"The Participation of an Individual in the Law-making Process in Polish and canon law."

Abstract

The subject of the presented doctoral dissertation is as follows: "The Participation of an Individual in the Law-making Process in Polish and canon law." To start with, the following hypotheses were made:

1) Increasing the number of institutions allowing people to participate in the law-making process would increase the social activity in this area.

2) The more educated the society is when it comes to law-making procedures, the greater its knowledge in this matter. Therefore, the proceeded regulations are better and more accurate.

The work also aims to show both the needs and methods of activity of people involved in the law-making process, both in Polish and canon law. The work assumes that having a certain level of knowledge in the field of law-making as well as ability to use this knowledge is the key to the law that would be respected by various social groups, whose points of view and interests would be taken into account and included within the proceeded law.

It was indicated that the concept of law is ambiguous for both an individual and collective entities. It is influenced by the complexity of this apparently simple and straightforward concept. One may talk about its creation or, more broadly, the way of creating or interfering with the process by the subject.

There are a number of possibilities of a person's participation in the law-making process already present in Polish and canon law. One of the aims of the dissertation is to verify these possibilities in terms of their availability and understanding by various participants in the law-making process. The dissertation aims to pinpoint the place of an individual in the law-making process and underlines the importance of a human being without whom no legal norms or regulations would function, and vice versa - no community can functions without law. It is natural that in every community certain bonds, ties and dependencies are formed, and all communies appeal to different principles and values.

Chapter I of this dissertation explains the sources and origins of law. The sources of Polish law were indicated, both in historical and contemporary terms along with the differences between natural and statutory law. The emphasis was also put on the sources of canon law, along with the explanation of the concept of canon law and its relationship with statutory law, as they often function at the same time and in the same place. Discussing canon law, the author focuses on two levels: the first is God's law or Divine law that is believed to come directly from God, while the second is the law which comes from the Catholic Church. The law constituted by the Church was

discussed in details as well as in general in the course of the dissertation. Moreover, the relationship between God's law and human or natural law was thoroughly anlysed as well. The subchapter 4 presents the sources of Polish concordat law and takes into account the relationship between Polish national law and canon law. What is more, the author explains the relationship between Poland and the Church by analysing concluded concordat agreements of 1925 and 1993 between Poland and the Holy Sea, including their content and provisions.

The second chapter deals with various issues related to the law-making process. The author starts the discussion by defining the law-making process itself. Then, the roles of both the legislator and a person involved in this process were clarified and demonstrated. The law-making process itself was also described, starting with determining the sources of regulations in Polish law. The principles of creating Polish law and the course of the legislative process were discussed, along with pointing out entities and institutions with law-making competences, both at the local and national level. The ways and possibilities of initiating the law-making process were also indicated. The final part of this process was also analysed by describing the requirements that a normative act must meet in terms of both general and specific requirements. Speaking of canon law, the law-making process in this regard was also analysed, starting with its characteristics, principles and models of its creation. The promulgation process of a canon law normative act was also described. At the end of chapter II, the law-making process in Polish law and canon law was compared, showing similarities and differences between them.

The initial part of chapter III deals with the possibility of an individual's participation in the creation of Polish law. In the course of the chapter it was shown that there are institutions in Polish law such as: a referendum, a legislative initiative, a public hearing, public consultations, lobbying tools and opportunities resulting from having Polish citizenship or residence in Poland, which enables public participation in the creation of Polish law. Then, the author discusses formalised and non-formalised ways of participation in the aforementioned process. The chapter also indicates that the faithful can also participate in the creation of canon law and considers the forms of participation in this process, both individual and collective. Another vitual point of the chapter was meant to demonstrate a number of institutions that allow the faithful to participate in the process of creating canon law.

In the course of Chapter IV called "The position and tasks of an individual in the law-making process", the author analyses the position of an individual in the law-making process in both Polish and canon law. In Polish law, the rights of persons have been distinguished at the national and local level. The said rights originate from the act of law or the desire to care for the mutual, common good of a society. By analyzing the position of a person who participates in the process of creating canon law, the author makes a division of people into believers, laypeople and

clergy. It was established that the rights and obligations of individuals in Polish and canon law result either from the provisions or from the interest in these processes and the willingness to participate in them.

Chapter V is devoted to the comparison of the possibilities of public participation in creating Polish and canon law. Both public and the faithful participation was assessed in terms of creation of Polish and canon law respectively. Moreover, the author managed to show differences in the possibilities of law-making participation in Polish and canon law. After analysing the above, the author proposes a number of de lege ferenda conclusions in the scope of law making for the future consideration. The author specified a number of desired directions of changes in the processes of creating Polish law as well as proposed possible changes within it. Moreover, an array of institutions present in canon law was distinguished that can be applied in Polish law. The same was done with a number of institutions within Polish law that can be successfully exploited with minor modifications and tweaks in canon law.

The analyses presented in the dissertation confirm that there are many ways and possibilities in which ordinary citizens can influence the law-making process. However, it should be underlined that there must exist a strong will and sense of commitment of an individual to make this process really work. The study presented in the dissertation grasps the general principles of creating Polish and canon law. The idea behind the study was little interest withing our society to participate in the law-making process. The legislator allowed the possibility of influencing the law-making process both in Polish and canon law hopefully assuming that citizens and the faithful would want to participate in the work on legal regulations.

The presented ideas and considerations indicate the need for people to be active in the law-making process, show ways to participate in this process, while also indicating the knowledge of legislative procedures and the ability to apply them by individuals.

The analyses carried out in the dissertation reveal that both Polish law and canon law require a wider participation of people in the process of their creation.