

## **„*Iniuria* in the canonical penal law”**

### Summary of the dissertation

The Fathers of the Second Vatican Council wrote in the pastoral constitution on the Church in the modern world *Gaudium et spes*, that there must be made available to all men everything necessary for leading a truly human life, such as for example the right to a good reputation and to respect. These rights derive directly from natural law. Therefore, the community should particularly watch them. Anything that insults human dignity is a shameful thing. It poisons human society and it is the supreme dishonor to the Creator. This truth has culminated today. It is a kind of response to the horrors experienced by the community during world wars and other similar tragedies.

The community's concern for a good name, personal dignity and bodily inviolability is expressed, among others, in the rules of penal law. The Church legislator who wanted to guarantee respect for everyone specified a number of crimes against this. The subject of these crimes is important in the light of the current culture of postmodernist relativism, nihilism and secularism, as well as lack of respect for the other person. It is also an expression of the crisis of faith and great dislike of the Church.

The protection of these three personal rights is not only the result of reflection in modern times. Also great historical civilizations created the principles of respecting these rights. The most significant for the Catholic Church in this matter is Roman legislation. On this basis, canon law has been developing. Many institutions created in ancient Rome were later converted to ecclesiastical law, including, among others, penal regulations, some of which still exist in almost unchanged form. However, there are also such rules that have been modified to incorporate them into the law of the Catholic Church. One of them is *iniuria*, which is the subject of the dissertation. It was a delict in Roman law. The contemporary penal law of the Catholic Church contains many norms that relate to this.

*Iniuria* in ancient Rome literally meant an insult, that is a violation of personal dignity. In a wide sense, *iniuria* was determined as all unlawfulness caused to a man. It also included attacks on his physical freedom and good name. Furthermore, *iniuria* was considered to be actions performed during the trial, which were aimed at diminishing someone's respect.

The monograph presents the evolution of *iniuria* in Roman law and its elements, which were incorporated by the law of the Catholic Church. Crimes which are a kind of equivalent of the Roman *iniura* in current canon law are indicated in the dissertation. The main reason for

taking up this topic is the relevance of this issue. Today the sense of personal dignity has disappeared. There are many acts of insult or defamation. The faithful hardly ever undertake to seek protection of these personal rights in Church courts. This is more often the case in state courts, where members of one Church are suing each other. For outsiders, this may be a reason for stumbling, and proof that it is not worth to be *christifideles*.

To show the main problem, it was necessary to refer to the sources of Roman law. Gaius in *the Institutes* and author of *the Sentences* spoke about *iniuria*. The Justinianian codification was also important for this subject. The Church has incorporated some of these norms in the regulations of the councils and synods of the first centuries. Medieval penitential books are also Church sources on this subject. The work also refers to the 1917 Code of Canon Law. At present, the documents of the Second Vatican Council play a significant role for the protection of personal dignity, good name and bodily inviolability. They refer to the Universal Declaration of Human Rights of 1948. Among the contemporary legislation, the 1983 Code of Canon Law and the 1990 Code of Canons of the Eastern Churches are essential.

The subject of *iniuria* in relation to Roman law was taken by many authors, both Polish and foreign. The same applies to the question of the reception of this law by the Church. However, there is no publication in which the *iniuria* delict in the law of the Catholic Church was referred. No one analyzed the crime in question in terms of its presence in the canonical penal law. Therefore, an attempt was made to fill the gap in previous studies on ecclesiastical law.

The dissertation consists of a table of contents, a list of abbreviations, an introduction, five chapters, an ending and a bibliography. In Chapter I, the *iniuria* is characterized in the Roman law, where it has its source. It had a double meaning there. First, it was the opposite of *ius*, the law: it was unlawful. Second, it was a delict, which for Roman jurists meant an insult. The beginnings of *iniuria* are to be found in the Twelve Tables. It contained several different prohibited activities, called this. Praetorian law contributed to the further development of the discussed institution. At that time, legal protection against insults evolved. An edict was introduced, on the basis of which every form of slander and defamation was sanctioned. In Roman law, two institutions have been formed to counteract these in procedural law. They were *calumnia* (false accusation) and *falsa delatio* (slandorous denunciation of crime). The subsequent acts that contributed to the transformation of the discussed delict are: *lex Cornelia de iniuriis*, resolutions of the Senate and Justinianian codification.

Chapter II describes the reception of *iniuria* in the law of the Church and its evolution until 1917. Canonical understanding of crime and examples of legal regulations containing elements

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of the discussed delict in the history of the Church are given there. Documents relating to verbal and written insult and dealing with *calumnia* and *falsa delatio* have been provided. Thanks to this, it was shown that *iniuria* in canon law was considered primarily as an insult to *bona fama*.

Chapter III refers precisely to this last aspect. It presents the issue of *bona fama* in current canon law. Relevant canons from both Codes of law are discussed. An analysis was also made of all crimes and other abuses that are treated in the Church's legislation as to the insult aspect. This was a comparison to the violation of bodily integrity, dignity and good name, which are about the Roman *iniuria*.

Chapter IV deals with the analysis of crimes which are the direct correlates of Roman *iniuria*. They are associated with *calumnia* and *falsa delatio*. Therefore, a false confessor's denuntiation regarding a crime against the sixth commandment of the Decalogue (a qualified type of *falsa delatio*) and false reports about other delicts (the basic type of *falsa delatio*) were shown. Defamation of the *bona fama* has also been described.

The last chapter is a description of the court protection against *iniuria* in the penal law of the Church. *Investigatio praevia*, criminal trial in court and administrative proceedings, as well as action to repair damages were circumscribed in this chapter. All these issues are now a way to assert one's rights in the Church in the event of a violation of good name, personal dignity or physical integrity. Certainly, more attention should be paid to the question of safeguarding these rights in the Church.