

Tomasz Gałkowski

Correlation of Rights and Duties of the Faithful in the Constitution "Gaudium et Spes" and Its Influence on the Formulations in the Code of Canon Law

Philosophy and Canon Law 2, 141-153

2016

Artykuł został opracowany do udostępnienia w internecie przez Muzeum Historii Polski w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej bazhum.muzhp.pl, gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

Tomasz Galkowski

University of Cardinal Stefan Wyszyński, Warsaw, Poland

Correlation of Rights and Duties of the Faithful in the Constitution *Gaudium et Spes* and Its Influence on the Formulations in the Code of Canon Law

Abstract: The *Gaudium et Spes* Constitution names a lot of rights and duties of a human person. They have emphasized the constant teaching of the Church on the interdependency of rights and duties. This paper poses a question about the possible influence of the Constitution on the formulation of the rights and duties of the faithful which were laid down in the Code of Canon Law. This influence can be noticed, in particular, in the ideological layer of the unshakable conviction of the Church about the interdependency of rights and duties, in the possibility of limiting the rights and, to a lesser degree, in the relation to specific formulations of the rights and duties, which stems from the diversity of the addressees of both documents.

Keywords: *Gaudium et Spes*, the faithful, rights, duties, Code of Canonical Law

The social teaching of Church concerning the rights and duties of the person dates back to the times of Pope Leon XIII. His teaching, bearing in mind earlier aversion to the Declaration of the Rights of Man and of the Citizen beginning with Pius VI, should be regarded as crucial in the approach of Church to human rights. In one of his letters he wrote: “The reason why we addressed our encyclicals to the bishops [...] lies in the interest of people, so that they can learn to assess their own rights and duties and be duly responsible for their own

salvation”¹ [trans. T.G]. Leon XIII gave a strong incentive to the social teaching of Church concerning the rights and duties of man. The encyclical *Rerum Novarum*, despite the common belief, cannot be regarded as a declaration of rights of man, but only as a call for respecting his social rights (worker’s rights). Its meaning is based on the fact that the pope emphasizes in it two basic principles which will constitute a permanent point of reference for further statements of the Magisterium of Church. The first of them is the dignity of the person as a foundation of his inviolable rights and duties. The latter concerns the functions of the state which bears responsibility for respecting, protecting, and promoting human rights, rooted in human dignity which every man deserves as a person.

Beginning with the pope’s first positive statements concerning the rights of man one can notice an element which distinguishes them from secular approach. Legal documents of the 18th and 19th centuries formulated first of all the rights of individuals and, in negative form, duties of the state towards its citizens.² The duties of an individual towards other people or community and the state were formulated to a much smaller extent. Today’s statements on human rights refer to the duties of man, though in a very limited way.³ The responsibilities are formulated by means of separate documents in the form of charters of duties, independently of declaration of the rights of man.⁴ However, the Catholic social teaching from the very beginning highlighted close correlation between rights and duties of man, simultaneously emphasizing the significance of awareness of the duties.⁵

¹ Leon XIII, “Litterae ad Ministrum generalem Ordinis Fratrum Minorum de doctrina divi Thomae aquinatis sequenda” (25.11.1898), *Acta Sanctae Sedis* [henceforth: AAS] 31 (1998–1999): 266.

² Leon XIII spoke in the same manner about the duties which lay above all on the state. The responsibility of the state is taking care of the common weal. The pope wrote about duties of the state towards the individual. The first statements about mutuality of rights and responsibilities concerned bilateral relation, in which the eligible and the obliged side are mutually an employer and a worker. Tomasz Gałkowski, *Prawo-Obowiązek. Pierwszeństwo i współzależność w porządkach prawnych: kanonicznym i społeczności świeckiej* (Warszawa: Wydawnictwo UKSW, 2007), 244–45.

³ Daniel Collard, “Essai sur la problématique des devoirs de l’homme,” *Revue des droits de l’homme* 5 (1972): 335.

⁴ There are few documents whose title proves that they are dedicated to the issue of rights and duties of man, such as, *Déclaration des devoirs fondamentaux de peuples et des états asiatique* (9.12.1983). In international acts of human rights we can find merely single references to the duties of man. Most important of them are: *The Universal Declaration of Human Rights* (1948), Art. 29; *International Covenant on Civil and Political Rights* (1966), preamble; *Declaration of the Rights of the Child* (1959), principles 6, 7. There exist declarations of local scope, for example: *American Declaration of the Rights and Duties of Man* (1948) or *Charte africaine des droits de l’homme et de peuples* (1981).

⁵ “A sense of the dignity of the human person has been impressing itself more and more deeply on the consciousness of contemporary man, and the demand is increasingly made that men should act on their own judgment, enjoying and making use of a responsible freedom, not

Foundation and Origin of Interrelationships of Rights and Duties in the Teaching of Church

Foundation is the kind of reality which is prior to origin, it constitutes its beginning. The origins are the consequence of the existing basis providing principles which do not contradict their existence. In accordance with this distinction, the basis (foundation) of the whole creation is personal God who reveals himself in history to man and in whom everything has its beginning and fulfillment, whereas man as his/her creation is the source of all relations and references first of all to the other man, created like him/herself, in the image and likeness of God. A characteristic of social ideology of Church concerning rights and duties of the person is the fact that it is not confined to the real aspect of describing reality, but explains it in the light of the revealed truth. The Magisterium of Church captures the rights and duties of man in a wider perspective than secular science. John XXIII in his encyclical emphasized that they have their foundation in God, who introduces order among his creatures. The consequence of the existence of order is the duty to keep it, which contributes to salvation of man but, at the same time, is the guarantee of achieving and maintaining peace.⁶ The order represented in the natural law (*lex naturalis*) has its basis in God's conception and his eternal law. The natural law shows the human a way of life, simultaneously expressing his rights and duties. They are not merely the result of rational decisions of the person or the product of his resolutions.⁷ It was highlighted by John XXIII who taught that "the order which prevails in human society is wholly incorporeal in nature. Its foundation is truth, and it must be brought into effect by justice. It needs to be animated and perfected by men's love for one another"⁸ because it "finds its source in the true, personal and transcendent God."⁹ Justification of rights and duties of man significantly differs from their justification in the secular doctrine. Church justifies them referring to two basic dimensions: the natural law and personal dignity of man, at the same time pointing out at an inextricable connection between rights and duties.

driven by coercion but motivated by a sense of duty." Vatican Council II, "Declaration on religious Freedom: *Dignitatis Humanae*," n. 1, accessed December 29, 2015, http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html.

⁶ John XXIII, *Pacem in Terris*. Encyclical of Pope John XXIII on Establishing Universal Peace in Truth, Justice, Charity, and Liberty (April 11, 1963), nn. 1–7, accessed December 29, 2015, http://w2.vatican.va/content/john-xxiii/en/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem.html.

⁷ Gałkowski, *Prawo-Obowiazek*, 291–92.

⁸ *Pacem in Terris*, n. 37.

⁹ *Ibid.*, n. 38.

John XXIII in the encyclical *Pacem in Terris*, broke the silence of Pius XII around the Universal Declaration of Human Rights from 1948¹⁰ and acknowledged it as a decisive step on the way to creating an international, political, and legal organization, and as a space for dialogue between Church and the world.¹¹ He drew attention to the inextricable connection between rights and duties as well as their correlation. Formulating in the encyclical an array of responsibilities of man, the pope exposed himself to accusations that talking about the rights of man he exaggerates the significance of his duties.¹²

Pointing out at the inextricable connection between rights and duties John XXIII wrote that “the natural rights of which we have so far been speaking are inextricably bound up with as many duties, all applying to one and the same person. These rights and duties derive their origin, their sustenance, and their indestructibility from the natural law, which in conferring the one imposes the other.”¹³ At the same time the pope indicated another kind of correlation between rights and duties which refers to their legal interdependence, that is: “In human society one man’s natural right gives rise to a corresponding duty in other men; the duty, that is, of recognizing and respecting that right. Every basic human right draws its authoritative force from the natural law, which confers it and attaches to it its respective duty.”¹⁴ The interdependence the pope talks about does not concern only the natural order. It constitutes the foundation of social life—“since men are social by nature, they must live together and consult each other’s interests. That men should recognize and perform their respective rights and duties is imperative to a well ordered society.”¹⁵ Mutual respect for respective rights and duties is not just a form of organizing social life—“it must also provide men with abundant resources”¹⁶ so that it ensures “the involvement and collaboration of all men in the many enterprises which our present civilization makes possible, encourages or indeed demands.”¹⁷

¹⁰ About the silence of Pius XII cf. among others Paul-Emile Bolté, *Les droits de l’homme et la paupaté contemporaine* (Montreal: Editions Fides, 1975), 134–41.

¹¹ Tomasz Gałkowski, “Prawo a obowiązek w społecznym nauczaniu Kościoła,” in *Semel Deo dedicatum non est ad usum humanos ulterius transferendum. Księga pamiątkowa dedykowana ks. prof. dr. hab. Julianowi Kałowskiemu MIC z okazji siedemdziesiątej rocznicy urodzin*, ed. Józef Wroceński, Bożena Szewczul, Andrzej Orczykowski (Warszawa: Wydawnictwo UKSW, 2004), 86.

¹² Franciszek Janusz Mazurek, *Prawa człowieka w nauczaniu społecznym Kościoła (od papieża Leona XIII do papieża Jana Pawła II)* (Lublin: Redakcja Wydawnictw KUL, 1991), 234.

¹³ *Pacem in Terris*, n. 28. Explaining his idea the pope also gives examples: “the right to live involves the duty to preserve one’s life; the right to a decent standard of living, the duty to live in a becoming fashion; the right to be free to seek out the truth, the duty to devote oneself to an ever deeper and wider search for it” (*Pacem in Terris*, n. 29).

¹⁴ *Pacem in Terris*, n. 30.

¹⁵ *Ibid.*, n. 31

¹⁶ *Ibid.*, n. 33.

¹⁷ *Ibid.*

The inextricable connection between rights and duties is of ontic character, whose source is the human nature and foundation in God. However, it is not always obvious, which is proved by violation of rights or not fulfilling duties. The world of human rights pushes into the background the necessity of fulfilling duties. That is why John XXIII indicates and emphasizes that the awareness of rights should, in consequence, give rise to the awareness of duties. The starting point of such reasoning is becoming conscious of one's rights. Due consciousness concerns not as much the fact of the coexistence of rights and duties as their correlation, which was expressed by Paul VI in the formula that man equals right and duty. The duty emerges in man when he/she sees the value of respective rights as a requirement and expression of his/her dignity. "The possession of rights involves the duty of implementing those rights, for they are the expression of man's personal dignity. And the possession of rights also involves their recognition and respect by other people."¹⁸

Divine order of the natural law lies at the foundation of Catholic social teaching about the correlation of rights and duties in a man as their subject and in interpersonal relations. Secular conceptions of the so-called fundamental rights do not make any reference to the natural law. However, Church by adopting and using the notion of fundamental rights highlights their strong connection with the natural law as they are natural rights despite the fact that they are remote from Cartesian subjectivism and human decision-making. Using worldly language, Church conveys its own interpretation of rights and duties. The teaching of Church explicitly relates human nature to its divine foundation, by which it gains a new character. Without its reference to God it does not constitute the norm of existence and activity. It is not merely an indicative point of reference for human rights and duties but constitutes the imperative force of human judgments and actions. The theistic idea of the world, which is the result of God's rational conception and activity and in which a man exists and submits himself to the existing order, is justified by the statement of Pius XI that "the right of paramount importance is performing one's duty" [trans. T.G].¹⁹ This duty results from a binding aim of human life, which is the possibility of uniting with God offered to him. If duty is understood in this way, it is prior to all other rights. We can find this way of thinking in the works of the precursors of Catholic social thought, who put more stress on the category of duties than on the rights themselves.²⁰

¹⁸ Ibid., n. 44.

¹⁹ Pius XI, *Non Abbiamo Bisogno*. Encyclical of Pope Pius XI on Catholic Action in Italy to Our Venerable Brethren the Patriarchs, Primate, Archbishops, Bishops, and Other Ordinaries in Peace and Communion with the Apostolic See (June 29, 1931), AAS 23 (1931): 297.

²⁰ Vittorio Possenti, *Katolicka nauka społeczna wobec dziedzictwa oświecenia* (Kraków: WAM, 2000), 195.

Rights and Duties of Man in *Gaudium et Spes*

The Council's teaching concerning correlation of rights and duties develops in the direction pointed out by John XXIII. The main texts that discuss these issues are the Declaration on Religious Freedom *Dignitatis Humanae* and the Pastoral Constitution on the Church in the Modern World *Gaudium et Spes*.²¹ In numbers 12–22 of the constitution fundamental lines of Christian anthropology are highlighted, which constitute the foundation of the subsequently listed rights and duties of man. At the basis of teaching about the rights and duties of man there are: (1) acknowledging fundamental equality of all people in the diversity of personal capabilities and abilities²²; (2) emphasizing personal freedom, which should express itself in the service to the community and fulfill the need to perform the duty of conscience and responsibility.²³

The Council, pointing out at the transcendental dimension of a man, depicts the issues concerning human rights against the background of historical processes as well as social and cultural factors taking into consideration the growth of awareness in individuals in reference to dignity which is “proper to the human person, since he stands above all things, and his rights and duties are universal and inviolable.”²⁴ It is one of the few excerpts in the constitution in which one can find a clear statement about the coexistence of rights and duties in one person. In another fragment one may read that “Citizens [...] should remember that it is their right and duty, [...] to contribute to the true progress of their own community according to their ability²⁵ and in yet another that they “should be mindful of the right and also the duty to use their free vote to further the common good.²⁶ The subsequent statements of the constitution mention the rights and duties which result from human dignity.

The Council, following the direction set by John XXIII, confirms the inextricable unity of both these realities. The statements concerning the rights of man also refer to his duties. Expressions widely accepted as common, fundamental, inviolable are used to define them.²⁷ In the context of previous teaching it does not mean, however, that these rights do not refer to the reality desired and created by God.

²¹ Vatican Council II, “Pastoral Constitution on the Church: *Gaudium et Spes*,” AAS 58 (1966): 1025–115. Additionally, formulations concerning the duties of the person together with his rights can be found in *Ad Gentes* (n. 13); *Gravissimum Educationis* (n. 1); *Inter Mirifica* (n. 5).

²² *Gaudium et Spes*, n. 29.

²³ *Ibid.*, n. 31.

²⁴ *Ibid.*, n. 26.

²⁵ *Ibid.*, n. 65.

²⁶ *Ibid.*, n. 75.

²⁷ Mazurek, *Prawa człowieka w nauczaniu społecznym Kościoła*, 61.

Rights and duties are also described as absolute as far as fulfilling the vocation of the person is concerned. However, the Council notices some boundaries concerning the possibility of using them when it comes to communal life. It results from the hierarchy between rights and duties in reference to values and objectives they are subordinated to. The first boundary is the rule concerning true protection of freedom of an individual in the society, which “is to be respected as far as possible and is not to be curtailed except when and insofar as necessary.”²⁸ The second criterion is due relation between rights and duties. The rights of man involve the fundamental duty to respect and preserve them as “the obligations of justice and love,”²⁹ which goes hand in hand with noble, courageous conduct and evangelical commitment. Another criterion is the duty which lies with every person to respect and not violate the fundamental rights and duties of all people without exception for one’s own benefit. In this respect, the principle demanding that we treat another person as we treat ourselves is embodied. Its foundation lies in moral, personal, and social responsibility, since “in the exercise of their rights, individual men and social groups are bound by the moral law to have respect both for the rights of others and for their own duties toward others and for the common welfare of all. Men are to deal with their fellows in justice and civility.”³⁰ Therefore, one cannot demand respecting and protecting his/her rights without behaving in the same way towards others. The fourth criterion giving the possibility of curtailing rights and duties is an exceptional situation which occurs in public life and concerns the position of some religious community or the situation of restricting the rights of others by violating one’s own rights and duties (the natural and moral right to defend oneself, the principle of the universal destination of material goods).³¹

Emphasizing the unshakeable teaching of Church so far, the fathers of the Council highlight the following duties of the person correlated with his/her rights:

- of every person (to maintain the fullness of human personality³²; to do one’s job dutifully³³; moral duties³⁴; contributing to real progress of one’s society³⁵; taking part in free elections for the benefit of the common good³⁶; material

²⁸ *Dignitatis Humanae*, n. 7.

²⁹ *Gaudium et Spes*, n. 30. Cf. 26; 29–31.

³⁰ *Dignitatis Humanae*, n. 7.

³¹ *Gaudium et Spes*, nn. 27; 29; 31; 63; 66; 68; 69.

³² *Ibid.*, n. 61.

³³ *Ibid.*, n. 67.

³⁴ *Ibid.*, n. 43.

³⁵ *Ibid.*

³⁶ *Ibid.*, n. 75.

- and personal provision for the benefit of one's own country³⁷; to justice³⁸; to fulfill earthly duties, also by Christians³⁹;
- of a worshipper, resulting from the fact of being a Christian and testifying with one's own life and apostolate of the professed faith (duties of spouses towards family and society⁴⁰; children towards parents: the duty to sanctify them⁴¹; to fight with evil⁴²). The duties incumbent on all people are also Christian duties. They "unite with the rest of people in search of truth and solving in truth [...] moral problems."⁴³
 - of state and international community (to issue statements maintaining the right to personal and social propriety corresponding to the dignity of the person without any distinctions⁴⁴; to help citizens find jobs⁴⁵; to ensure civil liberties and regulate relationships between citizens and with state authorities⁴⁶; to exercise power within moral order for the common good⁴⁷; to take active part in enacting new laws of a political community and for managing the country⁴⁸; to acknowledge, support, and exercise the rights by citizens without detriment to anyone.⁴⁹

The above catalogue of rights concerns only those mentioned in *Gaudium et Spes*. They are not a confined area. Many other duties of each person, worshipper or social, public, and international organizations were included in the remaining documents, such as, for example, the duty to search for the truth, spread faith, fight with evil, help the poor or the educational duties. The Council's texts also mention the duties of particular groups of people: priests, consecrated persons, deacons, catechumens, papal legates, the youth.

The teaching of the Council reflects the statements of the Magisterium concerning close interdependence of rights and duties. It was distinctly emphasized by Paul VI on the occasion of 25th anniversary of adopting the Universal Declaration of Human Rights. In his message he drew attention to the fact that talking about the fundamental rights of the person means at the same time proclaiming his/her duties, irrespective of whether it was mentioned

³⁷ Ibid.

³⁸ *Gaudium et Spes*, n. 30.

³⁹ Ibid., n. 52.

⁴⁰ Ibid., nn. 48–52.

⁴¹ Ibid., n. 48.

⁴² Ibid., n. 22.

⁴³ Ibid., n. 16.

⁴⁴ Ibid., n. 60.

⁴⁵ Ibid., n. 67.

⁴⁶ Ibid., n. 73.

⁴⁷ Ibid., n. 74.

⁴⁸ Ibid., n. 75.

⁴⁹ Ibid., nn. 73; 75.

in the solemn acts or not.⁵⁰ The articulation of duties is not of utmost importance to the pope. He stresses that most significant is gaining awareness of this undeniable fact. Thus, he referred to the Declaration on Religious Freedom, in which we read: “A sense of the dignity of the human person has been impressing itself more and more deeply on the consciousness of contemporary man, [...] and the demand is increasingly made that men should act on their own judgment, enjoying and making use of a responsible freedom, not driven by coercion but motivated by a sense of duty.”⁵¹

On account of the fact that the message of the constitution is addressed to all people, to whom the Council wishes “to explain [...] how it conceives of the presence and activity of the Church in the world of today,”⁵² we do not find there direct reference to worshippers of Christ, their rights and duties within the community of Church. In all the documents issued by the Council the rights and duties of the faithful in Church, apart from the natural rights and duties of man which were not clearly referred to by the Council to the members of Church, can be presented as follows⁵³: (1) the right and duty to actively participate in the liturgy⁵⁴; (2) the right to preach the word of God and administer sacraments⁵⁵; (3) the duty of obedience to shepherds, which concerns all the believers except for the pope⁵⁶; (4) the right and duty to state one’s own needs to the shepherds⁵⁷; (5) the right and duty to publicly express one’s own opinions, also by new organizations set up for this purpose by Church authorities⁵⁸; (6) the right and duty to one’s own spirituality⁵⁹; (7) the right and duty to support the building of the Mystical Body⁶⁰; (8) the right and duty of apostolic work⁶¹; (9) the right and duty to act upon one’s own charisms⁶²; (10) the right and duty to form unions⁶³; (11) the right to theological formation⁶⁴; (12) the right to freedom of searching and teaching within the scope of theological science.⁶⁵

⁵⁰ Paolo VI, “Poussé par la conscience” (December 10, 1973), in Paolo VI, *Insegnamenti* (Vaticano: LEV, 1974), vol. XI, 1184–88.

⁵¹ *Dignitatis Humanae*, n. 1.

⁵² *Gaudium et Spes*, n. 2.

⁵³ Paul Hinder, *Grundrechte in der Kirche, eine Untersuchung zur Begründung der Grundrechte in der Kirche* (Freiburg: Universität Freiburg Schweiz, 1977), 98–101.

⁵⁴ *Sacrosanctum Concilium*, n. 14.

⁵⁵ *Lumen Gentium*, n. 37.

⁵⁶ *Ibid.*, n. 37.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*, nn. 12, 41.

⁶⁰ *Christus Dominus*, n. 16.

⁶¹ *Apostolicam Actuositatem*, n. 25.

⁶² *Ibid.*, n. 3.

⁶³ *Ibid.*, n. 19.

⁶⁴ *Gaudium et Spes*, n. 62.

⁶⁵ *Ibid.*, n. 62.

Rights and Duties in the Code of Canon Law

The teaching of Church contained in the constitution *Gaudium et Spes* is addressed to all people of good will. Doing so, the Church is convinced of the truth of its teaching, which is based on the Divine Revelation. However, in the first place, Church aims this teaching at its members, since the task of the community is to bear testimony to the truth of the Divine Revelation. What is expressed about any other community outside Church is already fulfilled in this community. It is the witness of the truth and fulfillment of the Divine Revelation.

It was under the influence of the Council that the catalogue of rights and duties of the person following the example of analogous catalogues of human rights and fundamental rights constitutionally guaranteed was shaped. *Gaudium et Spes*, due to its orientation towards the contemporary world does not contain many formulated rights and duties of the faithful concerning their life in the community of Church. It dedicates most attention to the institution of marriage, which is regulated by different legal orders, including the Code of Canon Law. Additionally, the constitution mentions the right to theological formation and freedom to search and preach within the scope of theological sciences. This issue was regulated in canon 218 of the Code of Canon Law.

Undoubtedly, the document is specific in its character. Its influence on the rights and duties of the faithful formulated in the Code is slight. The Code, which is the Code of the Second Vatican Council, still contains all the rights and duties of the faithful expressed in the documents of the Council apart from the right and duty to practice one's own charism. However, they are implicitly present in another right and duty, namely, the right to practice one's spirituality.

Nevertheless, it is impossible not to stress the importance of the document in the ideological aspect. In no other Council document is the issue of coexistence of rights and duties emphasized as strongly as in the constitution. It results above all from its character, since it is the constitution that describes most rights and duties concerning different subjects of social life, both secular and connected with Church. This is particularly significant because it addresses all people of good will living in different social and political circumstances. The problem of coexistence and interdependence of rights and duties in the secular legislation in the times of the Council was not as clearly defined as in the teaching of Church. What should be stressed is the fact that the influence of the constitution on the rights and duties of the person formulated in the Code of Canon Law was exerted mainly in the sphere of ideas. However, it took place to a smaller extent as far as positive references of the Code statements to the definitions of the document are concerned. A sign of belief in the existence of close correlation of rights and duties in the community of Church are the formulations included in Book II of the Code of Canon Law, where the rights and duties of

all the faithful (canons 208–223) as well as secular believers (canons 224–231) or clergymen (canons 273–289) are expressed inseparably.

Another influence of the constitution can be observed in reference to the possibility to restrict the rights and duties of the faithful in Church community, which was expressed in canon 223. The criterion which allows to limit a believer's rights and duties due to internal reasons, that is, by him/herself and due to external causes, that is, by Church authority is the common good of Church. The reason for curtailing rights and duties is protecting the community from abuse which might occur under the pretence of exercising rights the faithful are entitled to. Such restrictions might take place only when there are important causes, including the common good of Church and duties of the faithful with regard to the rights of other people.

Gaudium et Spes was addressed “not only to the sons of the Church and to all who invoke the name of Christ, but to the whole of humanity.”⁶⁶ The Council there explains the way in which it understands the presence and activity of Church in the world engaging in a concomitant dialogue and cooperation with it for the common good of man and humanity. On the one hand, it provides mankind with “saving resources,”⁶⁷ and on the other, studies the signs of the times, gains insight, and seeks to understand the world in which it lives. It steps into the world and offers to make it more comprehensible by relying on its own experience, including the one which concerns the rights and duties of man.

Bibliography

“American Declaration of the Rights and Duties of Man” (1948). Accessed October 27, 2015. <https://www.cidh.oas.org/Basicos/English/Basic2.American%20Declaration.htm>.

Bolté, Paul-Emile. *Les droits de l'homme et la paupaté contemporaine*. Montreal: Editions Fides, 1975.

“Charte africaine des droits de l'homme et de peuples” (1981). In *Le devoirs de l'home. De la réciprocité dans les droits de l'home. Actes du V^e Colloque interdisciplinaire de Fribourg 1987*, edited by Patrice Meyer-Bisch, 164–165. Fribourg–Paris: Éditions Universitaires, Éditions du Cerf, 1989.

Collard, Daniel. “Essai sur la problématique des devoirs de l'homme.” *Revue des droits de l'homme* 5 (1972): 333–373.

“Déclaration des devoirs fondamentaux de peuples et des états asiatique” (December 9, 1983). In *Le devoirs de l'home. De la réciprocité dans les droits de l'home. Actes du V^e Colloque interdisciplinaire de Fribourg 1987*, edited by Patrice Meyer-Bisch, 166–172. Fribourg—Paris: Éditions Universitaires, Éditions du Cerf, 1989.

⁶⁶ *Gaudium et Spes*, n. 2.

⁶⁷ *Ibid.*

- “Declaration of the Rights of the Child” (1959). Accessed October, 27, 2015. <http://www.unicef.org/malaysia/1959-Declaration-of-the-Rights-of-the-Child.pdf>.
- Gałkowski, Tomasz. “Prawo a obowiązek w społecznym nauczaniu Kościoła.” In *Semel Deo dedicatum non est ad usum humanos ulterius transferendum. Księga pamiątkowa dedykowana ks. prof. dr. hab. Julianowi Katowskiemu MIC z okazji siedemdziesiątej rocznicy urodzin*, edited by Józef Wroceński, Bożena Szewczul, and Andrzej Orczykowski, 67–93. Warszawa: Wydawnictwo UKSW, 2004.
- Gałkowski, Tomasz. *Prawo-Obowiązek. Pierwszeństwo i współzależność w porządkach prawnych: kanonicznym i społeczności świeckiej*. Warszawa: Wydawnictwo UKSW, 2007.
- Hinder, Paul. *Grundrechte in der Kirche, eine Untersuchung zur Begründung der Grundrechte in der Kirche*. Freiburg: Universität Freiburg Schweiz, 1977.
- “International Covenant on Civil and Political Rights” (1966). Accessed October, 27, 2015. <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>.
- John XXIII. *Pacem in Terris*. Encyclical of Pope John XXIII on Establishing Universal Peace in Truth, Justice, Charity, and Liberty (April 11, 1963). AAS 55 (1963): 257–304. Accessed December 29, 2015. http://w2.vatican.va/content/john-xxiii/en/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem.html.
- Leon XIII. “Litterae ad Ministrum generalem Ordinis Fratrum Minorum de doctrina divi Thomae aquinatis sequenda” (November 25, 1898). *Acta Sanctae Sedis* 31 (1998–1999): 264–267.
- Mazurek, Franciszek Janusz. *Prawa człowieka w nauczaniu społecznym Kościoła (od papieża Leona XIII do papieża Jana Pawła II)*. Lublin: Redakcja Wydawnictw KUL, 1991.
- Paolo VI. “Poussé par la conscience” (December 10, 1973). In Paolo VI, *Insegnamenti*. Vaticano: LEV, 1974, vol. XI: 1184–1188.
- Pius XI. *Non Abbiamo Bisogno*. Encyclical of Pope Pius XI on Catholic Action in Italy to Our Venerable Brethren the Patriarchs, Primate, Archbishops, Bishops, and Other Ordinaries in Peace and Communion with the Apostolic See (June 29, 1931). AAS 23 (1931): 285–312.
- Possenti, Vittorio. *Katolicka nauka społeczna wobec dziedzictwa oświecenia*. Kraków: WAM, 2000.
- “The Universal Declaration of Human Rights” (1948). Accessed October 27, 2015. <http://www.un.org/en/documents/udhr/>.
- Vatican Council II. “Constitution on Sacred Liturgy: *Sacrosanctum Concilium*.” AAS 56 (1964): 97–138.
- Vatican Council II. “Declaration on Christian Education: *Gravissimum Educationis*.” AAS 58 (1963): 728–739.
- Vatican Council II. “Declaration on Religious Freedom: *Dignitatis Humanae*.” AAS 58 (1963): 929–946. Accessed December, 29, 2015. http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html.
- Vatican Council II. “Decree Concerning the Pastoral Office of the Bishops in the Church: *Christus Dominus*.” AAS 58 (1966): 673–701.
- Vatican Council II. “Decree on the Apostolate of the Laity: *Apostolicam Actuositatem*.” AAS 58 (1966): 837–864.
- Vatican Council II. “Decree on the Means of Social Communication: *Inter Mirifica*.” AAS 56 (1964): 97–138.
- Vatican Council II. “Decree on the Mission Activity of the Church: *Ad Gentes*.” AAS 58 (1966): 947–990.
- Vatican Council II. “Dogmatic Constitution on the Church: *Lumen Gentium*.” AAS 57 (1965): 5–75.
- Vatican Council II. “Pastoral Constitution on the Church: *Gaudium et Spes*.” AAS 58 (1966): 1025–1115.

Tomasz Gałkowski

La corrélation des droits
et des obligations d'un fidèle
dans la Constitution *Gaudium et Spes* et son influence
sur les formulations dans
le Code de droit canonique

Résumé

La Constitution *Gaudium et Spes* énumère beaucoup de droits et d'obligations de l'homme. Avec eux, on a souligné l'enseignement continu de l'Église concernant les corrélations des droits et des obligations. L'auteur pose la question concernant l'influence possible de la Constitution sur la formulation des droits et des obligations des fidèles à l'Église, qui ont été exprimés dans le Code de droit canonique. Il aperçoit cette influence avant tout dans la couche idéologique de la conviction inébranlable de l'Église à propos de la corrélation des droits et des obligations et dans la possibilité de limiter les droits. Il l'aperçoit également, mais à un plus faible degré, dans la référence à des formulations concrètes des droits et des obligations, ce qui résulte de la diversité des destinataires des deux documents.

Mots clés : *Gaudium et Spes*, fidèle, droits, obligations, Code de droit canonique

Tomasz Gałkowski

La correlazione dei diritti
e dei doveri del fedele
nella Costituzione *Gaudium et Spes*
e la sua influenza sulle formulazioni
nel Codice di Diritto Canonico

Sommario

La Costituzione *Gaudium et Spes* menziona molti diritti e doveri dell'uomo. Con essi è stato sottolineato l'insegnamento permanente della Chiesa riguardante la dipendenza reciproca dei diritti e dei doveri. L'Autore dello studio si chiede quale sia l'influenza possibile della Costituzione sulle formulazioni dei diritti e dei doveri dei fedeli nella Chiesa che sono stati espressi nel Codice di Diritto Canonico. Scorge tale influenza soprattutto nello strato ideologico della convinzione irremovibile della Chiesa sulla dipendenza reciproca dei diritti e dei doveri e nella possibilità di limitare i diritti ed in misura minore, invece, rispetto a formulazioni concrete di diritti e doveri, cosa che risulta dalla varietà dei destinatari di entrambi i documenti.

Parole chiave: *Gaudium et Spes*, fedele, diritti, doveri, Codice di Diritto Canonico