

COOPERATION OF THE STATE AND THE CHURCH FOR THE GOOD OF THE FAMILY AND ITS DEVELOPMENT

Marek Bielecki¹

ABSTRACT

The subject matter of the present article is, mutual cooperation between local self-government units and churches as well as other legally regulated religious associations in the context of family security. The analysis covers the current legal acts, confessional subjects' teachings, and the doctrine and the standpoints of the judiciary. The author presents family security as a category of human needs. He also proposes a different approach to defining the concept of a family, which is not only limited to the normative definition but also considers the achievements of other fields of knowledge, including psychology and philosophy. In the last part, specific legal clarifications anticipating the cooperation of both communities are analysed.

KEYWORDS

security
family
cooperation
Church
State

1. Introductory remarks

The family, as the basic social unit, is a subject of interest to central and regional public authorities, as well as churches and other religious associations. Concern for its security should be the background issue for actions taken in both communities. A society cannot function properly when some types of dysfunction concerning the family appear (e.g., alcoholism, drug abuse, and others). The subject of the present study is to examine mutual cooperation between local governments in Poland and churches as well as other legally regulated religious associations.

In Poland, the state's cooperation with other entities is conducted at both the central and local governmental levels. Thus, the local level can be recognised as a broad plane of cooperation between the secular and ecclesiastic communities. The political reform

1 | Full Professor, Vice-Dean of the Faculty of Law, War Studies University in Warsaw, Poland; bieleckim@wp.pl; ORCID: 000-0003-3880-017X.



that took place in the late 1990s introduced a three-step structure of local government. In addition to the already existing communes and voivodeships, the division into counties was reestablished after more than twenty years. The basic assumption of the reform was to introduce the principle of decentralisation of power, aiming to transfer some functions to the local government level that had previously assigned to central government bodies. This involved not only a major increase in competencies, but also the imposition of tasks that generated significant financial commitments. Consequently, two basic categories – own and commissioned tasks – have been distinguished in the structure of local government units' obligations. The first group includes categories of obligations that local government units (LGUs) are obliged to implement even when they do not have separate financial resources. The commissioned tasks, however, are not included in local government acts;² therefore, they are implemented in situations when the central government's administration recognises them to be crucial.

It is estimated that a large number of churches and other legally regulated religious associations are functioning in Poland. However, in the context of public awareness, there are only a few with a large number of followers. Fifteen of them have a statutory form of regulation of their legal relations,³ while the remaining ones are included in the register of the Minister of the Interior and Administration.⁴ Poland has always been a country where

- 2 | In Polish: Ustawa z dnia 8 marca 1990 r. o samorządzie gminnym (t.j. Dz. U. z 2024 r. poz. 609 ze zm.); ustawa z dnia 5 czerwca 1998 r. o samorządzie powiatowym (t.j. Dz. U. z 2024 r. poz. 107.); ustawa z dnia 5 czerwca 1998 r. o samorządzie województwa (Dz. U. z 2024 r. poz. 566.).
- 3 | In Polish: Ustawa z dnia 17 maja 1989 r. o stosunku Państwa do Kościoła Katolickiego w Rzeczypospolitej Polskiej (t.j. Dz. U. z 2023 r. poz. 1966.); Ustawa z dnia 4 lipca 1991 r. o stosunku Państwa do Polskiego Autokefalicznego Kościoła Prawosławnego (t.j. Dz. U. z 2023 r. poz. 544.) 2014r., poz. 1726 j.t.); Ustawa z dnia 13 maja 1994 r. o stosunku Państwa do Kościoła Ewangelicko-Reformowanego w Rzeczypospolitej Polskiej (t.j. Dz. U. z 2015 r. poz. 483.); Ustawa z dnia 13 maja 1994 r. o stosunku Państwa do Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej (t.j. Dz. U. z 2023 r. poz. 509.); Ustawa z dnia 30 czerwca 1995 r. o stosunku Państwa do Kościoła Ewangelicko-Metodystycznego w Rzeczypospolitej Polskiej (t.j. Dz. U. z 2023 r. poz. 85.); Ustawa z dnia 20 lutego 1997 r. o stosunku Państwa do Kościoła Starokatolickiego Mariawitów w Rzeczypospolitej Polskiej (t.j. Dz. U. z 2023 r. poz. 47.); Ustawa z dnia 20 lutego 1997 r. o stosunku Państwa do Kościoła Katolickiego Mariawitów w Rzeczypospolitej Polskiej (t.j. Dz. U. z 2023 r. poz. 8); Rozporządzenie Prezydenta Rzeczypospolitej Polskiej z dnia 28 marca 1928 r. o stosunku Państwa do Wschodniego Kościoła Staroobrzędowego, nie posiadającego hierarchii duchownej (Dz. U. z 1928 r. nr 38, poz. 363. ze zm.); Ustawa z dnia 21 kwietnia 1936 r. o stosunku Państwa do Muzułmańskiego Związku Religijnego w Rzeczypospolitej Polskiej (Dz. U. z 1936 r. nr 30, poz. 240 ze zm.); Ustawa z dnia 21 kwietnia 1936 r. o stosunku Państwa do Karaïmskiego Związku Religijnego w Rzeczypospolitej Polskiej (Dz. U. z 1936 r. nr 30, poz. 241 ze zm.); Ustawa z dnia 30 czerwca 1995 r. o stosunku Państwa do Kościoła Polskokatolickiego w Rzeczypospolitej Polskiej (t.j. Dz. U. z 2023 r. poz. 51.); Ustawa z dnia 30 czerwca 1995 r. o stosunku Państwa do Kościoła Adwentystów Dnia Siódmego w Rzeczypospolitej Polskiej (t.j. Dz. U. z 2022 r. poz. 2616.); Ustawa z dnia 30 czerwca 1995 r. o stosunku Państwa do Kościoła Chrześcijan Baptystów w Rzeczypospolitej Polskiej (t.j. Dz. U. z 2023 r. poz. 1874.); Ustawa z dnia 20 lutego 1997 r. o stosunku Państwa do gmin wyznaniowych żydowskich w Rzeczypospolitej Polskiej (t.j. Dz. U. z 2014 r. poz. 1798.); Ustawa z dnia 20 lutego 1997 r. o stosunku Państwa do Kościoła Zielonoświątkowego w Rzeczypospolitej Polskiej (t.j. Dz. U. z 2015 r. poz. 13.).
- 4 | In Polish: Ustawa z dnia 17 maja 1989 r. o gwarancjach wolności sumienia i wyznania (t.j. Dz. U. z 2023 r. poz. 265 - Articles 30-38); rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 31 marca 1999 r. w sprawie rejestru kościołów i innych związków wyznaniowych (Dz. U. z 1999 r., nr 38, poz. 374).

the followers of various religions lived side by side. Their mutual coexistence was appropriate, although some conflicts that led to tragedy sometimes appeared between them. Despite being tolerant of diversity, the Polish state has turned several times against the followers of specific religions or rituals in its history. A particular intensification of hostility to the Church and other religious associations appeared in the period of the Polish People's Republic (1945-1989). The Byzantine-Ukrainian (Greek Catholic) Catholic Church should be mentioned here because it was delegatised after World War II and its property was nationalised. A similar situation occurred with Jehovah's Witnesses. The Catholic Church of the Latin Rite functioned continuously during the period of communism, but particular repression affected both its property and its clergy, who often sacrificed their lives for their beliefs. A commonly known figure is the priest Jerzy Popiełuszko, who was violently murdered by security services in 1984.

The present study aims to present the areas of mutual cooperation between churches and other religious associations, focused on the wellness of the family and its development and security. Moreover, the aim of the study is to present cooperation between churches and other religious organisations. Therefore, mainly applicable normative acts will be analysed; however, some reference to the teachings of confessional entities and the doctrine and position of the justice system will also be made.

The American philosopher Abraham Maslow included security among the basic needs without which an individual cannot function properly. It is considered the lack of risk of losing important values, including freedom, sovereignty, health, and respect.⁵ Because a person possesses an inborn dignity, a human being is the disposer of these values. Personal dignity belongs to every human, regardless of their status, origin, or any other factors. The concept of dignity is equivalent to a value that cannot be changed or replaced. Moreover, this natural and innate dignity belonging to all people is based on the ability of every human (rational) being to create moral law.⁶ It should be perceived as an inherent and long-lasting value of a human, arising from his nature and providing him with the opportunity to rationally exercise his own rights without affecting or limiting the other people's rights.⁷ Due to the attribute of dignity, a human being not only feels the need for security, but also has a right to it; therefore, it should be consequently protected in every dimension by the entities responsible for these issues.

The concept of security is a universal category which is appropriately comprehended by the field of science and whose scope scholars have attempted to accurately define. Objective factors as well as subjective feelings equally influence an individual's perception of their security level. Security affects the quality of human life and, by some representatives of the doctrine, it is perceived as a primary and autonomous value, conditioning the existence of other manifestations of human activity, both in the material and spiritual dimensions.⁸

Security can be comprehended from various perspectives, i.e. subjective, objective, subjective-objective, and time-based.⁹ The scope of the undertaken research implies the

5 | Krztoń, 2017, p. 42.

6 | Sadowski, 2007, p. 14.

7 | Bielecki, 2018, p. 164.

8 | Bereźnicka, 2012, p. 110; Kubiak, Rosa and Lipińska-Rzeszutek, 2007, p. 319.

9 | Bereźnicka, 2012, p. 111.

need to focus on the first of the above-mentioned because the family (a small social group), along with the individuals, society, and all of humanity, is the basic subject of security.¹⁰

The necessity of assuring the family security belongs to the group of primary needs, thus its execution determines not only the preservation of life and health, but also the development of the individuals. The proper functioning of the family is influenced by many factors, including living conditions, parents' hours spent working, parents' socio-cultural level, harmonious cohabitation, and proper organisation of family life.¹¹ Undoubtedly, children's sense of security is affected by the condition of their parents. The shortage of resources to provide an appropriate lifestyle means that the youngest family members may begin to feel deficiencies, which consequently may result in various frustrations.¹² Therefore, it should be noted that caring for the safety of the family correspondingly means caring for each of its individual members. All dysfunctions occurring within the family seem to be a threat not only to the family itself, but also to local communities and even to national security. Family dysfunction may result in situations in which the community cannot fulfil its responsibilities in a democratic state of law.¹³

Security provides a sense of balance and stability. The task of the generally recognised authorities, including local governments, is to create and improve the factors affecting the development of the family.¹⁴ By confirming the basic needs of the smallest and at the same time most basic social unit – the family – the state and the Church fulfil their elementary obligations focused on caring for the common good. The development of the family determines the development of the entire society; furthermore, proper support from these both communities guarantees the strengthening of the entire nation.

2. The concept of family

Defining the term 'family' depends on the approach presented by a given field of knowledge, which may focus on various aspects of a family's activities. Even though the term 'family' is a normative category, the legislator does not clearly indicate how this term should be interpreted. Depending on the issues regulated by individual normative acts, we can distinguish various personal scopes of this concept. Some attempts of determining the concept of family can be found in psychology, pedagogy, and sociology. In psychology, the concept of family is sometimes referred to as the 'basic group' for an individual in which all the members remain in close contact with each other and interact with each other as well. Pedagogy describes the family either in terms of the tasks it performs or by enumerating the basic bonds connecting its members. On the other hand, from a sociological perspective, a family is the basic social unit and the fundamental and constitutive component of every society.¹⁵ On the basis of philosophy, Mieczysław Albert Krąpiec

10 | Krztoń, 2017, pp. 45–46.

11 | Olak, 2016, pp. 153–164.

12 | Miczyńska-Kowalska, 2013, p. 46.

13 | Wróbel-Delegacz, 2013, p. 214.

14 | Gdula, 2019, pp. 46.

15 | Szymczak, 2002, pp. 153–156.

considers the family to be the basic form of social life and the essential site of a human's development.¹⁶

As far as the normative definition of a family is concerned, it should be noted that the legislator has decided to define this concept several times in various normative acts. It should be emphasised, however, that neither the Constitution (Constitution)¹⁷ nor the Family and Guardianship Code (FGC)¹⁸ define this term despite the fact that they apply it but only in a limited version including the features that are assigned to a family and indicating the basic assumptions of the state's policy towards this community.

On the basis of the Constitution, along with marriage, motherhood, and parenthood, the family is under the care and protection of the Republic of Poland.¹⁹ Therefore, the tasks of the authorities are supposed to be focused on both meeting the needs of the above-mentioned entities by immediate actions and on creating protective mechanisms in the form of appropriate normative and institutional guarantees. The above assumptions also correspond to the guarantees specified in Article 71 of the Constitution, where the state is obliged to consider the good of the family in its social and economic policy. Those families that are in a difficult financial and social situation, especially those with many children and single-parent families, have the right to special assistance from public authorities. Moreover, children are given special care in the Constitution. In Article 72, Paragraph 1, the law establishes *actio popularis*, granting everyone the right to demand that public authorities protect a child against violence, cruelty, exploitation, and demoralisation. Additionally, to protect the interests of children, the institution of the Ombudsman for Children was established in 2000.²⁰ Among the personal rights and freedoms granted to an individual, the right to protect one's family's life appeared.²¹

The Constitutional Tribunal (CT), in its judgment of April 12, 2011, attempted to define the term 'family', even though, as it noted, this definition is not present in the Constitution.²² Referring to the dictionary term (DPL), the Constitutional Tribunal stated that a family, in the strict sense, can be defined as a community consisting of parents (mostly married couples) and children. However, an 'incomplete family' is a family in which one parent is not present. According to the Constitutional Tribunal it is claimed that, on the basis of the constitutional provisions, there are no reasons to depart from the universal meaning of the concepts that have been developed in Polish language. Using the dictionary definition, the Constitutional Tribunal recognised that '[...] in the light of the constitutional provisions, a 'family' should be considered as any lasting relationship of two or more people, consisting of at least one adult and a child, based on emotional and legal bonds, mostly on blood bonds.' Furthermore, the CT defines the types of families, distinguishing, among others: 'full' family, large family, and 'incomplete' families. A 'full'

16 | Krapiec, 1986, pp. 160–161.

17 | In Polish: Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. (Dz. U. z 1997 r., nr 78, poz. 483 ze zm.).

18 | In Polish: Ustawa z dnia 25 lutego 1964 r. Kodeks rodziny i opiekuńczy (t.j. Dz. U. z 2020 r. poz. 1359, ze zm.).

19 | Article 18 of the Constitution.

20 | In Polish: Ustawa z dnia 6 stycznia 2000 r. o Rzeczniku Praw Dziecka (t.j. Dz. U. z 2023 r. poz. 292.).

21 | Article 47 of the Ombudsman for Children Act.

22 | In Polish: Wyrok Trybunału Konstytucyjnego z dnia 12 kwietnia 2011 r. (sygn. SK 62/08 - OTK-A z 2011 r., nr 9, poz. 22).

family consists of two adults and at least one child. Consequently, an ‘incomplete’ family consists of one adult and a child raised by him or her.²³ Both the dictionary definition and the position of the Constitutional Tribunal recognise that children raised by two or one parent are an integral component of the family. This corresponds to the intention of the law, which separates the concepts of a family and a marriage treated as a formalised relationship between a man and a woman.²⁴

Correspondingly to the Constitution, the Family and Guardianship Code does not define the concept of ‘family,’ since it is used in the context of the rights and tasks of spouses who are responsible for its well-being.²⁵ Despite disagreements in the doctrine concerning the question whether an informal union between a man and a woman (cohabitation) can be defined as a family, there is no doubt that it should be provided with legal protection suitable for its needs.²⁶

The scope of the term ‘family’ has been further specified in the legal Act of 2004 on Social Assistance (hereinafter: Social Assistance Act).²⁷ According to Article 6, Section 14 of the Act, a family consists of related or unrelated people who are in an actual relationship and live and coexist together. Therefore, the definition is not limited only to parents and their children but includes a wider range of people. The above definition reflects the purpose of social assistance defined by the law, because according to Article 2, Section 1 of the Act: ‘social assistance is an institution of a state’s social policy aimed at supporting individuals and families to overcome difficult life situations that their own rights and capabilities are unable to overcome.’ Therefore, the law’s concern extends to all people living in a common household and working for its well-being.

A different family configuration is articulated in the legal Act of 2003 on Family Benefits (hereinafter: Family Benefits Act).²⁸ According to Article 3, Section 16 of the Act, a family consists of spouses, parents, children, the child’s actual guardians, children up to the age of 25, children after the age of 25 with a certificate of a significant degree of disability (if due to this disability they are entitled to care benefits or a special care allowance). However, the following instances are excluded from the definition: a child under the care of a legal guardian, a married child, or an adult child who has become a parent. This particular definition should be treated only for the purpose of identifying individuals entitled to receive family benefits based on the above-mentioned Act.

Due to Poland’s membership in the European Union, it is also worth mentioning the interpretation of the concept of family in its internal laws. After the European Union accessed the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR),²⁹ the provisions included there became the part of the common law.³⁰ According

23 | More: Sterna-Zielińska, 2016, pp. 101–110. The author also indicates legal acts in which the term ‘family’ was formulated.

24 | Article 18 of the Constitution.

25 | E.g. Articles 23, 24, 27, and Article 28, Section 1 of the Family Code.

26 | Sterna-Zielińska, 2016, p. 106.

27 | In Polish: Ustawa z dnia 12 marca 2004 r. o pomocy społecznej (t.j. Dz. U. z 2023 r. poz. 901.).

28 | In Polish: Ustawa z dnia 28 listopada 2003 r. o świadczeniach rodzinnych (t.j. Dz. U. z 2023 r. poz. 390 ze zm.).

29 | European Convention for the Protection of Human Rights and Fundamental Freedoms 4. 11. 1950 (as amended by Protocols Nos. 11, 14 and 15).

30 | Article 6 paragraph 4 – Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union (OJ UE 2016/C 202/01).

to Article 12 of the ECHR, men and women of eligible age have the right to marry and start a family, in accordance with the internal laws regulating the implementation of this right. The European Court of Human Rights also supports the existence of heterosexual marriages, which has been expressed in its numerous judgments.³¹

The law adopted by the EU bodies is much more liberal when it comes to the perception of the family and the institution of marriage itself.³² The Charter of Fundamental Rights (CFR),³³ adopted in 2000, states that the right to marry and to start a family are guaranteed in regulations included in internal laws.³⁴ Therefore, marriage is not limited to the union of a man and a woman, and decisions on whether to allow same-sex marriages are left to the national legislators. EU law was made more specific in the context of qualifying particular categories of persons as family members under Directive 38/2004/EC.³⁵ According to Article 2, point b, a family member is considered to be:

- a) a spouse;
- b) a partner with whom the Union citizen has entered into a registered partnership on the basis of the legislation of the Member State concerned, if the legislation of the host Member State acknowledges the equivalence between a registered partnership and marriage, and in accordance with the conditions expressed in the relevant legislation of the host Member State;
- c) direct descendants who are under the age of twenty-one or are dependents, and those of the spouse or partner as defined in point b);
- d) direct ascendants being dependent and those of the spouse or partner as defined in point b).

The concepts of a spouse and a registered partner are clarified in the case law and the doctrine. As for the first category, the term of 'spouse' refers only to those persons who have entered into a formal marriage. As stated by the CJEU, there are no reasons to include permanent partners in informal relationships in this definition. It is also not required that marriage should be concluded on the basis of the legislation of a Member State.³⁶ On the other hand, to classify a given person as a permanent partner, first, the relationship should be concluded on the basis of the law of a Member State. Secondly, the legislation of the host Member State should recognise the equivalence between a registered partnership and marriage.³⁷

In both internal and international laws, the law has not established a legal definition of family but it is limited only to the recognition of the entities that constitute it.

31 | Cichoń, 2013, pp. 224–231.

32 | Gierycz, 2015, pp. 69–83.

33 | Charter of Fundamental Rights (OJ UE. 2010/C 8302).

34 | Article 9 of the Charter of Fundamental Rights.

35 | Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Dz. Urz. U.E. L 158/77).

36 | CJEU judgment *Netherlands v. Reed* (58/85, EU:C:1986:157).

37 | Skupień, 2015, pp. 112–113.

3. The principle of cooperation

The cooperation of the political community, which also includes local government units, churches, and other religious associations, has its origins in the social teaching of the Catholic Church. In the literature on the subject, some attempts are made to explain the premises of cooperation between the state and churches and other religious associations. These include focusing on the common good; the fact that the same people co-create the state and belong to individual churches and religious associations; and the fact that there are certain areas of social life that are of the interest to both the state and individual churches and religious associations.³⁸

The essence of cooperation manifests itself in joint activities focused on achieving the same goals. This idea also includes support of one entity for the activities undertaken by another.³⁹

In Poland, the practice of cooperation between the state and the Church dates back to the beginnings of our statehood. In the past, the Church performed a variety of public functions, replacing the state.⁴⁰ Because of constitutional regulations, cooperation has become a systemic principle covering all confessional entities with a regulated legal situation. According to Article 25, Section 3 of the Polish Constitution, relations between the state and churches and other religious associations are shaped, among others, on the basis of cooperation for the good of a man and the common good of society. As Paweł Sobczyk notes, the concept of the common good adopted by the law is expressed in the inclusion of various partial goods in this term including all social conditions for the development of a man and the communities he creates.⁴¹ Undoubtedly, the 'good' that fulfils the idea of the common good is the 'family good' in which the individual grows up. In the literature on the subject, there are attempts to define what this 'good' is. Referring to the teachings of the Catholic Church, Tomasz Kornecki notes that the good of the family focuses on ensuring that the family can function properly, starting with parents' earning and housing opportunities. Moreover, respect for the family's rights is the condition for the implementation and development of the family's well-being.⁴² The state should cooperate with churches and other religious organisations in matters concerning the raising of children. Moreover, the cooperation should include the support for pro-family activities, overcoming psychological crises of marriage and family, and providing assistance in economic crises.⁴³

Local government units may cooperate with churches and other religious associations in various areas of their activities, both in institutionalised and spontaneous forms.⁴⁴ However, it is not clarified in the doctrine whether the constitutional provisions oblige both communities to cooperate with each other or only provide them with such an opportunity. Michał Olszówka notes that the constitutional principle of cooperation

38 | Steczkowski, 2008, p. 156; Krukowski, 2004, p. 97.

39 | Mezglewski, Misztal and Stanisław, 2006, p. 76.

40 | Sobczyk, 2013, p. 163; The author refers to: Uruszczyk, 2007, pp. 15–34.

41 | Sobczyk, 2013, pp. 166–167.

42 | Kornecki, 2013, p. 165, the author refers to: Papieska Rada ds. Rodziny, *Etyczny i pastoralny wymiar przemian demograficznych*, Łomianki, 1997, p. 20.

43 | Sztuchmiller, 2011, pp. 161–171.

44 | Sobczyk, 2013, p. 160.

does not result in an obligation, but in a necessity to cooperate. In his opinion, this norm is a kind of a program (a principle of state policy), and he understands it as an imperative indicating the directive, which should be implemented according to actual possibilities and needs. Moreover, according to the same author, potential beneficiaries (churches and religious associations) do not have the right to make claims against the authorities if they do not cooperate. The public authority always decides matters regarding possible support from the state or local government for the activities carried out by a confessional entity.⁴⁵ A similar opinion is expressed by Wojciech Góralski, who believes that the reason for cooperation between the state and the Church is the common good executed within the competencies of both communities. The essence of cooperation between these communities is not to serve and help each other. Church and state have no direct obligations to each other.⁴⁶ A different view is presented by Józef Krukowski, who believes that the proclamation of the principle of cooperation obliges both entities to work together to determine in which sectors there is a need for cooperation. As an example, he presents the issue of the effectiveness of internal norms in the Polish legal system.⁴⁷

Cooperation of local government units in the field of family security should be based on the principle of subsidiarity, which was included in the preamble to the Constitution. The essence of the principle of subsidiarity is based on the idea that the government should fulfil an auxiliary function in relation to its citizens and the communities in which they function by fulfilling those tasks that cannot be performed effectively at lower organisational levels.⁴⁸

4. The scope of cooperation

Taking care of the family is a subject of interest for the state and churches as well as other religious associations functioning in Poland. In both, the laws regulating the situation of religious entities and local government laws, regulations specifying the obligations of both communities in relation to the family with regard to the situation of its individual members were included.

Supporting the family and organising the system of foster care and social assistance, as well as enacting pro-family policies, have been classified as the task of all local government units^{49,50,51}. Moreover, the Local Government Act obliges the community to provide social and medical care to pregnant women.⁵²

45 | Olszówka, 2016, pp. 164–165.

46 | Góralski, 2000, p. 22.

47 | Krukowski, 2008, p. 77; Tunia, 2015.

48 | Bielecki, 2008, pp. 193–209.

49 | Article 7, paragraph 1 p. 6–6a–16 of the Act on Local Self-Government. In Polish: Ustawa z 8 marca 1990 r. o samorządzie gminnym (t.j. Dz. U. z 2023 r. poz. 40, ze zm.).

50 | Article 4, paragraph 3–3a–4 of the Act on County Self-Government. In Polish: Ustawa z dnia 5 czerwca 1998 r. o samorządzie powiatowym (t.j. Dz. U. z 2022 r. poz. 1526, ze zm.).

51 | Article 14, paragraph 1, 4–4a–5 of the Act on Regional Self-Government. In Polish: Ustawa z dnia 5 czerwca 1998 r. o samorządzie województwa (t.j. Dz. U. z 2022 r. poz. 2094 ze zm.).

52 | Article 17, Sections 1 and 16 of the Local Self-Government Act.

Social assistance tasks are a part of the functions performed by individual churches and religious associations and are included in the scope of charitable and welfare activities; thus, their cooperation with local government units is specified in the legal Act of 2004 on Social Assistance⁵³; in light of this Act, social assistance is organised by the government and local government administration bodies cooperating in this respect with the Catholic Church and other churches and religious associations on a partnership basis,⁵⁴ which may run social assistance homes after obtaining the permission of the voivode.⁵⁵ In a situation when a social assistance home is run by alternative entity, its employees are obliged to cooperate with churches and religious associations to ensure social integration.⁵⁶ In addition, religious entities along with the local government, voivode, social and professional organisations, and scientific environment, may delegate representatives to the so-called Social Welfare Council (SWC).⁵⁷ The scope of activities of the SWC includes giving opinions on legal acts and initiating changes in regulations in the field of social assistance as well as preparing expert opinions on selected areas of social assistance.⁵⁸ By adopting the Act of 2011 on supporting the family and the foster care system (hereinafter: Act on supporting the family and the foster care system),⁵⁹ in the preamble the belief that effective protection and assistance for children can be achieved by the cooperation of all people, institutions, and organisations working with children and parents is expressed. An obligation has been imposed on local government units and government administration bodies to support families experiencing difficulties in fulfilling their caregiving and upbringing functions.⁶⁰ The implementation of tasks in this area should be carried out, in particular, by cooperation with the local community, courts and their auxiliary bodies, the police, educational institutions, and medical entities, as well as churches, religious associations, and social organisations with the regard to the principle of subsidiarity.⁶¹

The county self-government or entities indicated by the county units are obliged to organise the family foster care system.⁶² As part of the above-mentioned activities, it is required that they cooperate with the local community and the organisations that constitute it (including churches and religious associations).⁶³ Also, in the case of fractionation within individual local government units, adoption centres cooperate with churches and religious associations. On the basis of Article 190, Section 1, local government bodies may assign implementation of tasks aiming at the good of the family to legal entities and organisational units operating on the basis of the provisions on the state's relationship to the Catholic Church in the Republic of Poland, the state's relationship with other churches

53 | In Polish: Ustawa z dnia 12 marca 2004 r. o pomocy społecznej (t.j. Dz. U. z 2023 r. poz. 901, ze zm.).

54 | Article 2, Section 2 of the Social Assistance Act.

55 | Article 57, Sections 1 and 3 of the Social Assistance Act.

56 | Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 9 grudnia 2010 r. w sprawie środowiskowych domów samopomocy (Dz. U. z 2020 r., poz. 249 ze zm.).

57 | Article 125, Section 1 of the Social Assistance Act.

58 | Article 124, Section 2 of the Social Assistance Act.

59 | In Polish: Ustawa z dnia 9 czerwca 2011 r. o wspieraniu rodziny i systemie pieczy zastępczej (t.j. Dz. U. z 2023 r. poz. 1426, ze zm.).

60 | Article 3, Section 1 of the Act on Supporting the Family and the Foster Care System Act.

61 | Article 3, Sections 2 and 3 of the Act on Supporting the Family and the Foster Care System Act.

62 | Article 76, Section 1 of the Act on Supporting the Family and the Foster Care System Act.

63 | Article 76, Section 4, Point 8 of the Act on Supporting the Family and the Foster Care System Act.

and religious associations, and the guarantee of freedom of conscience and religion if their statutory goals include conducting activities concerning the support of the family and the foster care system or social assistance. They also include working with a family, caring for and raising children in a daycare support centres, running family orphanages, organising family foster care, running regional therapeutic and educational centres, and running intervention pre-adoption centres. The provisions of the Act of 2003 on Public Benefit Activities and Voluntary Service (hereinafter: Public Benefit Activities and Voluntary Service Act)⁶⁴ are employed to outsource the above tasks, where legal entities and organisational units of churches and religious associations with a regulated legal situation may execute such tasks, provided that their statutory objectives include them.⁶⁵

Care for the interests of individual family members and mutual cooperation of local government units with churches and religious associations were proclaimed in the Act of 2005 on Counteracting Domestic Violence (hereinafter: Counteracting Domestic Violence).⁶⁶ Government and local government administrative bodies cooperate with non-governmental organisations and churches and religious associations in providing assistance to people suffering from domestic violence, influencing people using domestic violence and raising social awareness of the phenomenon of domestic violence, focusing in particular on the causes and effects of domestic violence as well as the methods and forms of counteracting domestic violence.⁶⁷ Moreover, organisational units and legal entities of particular churches and religious associations may implement a program concerning the methods of counteracting domestic violence financed by the minister responsible for social security.⁶⁸ The law also provides for the establishment of a Monitoring Team for Counteracting Domestic Violence, as an opinion-giving and advisory body to the minister for social security,⁶⁹ which includes, among others: twelve representatives of non-governmental organisations, associations, and agreements of non-governmental organisations, as well as churches and religious associations from among the persons nominated by these entities.⁷⁰

The well-being and security of the family is also expressed in the concern for the health of its individual members. According to the law, mutual cooperation between local government units and churches and religious associations includes, among other things, care and assistance for pregnant women.⁷¹ In addition, these entities should also cooperate in limiting the consumption of the alcohol, changing the structure of its consumption, initiating and supporting projects aimed at changing customs regarding

64 | In Polish: Ustawa z dnia 24 kwietnia 2003 r. o działalności pożytku publicznego i wolontariacie (t.j. Dz. U. z 2023 r. poz. 571.).

65 | Article 3, Section 3, Point 1 of the Public Benefit Activities and Voluntary Service.

66 | In Polish: Ustawa z dnia 29 lipca 2005 r. o przeciwdziałaniu przemocy domowej (t.j. Dz. U. z 2021 r. poz. 1249, ze zm.).

67 | Article 9, Section 1 of the Counteracting Domestic Violence Act.

68 | Article 8, Section 7, Letter c of the Counteracting Domestic Violence Act.

69 | Article 10a, Section 1 of the Counteracting Domestic Violence Act.

70 | Article 10b, Sections 1 and 4 of the Counteracting Domestic Violence Act.

71 | In Polish: Ustawa z dnia 7 stycznia 1993 r. o planowaniu rodziny i warunkach dopuszczalności przerywania ciąży (t.j. Dz. U. z 2022 r. poz. 1575.) Article 3, Section 1 of the Family Planning, the Protection of Foetuses, and Grounds for Permitting the Termination of a Pregnancy Act.

the consumption of the alcohol, promoting sobriety in the workplace, and preventing and eliminating consequences of alcohol addiction).⁷²

5. Conclusions

The family as the basic social unit is an expression of the common concern of the political community, represented, among other entities, by local government units and churches and religious associations. The personal substrate is a common part of both communities, which also obliges them to cooperate. The concept of the family, on which the implemented actions are to be focused, should be broadly interpreted as a community living in a common household and jointly contributing to its development. In order to fully realise an individual's rights, children should grow up in an environment that provides them with a sense of security. Therefore, it is important for the smallest social unit – the family – to be provided with appropriate conditions for development and a dignified existence. The need for security is a primary value without which other goods cannot be achieved.

The presented normative solutions should be considered positively; however, most of them seem to be only declarations of potential cooperation and whether they will be filled with appropriate intent is dependent only on mutual commitment. Summarising the findings made in this study, the following conclusions can be drawn:

1. The family as the basic social unit is a subject of interest to the authorities as well as churches and other religious associations.
2. Care for the good of the family should be the point of reference for actions taken for the temporal community, which is the state, and the spiritual community, which is the Church.
3. Society cannot function properly in a situation in which some dysfunctions concerning the existence of the family are present because the well-being of the family determines the well-being of the entire nation.
4. Despite being tolerant of its diversity, the Polish state has turned several times against the followers of specific religions or rituals in its history. A particular intensification of hostility toward the Church and other religious associations was present during the period of the Polish People's Republic (1945 - 1989).
5. Personal dignity belongs to every human person, regardless of their status, origin, or any other factors. It should be perceived as an inherent and long-lasting value of a human, arising from his nature and providing him with the opportunity to rationally execute his own rights without affecting or limiting other people's rights.
6. The necessity of ensuring family security belongs to the group of primary needs; thus, its execution determines not only the preservation of life and health, but also the development of individuals.

72 | In Polish: Ustawa z dnia 26 października 1982 r. o wychowaniu w trzeźwości i przeciwdziałaniu alkoholizmowi (t.j. Dz. U. z 2023 r. poz. 2151.). Article 1, Section 1 of the Uprising in Sobriety and Counteracting Alcoholism Act.

7. The proper functioning of the family is influenced by many factors, including living conditions, parents time spent working, parents' socio-cultural level, harmonious cohabitation, and proper organisation of family life.

8. Family dysfunction may result in a situation in which the community cannot fulfil its responsibilities in a democratic state of law.

9. By ensuring the execution of the basic needs for the smallest and at the same time most basic social unit – the family – the state and the Church fulfil their basic obligations of caring for the common good.

10. Even though the term 'family' is a normative category, the law does not clearly indicate a straightforward interpretation of the term. Depending on the matter as regulated by individual normative acts, we can distinguish various personal scopes of this concept.

11. In both internal and international laws, the law has not established a legal definition of a family but it is limited only to the recognition of the entities that constitute it.

12. The cooperation of the political community, which also includes local government units along with churches and other religious organisations, has its origins in the social teaching of the Catholic Church.

The concept of the common good, which determines cooperation between the state and the Church, is expressed in the inclusion of various partial goods in this term, which include all social conditions for the development of a man and the communities he creates.

Bibliography

- Bereźnicka, M. (2012) 'Poczucie bezpieczeństwa jako wartość we współczesnej szkole' in Kwiasowski, Z., Miedzińska, K.C. (eds.) *Edukacja dla bezpieczeństwa wobec wyzwań współczesności*. Kraków: Wydawnictwo Naukowe Uniwersytetu Pedagogicznego, pp. 109–120.
- Bielecki, M. (2008) 'Współdziałanie podmiotów samorządowych z podmiotami wyznaniowymi. Wybrane aspekty', *Studia z Prawa Wyznaniowego*, 2008/11, pp. 193–209.
- Bielecki, M. (2020) 'Ochrona godności osoby skazanej w prawie karnym wykonawczym. Wybrane aspekty', *Zeszyty Naukowe KUL*, 61(1), pp. 159–178; <https://doi.org/10.31743/zn.2018.61.1.159-178>.
- Cichoń, Z. (2013) 'Prawa rodziny w orzecznictwie Europejskiego Trybunału Praw Człowieka w Strasburgu', *Palestra*, 58(7–8), pp. 224–231.
- Gdula, A. (2010) 'O bezpieczeństwo człowieka jako wartości', *Doctrina. Studia społeczno-polityczne*, 7(7), pp. 45–50.
- Gierycz, M. (2016) 'Unii Europejskiej (re)definicja małżeństwa i rodziny. Antropologiczne i polityczne znaczenie w kontekście starzenia się Europy', *Annales Universitatis Mariae Curie-Skłodowska, sectio K–Politologia*, 22(2), pp. 69–83; <https://doi.org/10.17951/k.2015.22.2.69>.
- Góralski, W., Pieńdyk, A. (2000) *Zasada niezależności i autonomii państwa i kościoła w konkordacie polskim z 1993 roku*. Warszawa: Uniwersytetu Kardynała Stefana Wyszyńskiego.
- Kornecki, T. (2013) 'Wybrane aspekty dobra rodziny oraz ochrony praw dziecka na podstawie przepisów Konstytucji Rzeczypospolitej Polskiej z 2 kwietnia 1997 roku oraz nauczania Jana Pawła II skierowanego do rodaków w czasie pielgrzymek do Polski', *Annales Canonici*, 9(1), pp. 183–197; <https://doi.org/10.15633/acan.610>.
- Krąpiec, M.A. (1975) *Człowiek i prawo naturalne*. Lublin: Towarzystwo Naukowe Katolickiego Uniwersytetu Lubelskiego.
- Krukowski, J. (2004) 'Konstytucyjny model stosunków między państwem a Kościołem w III Rzeczypospolitej' in Mezglewski, A. (ed.) *Prawo wyznaniowe w systemie prawa polskiego*. Lublin: Wydawnictwo KUL, pp. 79–101.
- Krukowski, J., Warchałowski, K. (2000) *Polskie prawo wyznaniowe*. Warszawa: Wydawnictwa Prawnicze PWN.
- Krztoń, W. (2017) 'Pojęcie i istota bezpieczeństwa jednostki', *Zeszyty Naukowe Wyższej Szkoły Informatyki, Zarządzania i Administracji w Warszawie*, 3(40), pp. 42–54.
- Kubiak, M., Rosa, R., Lipińska-Rzeszutek, M. (2007) *Filozofia bezpieczeństwa personalnego i strukturalnego tradycja–współczesność–nowe wyzwania*. Siedlce: Wydawnictwo Akademii Podlaskiej.

- Mezglewski, A., Misztal, H., Stanisław, P. (eds.) (2006) *Prawo wyznaniowe*. Warszawa: Wydawnictwo C.H. BECK.
- Miczyńska-Kowalska, M. (2013) 'Zagrożenie współczesnej rodziny w społeczeństwie ryzyka', *Zarządzanie Mediami*, 1(1), pp. 33–49.
- Olak, A., Olak, K. (2016) 'Bezpieczeństwo i zagrożenia współczesnej rodziny – wybrane zagadnienia', *Bezpieczeństwo i region*, 2016/8, pp. 153–165; <https://doi.org/10.15584/pir.2016.8.14>.
- Olszówka, M. (2016) *Wpływ konstytucji RP z 1997 roku na system źródeł prawa wyznaniowego*. Warszawa: Oficyna Wydawnicza Uczelni Łazarskiego.
- Papieska Rada ds. Rodziny (1997) 'Etyczny i pastoralny wymiar przemian demograficznych' *W trosce o życie. Wybrane dokumenty Stolicy Apostolskiej*.
- Sadowski, M. (2007) 'Godność człowieka – aksjologiczna podstawa państwa i prawa', *Wrocławskie Studia Erazmiańskie*, 2007/1, pp. 14–27.
- Skupień, D. (2015) 'Osoby uprawnione do korzystania ze swobody przepływu pracowników' in Zawadzka-Łojek, A., Grzeszczak, R. (eds.) *Prawo materialne Unii Europejskiej. Swobodny przepływ towarów, osób, usług i kapitału. Podstawy prawa konkurencji*. Warszawa: Wydawca: Instytut Wydawniczy EuroPrawo, pp. 103–115.
- Sobczyk, P. (2013) *Konstytucyjna zasada konsensualnego określania stosunków między Rzeczpospolitą Polską a Kościołem katolickim*. Warszawa: Oficyna Wydawnicza ASPRA-JR.
- Steczkowski, P. (2008) 'Konstytucyjna zasada współdziałania państwa i kościoła w kontekście interpretacji zasad poszanowania godności osoby ludzkiej i dobra wspólnego', *Studia z Prawa Wyznaniowego*, 2008/11, pp. 155–170.
- Sterna-Zielińska, K. (2016) 'Zakres semantyczny pojęcia „rodzina” w prawie polskim', *Krytyka prawa*, 8(1), pp. 99–117; <https://doi.org/10.7206/kp.2080-1084.104>.
- Sztuchmiller, R. (2011) 'Współpraca państwa i Kościoła w prawnym regulowaniu kwestii dotyczących małżeństwa i rodziny' in Bielecki, M. (ed.) *Bilateralizm w stosunkach państwowo-kościelnych*. Lublin: Katolicki Uniwersytet Lubelski, pp. 161–171.
- Szymczak, J. (2002) 'Definicje rodziny', *Studia nad Rodziną*, 2(11), pp. 151–165.
- Tunia, A. (2015) *Recepcja prawa wewnętrznego związków wyznaniowych w prawie polskim*. Lublin: Wydawnictwo KUL.
- Uruszczak, W. (2007) 'Funkcje publiczne Kościoła w Polsce w Perspektywie historycznej' in Mezglewski, A. (ed.) *Funkcje publiczne związków wyznaniowych*. Lublin: Katolicki Uniwersytet Lubelski, pp. 15–34.
- Wróbel-Delegacz, W. (2013) 'Źródła zagrożeń bezpieczeństwa społecznego – rodzina dysfunkcyjna', *Doctrina. Studia społeczno-polityczne*, 10(10), pp. 213–230.