

DISCUSSION

Damian Fedoryka

I am American, and there has been a violent debate concerning compromise in America now. I totally agree that sometimes we need to talk about fatal compromises. However, I would like to ask Prof. Waldstein to comment on the following extract from his lecture: "Although the Court recognizes abortion after consultation as illegal, it allows the legislator to withdraw the protection by threat of punishment for the unborn child." I would also like to raise the topic of yesterday's discussion once again: if I remember correctly, there is a statement within the pronouncement concerning abortion, in which it is said that the state is in a way at liberty whether to punish certain criminal acts. The state cannot, however, grant the right for abortion. This statement seems to point that on the one hand, the state must consider every act of abortion as an unjust one, and thus a crime; yet, on the other hand, it has a certain liberty concerning penalization. I do not mean to reduce the whole problem to a merely theoretical question whether there can exist any criminal law without penalization of criminal acts, but it seems to me that if you agree that the judge might make a use of this liberty, you can see some positive consequences for the civil law having pronounced abortion a crime. For example, as there exists a right for abortion within the civil law system in America, health insurance can be used in order to cover the costs of abortion; also government funds can be exploited for this end. However, if abortion is pronounced a crime, the use of all the civil options will become impossible. Moreover, there may also be civil means to fight abortion. Thus, my question is the following: Do you consider that there should be severe and rigorously administered punishment for abortion; or do you think that if, let us say, the mother's life is in danger, the question of punishment should be left to the judge's decision?

Wolfgang Waldstein

The question is: does the state have to preserve the liability for penalty in every case? The experience gained throughout time teaches that the only protection of a legal right which the state can guarantee is liability of a given act to penalty. This situation has never been different, and up to the present day it has

been impossible to find a system which would protect legal rights by any other means. We must not forget that penalization is not an aim in itself. The intention is not to punish people, but to protect legal rights. Everyone must know that if he violates the law he is liable to punishment because he has violated a right.

It is still another question whether such a distinction is present within the project presented by two parliamentary members in Germany. Guilt, which has been the basis for punishment, may vary as to degree in various cases. This fact has also been taken into account. The mentioned project provides that if the mother is in extremely difficult circumstances, the court may suspend the punishment. Yet, the principle of abandoning punishment in such cases does not hold for persons concerned who were not under the influence of these circumstances, but still participated in the crime. Perhaps this problem needs to be considered separately, as the question of guilt has always been of major importance to civil law, and so it is not easy to give a detailed answer here.

However, I think that a state which treats violation of a legal right, such as the right to live, as principally exempt from punishment is itself violating the very basis of jurisprudence.

Josef Seifert

My question concerns the meaning of penalty, e.g. for abortion or other crimes. Prof. Waldstein has stressed the role of penalty in the protection of legal rights, of human life in this case. He has said that there are no effective means to protect this right, since the mere statement that it should be respected does not suffice if it can be so easily violated. However, there appears a question whether this fact constitutes sufficient basis to consider the problem of penalty. Let us imagine the case of a madman who endangers legal rights, as his madness drives him to kill people. Though he must be detained for the sake of protecting of others, he will not be put in prison, but in a mental clinic. And despite the suffering he will experience, it will not be punishment. It seems that an additional element, which is not present here, is involved in the case of penalty.

Wolfgang Waldstein

It is clear that we cannot discuss the theory of penalty at great length here. We are only considering the question whether the state can act in such a way that it no longer protects certain rights by penalizing their violation. The answer is: of course it cannot. If the state does so, it cannot avoid the consequences of such a policy, regardless of the motives in question. The state ceases to be a jurisprudent one then, at least on this fundamental point.

As far as the general aim of penalty is concerned, it would hardly be possible to give a comprehensive analysis of this question even if we spent the whole symposium on it. Since ancient times, the aim of penalty has always been to execute due retribution for a free act which violated the law. The due retribution has also been seen as the perpetrator's chance to compensate for what he did and to restore the order of justice. Apart from this, penalty also has other aims, the preventive one above all others. Its essence is to deter people from committing criminal acts. This is what general prevention means. Individual prevention consists in hindering individuals from repeating the same criminal acts in the future. There are many other aims of penalization, yet the nature of retribution is based on the presumption that people are endowed with free will. And this recognition is by no means common in current theories of penalty. If the free will of those who are committing criminal acts is questioned, they can only be treated as madmen. In such a case, penalty is considered as a mere means to protect society, and it is deprived of its true nature which consists in retribution. Thus, also the possibility of compensation for the penal act is taken away from the perpetrator.

Tadeusz Styczeń, SDS

While approaching this problem on the grounds of ethics, above all we must note that it is by no means the role of the criminal law to fulfill the function of an avenger. Its task is to protect fundamental human rights against their violation on the side of the aggressor. By protecting them – in the name of his care for the person of the victim – the legislator indirectly protects also the person of the perpetrator. While trying to thwart his act of harm towards another person, the legislator simultaneously protects him against having done the greatest possible harm to himself. A fatal blow against someone else's physical existence is simultaneously and inevitably a suicidal blow towards oneself. This is why the lawmaker – by defending the victim by both legal and penal means – protects also the rights of the very perpetrator who is making an attempt on the victim's life. If the law stops the perpetrator from an act of murder, something truly significant for the would-be killer is saved, together with the life of victim-to-be: he will not become a murderer. We must not forget this! It is not the legislator's intention to punish crime, but to prevent it, to protect the victim in the first place, but also the perpetrator, immediately in the second place. Therefore, penalization must not be abandoned by the legislator if protection of the fundamental rights of the human being is to be maintained; penalization must be sustained lest protection against crime should become a fiction. Otherwise, the legislator will miss his vocation in a jurisdudent state, as he will enter a game with himself to preserve his image, which will make him grotesque.

Wolfgang Waldstein

I can only say that I totally agree.

Rocco Buttiglione

I wonder whether Prof. Waldstein is treating what he is saying seriously enough. He seems to be moving between two ideas. Namely, he maintains that we have abandoned jurisprudence (*Rechtsstaatlichkeit*). The concept of jurisprudence refers to the great tradition in which there was a union between the political power of the state and justice. The state was considered to be partaking of the dignity of God Himself, and it was supposed to defend and promote justice within the human society. I would like to recall not only Ulpian here, but also Gaius, or rather the medieval interpretation of Gaius. It is probably Bartolo who says that the *Institutiones* comprise all the law, since law concerns persons, things, and acts. This interpretation is an attempt at understanding the law as a reality whose centre is man, as something which regulates the person's acts and relationships with the surrounding world. I have the impression that on the one hand, Prof. Waldstein is saying that today's states have abandoned this concept of jurisprudence, but on the other hand, he does not accept what he himself has said, as he still hopes that the state will remain a jurisperit one.

However, if we realize this, the problem becomes a political one and the question is, how we can approach it in a new way so that the state could become jurisperit once again?

It seems to me that nowadays not only abortion, but also the development of modern law is directed against the tradition of the jurisperit state. This is no longer law centred on the human being. The domain of law applies no longer to actions taken by individuals in which personal responsibility is always present. On the contrary, it seems to me that modern jurisprudence attempts to take control of reality in order to achieve certain results and to maximize them. It no longer seems to care about justice, that is, for due responsibility for actions. If none of us can be held responsible, or if responsibility is optional, then there can no longer be any jurisprudence. I think that the great tradition coming down from Cicero has been broken, and I am not quite sure where and when this break started. Let me recall a statement about the law which, I am sure, all of you know very well: *lex est regula et mensura humanorum actuum quae servata societatem servat, corrupta corrumpet* (the law is the rule and the measure of human acts which serves society, if obeyed, and which corrupts it if corrupted). Prof. Waldstein, I think that in the political continuation of your lecture you should point out that though we can manage very well without the principle of justice and can control social reality in some way, even with good

results, in the end, if we have given up the measure of justice and if we have started to reduce the human being to the merely material dimension, society must collapse. There is a principle for the collapse of societies, and although our society seems to be enjoying the zenith of its power, welfare, etc., actually, the downfall has already started, as in the case of the Roman Empire at the time when Ulpian was formulating his great maxims. And maybe it is the task of culture, exactly as it was the case in the first century AD, to preserve the principles of justice for new generations which will appear after the end of our spiritual world, when the new one is born...

Wolfgang Waldstein

Rocco Buttiglione's remark hurts me deeply, as it proves that he has totally misunderstood my standpoint. I always treat it as a grave reproach to be accused of not being serious about what I am saying. Actually, I have had quite a few publications concerning the subject in question, in which I expressed – to the best of my power – my objection against the state of affairs which we are discussing here. But what is one supposed to do in such a country? Emigrate? Where to? To a country where the situation is exactly the same, or maybe to the moon? You can finally follow the Stoics and commit suicide, but this solution can hardly be called proper. So what to do in such a situation? You simply have to live on and try to do whatever you can. In my opinion, the only thing which we are capable of doing is to do one's best in order to make the new evangelization work. There is no other way. If people do not change, the situation will not be changed, either. It will not change as long as today's society preserves its fundamental egoistic qualities which have been promoted by most institutions. For example, let us take into consideration what is going on in schools: how the young are being systematically misled and spoiled. How can such people later on be expected to be at all capable of comprehending ethical and Christian ends? We are living in times worse than pagan antiquity when, though the situation was catastrophic, there were ones who would not abandon the faith handed down to them not so long before. Today, it has become much more difficult to make the young approach the faith, as it has been destroyed even during religion classes. The teaching given in the context of religious education no longer evangelizes young people, but presents attitudes which lead straight to atheism. Already in 1970, opinion polls showed that as many as 80% of religion teachers, endowed with the *missio canonica* by the Catholic Church, did not respect all the principles of faith. So how can religion classes be supposed to transmit the faith?

Thus, we are now facing the situation whose disastrous consequences we are unable to estimate. Yet, we have to live on, and to do something about this situation. Let everyone – in his own circle – do what his knowledge and abili-

ties allow him to. However, I think that we need to pay attention to one more point related to this encouragement. According to the Second Vatican Council, the uppermost aspect of the Christian vocation, on which no other council has put so much stress, is the universal vocation to sainthood – the whole of Chapter V of the *Lumen gentium*, the Dogmatic Constitution on the Church, concerns the universality of this vocation. The Council's call for universal sainthood shows what is really meant here: we cannot go through life at little expense, we must be ready for everything – for total submission to the will of God. Such has always been the only possible way of revival. For example, the situation was analogous in the times of St. Francis when everything was begun by one man who was living out his devotion to God. And what was the result? An enormous movement of spiritual revival. The case was similar with the Cluny reforms, and even earlier in St. Benedict's times, when a virtually total collapse of Roman culture took place. And again, one man was able to make way for a revival. Today, I think, we must consider our Holy Father as one of those who not only can bring about the revival by their individual action, but who have already been doing so in some way. For example, the fact that we can be here together, and that there is no secret political police agent among us, is, in my opinion, a result of this influence.

Josef Seifert

Once again, I would like to raise some questions. The first one concerns the importance which both Prof. R. Buttiglione and the Rev. Prof. T. Styczeń attach to the aspect of protection of man, for example by the law, by means of obligatory penalization of abortion. I certainly agree that protection of the legal rights of man, especially of the rights of the unborn, is necessary, and that it constitutes one of the basic reasons for administering punishment. However, I would like to repeat what I have already said before: in my opinion penalization does not suffice as a protection of these rights. We must protect them also from the mentally ill, who cannot be punished. Therefore, I think that while administering punishment, we assume the criminal's freedom. Otherwise, the punishment would have no sense. We assume that punishment is the thing which he deserves, that it is the due response to his action. I think that it must be also stressed that when Prof. Waldstein speaks about the aspect of retribution, it seems as though he were speaking about some revenge, about the revenge society takes for an attack against itself. I think that the idea of the relationship of dues, of the just response to the crime, is a totally different one and this difference must be noted here. Therefore, I would also like to accentuate the need of protecting the rights and life of the unborn through penalization of acts which violate them; though I do not think that it is related to the essence of punishment.

This problem may be related to my second remark, which refers to the title of today's session: *hominum causa omne ius constitutum est*. I have deep doubt about whether to agree with this standpoint. Firstly, it seems to me that in principle law can concern not only man, but any person (except God). Let us consider, for example, angels: they can also be subject to the law. There are also laws referring to goods which are not persons, e.g. the laws which forbid the torturing of animals. I think that there are good reasons why the law should protect the due interests of animals. In other words, the order of justice, which should be respected, will never be exhausted.

To conclude, I have a few remarks concerning jurisprudence. Although Prof. Waldstein has been stressing so strongly that we have lost jurisprudence due to the legalization of abortion, and although I totally agree with him, I think that we need to see the loss of jurisprudence as a gradual process. It can be said that it is not illogical to keep being active in a state which has its fundament in law and justice, although in some respect is no longer jurisperit: there are groups of criminals who have been violating everyone's rights, there are those who violate the rights of the unborn, and there are those, as is the case in Germany, who are stressing that though the unborn have rights, violation of their rights is not penal. In my opinion, there are many stages here and, for example, we must not put a Nazi state on an equal footing with a state where abortion is pronounced illegal, though not penal. Not everything pertains to one domain here. Thus, it might be logical to consider the characteristics of Germany, Austria, and other states, which pertain to their jurisprudence separately from other aspects which testify to something quite different.

And finally, I would like to give some thought to the need for evangelization which Prof. Waldstein has stressed so much, pointing to its being the only solution to the present situation. As a Christian and a Catholic, I certainly agree that if we take into account the ultimate good of humanity and the ultimate foundation of justice, both in the state and in human life, it is evangelization that constitutes the deepest level of revival. Though, it seems to me that in relation to the problems of today's democracy (e.g. the attacks on jurisprudence), we must not limit the reform or the powers of revival to those who are striving for saintliness in the religious sense. I would like to say for example, that Victor Frankl, who is not a Christian, is one of the greatest thinkers of the spiritual revival which is by no means grounded in the idea of evangelization in the strict sense of the word. In Switzerland, there have been groups which, in my opinion, excel in the moral and legal respect, and which do not consist of Catholics or Christians exclusively. I cannot help thinking here about three students from the IAP in Liechtenstein, who are in many respects the noblest of all, although they are not Christians; whereas the Christians happen to behave terribly. Therefore, I think that if the question of the survival of the state is at stake, we must take up a broad ecumenical initiative

in which all the good powers unite for the sake of the state, and which will not be considered as an exclusively Christian or Catholic one. We need to gather all the powers in the state which have preserved certain basic educational values.

Wolfgang Waldstein

To begin with, I want to stress that I clearly said that retribution actually happens to be wrongly conceived as revenge. However, I also said that retribution is the just response of the legal system or, in general, the response of justice to the injustice which has been committed. If the motto of today's session is: *hominum causa*, I do not think that the right way to interpret it is to consider *hominum causa* as only what concerns man in the sense of affecting him directly. Is torturing animals not forbidden by the *hominum causa*, because the person who commits it becomes inhuman? For this reason such actions must be forbidden and, as such, prosecuted by the law. The addressee of the norm is a free person. This is also true with regard to sacrilege. When a free person acts sacrilegiously, he acts unjustly, and that is why the norm is addressed to man. I do not deny that a state which has legalized abortion can subsequently allow for just trials concerning the matters of property, theft, etc. – it is one of the aspects of jurisprudence. There are many aspects of jurisprudence which also remain preserved in such a state. The former Minister of Education in Austria expressed it in the following way: in an occupied country there can still function some mechanisms of the jurisprudential state, but despite this, the state is actually no longer sovereign. The case is similar here: in principle, jurisprudence was rejected the moment the border was crossed. However, it does not mean that it cannot be still functioning in many respects. Of course, it is impossible to present all these aspects during such a short lecture.

I was fully aware that while quoting the document by the Second Vatican Council about the universal vocation for sainthood, I did not address non-Christians, non-Catholics, or people indifferent to religious issues. As Catholics, we are offered additional assistance, and if the call for sainthood is answered, it will become a source of impulse, and thanks to this impulse also other important values will come into prominence. I said that a new era must come, when we return to human rights, to the natural law, and to justice, and that these will become the basis for truly human solidarity. Republicanism consists in respecting the rights and values which are essential to any human society. I wanted to be understood so, and I fully agree with everything that was said by Josef Seifert, all his remarks correspond with my views.

Damian Fedoryka

This is neither a question, nor a critique of Prof. Waldstein, but an attempt to develop one aspect of his lecture. Prof. Waldstein spoke of *notitia divinatorum et humanorum*, and I would use this as a basis for a comment on the reasons for the affirmation of the person. I certainly agree with Prof. T. Styczeń that the person has to be affirmed for his sake, but I would like to add a distinction that we can affirm the person not only for the sake of his value, but also because of the fact that he belongs to himself, and also to God. The basic and the most fundamental reason for defending the person is neither his value as a human being, nor even his right to this value; but I think we have to be explicitly aware of the fact that we also have an obligation to defend the person as that which belongs to God. I have used an expression in one of my writings that dogs would defend what belongs to their master. Are we not more than dogs? What serves to express the sovereignty of God must assume the proper forms here.

Why I am saying this? Many of our opposites in America would say: do not introduce God into the discussion. In my opinion the question of abortion concerns the deepest basis of the human rights. It is not simply an accidental rejection of the right to life. Since the opposing side has assumed the role of God, I cannot accept their objection, and leave God out in the course of the discussion. Who, if not I – a Christian – is obliged to affirm the sovereignty of God? Every human being belongs to God who gave him life, and therefore no one else is allowed to take this life. This is why my first duty is to defend what belongs to God.

Secondly, I should defend the person as belonging to himself. Why is that so? Because he is called to give himself to God.

And thirdly, I should also defend the value of human life. I consider it worth stressing, especially during ecumenical discussions, as the opposing side will question God's sovereignty and then probably say "but we do affirm the value of the human being." But the value of a criminal, as the value of the human person, is equal to the value of an unborn baby. Then they will say "How can you be for capital punishment, at the same time defending unborn life? This is incoherent!" I will answer: if we concentrate only on the value of human life, then the life of a criminal and the life of an unborn baby are equal. But there is an additional element here: an unborn person belongs to himself and to God, while the criminal has lost the right to his life. This truth was known already by the ancients, as they knew that it is *divinatorum*, and concerns God and His sovereignty.

Jan Sieg, SJ

Our argumentation is a good philosophical one, but only for the élites. However, we are living in a democratic society and we must also have another way of argumentation for the community at large. People experience a great need for peace today. The terror of war, of mass killing, predominates. But can a society which allows the mass-killing of unborn babies by their mothers, fathers and doctors, be preserved from war or mass killing committed by its enemies? One could quote the Bible at this point: those who fight with the sword die by the sword. And another analogy: David was God's friend before and after the sin against Urias. He remained God's friend also after the sin, because he repented it. Yet, the consequences of the sin remained and the punishment remained, too – David's kin suffered the sword until the next generation. Thus, we should also be afraid that in democratic society, where responsibility and tolerance are common, the same rule will prove true. Such a society cannot hope for peace, or freedom, if it is itself mass-killing unborn babies.

Andrzej Szostek, MIC

I would like first of all to ask a question which I address to Prof. Waldstein. I would like to ask about the relationship between morality and law. It is often repeated that the efficacy of the legal sanctions which are enacted to protect otherwise accepted values, is a condition for the introduction of these sanctions.

Some say: I am against abortion, but introducing an anti-abortion act will not prevent the evil, but provoke other problems resulting from society's being unable to see the rank of this evil. Instead of introducing rigorous legal regulations, we should first bring up the society so that it can grow mature enough to see the necessity for these regulations, and it is only then that the law can be made. It is worth remembering that the condition necessary for the social approval of a legal act is not that its introduction should be dependent on its being commonly obeyed, but that there is a common agreement as to the need of introducing it – even (and in particular) when the act is being notoriously disobeyed. There have never been too few thieves in any society, but this fact cannot change the common conviction that theft should be liable to legal sanction. However, the opinion is different as far as abortion is concerned: many people consider it wrong, but they do not find it necessary to introduce a relevant legal and criminal sanction. Myself, I do not share the opinion which I have presented, but I would appreciate it if such an expert in this domain as Prof. Waldstein would be so kind as to comment on it.

Wolfgang Waldstein

It is a truly difficult question, because the efficacy of the law depends on many factors, and considering the inefficacy of a given law as the criterion which allows its withdrawal would mean the total disintegration of the law. On the moral level it would mean reformulation of ethics according to opinion, as a professor of the Catholic University in Eichstädt has expressed it. And this is the end of all ethics. Shaping the legal order according to the criterion of its actual efficacy means the end of the legal order. One could certainly say, and it is often repeated, that if a law cannot be executed efficaciously, its preservation impairs the authority of the very legal order to a greater extent than would the actual abandonment of this law. This argument seems rational, but in fact, if we extrapolate, it leads to a negation of the law in general. If we consider the acts of theft committed in shops or supermarkets, we cannot say: the law which protects property and prosecutes theft can no longer be executed, so let us abandon it. Yet, there is actually no difference whether this attitude is taken in relation to human life, or to a legal right, such as the one to property. Yet, when property is at stake, there are certain restraints on an easy suspension of the law, as it would lead to total disintegration of any social life; if property is not protected, everyone must be afraid that, sooner or later, they may lose everything. The reason is that if a given group of people is deprived of some legal right, this situation may not affect everyone directly, yet ultimately, the consequences turn out to be overwhelming.

So, in my opinion, this argument is false, though it has been so widely accepted. Now, it can only be fought against, and this fight is not very successful because the arguments we quote are no longer certain today. The rationalism which lies behind the attitude prevailing today "devoured" itself already in the seventeenth century. The Enlightenment finally announced that man is incapable of any cognition. This statement was documented and expressed in a particularly clear manner by Christian Thomasius, who concluded that only absolute authority is able to define what is to happen. Thus, democracy changes into the totalitarian power of an individual. The disintegration of democracy leads to dictatorship. Instances of degeneration, such as oligarchy or tyranny, have already appeared in the course of the development of different forms of government. And it is for this reason that in the present situation we can do nothing but continually show the consequences of the acceptance of these principles, and strive that the law remain the law. Certainly, if even the very supreme institutions, such as the Constitutional Court, appointed to protect the law, are not able to say what the law is, but give verdicts guided by public opinion, norms valid from the point of view of the constitutional law are ineffectively applied by them, as was the case in the Constitutional Court. In this way, the effectiveness of the law is broken and the point is reached where the

law cannot be practically executed. However, it should by no means make us say: all right, let us abandon the law. It would mean capitulation in front of the lawlessness which actually takes place. But to capitulate in theory would be another act of lawlessness, which – I think – we must not do.

Andrzej Póltawski

I would like to question one of the minor points of Prof. Szostek's lecture in order to approve of the whole. You said that it is hardly possible to imagine a literature course at a polytechnic. Not only is it imaginable, but such has been the case, even in Warsaw. I, myself, happened to become a member of the board of the Institute of Social Studies at Warsaw Polytechnic.

And another thing: in the part of your lecture in which you were talking about dominion over the world you spoke about practical significance, but of course, we need to think about higher practicality – and this dimension is present in the whole of your lecture – about the practicality that enables man to act morally. This is also practice, is it not?

Andrzej Szostek, MIC

Just one question to understand well the first remark: do you mean that there is a faculty of arts at the Warsaw Polytechnic?

Andrzej Póltawski

It is not a faculty, but courses which can to be chosen as electives. There is a tendency today to found polytechnics which would fully comprise the arts.

Fr. Alfred Wierzbicki

I would like to refer to the opening paragraph of Prof. Szostek's lecture. While saying that the topic of his lecture was somewhat marginal in relation to the subject of the session, he seemed to be unjustly underestimating the role of the university in the vision of Europe. In my opinion, the reverse attitude is right: the topic should denote the actual focus of the present conference. Let me remind you that we started with Prof. Seifert's lecture on truth and on the search for truth; then there was Prof. Salij's lecture, also devoted to truth, manifested in the person of Jesus Christ. Prof. Salij began his considerations concerning truth exactly at the point to which we had been led earlier by Prof. Seifert, who pointed out to the transcendence of the person in truth. In my opinion, the question of the university appears to be one of the central topics during a session devoted to the vision of Europe. I do not have in mind purely

historical reasons for this, although they let us see that the spiritual development of Europe precisely followed the advent and development of universities. Moreover, one could speak here about the expansion of universities from Europe around the world. The university truly belongs to the rich historical event which Europe constitutes. Universities appeared only during the Christian period of European history, because the Christian vision of man as a rational being fully justified the existence of a free institution which was occupied with the search for truth, and which – as *alma mater* – contributed to the development of the person in truth. We must note that the assimilation of Greek philosophy, as well as the christianization of the Greek and Latin tradition, prepared the ground for the foundation of universities. Epistemology, oriented on veracious cognition turned out to be of particular significance here. In my opinion, the Platonic distinction between *doxa* and *epistème* essentially prepared the shaping of the university, since it has been the institution which – thanks to research and critical effort – takes up the task of distinguishing objective truth from mere opinion.

And a few more words on the autonomy of the university. I have had the impression that the autonomy of the university was considered in the lecture mainly in the sense of the autonomy of its organization. Would it not be advisable to point first to the basis of the organizational autonomy, which is in the independence of the research work? I think that the already quoted distinction between *doxa* and *epistème* turns out to be significant here also. A university is a community which helps an individual to gain knowledge, it is a community of those devoted to truth. I see the autonomy of the university not only in the sense of its institutional independence of the state, but also, and above all, in its independence as far as the method of the search for truth is concerned. Organizational independence from political influences is only a condition of a far deeper autonomy concerning the method of research, which respects the primacy of truth over power. *Plus ratio quam vis* has been the motto of the oldest Polish university. We must also consider the independence of the university in the aspect of its relationship with, and its primacy over the media. This primacy – which is of epistemic nature – *plus ratio quam vis* – does not exclude cooperation between these institutions. On the contrary, the relationship between the university and the media turns out to be very significant nowadays, as today the media serve the opposite of *epistème*, spreading opinion or sophistry, in addition to the manipulation which is so characteristic of it. Another factor which is important here concerns the understanding of democracy as the rule of majority opinion. Even Alexis de Toqueville saw a danger for democracy in the rule of majority. Thus, is it not the case today, when the freedom of the person is impaired by social pressure expressed by means of the mass media, that the role of the university, as the environment for life in truth, shows itself even more clearly?

Wolfgang Waldstein

A small remark as to the point which, although not central, seems important enough for me to say a few words about it. "It is difficult to consider unborn babies as citizens of the state." According to Roman law, man acquires legal status at the moment of conception, which means that he is a legal subject possessing all civil rights. A child would acquire civil rights at the moment of conception in a valid matrimonial union. This legal reality may have receded into the background nowadays, yet I would like to draw your attention to it. It may be worth reminding ourselves – in the course of this discussion – that in Roman law a conceived baby was already considered a subject of the law.

And now my essential remark, in which – having agreed with everything Prof. Szostek said – I would like to emphasize one problem. In Austria and in Germany, as well as in other countries, the so-called democratic university reform was begun with the demand to democratize universities, but in consequence universities were not democratized but destroyed. Instead of serving society as sources of objective information, instead of having become centres in which truth is propagated, instead of helping society to find just bases for rightful decisions made according to true criteria, they have created confusion and they have been acting as a poisonous fungus, as the centre of contagion. It can be clearly seen here that these institutions acceptance of the ideology which uses democracy as a means of manipulation, not only leads to the destruction of education, but also makes the functioning of democracy impossible. Here lies the point where the university and democracy enter into contact with each other. If universities are not considered as institutions which serve the search for truth exclusively, if they are not seen as institutions which are free from any influences, they cannot serve democratic society either.

Andrzej Szostek, MIC

I appreciate and thank you for all your remarks and I will try to comment on them, preserving their chronological order.

Firstly, I would like to refer to the presence of Polish Philology at the polytechnic. I am certainly aware of the fact that some humanistic subjects are present and have their significant role in this type of school – I myself used to give lectures at the Lublin Polytechnic. Still, there is a difference between the polytechnic, which may and should find a way to introduce additional training in humanistic subjects, and the university, which is essentially open to all lines of study. In other words, though a decision to open a new line of studies (e.g. a polytechnical one) at a university is normal, a decision to open the Artistic Faculty at a polytechnic, and to treat it equivalently with the other faculties, would be somewhat strange. Or it would be strange, if it was decided

that technical studies should be introduced into the International Academy of Philosophy in Liechtenstein, which I know and highly esteem as an academy with a well-defined, strictly philosophical profile. If it happened, we would have to ask the question whether, and in what sense, these schools still deserve the name of polytechnic, or academy of philosophy, respectively. The difference seems to be noteworthy. A university student is principally supposed to choose one line of study, but as these studies are pursued in a place which is principally open to all branches of knowledge, this circumstance significantly influences the way in which the chosen specialization is treated.

Secondly, in relation to Prof. A. Póltawski's remark, I must say that I have often heard and even myself repeated the maxim that a good theory has the greatest practical bearing. It is not only true about particular spheres of the human life, but also about *praxis* as such, which badly needs a good grounding in *theoria*. And this theory can be honest only on condition that it is directed by the search for truth for the sake of truth, and that it attempts to grasp reality in the most adequate way possible, regardless of the practical merits which come from it. Pragmatic justification of all the cognitive efforts, of the attempt to comprehend the world, changes the essential sense of these activities; it questions the sense of the search for truth for the truth's sake and, in consequence, it influences negatively the understanding of the practical dimension of the human life.

I would like to thank the Fr. A. Wierzbicki for having attached such importance to the set of problems about which I spoke. Yet, I would still tend to treat it rather marginally. Of course, the search for truth for the truth's sake is by no means a marginal activity (I have myself just spoken about it), but from the point of view of the structure of the whole session, where we have been discussing man and his rights within a diversely structured society, the university is neither the only institution, nor the most important one compared to, for example, the value of the family, the Church, etc. But I know that an analysis of the institutions which are not of primary significance can contribute to the general understanding of man's place in society, to the protection of the fundamental rights of the human being, etc.

As far as the postulate of autonomy is concerned, I agree that the autonomy meant here is the one concerning the search for truth, and necessary, lest even the domain of research work, not to mention its results become exclusively dependent upon any institutions outside the university. And such autonomy is possible only on condition that the university, as such, is autonomous.

I would like to express my gratitude to Prof. Waldstein for all his remarks, especially for the second one. I was not aware that the Roman law recognized the civil rights already of the unborn. Yet, the reason for which I made use of this example remains valid: even if an unborn person – or any other person – were deprived of any civil rights, he would still not cease being a man and –

because of the fact of his humanity – he would not cease deserving all the fundamental rights, with the right to live above all, the rights which no legislation can ignore.

Finally, the last remark, which I also find important. The so-called process of democratization of the university can easily lead to the destruction of the very idea of the university. An element of this process is the right – given to students – to influence decisions concerning the curriculum of the studies. It used to be the essence of school education that teachers should know the discipline they teach better than students. At present, this principle happens to be practically questioned. The next step, already taken in some schools, is making professorial posts dependent on the students' opinion. The students' postulates, their expectations and abilities can, and must certainly be taken into account (as much as it should be in schools of lower order), yet the respect for the students' rightful postulates and expectations must not "internally" violate the academic process of searching for truth, and of education.

Jarostaw Merecki, SDS

Prof. A. Szostek was speaking in his lecture about the place of the Catholic university in the democratic society. It seems that the situation of the Catholic universities in today's democratic states happens to be difficult, because the very fact of their being Catholic is often the reason why they are accused of not being autonomous. It also happens to be the case that the university itself considers its autonomy impaired by the authority of the *Magisterium* of the Church. For example, soon after the encyclical *Veritatis splendor* was published, there appeared opinions, even of well-known theologians, holding that the encyclical impairs the autonomy of theological faculties at universities, also at Catholic ones. This situation is certainly related to the frequently described quality of the "democratic man," who only very unwillingly subordinates to any authority. If it is his constant characteristic, one may easily conclude that the Catholic university will always be in a somewhat "awkward" situation within a democratic state.

Damian Fedoryka

I would like – by Prof. Szostek's leave – to emphasize one problem which he touched upon in his lecture. You said "no mortal is in possession of the monopoly on truth." And two sentences later: "The identity of the Catholic university is expressed not only by the advancement of the ecclesiastical doctrine, but also by its openness to dialogue with others." In my opinion, this statement gives the impression that you were making every effort to convince the world by saying: "Look! The Catholic university is open to dialogue with others."

Let me remind you of the other side of the matter and say that today, in today's world, in Europe, and I think also in America, the only true universities are Catholic ones, since all the rest, as institutions, are not dedicated to truth. They keep repeating "We are seeking for truth," and professors, as individuals may well be saying so, yet the institutions, as institutions, are not dedicated to truth and such dedication is not at all possible in a lay university today.

On the other hand side, in a Catholic institution we may say that we possess truth, or even the monopoly on truth, and in this sense this institution can serve a number of truths which we – as teachers – can not only be absolutely sure about, but which we – precisely as teachers – have an obligation to defend. I think this is a crucial issue for the Catholic university, yet I would like to stress it even more, and to challenge European and American universities. The identity of the Catholic university is expressed by the fact that it is obliged to be thus committed as an institution, and therefore its professors are not free to reject this truth. The students are certainly free not to accept it, if they cannot see it, yet professors must not reject it in the name of academic freedom. In this sense, I am saying that this is in some way a crucial issue, that the university must commit itself to some fundamental truths without which it cannot remain itself.

It is precisely in the same way that the state must not serve freedom as such, but serve justice. I am saying so, because for 10 years I have seen 230 declining universities in America. All of them still exist, all claim academic freedom, and hardly any of them has been bound up with the teaching of the Church. I would like to emphasize one thing, which – in my opinion – should be said categorically: our task is not to assert our openness to dialogue. Besides, our manifesting certitude does not mean that we are not open to dialogue. The point is to be on the offensive, not on the defensive side; and not just to keep repeating that we are seeking for truth. We have generally found the truth and we are confident of this truth.

Martin Cajthaml

We have discussed the search for truth from the side of the university, or as an essential mark of the university, and on the other side, there is the problem, I think, that society – or the state financing the university – also has the tendency to say that there are certain social needs and demands which should be fulfilled by the activity of the university, and in this context there arose the situation in Prague, at the Charles University, that there were about forty places for students of philosophy, and there were so many people interested that they could accept only every twentieth person. And this is impossible, there is no objective criterion as how to choose. [...]. I was talking to one professor of philosophy about this problem from the point of view of the students, and he

told me: "But society does not need so many philosophers." I see that on the one hand it is true that it is an impossible society where everyone will be a full philosopher. But the problem is – and I do not know the answer – who is competent to solve it. I think that democratic institutions are, in a certain way, incompetent; for example, parliament does not have competence to say that it will give the university so much that they can have, for example, forty students of philosophy every year. So, I do not know if parliament is competent; I do not think so. Who might be responsible?

Rocco Buttiglione

I must thank Prof. Szostek for what he said. While I was listening, I was reminded of the time when I was a university student, and I became aware of how bad I was as a university student. But still, remembering those years, I think there is one point that we should all stress, and this point is the university as a community. Why a community? Why should we be interested in truth? When I was eighteen, nineteen, I was not emphatically interested in truth. One can say: because you did not know what is meant. Of course, but how does one become conscious of the central meaning of the search for truth in human life? I think that one becomes conscious of it when one meets a person who has made the search for truth the central concern of his life, or when he meets a group of friends who equally – because of the attraction exercised by this person – have made the search for truth the centre of their human existence. Thus, there is a university really wherever there is a master and wherever there are students. I think that this is the soul of the university. And also historically, universities were born in this way: there was somebody who at least thought he found truth, and exposed the truth he had found, or he thought he had found, and proposed it to others as a hypothesis that could also be true for their lives, inviting them to carry out an experiment: come, study with me, participate in my life and you shall see. So, I think that there is a specific role for the community of students and professors, and that from this point of view there is a certain analogy between the pastoral mission of a priest, especially in the Catholic university, and the mission of the professor, of the philosopher. For a university, the cafeteria is equally important as the conference room. Most of what I have learnt, I have learnt from Del Noce – no, not in the cafeteria, because Del Noce never went to the cafeteria. He went around the city and I went with him as his chauffeur, always talking about philosophy. I remember once we were stuck without petrol in the centre of traffic in Rome, and we got out of the car and started pushing it towards the nearest filling station – and we kept on talking about philosophy. As long as we have men who feel like this, we have a university. When we no longer have men like this, then we can have the biggest organization, the biggest financing, but this

will no longer be a university. And students will never understand what the search for truth is if they do not fall in love with truth through the witness given by persons who already are in love with the truth.

Andrzej Szostek, MIC

Thank you for these suggestions. I appreciate all of them, and I think that each one of them deserves some comments, though now I can only make them briefly. Perhaps Fr. Wierzbicki was right that the topic committed to me in this session was more vital than expected at the beginning. The course of the discussion, for which I would like to thank everyone, made me change my opinion about the vitality of this topic. I see that the longer the discussion is, the more difficult the topics which are coming to the table.

It is true that universities were not the first schools where teachers and students (“academics”) were searching for truth together. The other day, Dr. Klauza told me that you can trace back analogous institutions and traditions, for example, also in the educational system in China. And I presume that also in Egypt you could find even more of them. If man is a rational creature, which he never ceases to be, no matter the place or time, it is no wonder that in different times and places analogous characteristics of his nature can be exemplified. Yet, we are talking here mostly of the European tradition in which the institution of medieval university played a crucial role.

Fr. Merecki’s observation, in a way, corresponds with the observation made by Prof. Fedoryka, though it approaches the problem as if from a different side. Fr. Merecki is asking in what way can a university be both Catholic and autonomous, while Prof. Fedoryka holds that the only truly autonomous universities today are some of the Catholic ones. I appreciate Prof. Fedoryka’s observation, and I share in his concern, though I would not be so pessimistic about it. I started my studies at the M. Kopernik University in Toruń, and I started to study history, not philosophy, and I must say that I remember the atmosphere about which Prof. Buttiglione was speaking. You can still find a true and deep cognitive passion in many academic centres, and therefore I said that in spite of all these changes and obstacles, universities (not exclusively the Catholic ones) are trying to realize their original ideal. The university’s being Catholic does not hinder the realization of this ideal. A Catholic should be rather convinced that all the search for truth is ultimately the search for God, and that there is no truth which would be contrary to the One who said about Himself “I am the Truth.” It may happen that someone leaves a Catholic university in the name of truth, because he thinks that the Church rather hinders than enhances the search for truth. If he honestly thinks so, he is more Catholic than someone who remains in the Church (in its organizational structure) no matter whether the Church is – according to him – right or not.

Now I want to address the very last observation made by Prof. Buttiglione. Perhaps it should be added to my lecture. *Veritas in caritate* is the sentence which symbolizes – in a particularly accurate manner – the community of friendship based on joint search for truth. Such a community does belong to the essence of university and of academic life, yet it is unthinkable without a deeper commitment to truth and to the search for it, for its own sake.

As far as the number of philosophy students and its relationship with the number of future work posts are concerned, it is worth recalling the distinction between material and formal education. The first gives the student the training which is essential to pursue a given job. The other teaches him to think in an organized way, enables him to take up further education, to adapt to changing conditions and to use his abilities according to current needs. The “formal formation” can be achieved only against the background of studying a particular “material” subject, but in the ultimate dimension, it is the formal education that proves more useful in the social sense. The point is that not every philosophy graduate has to pursue philosophy further; many of them deal with totally different matters. However, philosophical studies, more than any other studies, shape the ability of logical thinking, of correct formulation of problems and of the analysis of ways to solve them. These studies also ensure broader cultural erudition which turns out quite unexpectedly to be crucial, in circumstances impossible to foresee. Let us take a random example: right now our university is participating in a French programme whose aim is to educate managers, and which is open to graduates from very different subjects, including philosophy and theology. What is important is the fact that they have already completed some studies and in this way prepared themselves for participation in this programme.

Once again, I would like to thank all the participants in the discussion for their remarks. I am aware that with my answers I have rather provoked further discussion than closed it; but I suppose that such is the role of lectures and discussion.

Translated by *Dorota Chabrajska*