

Polish labour law and the Church's social teaching

A legal and sociological study

Socio-political doctrines are of substantial significance in the law-making process. Referring to them brings order to the process of decoding the axiology of law. In the Polish cultural sphere, which is part of Western culture, it is the social doctrine of the Catholic Church that is fundamentally important; it is essentially the co-creator of the "system of European values." But this doctrine is particularly interesting from the point of view of labour law, because in an extremely comprehensive and entirely clear way it indicates a defined and detailed model of how employment relations develop. Therefore, bearing in mind that the social doctrine of the Church in the Polish cultural sphere has considerable importance and its contribution to the development of labour law is indisputable, we must ask how it is reflected in Polish labour law. It is a question of examining the extent to which ideas stemming from Church doctrine are present in the current form of Polish labour law. Is it at all "attractive" for the Polish employer? One might also inquire as to its potential "attractiveness" in the future, especially in the context of attempts made at codification.

My research hypothesis comes down to showing that with regard to the significance of the Church's social doctrine in the Polish cultural context the conceptual inspirations stemming from this doctrine can be sought out in Polish law-making. This seems particularly justified in terms of labour law, owing to the fact that this doctrine presents its vision for employment relations in a very complex way.

Thus the concept of labour is based on analysing the extent to which Church doctrine influenced law-making in the field of labour law, especially current employment law. It is not a matter of seeking out traces of the Church in labour law institutions. The problem relates to whether the fundamental assumptions of Polish law reflect the vision of employment presented in the social teachings of the Church. For this reason I start by analysing the basis of employment law in the 1997 Constitution of the Republic of Poland from the Catholic Church's point of view. Does the employment order enshrined in the Constitution stem from the Church's teachings in any way? After answering this question, it will be necessary to ask whether employment relations on the level of basic law and particularly in terms of labour law are in accordance with the teachings of the Church.

Such a concept of work creates, in a natural way, the following problems. First and foremost, analysis must begin with a definition of whom Polish law regards as the subject of employment relations. What is fundamental to the Church's teaching in this respect is the dichotomy of work regimes of either working as an employee or for oneself, in self-employment, with precedence given to self-employment. At this point, the question arises as to the extremely common phenomenon of the individual rendering of services on a civil law basis.

Moreover, with regard to the fact that the social teachings of the Church take on a personalised view of the world, where the individual human embodies the sense and aim of any action, the idea of

human dignity becomes crucial. With this in mind, an answer is required to the question of whether it is necessary to construct a concept of employee dignity, which has so far not been advanced in the way labour law is perceived in Poland.

The next significant problem is that of the labour law implications of the wide variety of relations in which working people are seen in the social teachings of the Church; Catholic social teachings lead to two-way relations and in this way reveal a fuller picture of social employment relations. The question therefore arises as to whether the Polish point of view on the legal aspects of employment relations reflects the teachings of the Catholic Church in this field in any way. How the workplace is understood is also a significant problem at this juncture; in plain terms, should it really be understood as a group of objects as well as people, or only as a group of people employed?

Next, human rights in the context of human work should be considered. This is a common aspect of the Church's teachings. It is essential at this point to answer whether we can speak of employee's rights or rather of the human rights of working people, and what consequences, if any, this has.

Finally, it is deemed necessary to compare the interpretation of the context of payment as it stands in Polish labour law with the concept of fair pay advocated in the social teachings of the Church. It is important to answer whether the general assumptions of Polish collective labour laws reflect the values of Catholic social teachings.

The Polish Constitution of 1997 introduced principles into the new labour market order. The principle of the social market economy came to the fore with great force. In general, this principle from Article 20 in conjunction with Article 24 of the Constitution provides an accurate reflection of the Church's teachings in terms of employment relations. Article 30 of the Constitution refers to the inherent and inalienable dignity of humans, which is concurrent with the social ideas of the Church in terms of a fundamental understanding of employment. The individual becomes the subject of all relations, including those related to employment, hence the principle of personalism, which is the starting point for the Church's social teachings, takes a prominent position in Poland's Constitution.

It is possible to trace the job contract, the key institution in the Labour Code, back to the Church's social doctrine. Although I maintain that there is no need for a statutory definition of work relations, I believe that this existing *de lege lata*, despite the imposed 'logic of exchange,' conceals huge potential to reflect 'the logic of bestowal,' a concept fundamental to the Church's social teachings. This is merely a matter of focusing greater attention on the social layer of work relations, and understanding that work relations between employer and employee are based on the social value of work. Work is not a good. Work is the social value of work. This can be interpreted from today's labour law regulations (and as such the concurrence with the social teachings of the Church). In any case, such an interpretation is strongly rooted in the constitutional principle of subsidiarity. The workplace constitutes a group of individuals focused (from the model point of view) on a particular economic project – the community of workers – generates profit, produces the particular 'fruits' of their labour, which are then divided there, a process which is determined to a great extent by the social needs of those making up this community.

In order to preclude any criticism, I would like to emphasise that the above in no way depicts the public character of the workplace community, nor the public character of work relations. The workplace as a community of workers, which A. Sobczyk states so forcefully and aptly in the Polish literature on labour law, is an effect of the initiation (in the model view) of a particular economic venture and develops independently. In no way does the state 'appoint' a workplace, but supports order based on the principles of solidarity, which can only be realised in a workplace understood subjectively.

Translated by Rob Pagett