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REMARKS ON THE POSITION OF JOHN PAUL II TO THE CAPITAL PUNISHMENT

Capital punishment is a specific issue of great importance to be perceived in the context of the powers of the democratic constitutional state. The point is about a clear answer to the question about whether from the ethical point of view the state has the right to inflict capital punishment. A discussion about this issue is not an easy one. It is due to the fact that it concerns the most important value, which is human life. In general the major issue here is respect for the life of a criminal. The importance of this life in the hierarchy of values one believes, determines the stance about capital punishment.

Nevertheless, the fundamental right to life cannot be here applied to the full extent, as capital punishment inflicted on a criminal protects the life of an innocent person. In this context we may have to deal with a rule defined with great clarity by Saint Thomas based on the premises of natural law as legitimate defense of people and communities against the unjust aggressor. According to this rule, the one who threatens someone's life, loses the right to his own life¹.

Relevant fragments of the latest catholic catechism approved by John Paul II shed a lot of valuable light on the issue of capital punishment. At this point it is worth quoting a relevant passage, which directly indicates the possibility to inflict capital punishment, which is, though, accompanied by the appeal to search for „non-lethal means”, thanks to which it would be possible to achieve a comparable result obtained in case of using „lethal means”. A relevant fragment of the catechism reads as follows:

„Assuming that the guilty party's identity and responsibility have been fully determined, the traditional teaching of the Church does not exclude recourse to the death penalty,

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¹ Cf. St. Thomas Aquinas, *Suma teologiczna (Summa theologica)*, Polish trans. F. W. BednarSKI, London 1970, II-II, 64, 7.

if this is the only possible way of effectively defending human lives against the unjust aggressor.

If, however, non-lethal means are sufficient to defend and protect people's safety from the aggressor, authority will limit itself to such means, as these are more in keeping with the concrete conditions of the common good and more in conformity to the dignity of the human person.

Today, in fact, as a consequence of the possibilities which the state has for effectively preventing crime, by rendering one who has committed an offense incapable of doing harm – without definitely taking away from him the possibility of redeeming himself – the cases in which the execution of the offender is an absolute necessity *are very rare, if not practically nonexistent*².

The above-mentioned statements cannot be absolutized, but they should be interpreted in the context of the previous wording related to the issues connected with legitimate defense and requirements for safeguarding the common good, defined by human rights and basic rules of civil society. The catechism contains the following explanations:

„Legitimate defense can be not only a right but a grave duty for one who is responsible for the lives of others. The defense of the common good requires that an unjust aggressor be rendered unable to cause harm. For this reason, those who legitimately hold authority also have the right to use arms to repel aggressors against the civil community entrusted to their responsibility.

The efforts of the state to curb the spread of behaviors harmful to people's rights and to the basic rules of civil society correspond to the requirement of safeguarding the common good. Legitimate public authority has the right and duty to inflict punishment proportionate to the gravity of the offense.

Punishment has the primary aim of redressing the disorder introduced by the offense. When it is willingly accepted by the guilty party, it assumes the value of expiation. Punishment then, in addition to defending public order and protecting people's safety, has a medicinal purpose: as far as possible, it must contribute to the correction of the guilty party"³.

Thus, capital punishment is an inseparable element of self-defense as its aim is to incapacitate a criminal. The point is obviously about legitimate defense of people and communities, which in some specific circumstances can be not only a right but also a grave duty of ones who are responsible for the lives of others. This type of responsibility is specifically vested in the state community, and more precisely in its authorities. Defense of people and society requires that the criminal is rendered unable to cause harm. In this situation capital punishment may be allowed solely if it is the only possible way of effectively defending

² *Katechizm Kościoła Katolickiego (Catechism of the Catholic Church)*, Polish edition: Pallottinum, Poznań 2002 [CCC], 2267. The passage about cases of the absolute necessity to apply death penalty was added to the second amended edition of the catechism of 15th August 1997 (the original version) and is a quotation from the encyclical of John Paul II *Evangelium vitae* (25th March 1995), 56. (Translator's note) English version: <http://www.scborromeo.org/ccc.htm>

³ CCC 2265-2266.

human lives against an unjust aggressor, whose identity and responsibility have to be determined.

John Paul II expressed the belief that at present cases, such absolute necessities to impose death penalty „are very rare, if not practically nonexistent”. In his opinion as a rule now it should be sufficient to impose non-lethal means to render an unjust aggressor incapable of committing an offense. The most glaring example of this type of offenses is an attempt on the innocent human life.

It is worth paying attention to the balanced character of the quoted statement. Is it an opinion or rather a suggestion that does not claim the right to make a final decision? The Pope left some room for a factual discussion on how often the cases of the absolute necessity to inflict capital punishment occur. The expressed opinion is a kind of an appeal to authorities of respective countries to make efforts to work out such nonlethal means which would make the necessity to resort to the maximum punishment groundless. The Pope's appeal is fully understandable as it reflects the spirit of (personalist) biblical anthropology, according to which non-lethal means are in conformity to the dignity of a human being to a larger extent, and are more clearly in line with specific conditions of the common good⁴.

The Pope's stance met with favorable reception in most countries of the euroatlantic cultural circle. In particular the European Union opts for final elimination of this type of punishment from penal codes. It seems that moratoria are introduced to meet this end. Advocates of final elimination of capital punishment, referring to the thoughts of John Paul II, frequently declare that they follow his theory about the dignity of the human being and inviolability of the right to life arising therefrom. Bearing in mind the Pope's teachings initiatives are commonly undertaken, mainly legislative ones, with a view to finally eliminating capital punishment. Relevant amendment of penal codes in respective countries was normally preceded by the so called moratorium – suspension of pronouncing the death sentence and execution of death penalty. In Poland it was introduced in 1988. It was not fully formal, but in practice it was binding until it became enshrined in law based on the act of 12th July 1995 amending the Penal code. The new Penal code of 6th June 1997 (in force from 1st September 1998) does not mention capital punishment at all. Previous codes stipulated a punishment consisting in taking the life of a criminal. For instance, the code dated 1932 allowed capital punishment in the following cases: murderer, sabotage, high treason, attempt on the life of the president of the Republic of Poland and attempt on the state life. In Poland the last sentence of this type was executed on 20th April 1988 in Cracow in a prison at Montelupich Street. It can be seen that it occurred not long before the introduction of the moratorium. In that case execution was performed on a 29-year-old criminal who raped and killed a woman, attempting to do the same to her two daughters.

However, serious doubts can be raised about the intention of some advocates of the right to life. Do they act having in mind authentic respect for the life of a human being or is it just their concealed willingness to create a protective umbrella for some communities or criminal groups? In the contemporary world the groups seem to exert a significant influen-

⁴ Cf. CCC 2267.

ce on the shape of parliamentary acts and governmental decisions. They can do it without any difficulty, using their business potential, for instance by means of different forms of lobbying.

The doubts raised are not groundless. It turns out that advocates of the moratorium for capital punishment, referring to the fundamental right to life, at the same time do not display any special interest in the initiative of the moratorium for abortion. It suffices to mention the launched campaign for the worldwide moratorium for abortion, which was initiated by Giuliano Ferrara, the Italian politician and columnist, who used to be a communist (until 1983). In the daily „Il Foglio” of 18th December 2007 he suggested introducing a moratorium for abortion, basing on very much convincing arguments: if the moratorium for death penalty was greeted in the world with general (media) enthusiasm, why not to adopt a moratorium for killing the most innocent and at the same time defenseless ones, who are aborted children? The campaign was immediately recognized and supported by the Holy See, but the world of politics and business appeared to turn a deaf ear to the proposal. As for now it is ignored and even fought against by large pro-abortive circles, supported by a number of political bodies of the European Union or even the UN, not to mention the world business. In this light the intentions declared by the advocates of the moratorium for death penalty raise serious ethics-related reservations. A question arises in this context about whether they are authentically concerned about respect for the right to life of each human being or they are entangled in political pressure aimed at developing penal law favourable for criminal gangs or organizations. Absolute lack of sensitivity with respect to defense of the life of unborn children, and even pro-abortive campaigns launched by them, show that their initiatives for complete abolition of death penalty are not sincere.

Summing up, a conclusion can be drawn that if one of the important goals pursued by the state is protection of public order and safety of citizens, then, with that in mind, public authorities should take measures against any violation of personal and social rights. They can ensure it also by inflicting appropriate punishment on criminals. It is not possible to exclude such situations in which capital punishment turns out to be the only effective solution. It is an ultimate measure which can be deemed acceptable only when there are no other ways of defending society against an unjust aggressor. From the traditional (scholastic) perspective capital punishment is necessary if a criminal can no longer use his own freedom without jeopardizing the freedom of other people and there is no non-lethal punishment that can make him regain the right to use his own freedom.

Actions which violate the most fundamental right of a human being – the right to life, and so include not only application of death penalty, but also a war, abortion or euthanasia, and in a certain sense also contraception, show that a human being is treated as an object. It is obvious that each object being an obstacle in the sphere of a human life can be somehow destroyed or removed. In general, it does not contradict the sense of morality provided that respect is displayed with regard to the truth about the good hidden in the nature of a certain thing.

The case is different if the object is replaced with a human being, treated in a similar manner. It gives rise to a certain moral drama, which involves negation of the dignity of a

human being and the value of the human life itself. To overcome the drama, it is necessary to give a good answer to the question about who a human being is. It is a question which should interest or even alarm each politician who bears personal responsibility for the shape of legal acts. Bearing that in mind, a remark made by Cardinal Joseph Ratzinger is highly interesting. He suggests that before making any decision concerning a human life one should look another person in the face. In one of his books he asks a question: Why are the rights of born children today defended almost unanimously and with great determination, but at the same time people are insensitive to the phenomenon of abortion? At this point he expresses his opinion that this occurs "maybe only because in abortion we do not see the face of the one who will be condemned never to be born"⁵. Many psychologists can probably confirm that. Women intending to have an abortion often change the decision made if they see the face of their unborn baby on the computer monitor during prenatal examinations.

Everyone who had the chance to personally meet John Paul II must have experienced the gesture of „a look in the face”. It was a look which radiated with fascination with the human being, each human being, stemming from the fascination with God. It seems that it is one of relevant reasons why the Pope’s teachings about death penalty should be treated with the highest respect as they emanate with true and authentic amazement as to the greatness and dignity of the human being.

UWAGI O STANOWISKU JANA PAWŁA II WOBEC KARY ŚMIERCI

Streszczenie

Współcześnie problem kary śmierci coraz bardziej wpisuje się w dyskurs o charakterze cywilizacyjnym. Chodzi o jednoznaczną odpowiedź na pytanie, czy z etycznego punktu widzenia państwo ma prawo do wymierzania kary śmierci. Rozjaśniają to zagadnienie odpowiednie zapisy *Katechizmu Kościoła Katolickiego*, którego najnowsza wersja została zatwierdzona przez Jana Pawła II w 1997 roku (n. 2267). Należy zwrócić uwagę na wyważony charakter przytoczonych stwierdzeń. Wyrażają one opinię, która nie rości sobie prawa do rozstrzygnięcia ostatecznego. Papież pozostawił miejsce na rzeczową dyskusję, na ile owe przypadki absolutnej konieczności stosowania kary śmierci występują rzeczywiście.

Analizowany zapis *Katechizmu* stanowi rodzaj apelu do władz poszczególnych państw, by podjęły trud wypracowania środków bezkrwawych, które konieczność stosowania tego najwyższego wymiaru kary czyniłyby bezprzedmiotową. Stanowisko Jana Pawła II jest w pełni zrozumiałe, gdyż odzwierciedla ducha antropologii biblijnej (personalistycznej), wedle której środki bezkrwawe bardziej odpowiadają godności osoby ludzkiej i wyraźniej pozostają w zgodzie z konkretnymi uwarunkowaniami dobra wspólnego.

⁵ J. Ratzinger, *Europa Benedykta w kryzysie kultur (Benedict's Europe in the crisis of cultures)*, Polish trans. W. Dzieża, Edycja Świętego Pawła, Częstochowa 2005, pp. 85-86.

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S u m m a r y

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Key words: capital punishment, human dignity, right to self-defense, right to life, church teaching.

Słowa kluczowe: kara śmierci, godność osoby ludzkiej, prawo do obrony własnej, prawo do życia, nauczanie kościelne.