

OLGA SITARZ
JAKUB HANC
DOMINIKA BEK
ANNA JAWORSKA-WIELOCH

POST-SENTENCE MEDIATION – ITS RATIONALE
AND IMPORTANCE IN LIGHT OF THE TEACHINGS
OF THE ROMAN CATHOLIC CHURCH.
A LOOK FROM THE PERSPECTIVE OF A CATHOLIC COUNTRY

Abstract. Victim-offender mediation in enforcement proceedings is a new challenge for the justice system in Poland and many countries around the world. The number of such mediations is currently very small. The lack of appropriate regulations and enthusiasm among representatives of the studies and its practitioners make it difficult to search for a way to popularize a conciliatory attitude in enforcement proceedings. The authors of this publication seek arguments in favour of post-sentence mediation in the teaching of the Roman Catholic Church. The importance of faith and religion in the lives of many people (including convicts) and an analysis of the texts of Sacred Scripture and statements of clergymen on forgiveness and satisfaction allow us to be optimistic about the Church's efforts to encourage the implementation of principles so important to restorative justice.

Keywords: post-sentence mediation; forgiveness; compensation; satisfaction; restorative justice; penalty of deprivation of liberty.

Olga Sitarz – PhD, Habil., Associate Professor at the University of Silesia in Katowice, Faculty of Law and Administration, Institute of Law, ul. Bankowa 11a, 40-007 Katowice, e-mail: olga.sitarz@us.edu.pl; ORCID: <https://orcid.org/0000-0002-2075-3507>

Jakub Hanc – MA, University of Silesia in Katowice, Faculty of Law and Administration, Institute of Law, ul. Bankowa 11a, 40-007 Katowice; e-mail: jakub.hanc@us.edu.pl; ORCID: <https://orcid.org/0000-0002-1433-4074>

Dominika Bek – PhD, University of Silesia in Katowice, Faculty of Law and Administration, Institute of Law, ul. Bankowa 11a, 40-007 Katowice, e-mail: dominika.bek@us.edu.pl; ORCID: <https://orcid.org/0000-0003-4560-808X>

Anna Jaworska-Wieloch – PhD, University of Silesia in Katowice, Faculty of Law and Administration, Institute of Law, ul. Bankowa 11a, 40-007 Katowice; e-mail: jaworskaania@wp.pl; ORCID: <https://orcid.org/0000-0002-1209-4433>.

*Forgiveness is the restoration of freedom to oneself.
It is the key held in our own hand to our prison cell.*

Cardinal Stefan Wyszyński¹

1. INTRODUCTION

The concepts of crime and damage are analysed by researchers of both secular law² and canon law.³ These two orders view the harmfulness of such behaviour as lawless.⁴ Compensation for damage and expressing regret are particularly desirable in a conflict and its extreme form – a crime. A lot of scientific research areas show interest in the standards that induce or order such behaviour. The process of reconciliation and agreement is the subject of interest of psychology, law, sociology, as well as moral theology, which “seeks norms for human action, thanks to which it can be rational and free.”⁵

The literature describes great figures from Church history who undertook mediation. Włodzimierz Broński points to St. Augustine, St. Francis, and Pope Gregory IX. This topic was also discussed by Popes Benedict XV, St. Paul VI and St. John Paul II.⁶

This article aims to assess the compliance of the teaching of the Roman Catholic Church with the cries for allowing the use of mediation in criminal cases not only at the stage of prosecution and court proceedings, but also at the stage of the execution of a penalty, including deprivation of liberty. This stage is the actual achievement of the goals and functions assigned to criminal law and, at the same time, wrongly equated with the end of the dispute and “case settlement.” Taking the view that a criminal penalty does not resolve a conflict but only settles it, which often leads to its escalation, we

¹ Ewa K. Czaczkowska, *Prymas Wyszyński. Wiara, nadzieja, miłość* (Kraków: Znak, 2020), 58.

² In the vast literature, by way of example, let us mention only the ten-volume *System Prawa Karnego*, and especially vol. 3 – *Nauka o przestępstwie. Zasady odpowiedzialności*, edited by Ryszard Dębski (Warszawa: C.H. Beck, 2013).

³ Daniel Cenalmor, Jorge Miras, *Prawo kanoniczne* (Warszawa: Wolters Kluwer, 2022), 460–462.

⁴ Jerzy Syryjczyk, “Pojęcie przestępstwa w świetle Kodeksu Prawa Kanonicznego Jana Pawła II,” *Prawo Kanoniczne* 28(1985), no. 1–2: 85–96; Łukasz Burchard, “Kształtowanie się pojęcia przestępstwa w systemie prawa kanonicznego,” *Łódzkie Studia Teologiczne* 23(2014), no. 2: 39–65.

⁵ Jan Orzeszyna, “Teologia moralna wobec wyzwań współczesności,” *Teologia i Moralność* 25(2019), no. 1: 61.

⁶ Włodzimierz Broński, “Duchowny jako mediator,” *Studia z Prawa Wyznaniowego* 24(2021): 114–115.

seek arguments in favour of mediation at the religious level, meaning in the sphere significant for most individuals, including victims and convicts. The views held by representatives of Roman Catholicism will be the starting points for this article.

This study will make it possible to establish whether a conciliatory attitude adopted by the victim and the offender can be positively perceived in societies in which Roman Catholicism prevails and determine its significance from the point of view of criminal policy. In this article, we will present the basic information on post-sentence mediation in Poland and diagnose the reasons for its absence despite its well-known benefits. We will present the secular and criminal dimension of mediation, its social and criminal significance, statements taken from religious texts, and views of Church representatives and theologians illustrating the parallelism of the secular and theological approach to the problem of harm and damage.

The study uses an analysis of legal texts, statistical data, previously conducted surveys and expert statements. The object of interpretation from the perspective of criminal law and the mentioned comparisons will also include statements of representatives of Roman Catholicism and quotations from Sacred Scripture.

The teaching of the Roman Catholic Church to the faithful takes, among others, the form of statements by priests during church ceremonies or theologians in the public debate. Our goal is to trace statements about the importance of forgiveness and satisfaction because this form of teaching is widely available to members of the public, including victims and offenders. Therefore, we leave in-depth theological analyses beyond the margins of this publication.⁷ We will also not discuss the concept of Jesus as the Mediator between creation and the Creator.⁸

St. John Paul II's Message for the Jubilee in Prisons urged prison officers to ensure that prisoners have the means to redeem themselves, both as individuals and in their relations with society, because such a process should not be considered utopian. His Holiness also stated that:

We are still a long way from the time when our conscience can be certain of

⁷ Nathan R. Frise, Mark R. McMinn, "Forgiveness and Reconciliation: The Differing Perspectives of Psychologists and Christian Theologians," *Journal of Psychology and Theology* 38(2010), no. 2: 83–90; Anthony Bash, "Forgiveness, Reconciliation and Spirituality. A Theological Perspective," *Journal for the Study of Spirituality* 4(2014), no. 1: 58–72.

⁸ See more: Pius XII, Encyclical *Mediator Dei*.

having done everything possible to prevent crime and to control it effectively so that it no longer does harm and, at the same time, to offer to those who commit crimes a way of redeeming themselves and making a positive return to society. If all those in some way involved in the problem tried to (...) develop this line of thought, perhaps humanity as a whole could take a great step forward in creating a more serene and peaceful society.⁹

2. POST-SENTENCE MEDIATION IN POLAND – NORMATIVE STATUS AND BASIC INFORMATION

Mediation is becoming increasingly popular. However, closer scrutiny of mediation procedures in criminal cases shows that their number cannot be considered satisfactory. Approximately only 4,000 out of over 300,000 cases heard in common courts of first instance are referred to mediation annually.¹⁰ These modest figures may nonetheless appear positive when compared to the interest shown in mediation at the stage of penal enforcement proceedings. Post-sentence mediation is practically non-existent in Poland. Attempts to insert it formally into the Penal Enforcement Code should ultimately be viewed as unsuccessful, as further elaborated below.

Studies carried out among potential participants in post-sentence mediation show that there is a potential need for such a solution. By way of illustration, a study carried out in Poland in 2010 showed that the majority of persons serving a penalty (particularly those involving deprivation of liberty, but also non-custodial sentences) express intention of reaching a settlement agreement with the victim.¹¹ A Polish study conducted a decade ago showed that the majority of the persons surveyed were open to concluding a settlement agreement in many hypothetical situations of being harmed by crime.¹²

⁹ John Paul II, *Message of His Holiness John Paul II for The Jubilee in Prisons*. 24 June 2000, 5.

¹⁰ “Opracowania wieloletnie,” GUS, accessed September 6, 2021, <https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/> and “Roczniki statystyczne GUS,” GUS, accessed September 6, 2021, <https://isws.ms.gov.pl/pl/baza-statystyczna/roczniki-statystyczne-gus/>.

¹¹ Olga Sitarz, Anna Jaworska-Wieloch, Dominika Lorek, Anna Sołtysiak-Błachnik and Piotr Zawiejski, “Mediacje karne w opiniach stron postępowania oraz sędziów i prokuratorów – wyniki badań ankietowych. Część II,” *Czasopismo Prawa Karnego i Nauk Penalnych* 16(2012), no. 4: 128.

¹² Olga Sitarz, Anna Jaworska-Wieloch, Dominika Lorek, Anna Sołtysiak-Błachnik and Piotr Zawiejski, “Mediacje karne w opiniach stron postępowania oraz sędziów i prokuratorów – wyniki badań ankietowych. Część I,” *Czasopismo Prawa Karnego i Nauk Penalnych* 16(2012), no. 3: 133–152.

On the whole, victims of crime expected the offender to be punished and awaited, perhaps most of all, redress of damage and restoration of their sense of security. The execution of a penalty of deprivation of liberty does not satisfy these needs.

By contrast, judges and prosecutors showed a sceptical attitude towards restorative justice at the stage of enforcement proceedings. A study carried out among Polish judges in 2004 showed that 70% of those who used mediation at all were against its application at the post-sentencing level, and the percentage of opponents of mediation at the enforcement stage among judges who did not use mediation was even higher – 84%.¹³ In turn, a 2010 study found that judges and prosecutors agree that the enforcement stage is not the time for mediation.¹⁴ Interviews held with judges and prosecutors in 2019 similarly show that they do not see merit in post-sentence mediation.¹⁵ Practitioners attach great importance to the impact of the mediation settlement agreement on the possibility of applying specific legal instruments. It has also been observed that some representatives of the judiciary see a settlement agreement concluded at the enforcement stage as undermining the purposefulness of the imposed penalty.¹⁶ Opinions such as those expressed by Judge Agnieszka Rękas, who draws attention to the role of mediation in preparing convicts for life after release and protecting victims against secondary victimization, are very uncommon.¹⁷

The admissibility of post-sentence mediation in the course of enforcement proceedings is not an indisputable fact in the Polish legal system. The only provision formally referring to that possibility is Art. 162 § 1 of the Polish

¹³ Dobrochna Wójcik, “Poglądy sędziów na temat mediacji w sprawach karnych,” in *Nauki penalne wobec problemów współczesnej przestępczości. Księga jubileuszowa z okazji 70 rocznicy urodzin Profesora Andrzeja Gaberle*, edited by Krzysztof Krajewski (Warszawa–Kraków: Wolters Kluwer, 2007): 563. The author notes that the question in the questionnaire was not precisely worded and many surveyed judges erroneously thought that a positive conclusion of such mediation procedure might entail a review of a final judgment.

¹⁴ Sitarz, Jaworska-Wieloch, Lorek, Sołtysiak-Blachnik and Zawiejski, “Mediacje karne... Część I,” 141.

¹⁵ A series of expert debates held in Katowice between June and September 2019 attended by: Judge Artur Kot from the District Court in Pszczyna, Advocate and Judge Łukasz Baj from the Regional Court in Katowice, Prosecutor Urszula Noras-Cema from the District Prosecutor’s Office in Pszczyna, Prosecutor Jakub Cema from the Regional Prosecutor’s Office in Katowice, Assessor Magdalena Dubas from the District Prosecutor’s Office in Tychy and mediator Aleksandra Skwara.

¹⁶ Wójcik, “Poglądy sędziów,” 563.

¹⁷ Agnieszka Rękas, *Mediacja w polskim prawie karnym* (Warszawa: Ministerstwo Sprawiedliwości, 2011), 14.

Penal Enforcement Code,¹⁸ which recommends that the penitentiary court take into account a settlement agreement concluded as a result of mediation in the course of conditional release proceedings. The significance of this norm raises numerous doubts.¹⁹ Some academic writers argue that Art 162 § 1 of the Penal Enforcement Code mentions a settlement agreement concluded as a result of mediation in preparatory or jurisdictional proceedings. By contrast, other representatives of the doctrine argue that there are no obstacles to the application of Art. 23a of the Polish Code of Criminal Procedure to mediation in enforcement proceedings and that the respective application of Art. 1 § 2 of the Penal Enforcement Code allows the court to refer an enforcement case to mediation.²⁰

Therefore, it should be emphasized that the current state of Polish law on post-sentence mediation remains ambiguous.

Any attempt to make use of statistical data on post-sentence mediation procedures carried out in Poland is doomed to failure. The relevant data are not available for the simple reason that such mediation procedures are not carried out. It seems worthwhile to clarify why such mediation does not exist. Therefore, in this part, we will present our diagnosis of the reasons for the lack of penal mediation after the final judgment. The underlying cause lies in the legal situation set out above. It must be noted that the enforcement procedure, and in particular the execution of a prison sentence, takes a highly formalized form regulated down to the smallest detail. This means that the actual lack of regulation of specific activity in that area results in the lack of that activity at the enforcement stage. The legal shortcomings are often sufficient to justify the lack of interest in post-sentence mediation. We should also note the poor acceptance of conciliatory dispute resolution by the public.

¹⁸ Art. 162. § 1. The Penitentiary Court shall hear a representative of the penitentiary institution administration and a professional probation officer if he submitted the request for conditional release, and take into account a settlement agreement concluded as a result of mediation. In the case of a person convicted for an offense defined in Art. 197–203 of the Criminal Code committed in connection with a disorder of sexual preference, conditional release may not be granted without hearing expert opinion. (...).

¹⁹ Dobrochna Wójcik, “Rola mediacji między pokrzywdzonym a sprawcą przestępstwa,” in *System Prawa Karnego. Tom I. Zagadnienia ogólne*, edited by Andrzej Marek (Warszawa: Wolters Kluwer, 2010): 350–413.

²⁰ Teodor Szymanowski, “Zmiany prawa karnego wykonawczego (o potrzebie i zbędności nowelizacji przepisów),” *Państwo i Prawo* 2(2012): 58; Leszek Osiński, “Art. 162,” in *Kodeks karny wykonawczy. Komentarz*, red. Jerzy Lachowski (Warszawa: C.H. Beck, 2016): 607; Ewa Bieńkowska, *Mediacja w sprawach karnych* (Warszawa: Ministerstwo Sprawiedliwości, 2011), 14–15.

Regardless of the findings of the mentioned surveys indicating a fairly positive attitude to mediation among a large group of persons, the number of mediation procedures in criminal cases before the delivery of a sentence (which is regulated under Polish law) demonstrates a general reluctance to conduct talks between the offender and the victim in particular cases. As indicated above, the persons administering a criminal procedure at the stage of preparatory and court proceedings are also distrustful of mediation, thus a similar attitude is to be expected at the level of the enforcement proceedings.

3. BENEFITS OF POST-SENTENCE MEDIATION

The literature is unanimous regarding the list of beneficiaries of mediation in criminal cases, which includes the victim, the offender, society and the judiciary.²¹ The question is whether this list is relevant in the case of post-sentence mediation – i.e., who may derive benefits from conducting mediation after the judgment in a criminal case becomes final and what such benefits may be. There can be no doubt concerning the benefits obtained by the victim in the case of mediation following a final judgment. In Polish reality, a final verdict does not resolve a conflict, but it often even aggravates it. A final verdict does not in general serve as an effective tool for the victim to obtain compensation or satisfaction. Mediation may eliminate all those inconveniences, adding other benefits (e.g., the ability to name the wrong and then forgive it). Moreover, post-sentence mediation can effectively eliminate the victim's fear of the offender's release. Communication between the victim and the offender and a settlement agreement concluded between them can effectively provide the victim with a sense of security once the offender is released from prison. Similarly, the convict may also derive numerous benefits from mediation conducted at the stage of enforcement proceedings. Talks held with the victim are an opportunity to clarify the reasons and circumstances and to apologize and ask for forgiveness; in short, mediation is an opportunity to resolve a conflict.

All this proves to be essential when the convict and the victim have family, professional or neighbourly links. The convict may take advantage of the potential possibility of the mitigation of penalty or its conditions and, for in-

²¹ Alina-Ştefania Gorghiu, "Perception of Civil Society on Mediation in Criminal Matters," *Procedia – Social and Behavioral Sciences* 92(2013): 364–368.

stance, of limiting the consequences of conviction (e.g. deletion of penalty in one's criminal records). Post-sentence mediation may also bring benefits to the convict's family who bear lower emotional and economic costs of conviction as a result of the mitigation of a penalty. The two parties in the conflict receive a strong signal that the conflict can indeed be resolved at every stage – even when the case is apparently over and the sentence is delivered. The benefit gained by the judiciary consists in lower costs for enforcing the penalty and other penal measures in the event where a decision to mitigate the penalty is made as a result of a settlement agreement. Finally, society as a whole benefits from a post-sentence settlement agreement at the micro- and macro-scale.

As regards the educational and correctional values, post-sentence mediation may have a profound rehabilitative dimension. The offender comes to understand that the justice system is effective, and the penalty is inevitable and, at the same time, realizes that the negative consequences of previous wrong/unwise decisions may be minimized by his or her attitude and actions. Effective rehabilitation means not returning to a criminal lifestyle in the future, i.e., increased objective social security. It is necessary to examine in detail the effectiveness of mediation as a form of rehabilitation, but for this to be the case, mediation must come into practice in the penitentiary and probation spheres.

Further, it may be very important for many people (not only for victims) that mediation does not relieve the convict of having to bear the consequences of the committed crime, but it only aims to bring the conflict arising from the prohibited act to an end, making the convict aware of the harm inflicted on the victim.

4. FORGIVENESS, SATISFACTION, AND RECONCILIATION IN LIGHT OF THE ROMAN CATHOLIC CHURCH'S TEACHING

Man is a social being, and conflicts are a natural and inevitable element of interpersonal relationships both in the state and in the Church.²² Forgiveness and satisfaction, as concepts, are closely related to many religions and denominations, including the Roman Catholic Church. Already in post-apostolic times, an element of conversion was, among others, forgiveness of

²² Broński, "Duchowny jako mediator," 112.

the sinner and compensation. The same elements, as well as reconciliation, became the essence of the sacrament of penance in subsequent years. Nowadays, righting a wrong is one of the forms of compensation. According to the Catechism of the Catholic Church,²³ many sins cause harm to others. Therefore, it is necessary first, if possible, to return stolen things, to restore the good name of the slandered, and to heal the wounds inflicted on others.²⁴

According to the words of St. John Paul II, criminal punishment should be just, but it cannot be a blind instrument of justice. It must be open to forgiveness, mercy, and the improvement of the condemned person. However, progress is possible only when the moral value of the crime is recognized and the public acknowledges someone's guilt and the culpability of the act. Only then can repentance evoke the guilty to decide to change their attitude towards legal norms.²⁵ Forgiveness and satisfaction are interrelated concepts, and their specific relationship is the subject of investigation in many religions. The following are exemplary statements of representatives of Roman Catholicism, without in-depth theological analyses, because it is this image of the Church (based on Sacred Scripture and public enunciations of theologians) that is available to the public, and therefore, to victims and offenders.²⁶

The obvious conclusion is that, in the Roman Catholic Church, the idea of a peaceful settlement of disputes is anchored in canon law. In can. 1446 § 2, a rule was established that “Whenever the judge perceives some hope of a favourable outcome at the start of litigation or even at any other time, the judge is not to neglect to encourage and assist the parties to collaborate in seeking an equitable solution to the controversy and to indicate to them suitable means to this end, even by using reputable persons for mediation.” At the same time, if the litigation concerns the private good of the parties, the judge is to discern whether the controversy can be concluded advantageously by an agreement or the judgment of arbitrators (can. 1446 § 3). Importantly, an offender who has truly repented of the delict and has also made suitable reparation for damages and scandal or at least has seriously promised to do

²³ *Catechism of the Catholic Church*, accessed September 1, 2021. https://www.vatican.va/archive/ENG0015/_INDEX.HTM.

²⁴ Zbigniew Janczewski, “Sprawowanie sakramentu pokuty i pojednania w świetle prawa kanonicznego i liturgicznego z uwzględnieniem specyfiki warunków polskich”, *Prawo Kanoniczne* 49(2006), no. 1–2: 172–173, 183.

²⁵ Filip Cieply, “Kara kryminalna i jej wykonanie w świetle nauczania Jana Pawła II,” in *Zagadnienia prawa karnego na tle nauczania Jana Pawła II*, edited by Alicja Grześkowiak (Lublin: Wydawnictwo KUL, 2006), 235–262.

²⁶ Frise, McMinn, “Forgiveness,” 83–90 and Bash, “Forgiveness,” 58–72.

so must be considered as having withdrawn from contumacy (can. 1347 § 2). Therefore, the canonical procedural regulation included – as a Christian feature common to the life of all the faithful in the Church – the obligation to exclude the spirit of contention (e.g., Titus 3:1–2; 1 Tim 3:3; 2 Tim 2:23–24), which should be replaced by the spirit of kindness and clemency (e.g., 1 Cor 13:4–7).²⁷ There is no doubt, however, that the words of Sacred Scripture are more important and the statements by Church representatives more readable for believers.

Mt 18:21–22 cites Peter asking Jesus how many times he shall forgive his brother who sins against him – up to seven times? Jesus responds: “I tell you, not just seven times, but seventy-seven times!” In Peter’s belief, the number 7 must have meant very great forbearance, especially since the rabbis taught that God forgives sins up to three times.²⁸ The hyperbole used by Jesus is obviously not intended to limit forgiveness only to a high level of seventy-seven cases, but it certainly indicates an attitude of limitless willingness to forgive a brother’s faults.²⁹ It must be recalled that number 77 meant infinity in the Hebrew tradition, and the Greek text allows both translations of this fragment as 77 and 70 times 7.³⁰ In the Gospel according to St. Luke, we find an analogous statement by Jesus: “If your brother sins against you, rebuke him. If he repents, forgive him. If he sins against you seven times in the day, and seven times turns again, saying, *I repent*, you shall forgive him” (Luke 17:3–4). Based on these parables, it is indicated that forgiveness, being a free act of love, does not contradict the dictates of justice, although it is not exhausted in them. It is a kind of grace granted, surpassing all justice.³¹

Jesus’ teaching closely links God’s forgiveness with the prior mutual forgiveness that occurs between people. This is reflected in an earlier passage of the same Gospel of St. Matthew (Mt 6:14–15): “For if you forgive other people when they sin against you, your heavenly Father will also forgive

²⁷ Cenalmor, Miras, *Prawo kanoniczne*, 473.

²⁸ Marian Wolniewicz, “Ewangelia według świętego Mateusza,” in *Biblia. Pismo Święte Starego i Nowego Testamentu*, edited by Michał Peter, Marian Wolniewicz (Warszawa: Wydawnictwo Święty Wojciech, 2009), 53.

²⁹ Curtis Mitch, Edward Sri, *Catholic Commentary on Sacred Scripture. The Gospel of Matthew* (Grand Rapids: Baker Academic, 2010), 233.

³⁰ Wolniewicz, “Ewangelia według świętego Mateusza,” 53.

³¹ Piotr Ochotny, “*Nie mówię ci, że aż 7 razy, lecz aż 77 razy (Mt 18, 22)*. Czy przebaczenie można nakazać? Przebaczenie aktem sprawiedliwości czy miłości?” *Warszawskie Studia Pastoralne* 35(2017), no. 2: 97.

you. But if you do not forgive others their sins, your Father will not forgive your sins.” Importantly, this admonition appears in the *Our Father* prayer, where the following words are uttered: “And forgive us our debts, as we also have forgiven our debtors.” The Catechism of the Catholic Church, commenting on these words, recalls the thoughts of St. Cyprian that the greatest sacrifice for God is peace, harmony, and unity among all faithful people.³² Therefore, the People of God is established by Christ as a community of life, love, and truth; it is sent into the world as an instrument of salvation for all people.³³ A stronger thesis is put forward by Włodzimierz Broński, who claims that the commandment of love requires that every conflict be resolved in the spirit of reconciliation and forgiveness. What matters above all is that cooperation between members of the Church is restored, not that the one who is right in the dispute wins.³⁴

In the apostolic exhortation *Reconciliatio et Penitentia*, St. John Paul II reminds us that Jesus repeatedly places great emphasis on fraternal reconciliation – e.g., when he encourages us to turn the other cheek to someone who has hit us, to give our cloak to someone who has taken our robe (Mt 5:38–40), or to forgive even one’s enemies (Mt 5:43–48).³⁵ Reconciliation with God, with oneself and with others involves overcoming a radical break, the source of which is sin. Reconciliation understood in this way can only be achieved through interior transformation, meaning conversion.³⁶ Acts of reconciliation serve to resolve the many tensions, overcome the many conflicts and conquer the divisions both large and small by restoring unity.³⁷ Conversion and reconciliation are not just lofty abstract concepts, but are concrete Christian values that can be achieved in our daily lives.³⁸ The Pope also emphasized very strongly: “But reconciliation cannot be less profound than the division itself.”³⁹

A Christian who is an authentic witness of the Gospel should not feel compelled to forgive his neighbour only on account of fear of losing salvation or fear of God’s wrath. A Christian forgives his neighbour because in

³² *Catechism of the Catholic Church*, 2845.

³³ Jan Dyduch, “Rola Kodeksu Prawa Kanonicznego 1983 w realizowaniu misji Kościoła,” *Prawo Kanoniczne* 57(2014), no. 1: 24.

³⁴ Broński, “Duchowny jako mediator,” 112.

³⁵ John Paul II, Exhortation *Reconciliation and Penance*, 26.

³⁶ *Ibidem*, 4.

³⁷ *Ibidem*, 4.

³⁸ *Ibidem*, 22.

³⁹ *Ibidem*, 3.

that way he imitates the Creator himself. Jesus recalls that truth in the Parable of the Prodigal Son in which the father forgives his younger son's wild living and squandering the portion of the estate that he was to inherit.⁴⁰ That image is found in the Gospel according to Luke, Chapter 15. It is not without reason that this chapter in Luke is called "The Gospel within the Gospel."⁴¹

The Good News of God's Kingdom does not leave a doubt that a Christian is called to radical forgiveness. It includes cases of forgiving someone who unintentionally caused a great tragedy and situations involving someone who has deliberately done wrong and does not regret it at all. James Martin is right when he reminds us that only forgiveness is the liberation of both (differing) parties, and when he draws attention to the fact that the crucified Jesus understands the human effort to forgive like no one else. He himself, even in the greatest desolation, prays for his tormentors: "Father, forgive them; for they know not what they do" (Luke 23:34).⁴² Both the Old and New Testaments contain numerous other examples showing clearly the Judeo-Christian attitude of openness to forgiving our neighbour his transgressions.

The teaching of the Roman Catholic Church that draws on, for instance, the passages of the Gospels cited above, at the turn of the 21st century focuses particularly on the issue of Divine Mercy – the main truth of faith about God's greatest attribute that consists of forgiving sinners their faults.⁴³ Mercy is more than mere compassion or pity – it is the deep hope that everything can still be saved.⁴⁴ As Cardinal Grzegorz Ryś rightly points out, mercy is given to create an opportunity for man to change – it is hope for the future. Meanwhile, justice is a settlement with the past and does not, in essence, change a person. It is only satisfaction for the one who metes it out.⁴⁵

Mercy is one of the essential components of the pastoral reflection of numerous popes. His Holiness Pope Francis observes in his Encyclical *Fratelli tutti* that "Forgiveness and reconciliation are central themes in Christi-

⁴⁰ See the interesting (re)interpretation proposed by Andrzej Draguła, *Syn marnotrawny. Biografia ocalenia*, (Warszawa: Więź, 2023).

⁴¹ Grzegorz Ryś, *Skandal miłosierdzia* (Kraków: Wydawnictwo WAM, 2019), 46.

⁴² James Martin, *Siedem ostatnich słów Jezusa* (Poznań: Wydawnictwo Święty Wojciech, 2016), 17, 20–21.

⁴³ Walter Kasper, *Mercy. The Essence of the Gospel and the Key to Christian Life* (New York: Paulist Press, 2014), 6–9.

⁴⁴ Józef Tischner, *Drogi i bezdroża miłosierdzia* (Kraków: Znak, 2015), 26–28.

⁴⁵ Grzegorz Ryś, *Skandal miłosierdzia*, 67–69.

anity and, in various ways, in other religions.”⁴⁶ However, it must be recalled that “If a criminal has harmed me or a loved one, no one can forbid me from demanding justice and ensuring that this person – or anyone else – will not harm me, or others, again. This is entirely just; forgiveness does not forbid it but actually demands it.”⁴⁷ In the apostolic exhortation *Evangelii Gaudium*, the Pope warns that those who have been wounded by past divisions may not accept an invitation to forgive and reconcile because they are convinced, that those who encourage them to do so forget about their pain and disregard their memory and ideals. However, if they see the testimony of truly fraternal and reconciled communities, it is like a light that attracts them.⁴⁸ The idea of mediation, although not explicitly expressed by the present pope, is nonetheless present in his considerations, in particular when he emphasizes that “Authentic reconciliation does not flee from conflict, but is achieved in conflict, resolving it through dialogue and open, honest and patient negotiation.”⁴⁹ Moreover,

Those who truly forgive do not forget. Instead, they choose not to yield to the same destructive force that caused them so much suffering. They break the vicious circle; they halt the advance of the forces of destruction. They choose not to spread in society the spirit of revenge that will sooner or later return to take its toll. Revenge never truly satisfies victims. Some crimes are so horrendous and cruel that the punishment of those who perpetrated them does not serve to repair the harm done. Even killing the criminal would not be enough, nor could any form of torture prove commensurate with the sufferings inflicted on the victim. Revenge resolves nothing.⁵⁰

Justice (identified with satisfaction and atonement for sins) does not exclude mercy (for which forgiveness is a synonym). Pope Francis recalled this in the solemn bull on the occasion of announcing the Extraordinary Jubilee of Mercy – *Misericordiae Vultus*: “But mere justice is not enough. Experience shows that an appeal to justice alone will result in its destruction. This is why God goes beyond justice with his mercy and forgiveness.”⁵¹ Justice

⁴⁶ Francis, Encyclical *Fratelli tutti*, 237.

⁴⁷ Francis, *Fratelli tutti*, 241.

⁴⁸ Francis, Exhortation *Evangelii Gaudium*, 100.

⁴⁹ Francis, *Fratelli tutti*, 244.

⁵⁰ Francis, *Fratelli tutti*, 251.

⁵¹ Francis, Bull of indiction of the Extraordinary Jubilee of Mercy *Misericordiae Vultus*, 21.

alone is insufficient to rebuild or heal interpersonal relationships. It is therefore necessary to either find something more or apply justice differently.⁵²

These considerations represent the continuation of the teaching of St. Pope John Paul II, who indicated in his Encyclical *Dives in Misericordia* that

Society can become ever more human only when we introduce into all the mutual relationships which form its moral aspect the moment of forgiveness, which is so much of the essence of the Gospel. Forgiveness demonstrates the presence in the world of love which is more powerful than sin. Forgiveness is also the fundamental condition for reconciliation, not only in the relationship of God with man, but also in relationships between people.⁵³

The Pope also reminded that

justice alone is not enough, that it can even lead to the negation and destruction of itself, if that deeper power, which is love, is not allowed to shape human life in its various dimensions. It has been precisely historical experience that, among other things, has led to the formulation of the saying: *summum ius, summa iniuria*. This statement does not detract from the value of justice and does not minimize the significance of the order that is based upon it; it only indicates, under another aspect, the need to draw from the powers of the spirit which condition the very order of justice, powers which are still more profound.⁵⁴

The attitude of the Roman Catholic Church does not focus exclusively on the Christian readiness to forgive. The act of forgiveness entails the necessity to make reparation for the wrong done. The Roman Catholic Church does not diminish this aspect, establishing compensation, among others, as a condition of a good confession that consists of “making satisfaction to God and to our neighbour.” The Catechism of the Catholic Church is precise and instructive in that respect: “Many sins wrong our neighbour. One must do what is possible in order to repair the harm (...). Simple justice requires as much,”⁵⁵ as well as “Every offense committed against justice and truth entails the duty of reparation, even if its author has been forgiven.”⁵⁶ The

⁵² Zdzisław Józef Kijas, “Między sprawiedliwością a miłosierdziem. Od Jana Pawła II do Franciszka,” in *Miłosierdzie a odpowiedzialność*, edited by Zdzisław Józef Kijas, Agnieszka Hannel-Brzozowska (Kraków: Wydawnictwo Scriptum, 2018), 27.

⁵³ John Paul II, Encyclical *Dives in Misericordia*, 14.

⁵⁴ John Paul II, *Dives in Misericordia*, 12.

⁵⁵ *Catechism of the Catholic Church*, 1459.

⁵⁶ *Catechism of the Catholic Church*, 2487.

words of the Polish Pope from the Encyclical cited above may be the most accurate exemplification of the above arguments:

Properly understood, justice constitutes, so to speak, the goal of forgiveness. In no passage of the Gospel message does forgiveness, or mercy as its source, mean indulgence towards evil, towards scandals, towards injury or insult. In any case, reparation for evil and scandal, compensation for injury, and satisfaction for insult are conditions for forgiveness.⁵⁷

Jan Kazimierz Przybyłowski put it aptly when he wrote: “For Christians, forgiveness is associated with a call to specific action. This results from the command of Jesus, who does not say: *wait for someone to come*, but commands his apostles: *go!*”⁵⁸

Guided by the spirit of the Second Vatican Council, the Roman Catholic Church is an encouraging, instructing (and not only chastising) mother who strongly encourages unlimited forgiveness and readiness to redress wrongs done, which seems to correspond closely to the idea of restorative justice, with mediation as its tangible emanation. The enforcement of a penalty does not constitute an obstacle to that. Yet the Church must constantly raise awareness of the issues related to forgiveness and reconciliation to enhance the chances for the initiation of possible mediation procedures. It is crucial to gain the commitment and ensure the respective formation of parishes that may carry out evangelizing activities in prisons, create parish support groups for those serving a penalty of imprisonment and render post-penitentiary assistance, in particular where such a penitentiary institution lies within the parish.⁵⁹

Therefore, the attitude of the Roman Catholic Church does not oppose the idea of forgiveness, reconciliation, and redress of the harm done, which is the very essence of mediation. On the contrary, it is a long way ahead of the assumptions of restorative justice widely promoted only in the second half of the 20th century. In this context, Jan Kazimierz Przybyłowski rightly points out that in Christianity, forgiveness is inseparable from justice and complements it by transforming both the forgiver and the person being forgiven.⁶⁰

⁵⁷ John Paul II, *Dives in Misericordia*, 14.

⁵⁸ Jan Kazimierz Przybyłowski, “Przebaczenie chrześcijańskie a sprawiedliwość,” *Studia Włocławskie* 24(2022), 280.

⁵⁹ Kirk Blackard, “Transformative Incarceration,” in *Redemption and Restoration. A Catholic Perspective on Restorative Justice*, edited by Trudy D. Conway, David Matzko McCarthy and Vicki Schieber (Collegeville: Liturgical Press, 2017), 207–223.

⁶⁰ Przybyłowski, “Przebaczenie chrześcijańskie a sprawiedliwość,” 281.

The determination of the significance of redressing the damage and forgiveness in light of the Roman Catholic Church allows raising a question regarding the place of Christianity and the Roman Catholic Church in the modern world and the lives of convicts. Only the attachment to a specific religion by the parties in a conflict entitles researchers and practitioners to refer to the rules of that religion.

This belief is confirmed by statistical data. It should be noted that in 2006, religion was perceived by Poles as an important element of their daily existence. Over three-quarters of respondents (77%) assessed its role in their life as important, including over two-fifths (44%) who viewed it as very important. Every eighth respondent (12%) declared that religion does not have a significant meaning in their life, and only four out of a hundred (4%) discredited it entirely.⁶¹ The share of people identifying as believers has been decreasing very slowly and systematically for ten years, but still exceeds 90% (in 2020 it was 91%). However, it is worth emphasizing that the percentage of deeply religious people has remained stable since 2011, and it is 8%.⁶²

Religion plays an important role in the life of convicts. As has been repeatedly emphasized, religion naturally fits into the system of legal solutions and the practice of rehabilitation activities.⁶³ As with other traumatic experiences, long-term isolation from society means that faith in God and the possibility of performing religious practices may be a basic or supportive instrument for convicts to survive in a situation of deprivation, dysfunction and conflict.⁶⁴ That is hardly surprising given that the universal religious functions in the life of the individual include adding deeper meaning to existence, strengthening their sense of security, allaying fears, and creating community bonds.⁶⁵ The positive impact of religion on convicts during in-

⁶¹ See "Znaczenie religii w życiu Polaków. Komunikat z Badań," Centrum Badania Opinii Społecznej, accessed November 5, 2023, https://www.cbos.pl/SPISKOM.POL/2006/K_081_06.PDF.

⁶² See "Religijność Polaków w ostatnich 20 latach. Komunikat z Badań, Centrum Badania Opinii Społecznej," Centrum Badania Opinii Społecznej, accessed November 5, 2023, https://cbos.pl/SPISKOM.POL/2020/K_063_20.PDF. Cf. Janczewski, "Sprawowanie sakramentu pokuty," 171–172.

⁶³ Jan Dezyderiusz Pol, "Czy religia jest w więzieniu koniecznie potrzebna?" accessed September 6, 2021, <http://jandzyderiuszpol.pl/publication/view/czy-religia-jest-w-wiezieniu-potrzebna/>.

⁶⁴ Jacques Fesch, *Za pięć godzin zobaczę Jezusa. Dziennik więzienny* (Poznań: W Drodze, 1992), 83.

⁶⁵ Emilia Zimnica-Kuzioła, "Główne stanowiska w psychologii religii – wprowadzenie," *Kultura i Wartości* 1(2012): 58.

carceration is also discussed by Arkadiusz Urbanek⁶⁶ as well as Elżbieta Panek and Anna Panek.⁶⁷ The latter researchers indicate that religion may be an effective means of supporting rehabilitation and even its important building block. It positively affects the evolution of convicts' often amoral attitudes and a change in their axiological system. Following the system transformation in Poland, religion gained considerable significance as an effective instrument facilitating the correction of convicts' attitudes and behaviour due to the heightened activity of prison chaplains. Moreover, it is highlighted in the Christian literature that new studies confirm what our pastoral experience has demonstrated: that physical, behavioural, and emotional healing happens sooner and with more lasting results if it is accompanied by spiritual healing.⁶⁸

The above remarks are all the more important as numerous studies show that believers invariably make up approximately 90% of Polish society,⁶⁹ the majority of whom are Christians of the Roman Catholic Church. At the same time, a study conducted by Zbigniew Lasocik in 1989 showed that 83% of convicts in Poland are believers.⁷⁰ The findings of a 2016 study were similar: 88% of persons placed in closed prisons and 92% in semi-open prisons declared themselves as believers – Christians of the Roman Catholic Church.⁷¹

⁶⁶ Arkadiusz Urbanek, "Miejsce aktywności religijnej więźniów w teleologii pedagogiki resocjalizacyjnej na podstawie badań prowadzonych w wybranych zakładach karnych," *Zeszyty Naukowe Państwowej Wyższej Szkoły Zawodowej im. Witelona w Legnicy* 2(2007): 184.

⁶⁷ Elżbieta Panek, Anna Panek, "W Tobie jest źródło życia i w twojej światłości [...] światłość". Wiara i religia w perspektywie resocjalizacji skazanych," *Profilaktyka Społeczna i Resocjalizacja* 31–32(2016): 15.

⁶⁸ "Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice."

⁶⁹ See: "Zmiany w zakresie podstawowych wskaźników religijności Polaków po śmierci Jana Pawła II. Komunikat z badań 2015," Centrum Badań Opinii Społecznej, accessed September 6, 2021, http://www.cbos.pl/SPISKOM.POL/2015/K_026_15.PDF; "Życie religijne w Polsce. Wyniki Badania spójności społecznej 2018," GUS, accessed September 6, 2021, https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5500/8/1/1/zycie_religijne_w_polsce_wyniki_badania_spojnosci_spolecznej_2018.pdf+&cd=1&hl=pl&ct=clnk&gl=pl&client=safari.

⁷⁰ Zbigniew Lasocik, *Praktyki religijne więźniów* (Warszawa: Państwowe Wydawnictwo Naukowe, 1993), 131.

⁷¹ Anna Jaworska-Wieloch, Olga Sitarz, "Prawa osadzonych w praktyce penitencjarnej w świetle ustalonych porządków wewnętrznych wybranych jednostek penitencjarnych i ich konfrontacja z orzecznictwem ETPCz," *Archiwum Kryminologii* 40(2018): 459–493.

5. FINAL THESES

Catholic ethics stressed the importance of satisfaction for the idea of justice as early as a century ago. It was argued that there are only two grounds for exemption from this obligation:

- 1) release from satisfaction granted by the victim and
- 2) physical or moral impossibility of satisfaction, which only leads to the suspension of the obligation until the obstacle ceases to exist.⁷²

It is emphasized that, even in the Old Testament, punishment, although severe, was not a plain affliction or revenge. Its essence was to repair what was destroyed and restore the perpetrator to society.⁷³ By contrast, the New Testament is filled with the idea of peace denoted by the word *shalom*. All of Jesus' activity and teaching referred to the introduction of *shalom*. In the opinion of Mary Katherine Birge,

like Jesus' own work to establish the kingdom of God, to bring about the fullness of "shalom" through the practice of right relationships and the healing of those people who are "broken," restorative justice focuses on the present and future needs of the victim and society in order to repair what has been broken or stolen from the victim, to bring the perpetrator to acceptance of responsibility, and to mend the threads that hold society together.⁷⁴

In view of the above remarks, it should be emphasized that – in light of the teachings of St. John Paul II – forgiveness does not destroy the objective requirements of justice.⁷⁵ According to Daniel Cenalmor and Jorge Miras, there is no doubt that whenever possible, it is better to use a peaceful and conciliatory solution than to choose a dispute. The latter, until it is resolved, prolongs the state of conflict and may expose the conflicting parties – considering the shortcomings resulting from the weakness of human nature – to wounds inflicted on communion, at least on the emotional level. A dispute

⁷² Józef Lubelski, *Etyka katolicka. Podręcznik dla szkół średnich* (Tarnów: Z drukarni Zygmunta Jelenia w Tarnowie, 1931), 126–127; Maciej Sieniatycki, *Etyka katolicka. Podręcznik szkolny* (Kraków: Nakładem Księgarni Krakowskiej, 1925), 148–151.

⁷³ Richard Buck, "Restorative Justice in the Hebrew Biblical Tradition," in *Redemption and Restoration. A Catholic Perspective on Restorative Justice*, edited by Trudy D. Conway, David Matzko McCarthy and Vicki Schieber (Collegeville: Liturgical Press, 2017), 97.

⁷⁴ Mary Katherine Birge, "Jesus, the Kingdom of God, and Restorative Justice," in *Redemption and Restoration. A Catholic Perspective on Restorative Justice*, edited by Trudy D. Conway, David Matzko McCarthy and Vicki Schieber (Collegeville: Liturgical Press, 2017), 106.

⁷⁵ John Paul II, *Encyclical Dives in Misericordia*, 14.

may therefore make it more difficult to repair this weakening of communion once the trial is complete. As the authors point out, this is not an incentive to waive rights or neglect obligations in order to avoid disputes at all costs. The point is to emphasize that court disputes should be a measure of last resort. In the opinion of these authors, the canonical legislator knows that any hypothetical consent maintained based on situations that are unjust or in any way harmful to the Church would not be true peace, but, at most, a superficial appearance of the absence of conflicts having little in common with communion.⁷⁶ Once again we should recall the words of St. John Paul II, who indicated that

A world from which forgiveness was eliminated would be nothing but a world of cold and unfeeling justice, in the name of which each person would claim his or her own rights vis-a- vis others; the various kinds of selfishness latent in man would transform life and human society into a system of oppression of the weak by the strong, or into an arena of permanent strife between one group and another.⁷⁷

American bishops claim that restorative practices recognize that we are relational beings and that the key issue when conflict or wrongdoing occurs is the harm that is caused to people and relationships, including the obligations that follow from that harm. The restorative approach helps us build and nurture relationships in schools and provides the means to work to repair relationships when things go wrong. The relational nature of restorative practices reflects the relational nature of the Old and New Testament visions of justice. Restorative practices allow us to be true to the somewhat paradoxical view of justice, mercy, and compassion that stems from our Catholic tradition and reflects the major tenets of the Church's Social Teaching. Restorative practices are congruent with the view of justice as rightly ordered relationships with ourselves, with others, and with God.⁷⁸

Theologians recall that from the perspective of restorative justice, the four traditional elements of the sacrament of Penance have much to teach us about taking responsibility, making amends, and reintegration into the community:

⁷⁶ Cenalmor, Miras, *Prawo kanoniczne*, 473.

⁷⁷ John Paul II, *Dives in Misericordia*, 14.

⁷⁸ George Graeme, "Restorative Practices in a Catholic School", *Just Relationships*, accessed September 6, 2021, <http://www.rpforschools.net/Just%20Relationships%20RP%20in%20a%20Catholic%20School.pdf>

- **“Contrition:** genuine sorrow, regret, or grief over one’s wrongs and a serious resolution not to repeat the wrong;
- **Confession:** clear acknowledgment and true acceptance of responsibility for the hurtful behaviour;
- **Satisfaction:** the external sign of one’s desire to amend one’s life (this ‘satisfaction,’ whether in the form of prayers or good deeds, is a form of ‘compensation’ or restitution for the wrongs or harms caused by one’s sin);
- **Absolution:** after someone has shown contrition, acknowledged his or her sin, and offered satisfaction, then Jesus, through the ministry of the priest and in the company of the church community, forgives the sin and welcomes that person back into ‘communion’.”⁷⁹

Attention is also drawn to St. Thomas Aquinas, who taught that punishment of wrongdoers is justified in the Catholic tradition, but is never justified for its own sake. A compassionate community and a loving God seek accountability and correction but not suffering for its own sake. Punishment must have a constructive and redemptive purpose.⁸⁰

Finally, The Catechism of the Catholic Church may not be overlooked as an essential guide for modern Catholics. It prescribes that punishment by civil authorities for criminal activity should serve three principal purposes: (1) the preservation and protection of the common good of society, (2) the restoration of public order, and (3) the restoration or conversion of the offender.⁸¹

Overall, the social significance of conflict resolution, and thus mediation as one of the best paths leading to such a resolution, impels one to warmly welcome the words of Catholic theologians. They teach that restorative justice practices were present in the days of the early church and reflect the most basic tenets of Catholic Social Teaching also reflected in Sacred Scripture:

- Human life and dignity are sacred
- Our participation in the community is a responsibility and right
- We are called to strengthen and nurture the family
- We respect human rights
- The needs of the poor and vulnerable come first
- We pursue peace and justice
- We care for all of God’s creation.⁸²

⁷⁹ “Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice.”

⁸⁰ Ibidem.

⁸¹ Ibidem.

⁸² “What is Restorative Justice ?” Roman Catholic Diocese of Orange, accessed September 6, 2021, <https://www.rcbo.org/resource/what-is-restorative-justice/>.

Regardless of the number of followers of the Christian religion or the Roman Catholic Church in a given country, the moral teaching of that Church certainly has a huge impact on social attitudes in a large number of countries and even on the legal orders of many of them.

The attitude of the Roman Catholic Church should therefore become another reason for the wider use of mediation in criminal cases, also at the enforcement stage. Theologian Jan Orzeszyna quotes the theses of sociologists that what is socially aware functions in the social dimension.⁸³ Continuing this thought, we would like to ask whether the Church should support post-sentence victim-offender mediation. In our opinion, yes, because in the theological layer of reflection, there are solid foundations for it. The analysis carried out shows that the attitude of asking for forgiveness and forgiving is very closely related to the teaching of the Roman Catholic Church. For Christians themselves, the supreme mediator is Jesus Christ, who is called “the Mediator” in Sacred Scripture.⁸⁴

BIBLIOGRAPHY

- Bash, Anthony. “Forgiveness, Reconciliation and Spirituality. A Theological Perspective.” *Journal for the Study of Spirituality* 4(2014), no. 1: 58–72.
- Bieńkowska, Ewa. *Mediacja w sprawach karnych*. Warszawa: Ministerstwo Sprawiedliwości, 2011.
- Birge, Mary Katherine. “Jesus, the Kingdom of God, and Restorative Justice.” In *Redemption and Restoration. A Catholic Perspective on Restorative Justice*, edited by Trudy D. Conway, David Matzko McCarthy and Vicki Schieber, 103-113. Collegeville: Liturgical Press, 2017.
- Blackard, Kirk. “Transformative Incarceration.” In *Redemption and Restoration. A Catholic Perspective on Restorative Justice*, edited by Trudy D. Conway, David Matzko McCarthy and Vicki Schieber, 207–223. Collegeville: Liturgical Press, 2017.
- Broński, Włodzimierz. “Duchowny jako mediator.” *Studia z Prawa Wyznaniowego* 24(2021): 109–128.
- Buck, Richard. “Restorative Justice in the Hebrew Biblical Tradition.” In *Redemption and Restoration. A Catholic Perspective on Restorative Justice*, edited by Trudy D. Conway, David Matzko McCarthy and Vicki Schieber, 88-97. Collegeville: Liturgical Press, 2017.
- Burchard, Łukasz. “Kształtowanie się pojęcia przestępstwa w systemie prawa kanonicznego.” *Łódzkie Studia Teologiczne* 23(2014), no. 2: 39–65.
- Catechism of the Catholic Church*. Accessed September 1, 2021. https://www.vatican.va/archive/ENG0015/_INDEX.HTM.

⁸³ Orzeszyna, “Teologia,” 70.

⁸⁴ Broński, “Duchowny jako mediator,” 113.

- Cenalmor, Daniel, Jorge Miras, *Prawo kanoniczne*. Warszawa: Wolters Kluwer, 2022.
- Cieply, Filip. "Kara kryminalna i jej wykonanie w świetle nauczania Jana Pawła II." In *Zagadnienia prawa karnego na tle nauczania Jana Pawła II*, edited by Alicja Grześkowiak, 235–262. Lublin: Wydawnictwo KUL, 2006.
- Czaczkowska, Ewa K. *Prymas Wyszyński. Wiara, nadzieja, miłość*. Kraków: Znak, 2020.
- Dębski, Ryszard., red. *System Prawa Karnego. Tom III. Nauka o przestępstwie*. Warszawa: C.H. Beck, 2013.
- "Dispute Resolution Processes." American Bar Association. Accessed September 6, 2021. https://www.americanbar.org/groups/dispute_resolution/resources/DisputeResolutionProcesses/.
- Draguła, Andrzej. *Syn marnotrawny. Biografia ocalenia*. Warszawa: Więź, 2023.
- Dyduch, Jan. "Rola Kodeksu Prawa Kanonicznego 1983 w realizowaniu misji Kościoła." *Prawo Kanoniczne* 57(2014), no. 1: 23–37.
- Fesch, Jacques. *Za pięć godzin zobaczę Jezusa. Dziennik więzienny*. Poznań: W Drodze, 1992.
- Francis, Bull of indiction of the Extraordinary Jubilee of Mercy *Misericordiae Vultus*. Accessed October 25, 2023. https://www.vatican.va/content/francesco/en/apost_letters/documents/papa-francesco_bolla_20150411_misericordiae-vultus.html.
- Francis, Encyclical *Fratelli tutti*. Accessed September 1, 2021. https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20201003_enciclica-fratelli-tutti.html.
- Francis, Exhortation *Evangelii Gaudium*. Accessed October 24, 2023. https://www.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html.
- Frise, Nathan R., Mark R. McMinn. "Forgiveness and Reconciliation: The Differing Perspectives of Psychologists and Christian Theologians." *Journal of Psychology and Theology* 38(2010), no 2: 83–90.
- Graeme, George. "Restorative Practices in a Catholic School." Just Relationships. Accessed September 6, 2021. <http://www.rpforschools.net/Just%20Relationships%20RP%20in%20a%20Catholic%20School.pdf>.
- Gorghiu, Alina-Ştefania. "Perception of Civil Society on Mediation in Criminal Matters." *Procedia – Social and Behavioral Sciences* 92(2013): 364–368.
- Janczewski, Zbigniew. "Sprawowanie sakramentu pokuty i pojednania w świetle prawa kanonicznego i liturgicznego z uwzględnieniem specyfiki warunków polskich." *Prawo Kanoniczne* 49(2006), no. 1-2: 171–194.
- Jaworska-Wieloch, Anna, Olga Sitarz. "Prawa osadzonych w praktyce penitencjarnej w świetle ustalonych porządków wewnętrznych wybranych jednostek penitencjarnych i ich konfrontacja z orzecznictwem ETPCz." *Archiwum Kryminologii* 40(2018): 459–493.
- John Paul II. Encyclical *Dives in Misericordia*. Accessed September 1, 2021. https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_30111980_dives-in-misericordia.html.
- John Paul II. Exhortation *Reconciliation and Penance*. Accessed October 24, 2023. https://www.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_02121984_reconciliation-et-paenitentia.html.
- John Paul II. *Message of His Holiness John Paul II for The Jubilee in Prisons. 24 June 2000*. Accessed September 1, 2021. https://www.vatican.va/content/john-paul-ii/en/messages/pont_messages/2000/documents/hf_jp-ii_mes_20000630_jubilprisoners.html.

- Kasper, Walter. *Mercy. The Essence of the Gospel and the Key to Christian Life*. New York: Paulist Press, 2014.
- Kijas, Zdzisław Józef. “Między sprawiedliwością a miłosierdziem. Od Jana Pawła II do Franciszka.” In *Miłosierdzie a odpowiedzialność*, edited by Zdzisław Józef Kijas, Agnieszka Hennel-Brzozowska, 19–33. Kraków: Wydawnictwo Scriptum, 2018.
- Lasocik, Zbigniew. *Praktyki religijne więźniów*. Warszawa: Państwowe Wydawnictwo Naukowe, 1993.
- Lubelski, Józef. *Etyka katolicka. Podręcznik dla szkół średnich*. Tarnów: Z drukarni Zygmunta Jelenia w Tarnowie, 1931.
- Marin, James. *Siedem ostatnich słów Jezusa*. Poznań: Wydawnictwo Święty Wojciech, 2016.
- Mitch, Curtis, Edward Sri. *Catholic Commentary on Sacred Scripture. The Gospel of Matthew*. Grand Rapids: Baker Academic, 2010.
- Ochotny, Piotr. “*Nie mówię ci, że aż 7 razy, lecz aż 77 razy (Mt 18, 22)*. Czy przebaczenie można nakazać? Przebaczenie aktem sprawiedliwości czy miłości?” *Warszawskie Studia Pastoralne* 35(2017), no. 2: 87–101.
- „Opracowania wieloletnie.” GUS. Accessed September 6, 2021. <https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/>.
- Orzeszyna, Jan. “Teologia moralna wobec wyzwań współczesności.” *Teologia i Moralność* 25(2019), no. 1: 61–78.
- Osiński, Leszek. “Art. 162.” In *Kodeks karny wykonawczy. Komentarz*, edited by Jerzy Lachowski, 604–608. Warszawa: C.H. Beck, 2016.
- Panek, Elżbieta, Anna Panek. ““W Tobie jest źródło życia i w twojej światłości [...] światłość”. Wiara i religia w perspektywie resocjalizacji skazanych.” *Profilaktyka Społeczna i Resocjalizacja* 31-32(2016): 7–33.
- Pius XII. Encyclical *Mediator Dei*. Accessed September 1, 2021. https://www.vatican.va/content/pius-xii/en/encyclicals/documents/hf_p-xii_enc_20111947_mediator-dei.html
- Pol, Jan Dezyderiusz. “Czy religia jest w więzieniu konieczna?” Accessed September 6, 2021. <http://jandezyderiuszpol.pl/publication/view/czy-religia-jest-w-wiezieniu-potrzebna/>.
- Przybyłowski, Jan Kazimierz. “Przebaczenie chrześcijańskie a sprawiedliwość.” *Studia Włocławskie* 24(2022): 279–294.
- “Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice.” United States Catholic Conference of Catholic Bishops. Accessed September 6, 2021. <https://www.usccb.org/resources/responsibility-rehabilitation-and-restoration-catholic-perspective-crime-and-criminal>.
- “Religijność Polaków w ostatnich 20 latach. Komunikat z Badań, Centrum Badań Opinii Społecznej.” Centrum Badań Opinii Społecznej, Accessed November 5, 2023. https://cbos.pl/SPISKOM.POL/2020/K_063_20.PDF.
- Rękas, Agnieszka. *Mediacja w polskim prawie karnym*. Warszawa: Ministerstwo Sprawiedliwości, 2011.
- “Roczniki statystyczne GUS.” GUS. Accessed September 6, 2021. <https://isws.ms.gov.pl/pl/baza-statystyczna/roczniki-statystyczne-gus/>.
- Ryś, Grzegorz. *Skandal miłosierdzia*. Kraków: Wydawnictwo WAM, 2019.
- Sieniatycki, Maciej. *Etyka katolicka. Podręcznik szkolny*. Kraków: Nakładem Księgarni Krakowskiej, 1925.

- Sitarz, Olga, Anna Jaworska-Wieloch, Dominika Lorek, Anna Sołtysiak-Blachnik, Piotr Zawiej-ski. "Mediacje karne w opiniach stron postępowania oraz sędziów i prokuratorów – wyniki badań ankietowych. Część I." *Czasopismo Prawa Karnego i Nauk Penalnych* 16(2012), no. 3: 133–152.
- Sitarz, Olga, Anna Jaworska-Wieloch, Dominika Lorek, Anna Sołtysiak-Blachnik, Piotr Zawiej-ski. "Mediacje karne w opiniach stron postępowania oraz sędziów i prokuratorów – wyniki badań ankietowych. Część II." *Czasopismo Prawa Karnego i Nauk Penalnych* 16(2012), no. 4: 123–148.
- Syryjczyk, Jerzy. "Pojęcie przestępstwa w świetle Kodeksu Prawa Kanonicznego Jana Pawła II." *Prawo Kanoniczne* 28(1985), no. 1–2: 85–96.
- Szymanowski, Teodor. "Zmiany prawa karnego wykonawczego (o potrzebie i zbędności noweli-zacji przepisów)." *Państwo i Prawo* 2(2012): 46–59.
- Tischner, Józef. *Drogi i bezdroża miłosierdzia*. Kraków: Znak, 2015.
- Urbanek, Arkadiusz. "Miejsce aktywności religijnej więźniów w teleologii pedagogiki resocja-lizacyjnej na podstawie badań prowadzonych w wybranych zakładach karnych." *Zeszyty Naukowe Państwowej Wyższej Szkoły Zawodowej im. Witelona w Legnicy* 2(2007):173–185.
- "What is Restorative Justice ?" Roman Catholic Diocese of Orange. Accessed September 6, 2021. <https://www.rcbo.org/resource/what-is-restorative-justice/>.
- Wolniewicz, Marian. "Ewangelia według świętego Mateusza." In *Biblia. Pismo Święte Starego i Nowego Testamentu*, edited by Michał Peter, Marian Wolniewicz, 10–76. Warszawa: Wy-dawnictwo Święty Wojciech, 2009.
- Wójcik, Dobrochna. "Poglądy sędziów na temat mediacji w sprawach karnych." In *Nauki penalne wobec problemów współczesnej przestępczości. Księga jubileuszowa z okazji 70. Rocznicy urodzin Profesora Andrzeja Gaberle*, edited by Krzysztof Krajewski, 555–565. Warszawa–Kraków: Wolters Kluwer, 2007.
- Wójcik, Dobrochna. "Rola mediacji między pokrzywdzonym a sprawcą przestępstwa." In *System Prawa Karnego. Tom I. Zagadnienia ogólne*, edited by Andrzej Marek, 350–413. Warszawa: Wolters Kluwer, 2010.
- "Zmiany w zakresie podstawowych wskaźników religijności Polaków po śmierci Jana Pawła II. Komunikat z badań 2015." Centrum Badania Opinii Społecznej. Accessed September 6, 2021. http://www.cbos.pl/SPISKOM.POL/2015/K_026_15.PDF
- "Znaczenie religii w życiu Polaków. Komunikat z Badań." Centrum Badania Opinii Społecznej. Accessed November 5, 2023, https://www.cbos.pl/SPISKOM.POL/2006/K_081_06.PDF.
- "Życie religijne w Polsce. Wyniki Badania spójności społecznej 2018." GUS. Accessed September 6, 2021. https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5500/8/1/1/zycie_religijne_w_polsce_wyniki_badania_spojnosci_spolecznej_2018.pdf+&cd=1&hl=pl&ct=clnk&gl=pl&client=safari.

MEDIACJA PO WYROKU – UZASADNIENIE I ZNACZENIE
W ŚWIETLE MYŚLI KOŚCIOŁA RZYMSKOKATOLICKIEGO.
SPOJRZENIE Z PERSPEKTYWY KRAJU KATOLICKIEGO

Abstrakt

Mediacje w sprawach karnych po prawomocnym wyroku stanowią nowe wyzwanie dla wymiaru sprawiedliwości w Polsce i w bardzo wielu krajach na świecie. Znikoma ilość takich mediacji, brak stosownych regulacji oraz brak entuzjazmu wśród przedstawicieli nauki i praktyków powoduje, że przed społeczeństwami i prawodawcami staje trudne zadanie poszukiwania sposobu na popularyzację koncyliacyjnej postawy na etapie wykonywania kary orzeczonej za popełnione przestępstwo. Autorzy niniejszej publikacji wsparcie dla tych poszukiwań widzą w nauce Kościoła rzymsko-katolickiego. Znaczenie wiary i religii w życiu każdego człowieka oraz osoby skazanej, a także analiza tekstów Pisma Św. oraz wypowiedzi przedstawicieli tego wyznania na temat przebaczenia i zadośćuczynienia pozwalają patrzeć z optymizmem na wysiłki podejmowane przez Kościół zachęcające do wdrażania w życie zasad, tak ważnych z perspektywy sprawiedliwości naprawczej.

Słowa kluczowe: mediacja po wyroku; wybaczenie; odszkodowanie; zadośćuczynienie; sprawiedliwość naprawcza; kara pozbawienia wolności.