th, 2024. Elżbieta Szczot was a dedicated professor of the Catholic University of Lublin and her professional life was connected with the Faculty of Law, Canon Law and Administration. She prepared the list of Deans, whose portraits decorate the Faculty Council Hall and in 2005 was responsible for the preparation of the comprehensive (228 pages) *Faculty Handbook* (The Publishing House of the Catholic University of Lublin, 2005). It should also be mentioned that in 1999 A. Dębiński published a text titled: "Prawo w Katolickim Uniwersytecie Lubelskim. Historia i współczesność" (Lublin, RW KUL 1999). Both of these publications provided relevant information related to the functioning of legal studies at the Catholic University of Lublin. Obviously, the publication presenting the biographies of law professors is neither the only one nor the first publication in Poland dedicated to the academics and history of law faculties. This has been done previously by the Universities of Kraków, Wrocław and Poznań, among others.

The title of the publication indicates the close connection between the lives of law professors and the history of the University, the Church and Poland. The authors of the rather substantial publication (775 pages) described both the scientific, social and political activities of the particular people, as well as their lives firmly rooted in the history of the Fatherland. Using archival sources to demonstrate scientific achievements in the publication encourages the recipient to consider it more deeply. The book consists of an introduction from the editors, both included in the first, second and third editions, a historical outline of the Faculty (pages 11–18), and 82 biographies of professors, as well as an index of names. It should be acknowledged, however, that the publication refers only to professors and omits other employees of the Faculty, whose contributions to its functioning and development was also very important.

A brief historical outline of the Faculty by Antoni Dębiński, the Dean of the Faculty in the period between 2004 and 2012, is divided into sections related to the changes in the name of the Faculty, as it has already had as many as five different names in its more than 100 years of history: the Faculty of Canon Law and Moral Sciences and the concurrent section of Law in the Faculty of Law and Social and Economic Sciences, the Faculty of Canon Law and Legal Sciences (since 1984), the Faculty of Canon and Secular Law (since 1989), and finally the Faculty of Law, Canon Law and Administration (since 1999). This historical outline is followed by biographies that are an essential part of the publication. The authors adopted an

alphabetical arrangement for their publication to let the readers familiarize themselves with the 82 biographies of law teachers at the Catholic University of Lublin, who were often masters for many generations of students. The first publication from 2006 included the presentation of 39 selected profiles of professors who had already passed away. The dates of birth and death, as well as the merits for the Church, the State or science were taken into consideration. As the editors themselves noted: “the list of the presented biographies was agreed upon with the heads of the departments of the Faculty of Law.” (10) This particular presentation of the profiles of individual professors was based on their merits. The third publication contains the biographies of professors from all fields of law despite the fact that they were members of different Faculties in the interwar period. It also did not matter how long someone had been associated with the University.

Biographical articles are of scientific value as they are accompanied by extensive bibliographies. They all consist of three parts. The first presents a biography, the second concentrates on educational, social and political activities, and the third is dedicated to the scientific achievements of the presented person. On the one hand, this may arouse the interest of the reader seeking information about a particular person. On the other hand, we can find, at least partially, an answer to a topic relevant from today’s perspective and concerning the foundations of the school of law at the Catholic University of Lublin, as well as its impact on the history of the State and the Church. However, there is some concern regarding the approach to the presented issue. The book introduces the facts from the lives of the professors in a purely reporting manner without referring to the prevailing realities at the historical moments that shaped both the individuals and the history of the Polish state. It should be admitted, however, that this is justified by the goal that the editors of the publication set for themselves, namely the “raw” presentation of facts about the selected figures. It should also be acknowledged that presenting individuals in relation to various political situations during the period between the First and Second World Wars, the immediate post-war period, the socio-political changes of the Polish People’s Republic, and the political and economic transformation of the Third Republic is not easy, especially in the case of numerous authors describing one or a few scholars. Therefore, this way of approaching and presenting individual figures seems to be justified. Perhaps, however, the publication lacked an in-depth introduction of the social and political background relating to the more than 100-year-long history of the Catholic University of Lublin and its department[s] of law.

The comments introduced by the reviewers, which led to corrections and justified amendments, are a valuable aid to subsequent editions of the publication. Particularly noteworthy is the review by A. Redzik titled “Uczni juryści w dziejach KUL”

and included in *Państwo i Prawo* 9/2007. A. Redzik conducted such an in-depth analysis of the included biographies that, when all comments were taken into account, the existing descriptions were expanded and the publication as a whole was improved. Owing to the reviewer's recommendations, some incomplete or even erroneous information was corrected, and some suggestions were made about what to pay attention to in future publications.

Equally interesting, although less in-depth, are the reviews by J. Flaga ("Profesorowie miarą wielkości uniwersytetu" included in *Zeszyty Naukowe KUL* 49/2006), H. Olszewski ("Profesorowie Prawa Katolickiego Uniwersytetu Lubelskiego" in *Czasopismo Prawno-Historyczne* 59/2007) and M. Wrzosek ("Uwagi recenzyjne poświęcone księdze o profesorach i wykładowcach prawa w Katolickim Uniwersytecie Lubelskim" in *Profesorowie prawa Katolickiego Uniwersytetu Lubelskiego Jana Pawła II* edited by Antoni Dębiński, Wojciech Sz. Staszewski and Monika Wójcik, and published by the Publishing House of the Catholic University of Lublin in 2008, *Studia Prawnicze KUL* 40/2009, no. 4, pp. 139–160).

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Eva Vybíralová,  
*Skrytá církev a tajná svěcení. Analýza situace  
v Československu v letech 1948–1989  
pohledem kanonického práva*  
[The Hidden Church and Secret  
Ordinations. An Analysis  
of the Situation in Czechoslovakia  
between 1948–1989  
from the Perspective of Canon Law]  
Brno: Centrum pro studium demokracie  
a kultury; Praha: Ústav pro studium  
totalitních režimů, 2024, 440 pages  
+ xvi pages of pictorial appendices:  
illustrations, portraits and facsimiles

It is unusual for a description of past events, in this case during the period of oppression caused by the communist regime, to be written by a person who did not actually experience that period himself. This, on the other hand, can lead to a necessary distance from the facts described, even though it also requires a thorough familiarity with the issues described.

Eva Vybíralová (\*1982) has been dealing with the topic of the hidden church in the former Czechoslovakia for a long time. She began her work on this topic in 2008 as a PhD student at the Catholic Theological Faculty in Erfurt under the supervision of Prof. Dr. Myriam Wijlens and continued it in Prague at the Catholic Theological Faculty of Charles University under the supervision of the recently deceased Prof. Ignác Antonína Hrdina OPraem. (+2022). The dissertation itself, written in German and entitled *Untergrundkirche und geheime Weißen. Eine kirchenrechtliche Untersuchung der Situation in der Tschechoslowakei 1948–1989* was submitted in 2017, defended in 2018. After minor modifications, the text was published in a book form in 2019, in Würzburg, by Echter Verlag as the 115th volume of *Erfurter Theologische Studien* in German under the same title. At that time, documents from the time of the pontificate of Pius XII were not yet available in the Vatican archives, so the work was based on two basic sets of sources: materials available in public archives, primarily in the Czech Republic, and interviews with participants of the described events. The first group of sources constituted the eminent materials from the Archive of Security Forces in Prague administered by the Institute for the Study of Totalitarian Regimes, which is an organisational unit of the state. Both institutions were established by Act No. 181/2007 Coll. In the second group of sources, there were the testimonies of many direct participants of the events recorded by the author, the personal archive of Cardinal Miloslav Vlk (+2017), who first worked as a priest without state approval for clerical ministry in the 1980s, and few written materials from the described period (anything written down could have become the subject of investigation, especially by the State Secret Police, and was, therefore, dangerous). After the collapse of regime at the end of 1989 (the so-called Velvet Revolution), he served between 1990–1991 as a diocesan bishop in České Budějovice. Then, until 2010, he was an archbishop of Prague. In 1994, he was appointed cardinal – and in these positions he contributed significantly to the resolution of the difficult (and, in the author's and my own judgment, still unresolved) issue concerning the involvement of secretly ordained deacons, priests and bishops in the life of the Catholic Church in the then Czechoslovakia, which was divided into the Czech Republic and the Slovak Republic on 1 January 1993.

The second group of sources already constituted extensive memoir literature at that time. These were the studies that represented different points of view, namely

the book *Skrytá církev: Felix M. Davídek a společenství Koinótés* [The Hidden Church: Felix M. Davídek and the Koinótés Community] by Petr Fiala (the Prime Minister of the Czech Republic since 2021) and Jiří Hanuš, the actors in non-public church activities until 1989, published by the Centre for the Study of Democracy and Culture in Brno in 1999 and *Církev v podzemí a společenství Koinótés* [The Church in the Underground and the Koinótés Community] by Ondřej Liška (the Minister of Education of the Czech Republic between 2007–2009), representing mainly the critical view of Cardinal Miloslav Vlk, also published in 1999 by Sursum in Tišnov. In addition to these studies, many qualifying works have been written, usually dealing with individual persons active in non-public church activities. However, these works are of represent various degrees of reliability. The Prague branch of the hidden church, called the Prague Community, has published its own magazine *Getsemany* critical of the official leadership of the Catholic Church in the Czech Republic since 1990. Some members of the aforementioned Community have published their personal memoirs in this magazine.

The release of archival material from the times of the pontificate of Pius XII in 2020 has already made it possible to take the author's research further. In addition, the author has continued to search for the actors of the events and record interviews with them, thus increasing her knowledge of this alarmingly diverse reality. She has revealed numerous connections between various groups of the hidden Church, based on a rather opaque network of personal contacts. A further incentive is the author's work assignment at the Institute for the Study of Totalitarian Regimes itself in 2018, where she worked on the grant *Secret Faculties and Their Influence on the Life of the Catholic Church* between 2020–2023, and subsequently on the grant *The Hidden Church through the Eyes of Women* (mainly wives, daughters and other relatives of secretly ordained priests and bishops) in 2023. The Czech translation of the author's German publication was prepared by the Czech canonist living in Germany, Dr. theol. habil. Jiří Dvořáček. It was significantly expanded and supplemented. The final result is the monograph under scrutiny, representing a comprehensive treatise on the subject divided into six chapters.

The first chapter titled "Legal Norms Governing the Sacrament of Ordination" (pp. 17–40), contains a brief summary concerning the regulations of the canonical ordination law of the Latin Catholic Church in force in the described period, which is mainly CIC/1917 and CIC/1983. The development of the legislation between the two codes is dealt with only in a short section 1.4.2 on page 27. The chapter is a general introduction to canonical issues and the normative nature of the sacrament of order, while the author's thorough knowledge of the subject and the use of many sources, mainly of German origin, is evident.

The second chapter is entitled “The Relationship between the State and the Church and the Church in Czechoslovakia 1948–1989. The First Secret Episcopal Ordinations”, located on pages 41–73. In it, the author briefly describes and characterizes the historical context leading to the secret conferral of episcopal ordination: the state oppression of the Catholic Church, the paralysis of the proper governance of local churches, and the failure of efforts to provide proper provisional governance of dioceses. On this basis, she describes the first series of non-publicly ordained bishops who were still duly appointed directly by the Apostolic See, as well as the non-public conferral of deacon and priestly ordination between 1948–1968. She also notes what the preparation of candidates for ordination looked like under these extraordinary conditions, and what conspiratorial rules had to be obeyed, especially because of the surveillance and infiltration of the State Secret Police. Some of their consequences are also described here. In terms of its content, the chapter contains both the necessary introduction to the historical context and the description of the facts that are the very subject of the monograph. The author draws on a number of historical and canonical treatises, as well as on the sources themselves, especially the *Aca Apostolicae Sedis*.

The third chapter titled “The So-Called Mexican Faculties” (the designation is used only in Czechoslovakia) (pp. 74–106), is based on the author’s very careful and laborious research in archives, especially in the Archive of the (Czechoslovak) Security Forces, but also in a large number of mainly Czech and Slovak written treatises. They are of various levels of expertise and reliability, which only made the author’s work difficult. Since 2020, it has been possible to confront the findings with documents in the Vatican archives. This has resulted in the confirmation of the author’s claim that the documents found in the investigation files written in Latin, must have come from the Apostolic See. It seems impossible that state police could have invented such documents. This is also evidenced by the minor discrepancies in the various documents of the so-called Mexican faculties, which the author duly comments on. She specifically addresses the question of the importance of these faculties to the secretly conferred ordinations. The author clarifies the very notion of so-called Mexican faculties, which refers to the extraordinary empowerments of the Catholic Church during its persecution in Mexico in the 1920s. However, she demonstrates that the extraordinary authorizations issued for Czechoslovakia are not directly related to the authorizations issued during the era of persecution in Mexico. On the contrary, based on the research carried out within the framework of the grant *Secret Faculties and Their Influence on the Life of the Catholic Church (2020–2023)* and the research conducted in the Vatican archives, she has shown that these successively issued faculties were intended in very similar texts for all countries located within the influence of the then Union of Soviet Socialist Republics

(including the Soviet occupation zone of Austria). She published the result of her research in another monograph, *Mexické fakulty: mimořádné církevní pravomoci, jejich vývoj a aplikace* [Mexican Faculties: Extraordinary Ecclesiastical Competencies, Their Development and Application], also published in 2024 by the same publishers as the monograph under scrutiny.

The fourth chapter, entitled “Other Secret Faculties in Czechoslovakia” (pp. 107–162), is driven by the effort to collect, describe, and compare other extraordinary faculties outside the so-called Mexican faculties. Prominent among these are the faculties granted to the Slovak Province of the Jesuit Order, which gave rise to a whole line of secret episcopal ordinations, followed by many other ordinations, minor orders, as well as diaconate and priesthood offices. The episcopal ordination granted to Dr. Felix Maria Davídek also comes from this line. It is linked to the controversial question concerning the existence and content of the extraordinary faculties of Davídek’s community called Koinótés. However, despite the possibility of research in the Vatican archives, such faculties were not traced here.

The fifth chapter is titled “Excursus: Secret Ordinations of Czech Candidates Abroad”, (pp. 163–226). In it, the author tries to gather information on the conferring of secret ordinations in Poland, the then German Democratic Republic, and briefly on ordinations (not always in secret) in other countries: the Federal Republic of Germany, Austria, Italy, the Netherlands, Hungary, and the former Yugoslavia. Here, it is impossible to overlook the author’s admirable diligence in collecting fragmentary data, often of memoir nature. The conclusion on pages 286–288 (perhaps mistakenly included in Chapter 6) contains the results arrived at by the author. A truly admirable list of the sources and literature on which the author has drawn is provided on pages 305–322.

Of immense value is the inclusion of many appendices on pages 323–395, listing exceptional faculties from the late 1940s and early 1950s, for example the list of secret ordinations conferred by Bishops Hnilica, Korec and Dubovský of the Slovak Jesuit lineage and granted by Bishop Davídek of the Koinótés community. There are Church documents for dealing with the situation of secretly ordained bishops and priests after 1989, namely an extensive, undated and unsigned text from Cardinal Vlk’s archive from the early 1990s, in the original Latin and Czech translation. Also included is the latest confidential norm of the Congregation for the Doctrine of the Faith from 2021, in Czech only. The last document is highly restrictive towards clerics who have not yet accepted the requirements of re-ordination *sub conditione*. Some secretly ordained bishops still continue to perform such ordinations but only sporadically.

The author herself admits that, after the length of time she has been dealing with this issue and after interviewing many of the people involved, she is not in

a position to be a completely impartial judge. However, she has undoubtedly succeeded in offering a comprehensive, complex and very extensive treatment of this difficult issue. It is certainly a publication worthy of attention from the point of view of both legal science and legal practice.

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Rafał Kamiński,  
*Narcyzm wrażliwy i jego wpływ na zdolność  
do zawarcia małżeństwa kanonicznego*  
[Vulnerable Narcissism and Its Impact  
on the Capacity to Enter a Canonical  
Marriage]. Warszawa: Wydawnictwo  
Naukowe Uniwersytetu Stefana Kardynała  
Wyszyńskiego, 2024, 272 pages

The reviewed monograph constitutes an original study in the field of canonical matrimonial law. Its preparation required the Author to take into account the results of interdisciplinary research, particularly in the areas of psychology and psychiatry. The subject of the work is vulnerable narcissism understood as a specific form of personality disorder which, as a psychopathological condition, may lead to consensual incapacity and, consequently, to the nullity of marriage.

The Author formulated the following research objectives: (1) to present the achievements of psychology and psychiatry in the field of vulnerable narcissism; (2) to demonstrate the reception of the findings of these disciplines in canon law, particularly with regard to the question of consensual incapacity to contract marriage; (3) to analyze the jurisprudence of the Apostolic Tribunal of the Roman Rota concerning the issue under study. In pursuing these aims, the Author carried out

a detailed analysis of twenty-eight decisions of the Roman Rota issued between 1994 and 2023 in cases that resulted either in a declaration of nullity of marriage, in a negative decision, or in the discontinuance of the proceedings on the grounds connected with a narcissistic disorder.

The monograph consists of three chapters devoted respectively to: (1) the phenomenon of narcissism (pp. 17–60); (2) vulnerable narcissism and its influence on the establishment and development of interpersonal relationships in the light of Christian anthropology (pp. 61–96); (3) the influence of vulnerable narcissism on the nullity of marriage in the jurisprudence of the Roman Rota and in the doctrine of canon law (pp. 97–244). However, a certain disproportion may be observed in the structure of the third chapter, since the Author devotes only a few pages to doctrinal questions, whereas the principal part of the analysis is concentrated on the examination of jurisprudence. Each chapter concludes with a concise, yet substantive summary, which systematizes the presented material and facilitates the identification of the main conclusions.

The characteristic feature of the reviewed publication is its clear structure and well-defined research plan, which the Author consistently follows throughout the successive parts of the work. In the first chapter, he undertakes an analysis of the phenomenon of narcissism, presenting its development in psychological literature, the various ways in which this concept has been defined, and its place within the classifications of personality disorders. The Author discusses narcissism as a social phenomenon, as a developmental stage of the human person, as a personality trait, and also as a personality disorder, referring to the principal theories of depth psychology, in particular those by Heinz Kohut and Otto Kernberg. The presentation of these theories should be regarded as necessary, since they constitute an important point of reference for contemporary analyses of narcissistic disorders, also in the context of assessing the capacity to assume the essential obligations of marriage. The Author also makes use of the DSM and ICD classifications, which gives the argument an ordered character consistent with the standards of psychological science.

It may nevertheless be observed that contemporary psychological and neuroscientific research increasingly points to the complex determinants of narcissistic disorders which include not only psychodynamic factors, but also biological, genetic, and epigenetic conditions, as well as neurobiological correlates related to emotional regulation and the capacity for empathy. Taking these perspectives into account could provide a more complete link between the findings of psychology and the canonical evaluation of consensual incapacity, complementing the predominantly psychoanalytic framework to which the work mainly refers.

Despite the undeniable value of this part of the work, one may nevertheless gain the impression that at certain points it is predominantly descriptive rather than

analytical in character. The Author presents a broad overview of psychological positions, yet only occasionally attempts a critical evaluation of them from the perspective of Christian anthropology or canon law. In view of the purpose of the study, namely to determine the influence of vulnerable narcissism on the capacity to contract marriage, a more explicit connection between the psychological theories presented and the issue of consensual incapacity would have been desirable already at this stage of the argument.

The second chapter, devoted to vulnerable narcissism and its influence on the establishment and development of interpersonal relationships in the light of Christian anthropology, constitutes an important bridge between the psychological analysis and the specifically canonical issues. The Author rightly observes that the assessment of the capacity to contract marriage cannot be based solely on clinical criteria, but must also take into account the integral vision of the human person which, in the teaching of the Church, forms the foundation for understanding marriage as a community of life and love. In this context, the difficulties that may arise in persons affected by vulnerable narcissism are presented in a convincing manner, especially with regard to the capacity to form mature interpersonal relationships, to assume commitments, and to make a gift of self, which constitutes an essential element of the marital covenant. In this context, it may also be noted that certain contemporary psychological approaches, particularly those emphasizing the search for meaning and personal responsibility, as in the logotherapy of Viktor E. Frankl, may constitute a valuable complement to the reflection on preparation for marriage and the accompaniment of spouses, by showing the possibility of integrating the psychological, anthropological, and spiritual dimensions in the assessment of the capacity to assume the community of life and love.

Also in this part of the work one may notice a certain disproportion between the presentation of psychological approaches and a more in-depth anthropological and canonical reflection. The Author refers to Christian anthropology, yet does so in a rather synthetic manner, without developing more fully the theological and canonical implications for the understanding of consensual incapacity. In view of the subject of the monograph, one might have expected a more extensive reference to the personalistic concept of marriage as developed in the doctrine of canon law, particularly in the context of the interpretation of can. 1095 of the Code of Canon Law.

The most extensive part of the work is the third chapter, in which the Author analyzes the influence of vulnerable narcissism on the nullity of marriage in the light of the doctrine of canon law and the jurisprudence of the Apostolic Tribunal of the Roman Rota. An unquestionable merit of this part of the monograph is the detailed analysis of Rotal decisions from the years 1994–2023 concerning

the cases in which the existence of consensual incapacity connected with narcissistic disorders was examined. The collection and study of such source material required considerable effort and must be evaluated positively, especially since the Author does not limit himself to a simple summary of the individual decisions, but attempts to identify recurring elements of the reasoning and the criteria applied by the judges of the Roman Rota in assessing the capacity to contract marriage.

At the same time, a clear disproportion is visible in the structure of this chapter. The greater part of the discussion is devoted to the analysis of jurisprudence, whereas the presentation of the positions found in the doctrine of canon law is very brief and limited to only a few pages. Consequently, the title of the chapter, which announces an analysis of both jurisprudence and doctrine, is not fully reflected in its actual content. The lack of a broader reference to the opinions of canonists, especially those who have dealt with the problem of consensual incapacity in the context of personality disorders, must be regarded as a significant limitation of the work.

It may also be observed that the Author relatively rarely attempts to provide his own more in-depth synthesis of the material under analysis. In many places the exposition has a predominantly descriptive character, whereas a clearer formulation of more general conclusions concerning the influence of vulnerable narcissism on the capacity to assume the essential obligations of marriage would have increased the theoretical value of the study. This applies in particular to the relationship between psychological diagnosis and canonical evaluation, which in cases concerning the declaration of nullity of marriage is of fundamental importance.

Particular emphasis should be placed on the methodological correctness of the work. The Author clearly defines the research objectives, consistently applies the adopted analytical-synthetic method, and bases his conclusions on a broad range of sources. The bibliography includes both psychological and psychiatric literature, as well as canonical studies and the jurisprudence of the Apostolic Tribunal of the Roman Rota, which demonstrates the Author's solid scholarly preparation and his ability to conduct interdisciplinary research.

The decision to address the issue of vulnerable narcissism in the context of the capacity to contract marriage should be regarded as both appropriate and timely. In the practice of ecclesiastical tribunals, cases are increasingly encountered in which personality disorders constitute the basis for examining consensual incapacity, while at the same time the canon law literature specifically devoted to vulnerable narcissism remains limited. For this reason, the reviewed monograph constitutes a valuable contribution to existing research and may prove useful not only for canonists, but also for expert psychologists and judges of ecclesiastical tribunals.

Special attention should also be given to the timeliness of the addressed issue. Contemporary practice of ecclesiastical tribunals increasingly encounters cases

in which various personality disorders play a decisive role in the assessment of the validity of matrimonial consent, and these disorders are not always easy to classify within the traditional categories of psychopathology. Vulnerable narcissism, as a form of disorder with subtle and ambiguous symptomatology, constitutes a particular challenge both for experts and for judges of ecclesiastical tribunals. For this reason, the attempt to provide a systematic treatment of this phenomenon from psychological, anthropological, and canonical perspectives responds to real needs of judicial practice. Rafał Kamiński's monograph may prove especially helpful in those cases in which difficulties in interpersonal relationships, excessive sensitivity, emotional instability, or an impaired capacity for self-gift do not take the form of classical and easily identifiable disorders, but instead require a more in-depth analysis of personality in the context of can. 1095 of the Code of Canon Law.

This study may, therefore, prove useful not only for scholars of canon law, but also for practitioners and judges, defenders of the bond, and expert psychologists and psychiatrists cooperating with ecclesiastical tribunals. Particularly valuable in this respect is the analysis of the jurisprudence of the Roman Rota, which makes it possible to grasp the manner in which psychological categories are gradually received in canonical jurisprudence and applied in the assessment of the capacity to contract marriage. For this reason, the monograph possesses not only a theoretical character, but also a clear practical value, which should be regarded as one of its significant merits.

Despite the critical remarks indicated above, it must be stated that the reviewed publication constitutes a valuable scholarly study addressing a difficult subject that requires interdisciplinary competence. The monograph makes a significant contribution to the development of reflection on consensual incapacity in canon law and may serve as a useful point of reference for further research on the influence of personality disorders on the validity of matrimonial consent.

In conclusion, it should be stated that Rafał Kamiński's monograph constitutes a serious and necessary attempt to address a complex issue requiring both a solid knowledge of psychology and psychiatry and competence in the field of canonical matrimonial law. Despite the disproportions in the structure of the work noted above, as well as certain predominance of descriptive elements over more developed synthesis, the study is characterized by scholarly reliability, methodological correctness, and an appropriate use of source material. The decision to address the question of vulnerable narcissism in the context of consensual incapacity should be regarded as particularly timely and justified, and the analysis of the jurisprudence of the Roman Rota presented in the work constitutes a valuable contribution to contemporary canonical reflection on the interpretation of can. 1095 of the Code of Canon Law. For these reasons, the reviewed monograph deserves a positive

evaluation and may serve as a useful study both for scholars of canon law and for those engaged in the administration of justice in ecclesiastical tribunals who, in their work, encounter the problem of personality disorders as a possible ground for the nullity of marriage.

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