

ANNA SŁOWIKOWSKA, PhD
Department of Public and Constitutional Church Law
John Paul II Catholic University of Lublin
e-mail: sanka@kul.pl

INTERNATIONAL SCIENTIFIC CONFERENCE
“THE CHILD IN THE FAMILY IN THE PAST AND TODAY”
Chełm, 14 March 2018

DOI: <http://dx.doi.org/10.18290/rnp.2018.28.2-11en>

On March 14, 2018, the International Scientific Conference entitled “The Child in the Family in the Past and Today” took place at the Chełm Public Library of Maria Paulina Orsetti in Chełm. The event was organised by: the Department of History of the System and Law of the John Paul II Catholic University of Lublin (KUL), the Economic and Uniformed Schools Complex of General Władysław Anders in Chełm, the Chełm City Council and the Chełm City Youth Council. The honorary patronage of the conference was held by Marshal of the Senate of the Republic of Poland Stanisław Karczewski.

The conference was inaugurated by Edyta Chudoba, Head Teacher of the Economic and Uniformed Schools Complex of General Władysław Anders in Chełm. She reminded the participants that by virtue of resolutions taken by the Chełm City Council and the Chełm City Youth Council the year 2018 was designated the Year of the Rights of the Child. Then, she welcomed the guests, speakers and the audience comprising mainly young people from Chełm schools.

The floor was also taken by a representative of the Faculty of Law, Canon Law and Administration of the Catholic University of Lublin, Rev. Krzysztof Burczak, PhD, Hab, Vice-Dean. Addressing the young people, he emphasised that this conference had been organised *propter vos* (for your sake). He remarked that human life was organised around the triad: upbringing, education, choice of way of life and ways to accomplish it.

Zygmunt Gardziński, Chairman of the City Council spoke on behalf of City Mayor Agata Fisz. He thanked for the valuable initiative of the meeting and pointed out that young people should benefit the most on that day, because in a few years' time they would be those to decide about the fate of their Homeland, Europe and the world.

The conference was introduced by Kacper Jasyk, Chairman of the Chełm City Youth Council. He recalled Janusz Korczak's words: "There are no children; there are people." On that basis, he invoked the dignity of Man, from which freedom and equality are derived. He recalled that in 1989 the Convention on the Rights of the Child was drawn up, emphasising that the rights set out in it are proper to every child and nobody can deprive children of them. Mr Jasyk also pointed out at the responsibility of adults for the upbringing of the young generation. He posed the question: how to prepare a child for adult life? In reply, he referred to the requirement of subjective treatment of children and young people. However, at the same time, the young generation needs to be taught clearly defined moral principles, and how to distinguish between good and evil. On behalf of young people, the Chairman of the Chełm City Youth Council said that they were fortunate to live, learn and work in a country where human rights are respected. However, he asked: is the knowledge of children's rights necessary? He emphasised that thanks to the awareness of their rights, the young generation can more easily defend themselves against discrimination and violence.

The conference consisted of two sessions, during which seven lectures were delivered. The first session was presided over by Rev. Mirosław Sitarz, PhD, Hab, an associate professor of the Catholic University of Lublin, Head of the Department of Public and Constitutional Law of the Catholic University of Lublin. The session began with a reminder of the words of Cardinal Stefan Wyszyński, who addressed the faithful while taking up the office of bishop of the Diocese of Lublin by saying: "My children!" With these words, Professor encouraged the young audience to listen to the lectures and participate in the discussion afterwards.

The first presentation was delivered by Waldemar Bednaruk, PhD, Hab, of the Department of History of the System and Law, KUL. In his speech entitled "The family in the Old Polish system of law" he noted that over the centuries the functions of the family had frequently changed. In the past, the family was seen as an investment in the future. It was a crucial institution for people to function and feel safe. Until the 19th century, in Europe there had been no police in the current sense of the word. All functions of criminal law were fulfilled by the family, which was to discharge its duties towards its members. In the case of harm done to one of them, the family was entitled to ancestral revenge. With respect to Old Polish civil rights, the family also had its specific functions. They concerned the protection of existence and the future of the family. The speaker noted that last wills had not been in use during the period under review, while simple inheritance was used. The Church played an important role in making wills popular. However, the law regulated the percentage that could be transferred to other entities.

Another paper was presented by Marzena Dyjakowska, PhD, Hab, an associate professor of KUL, Head of the Department of History and Law, KUL. She started the talk entitled "The child's good as the purpose of adoption in the past and today" by quoting Article 114 para. 1 of the Family and Guardianship Code: "A minor can be adopted, only for his or her good." She noted that adoption is known, among other things, for the

fact that it was not always in the best interests of the child because history knows cases in which adoption was used to inherit the throne. The speaker posed a question: what is the child's welfare? In response to that, she presented the views of the literature. She also observed that it is not children who applied for adoption. A child must be happy in her own family environment. If no natural, or family, environment is at hand, an adoptive environment should be available. However, it has not always been like that. Adoption was a means of transferring property. In the central Polish regions, that is in the area of the former Congress Kingdom, it was possible to adopt only an adult person. In the legislation of the time, there was no information about the principle of the adopted person's well-being in that period; similarly, in the codes of the partitioning states. However, the common feature of their legislative systems was the age of the adopting person, which was rather high as women had then little chance of becoming mothers. At present, there are still situations in which adoption is used to gain another pair of hands for farm work. However, the essence of adoption is the principle of the child's good.

The last speaker in this session was Andrzej Wawryniuk, PhD, Hab, an associate professor of the Lesya Ukrainka Eastern European National University in Lutsk, from the Department of International Relations and Regional Studies. In his lecture, entitled "Children as victims of armed conflicts at the turn of the 21st century. An outline of the problem," he touched on a really important issue in the modern world. Having defined the notions of armed conflict, war, and child, he presented some statistical data. In the years 1945–2005, there were 400 armed conflicts. The number of victims testify to the seriousness of the problem. At the turn of the 21st century, 2,391,103 people died, including 2 million children. 6 million were physically injured, and 1 million became orphans. Prof. Wawryniuk made the audience aware of the fact that the phenomenon of child abuse in armed conflicts exists on every continent, especially in Africa. He quoted the words of an anonymous commander of an armed group in Chad, who said to the Human Rights Watch organisation in 2007: "Child soldiers are perfect because they don't complain, don't expect payment, and if you tell them «kill», they'll kill." Moreover, Prof. Wawryniuk pointed out to another aspect of the problem—the degradation of civilisation. Those who were forced to kill in their youth may continue to kill in the future. In civilised countries of the world, children should be the greatest value in every family. The fact that there are child soldiers and suicide child soldiers in these countries in the 21st century should face our disapproval.

Prof. Sitarz thanked for all the papers and opened a discussion. Judyta Dworas-Kulik, PhD, an assistant researcher at the Department of History of the System and Law of KUL, asked whether any data on victims of the conflicts in Syria were available. Prof. Wawryniuk replied that fighting continues and that was why it was difficult to assess the scale of the problem. The data are not available yet, but in Syria a few thousand children have already died. Prof. Sitarz put a question to Prof. Dyjakowska if he could also adopt a child. The reply was that in the Kingdom of Poland his age would be ideal for him to adopt, while in the area of the Russian partition it was possible for a diocesan priest to adopt a child, but a religious priest could not. Augustyn Okoński, PhD, Direc-

tor of the Department of Education of the Chełm City Office asked whether a single person could do it. Prof. Dyjakowska replied affirmatively. Prof. Sitarz also asked Prof. Bednaruk how the Old Polish law treated proposals for single-sex families? The speaker emphasised that such relationships were not possible, but degenerations appeared in secrecy, which was confirmed by historical sources. Then, Elżbieta Bajkiewicz-Kaliszczuk, Director of the Department of Culture, Sports and Tourism of the Chełm City Office asked how we should view the current situation in which it is easier for a single person to adopt a child than for a partner union? Prof. Sitarz remarked that one should be tolerant towards others but not towards sin and pathology. The position of the Church is based on natural law and there can be no tolerance in this area. Man and woman participate in the divine act of creation. A child is not a toy as it becomes a human being from its conception until natural death. Therefore, if degeneration and pathology appear in these fundamental issues, we as people, but not only as people of the Church—since this is a civilisational dimension—cannot allow individuals with a mental defect to fulfil their desires. The child has the right to have both a father and mother. Then, Kacper Pawelec, a student of the 4th Secondary School in Chełm and the Chełm City Youth Council, asked: how to deal with pathology because for him it was unthinkable to destroy the natural concept of the family? Prof. Sitarz emphasised that in order to cope with that, man had to set himself clear and lasting rules, which he would consistently pursue. Explaining to oneself that such are the times, circumstances and pathologies does not justify anyone. This time is given to us. We are to make a full use of it, and when the time comes we will answer for it. Then, Dominika Błaziak, a student from the Technical Schools Complex in Chełm and a member of the Chełm City Youth Council, asked what the adoption process was like, whether children were chosen and assigned, and whether more boys or girls were adopted? Prof. Dyjakowska observed that nowadays we have this idea of going to the office and want to get a nice child. However, adoption is not a contract. Answering the question of how children were chosen for adoption, she said that there used to be the possibility of adopting one's own illegitimate child, so the choice was limited. On the other hand, the choice of an adult was determined by the following circumstances: friendship, ties with the further family, property issues, or saving lives. Dr Okoński, on the other hand, asked in this regard about the criterion of disability taken into account during adoption. The speaker noted that the problem had not cropped up in the sources of law. However, this issue is present nowadays. Currently, foreign adoption is provided for by the Family and Guardianship Code. There are situations in which no one in the country wants a child and only foreign adoption is an opportunity for the child. For children with disabilities, adoption should be the first step, as they should be given special care and attention. In the past, however, there was no talk of the adoption of children with disabilities because that was not the purpose of adoption.

The second session of the conference was presided over by Prof. Bednaruk. Four lectures were presented.

Prof. Sitarz was the first to give a lecture on “The rights and duties of the child in the 1983 Code of Canon Law—an outline of the issue.” At the beginning he presented the following research problems: how does the legislator define a child; and what is the basis of a child’s legal personality in the Church? The speaker pointed out that one of the factors determining the legal status of a person is their age. He explained the difference between a child and a minor. He noted that the legislator in the Code of Canon Law of 1983 set an upper time limit, but did not specify a lower time limit, in relation to which the professor presented two views, namely: the moment of birth and the moment of conception. However, he posed the question: can the definition of a lower limit be derived from the Code legislation? After that, he analysed the rights and duties of the child. With regard to rights, he stressed that they resulted from a natural and canonical legal personality. As for the rights, he mentioned: the right to life, the right to sacraments, and the right to education. Analysing the right to sacraments, he pointed out that both born and unborn children have the right to be baptised. Thus, the child has a legal personality even before birth.

The next lecture was presented by Dr Dworas-Kulik. In her speech entitled “Evolution of children’s rights from the Geneva Declaration to the Convention on the Rights of the Child,” she emphasized that actions aimed at defending children against violence have been taken since the 19th century. It was then that children came to be treated as subjects. In 1929, the Geneva Declaration was adopted by the international community in response to the suffering of children during the First World War. After the World War II, on the other hand, children's rights were treated in two ways. In 1959, the Declaration of the Rights of the Child was signed, which was considered to be a development of the Geneva Declaration. Its creators introduced, among other things, a ban on discrimination and an obligation to raise a child. According to the document, national legislation should take into consideration the best interests of the child, but her parents should also be guided by the best interest of their child.

The paper entitled “Children’s rights in theory and practice in the activities of specialised state agencies: Jugendamt (Germany), Barnevernet (Norway), Children’s Rights Ombudsman (Poland)” was delivered by Andrzej Gil, PhD, Hab, an associate professor of KUL from the Department of Eastern Studies, KUL. In his introduction, he noted that the weakness of each country is the number of specialised agencies dealing with different matters, that is the more agencies, the weaker the State. This is illustrated by Germany, which is a federal country comprising states (*Länder*) that are collections of municipalities, county districts and free cities. Each has its own law. In Germany, there are 600 Jugendamt offices. In this way, there are 600 different approaches to the children issue. In Norway, on the other hand, a child can live outside the family, the latter being not the most important. In that country, a mechanism was created whereby the child is under full control. If child abuse is suspected, the state reacts immediately. However, in most cases (70%), the child is taken away and placed in a foster family. During this time, his original parents are required to prove that they are good parents. The problem, however, is that the child will have got used to living in her foster family

and it is up to the state to decide whether the child will remain in the foster family or not. Such cases are reviewed by the Children's Office of the Kingdom of Norway (Barnevernet). With regard to the Polish Children's Rights Ombudsman, the speaker noted that it is a passive body which collects information and reacts far too late. He also noticed the problems of the present day, that is the creation of new social categories, such as same-sex relationships demanding to raise children, or the implementation of, for example, Sharia law, which permits a union of an adult man and an underage girl. In this context, the speaker asked: what kind of children's rights are we talking about here?

The last speaker was Dr hab. Andrzej Wrzyszc, an associated professor of Maria Skłodowska-Curie University in Lublin (UMCS), Head of the Department of History of State and Law (UMCS). He presented a paper entitled "The legal status of the child in German legislation in the General Government (1939–1945)." He analysed normative acts, which were in force in the General Governornorate for the occupied Polish Region and referred to the legal situation of the child. Prof. Wrzyszc noted that there was no coherent system of regulations in the area under scrutiny, governing the status of the child in its entirety. The adopted provisions were random and introduced *ah doc*. They also differed from each other. Children of different origin, that is German, Polish or Jewish were treated differently. For example, the obligation, or coercion, to work did not apply to German children, while in the case of Polish and Jewish children the regulations varied. They were more restrictive for the Jewish population. Ordinances indicated the purpose of those regulations, which was to educate. In the event that it was not achieved, the recipients of the legal norm were liable to prosecution. Differences in legal regulations in respect of nationality were also present in the areas of education and insurance. Polish children could study in state schools, but secondary and higher schools were abolished, while vocational schools were maintained. On the other hand, Jewish children could attend elementary schools, but the obligation to organize them was imposed on Jewish councils. Interestingly, Ukrainian children were clearly privileged in the field of education.

After the last talk, Prof. Bednaruk allowed some time for discussion. Professor Gil asked if the Germans had the right to abortion. Prof. Wrzyszc replied that he was not familiar with such a normative act, and in their court practice the Germans did not prosecute physicians for abortion. Prof. Sitarz commented that in 1943 Hitler issued a personal decree on the introduction of abortion in Poland. Then Prof. Bednaruk proposed the creation of the institution of the Ombudsman for Parents' Rights, because in France, for example, children's violence against their parents exceeds that of parents against their children. The scale of the problem in Western Europe is huge. Dr Okoński shared his experience in this regard with the audience having conducted some research on this issue. For example, in Chełm, 6–8% of the local population have suffered violence from their sons or daughters.

Finally, Dr Okoński recapitulated and closed the conference. He said that the event was the beginning of activities forming part of the Year of the Rights of the Child.

Knowledge and insights gained during the conference should allow everyone to look at family, children and children's rights in a different way. He also expressed the hope that this meeting inaugurated a permanent cooperation with the John Paul II Catholic University of Lublin to organise further such scientific events in the future.

Translated by Tomasz Pałkowski



The preparation of the English version of *Roczniki Nauk Prawnych (Annals of Juridical Sciences)* and its publication in electronic databases was financed under contract no. 836/P-DUN/2018 from the resources of the Minister of Science and Higher Education for the popularization of science.