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**“BODIES CAN BE COMPELLED; MINDS MUST BE TURNED,
SINCE THEY CANNOT BE COMPELLED”:
PREACHING AS AN “INTRODUCTION” TO LAW
IN THE *ECCLESIASTES* OF ERASMUS OF ROTTERDAM***

Abstract

The recent studies on the relations between humanism or humanists and jurisprudence convince that Renaissance, especially in XVIth century, when the national states began to raise, belonged to the periods of increased interest in the issue of law. Although Erasmus was not a lawyer, nor he introduced in any of his works a complete theory of law, he maintained close relations with many leading theoreticians of the law and jurists (Alciati, Budé, Cantuincula, Zasius) and sometimes spoke in the legal discussions of his age. Among his most important works concerning the matter of law were: *Institutio principis Christiani*, *Ratio seu Methodus verae theologiae*, *Christiani matrimonii institutio*, *De interdicto esu carni* and *Ecclesiastes*. In the paper I'm going to concentrate on this latter work, in which Erasmus discusses the significance of preaching, preacher and widely understood Christian rhetoric. In the *Ecclesiastes* Erasmus touches the law subject with the special emphasis on historical character of law and relations between the divine law, the law of Christ and the law of Nature. After a short discussion about his understanding of law I will concentrate on the essential differentiation between the letter of law and the spirit of law, and I will point at proposed by Erasmus ways of introduction of law into human life. Erasmus, on the one hand, escaped a rigidity and abstraction of law and, on the other, he neutralised an aspect of the coercion of law. In his solution Erasmus appreciated the political dimension of preaching and acknowledged preacher as a more important guide of the people, than ruler. I'm going to interpret the Erasmian concept of preaching as an rhetorical mean of introduction of law in analogical way to “introduction” proposed by Plato in his *Nomoi*.

Keywords:

Ecclesiastes, Erasmus of Rotterdam, history of law, preaching, renaissance humanism

In the fifteenth century, the issue of law was the theme of increasing interest in Germany and other northern countries. The influence of the Roman law, which was brought by university students from Bologna and Padua, allowed the medieval rulers to break free from the claws of the Church and pope (Ullmann,

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1985, pp. 62–63). In the period between 1380 and 1449, more than 80 percent of the doctorates in Law granted at Bologna to German students were in canon law, but this domination of clerical jurisprudence began to wane in the middle of the fifteenth century, and in the end of the century there were more students of Roman than canon law (Coing, 1964, pp. 78–79, 175). One of the reasons of the interest in the civil jurisdiction was a need to integrate different local laws into the one universal (statewide) legal system. That meant that the older casual, oral and traditional law was to be replaced by the more rational, written, codified law. This process is usually called today the “legal reformation” of the fifteenth century.

As we can suspect, also Erasmus was not altogether untouched by this process. In his writings, we encounter from time to time traces of political tensions and juridical problems that worried people of his age. But, to be sure, Erasmus was not a lawyer. He didn't have any formal legal education, and his opinions on those problems were usually rather poor and trivial. In Erasmus' writings, therefore, we will not find specialist analyses of concrete juridical problems or detailed solutions concerning functioning of the state (McCullough, 1978, pp. 11–12; McCullough, 1981, p. 89). His thought is mainly moral in character, oriented on individual behaviour and ethical improvement. The result of this is, as noted by McCullough in his doctoral dissertation, that the Erasmian concept of law is „difficult to extricate from the labyrinth of ideas, theories, viewpoints and images which fill the works of this remarkable sixteenth-century Christian humanist“ (McCullough, 1981, p. 90).

In my paper, which will focus mainly on the *Ecclesiastes*, one of his last works and, at the same time, the biggest one, I will try to outline his views on the issue of the implementation of law. I will do it in three steps: first, I will discuss main juridical problems which absorbed Erasmus' mind in last two decades of his life, next, I will move to the metaphysical concept of law in the *Ecclesiastes*, and then to the problem of implementation, connected with the so called “social disciplining”.

ERASMUS' CONCEPT OF LAW BEFORE ECCLESIASTES

The most famous passage from Erasmus' writings about law is the adage: *Summum ius, summa iniuria*. The text is not longer than twenty verses of standardized typescript, but was important enough for the great scholar Guido Kisch to treat it as the *leitmotif* of his books on the sixteenth century's legal thought. The adage is important for many reasons – first, it renewed the ancient question about *epieikeia* starting the discussion about equality of law and, second, it gave attention to one of the most, if not simply the most important juridical problem in Erasmus' thought – the question of relation between the letter and spirit of the law.

Beside this often cited passage, we find many places in Erasmus' works where the issue of law is discussed. First of all, we should mention *Institutio principis Christiani*, which was written as a *speculum principis* for the future emperor Charles V. In a large part of the book, Erasmus describes the election and education of the prince and only on a few pages he presents his views on law. His argument is not only short, but also lacks a systematic form; its style is rather loose and essayistic. With some effort, however, we can extricate from it the basic features of Erasmus' legal thought.

Erasmus locates laws between normative justice and the prince, who governs the kingdom.

The principal method of making a city or kingdom prosperous – he begins the chapter on laws – is to have the best of laws under the best of princes; the happiest situation arises when the prince is obeyed by all and himself obeys the laws, provided that these conform to the ideals of justice and honour and have no other purpose than to advance the interests of all (Erasmus of Rotterdam, 1997, p. 79).

This means that laws should not be arbitrarily determined and that they should not be oppressive for the people. As it seems, the reflection on the means to prevent excessive rigour of the law occupies a considerable part of Erasmus' teaching on the law. Erasmus criticizes exaggeration in the number of rules and opposes the immoderate hermeticism of the legal community (Erasmus of Rotterdam, 1997, pp 79, 90; cf. McCullough, 1978, pp. 278–279). On the other hand, long before the excesses of Anabaptists, Erasmus opposed anarchy and defended social order. In the *Institutio*, he avoids the simplified claim that where there are laws, there is slavery and where there is freedom, there are no laws at all: for him freedom lies in the delicate sphere between extreme legalism and total lawlessness (Erasmus of Rotterdam, 1997, p. 72). This sphere of freedom is guaranteed by laws that are directed not only at increasing the wealth of citizens, but also and mainly at fostering honesty and benefit consistent with wisdom (Erasmus of Rotterdam, 1997, p. 79).

According to the vision of Erasmus' *Institutio*, the laws are the extension of nature, nature's explication and fulfilment in these fields, in which justice was formerly distorted or likely to be distorted by fortune.

The whole purpose of the law – writes Erasmus – should be to protect everyone, rich or poor, noble or humble, serf or free man, public official or private citizen. But it should incline more towards helping the weaker elements, because the position of humble men exposes them more easily to danger. The law's indulgence should compensate for the privileges denied them by their station in life. There should thus be more severe punishment for a crime against a poor man than for offences against the rich, for a corrupt official than for a common criminal, and for a wicked nobleman than for a humble citizen (Erasmus of Rotterdam, 1997, p. 85; cf. McCullough, 1978, p. 280).

This striving to regain natural equality in the *Institutio* does not take a form of arithmetical equality, however, as in the modern projects with an abstract human individual taken as a measure, but is based on the idea of hierarchical order of justice. “It is not equality for everyone to have the same rewards, the same rights, and the same status; indeed, this often results in extreme inequality (Erasmus of Rotterdam, 1997, p. 72).” Erasmus’ view on the nature of the law in the *Institutio* can be summarized as follows: the aim of the law is to lead people to greater honesty and to neutralize inequalities resulting from the fortune; the form of the law should correspond with the idea of justice and hierarchy, connected with the justice.

What is more interesting for us than the theory of law, however, is the issue of implementation of law, the ways in which Erasmus tries to mitigate its rigour and harshness. It should not be a surprise, knowing the character of Erasmus’ thought, that the first of them is through education. The care for appropriate education of the youth, public schools and good teachers, shapes the proper moral attitude and makes citizens obedient to the law of their own accord, since they interiorize the ideal of justice that is normative to the law of the state. In the effect of proper education, there is no need in such a state for a multitude of laws and punishments (Erasmus of Rotterdam, 1997, p. 72). This “tuning” of citizens to the law as a result of education, eliminates the feeling of compulsion of the law and allows them to preserve the fullness of their freedom.

Another way to avoid coercion of the law is to change the vector of influence of the law by using the force of *imitatio*: then the law does not act from top to bottom as an imperative, but rather from the bottom up, as an attractive example. Erasmus achieves this by introducing an institution of the prince, standing between the law and the people.

The common people imitate nothing with more pleasure than what they see their prince do. (...) No comet, no fateful power affects the progress of human affairs in the way that the life of the prince grips and transforms the moral attitudes and character of his subjects. (...) Let the good prince be brought up and live in such a way that the rest of the people, both noblemen and commoners, can take his life as a model of economy and moderation. (...) The good, wise, and upright prince is simply a sort of embodiment of the law (Erasmus of Rotterdam, 1997, pp. 21, 70, 79).

When we link this concept of the prince as an attractive example with the doctrine of circles, known from the *Ratio verae theologiae*, although Erasmus himself does not do it in the *Institutio*, we obtain a vision of hierarchical *imitatio* coinciding with the later model from the *Ecclesiastes*. In the *Ratio verae theologiae*, Erasmus divides the whole Christian community into three circles with one centre in Christ: the first is the circle of priests, abbots, bishops, cardinals and popes – they draw the light of Christ directly from the source and bring it to the second circle; that is the circle of secular rulers, guarding the

public peace by their power and laws; the third circle is formed by common people. In the *Ecclesiastes*, the most important political role in proclaiming the law is played by preachers. It is worth emphasizing that this idea of *imitatio*, so important for Erasmus, is one of the elements whose disappearance is at the root of the emergence of modernity (this was seen in many areas, e.g. in friendship; according to Elizabeth C. Goldsmith, 1988, in the seventeenth century, the category of *imitatio* in the relation between friends was replaced by the value of sincerity).

The next way is a specific understanding of space, in which human interactions take place. For Erasmus, it is not undifferentiated space, a radically cleared *tabula rasa*, but one characterized by a constant presence of the Christian friendship between the citizens, since the order that he describes is the order of the Christian state. The presence of this friendship has the effect of increasing mutual trust between people. Where there is trust, there is no need for elaborate contracts.

When business is done by means of a lot of bits of paper, it suggests that there is little trust present, and we often see that a great deal of litigation, arises from the very things that were supposed to preclude litigation. Where mutual trust exists and business is being done between honest men, there is no need for a lot of these niggling bits of paper (...). As there is no need for contract, which contains the most sacred covenants, so it is with these issues than which nothing is more sacred for a Christian (Erasmus of Rotterdam, 1997, p. 94; translation altered in accordance with ASD IV-1, 206–207).

It is worth emphasizing here that this trust, grounded on the Christian friendship, has a character very different from the trust in modernity. It is not the trust in normal functioning of institutions, but one of an autonomous and free human being. We can say that the Erasmian model of functioning of the state and law is, in this respect, the antithesis of the modern bureaucracy.

The last of the ways to avoid coercion, referring to some extent to the distinction made in the above discussed *adagium* on the spirit and the letter of the law, and expanded later in the Erasmian concept of preaching, is to pay special attention to the encouraging and stimulating aspects of the proclamation of the law.

The prince – said Erasmus – should promote the kind of laws which not only prescribe punishment for the guilty but also dissuade men from breaking the law. It is thus a mistake to think that the laws should be restricted to the shortest possible form of words, so that they merely give orders and not instruction; on the contrary, they should be concerned to deter men from law-breaking more by reasoning than by punishments (Erasmus of Rotterdam, 1997, p. 82).

In brief, although Erasmus does not explicitly refer to the *topos* of the spirit and the letter of the law in the *Institutio*, it will not be a mistake if we state that the legislator should take care not only of presenting the letter of the law, but also of

the spirit permeating it. Not concealing his use of Plato's teaching from the *Laws*, Erasmus draws our attention not only to the rational element in the law, as cited above (which could be considered as coinciding with the modern worldview) but also to the rhetorical challenge to encourage citizens to become obedient. He distinguishes four categories of people and for each of them he recommends a different course; all this in the name of appreciation of the generosity of man and that "since man is the noblest of all creatures, it is only fitting that he should be induced to observe the law by rewards, rather than coerced by threats and punishment" (Erasmus of Rotterdam, 1997, p. 81). In the highest place are the outstanding people (*egregii cives*) – they do not need any encouragement to do justice; in the lowest one, the animal-minded, slavish people completely unable to understand any encouragement – they "must be tamed by chains and the lash". Encouragement should be directed at those placed in-between – both the less noble, who can be convinced only by the benefit or loss, and the more noble, who should be encouraged by the hope of honour (Erasmus of Rotterdam, 1997, p. 81). Just as in Plato, the introduction of the law is necessary not for the best people, but for those who are weaker but capable of taking advantage from encouragement.

In the period following the outbreak of the Reformation, and especially after Erasmus' reaction to Luther in the *De libero arbitrio*, the problem of law appears in many of Erasmus' works. Among the most interesting ones, we should include the *De esu carnum*, *Hyperaspistes*, and the *Epistola contra pseudoevangelicos*.

The first of them, *De interdicto esu carnum*, is a short letter dedicated to the problem of eating meat on fasting days and was written by Erasmus around 1519 as an expansion of a fragment of his *Annotationes*. Among many issues related to the problem of law, such as the importance of order for the human community and authority for ordering, Erasmus mentions the importance of "introduction" to the laws. In the passage beginning with the words that are a paraphrase of the the quotation in the title of my paper, Erasmus sketches the model of applying the law, based more on the moral authority of the ruler and the freedom of subjects, than on coercion and fear of punishment:

But he – we read in *De esu carnum* – who issues instructions casts a net; he who exhorts calls people to better things without taking away their liberty.

Someone will say that exhortation is weak: because people are unmanageable, what is needed is a ruling. To me the opposite seems true. Often fatherly exhortation achieves more than tyrannical demand. (...) If the people really look on the priest and the bishop with respect, exhortation will not be ineffective. But if an openly impious life, unclean habits, gross ignorance, insatiable greed, and barbarous cruelty have turned the minds of ordinary people away entirely, what will be gained by instruction. (...) One who obeys out of fear will deserve nothing, or certainly very little, because someone who complies with a precept under compulsion does not comply with it, and perhaps hypocrisy will double the fault. It rests with us chiefly, therefore, to ensure [that] the exhortation,

however mild and calm, should carry weight with the populace. So those who have regard for the authority of leaders act properly, but those who want it to be maintained by sheer threats and intimidation have poor regard for it. But at the same time it is fair that we should have regard for the freedom of the flock also, as much as equity requires. For it too has its own authority, nor is that authority exactly small (CWE, vol. 73, pp. 90–91).

The space between rulers and subjects is for Erasmus a field for the action of rhetoric, the rhetoric based on the moral nature of men. The ruler for him is not someone who directs the people by creating a perfectly rational system of the law, who builds an abstract order of organization over the heads of the citizens. He fulfils rather the role of educator, who, thanks to the power of his moral authority, can elevate people towards himself in the dialogue with them. Although Erasmus limits his comments in the *De esu carniū* only to the canon law and refers to bishops or monks as rulers, it is nevertheless legitimate to treat them as manifestations of a more universal political conception, for it is there that he returns to the idea of a ruler as a “living law” and the recognition of the superiority of the spirit over the letter in emphasizing the exhortative value of the proclamation of the law.

The second of these works, *Hyperaspistes*, was a direct response to Luther’s *De servo arbitrio*. With the respect to the law, it primarily resists to assert that the aim of the law consists only in the accomplishment of the cognition of sin. The passage from the Scripture, to which Luther referred, was, of course, verse 20 of the third chapter of the Letter of St. Paul to the Romans, “Cognitio peccati per legem”. Instead of this unilateral concept of the law, Erasmus proposes a more complete understanding based on the Apostle’s another statement: the passage from the Letter to Galatians 3,24, where St. Paul speaks about the law as educator. This understanding was very close to the understanding present in the thought of the most important representatives of ancient thought – to the understanding of Plato, who compared laws to gymnastics, sustaining the body and contributing to health (Hall, 1956, p. 189), or Stoics, who called a perfect one the state in which the statutory law is in agreement with the internalized law in the form of the virtuous characters of the citizens (Heckel, 2010, pp. 47–50).

Is a tutor – Erasmus asked rhetorically – of no other use to a child than to let him know that he sins? Does he not rather direct the child who does not yet see for himself what is to be sought out and is not yet led by a love of what is right? (CWE, vol. 77, p. 363).

And a bit further:

For the good and the wise it was a fountain of life. For the weak it was a guard and a sort of railing to keep them from falling into the abyss of wickedness because their fear of sinning had been removed. For those who were simply ignorant it was a lantern shining ahead on the path of action. But for those who were stubborn and swollen with malice and pride, it was a torturer, forcing upon them the foulness of their crimes (CWE, vol. 77, p. 363).

I do not want to enter here deeper reflection that should take into account also many other factors, such as, for example, Luther's distinction of the spirit and the letter of the law, in which the lack of discernment in the spirit (in the inner sense) of law does not altogether disturb its adequate application in the service of the secular state (Cf. Heckel, 2010, pp. 45–46, 63–64; in my opinion, the argument is that the understanding of the spirit of law in secular order ceases to be important for man, since the spirit can only be known by those who are enlightened by the Holy Spirit and thus can clearly understand *lex divina*; this way the law becomes a mere formula [of secular order] that we do not have to understand in order to obey it). It is sufficient to observe that when the rejection of the whole complicated hermeneutical art, locating its subject in the broader, traditional context of meaning, was transferred from reflection on the Scripture to the area of law, it precipitated gradual disappearance of the custom law, which was eliminated as non-systematic and not necessarily homogeneous in favour of a uniform, closed system of anonymous administrative machinery. In such a system it was hard to preserve, Erasmus noted, the fullness of humanity, and the management of people ceased to differ significantly from the management of animals.

In the last of the mentioned works, *Epistola contra pseudoevangelicos*, the problem of loosening of the law, encountered by Erasmus in the radical Anabaptism, goes to the fore. Erasmus wrote this treatise in 1530, after the outbreak of the peasants' rebellion when some Anabaptists abandoned all laws that did not appeal directly to the divine commandments (cf. Christ von Wedel, 2013, p. 206). Once again, we encounter here the problem of wrongly conceived Christian freedom, about which Erasmus wrote in his numerous letters, repeatedly warning of the civil strife following introduction of anarchy for the sake of evangelical liberty (cf. *Ep.* 1113 CWE, vol. 7, p. 313; *Ep.* 1341A, CWE, vol. 9, p. 341; *Ep.* 1358, CWE, vol. 10, p. 6; *Ep.* 1369, CWE, vol. 10, pp. 32–33).

This is the new evangelical freedom: that each person can do anything, and hold any opinion, with impunity. (...) They love no one except themselves, and obey neither God nor bishops nor princes and magistrates; they are slaves to Mammon, to their gullets, bellies, and groins; yet all the while they demand to be considered evangelists and assert that Luther is their master (CWE, vol. 78, pp. 234–235).

Meanwhile, it is true for him that where the gospel freedom is, there is no yoke of law, but only because all its duties are fulfilled in the name of charity (CWE, vol. 78, p. 233).

I have a greater fear – wrote Erasmus – that many will carry, instead of the yoke of men, the heavier yoke of the devil. They have thrown off obedience to bishops, with the further result that they do not even obey civil magistrates (CWE, vol. 78, p. 233).

For these reasons, Erasmus is no longer such an advocate of freedom, tolerance or peace, as he sometimes seems to be. And, unlike the titans of the later doctrine of human rights, he puts the well-being of the individual above the good of the whole of society. In the face of those who threaten public safety, when they refuse to listen to the advice and lessons of the wiser, Erasmus – despite of his whole humanism – recommends, similarly as in the *Institutio*, a ruthless conduct.

Suppose that it not be permitted to kill heretics – sounds the stern verdict of Erasmus – still it is lawful to kill blasphemous and seditious men, and it is necessary to keep the commonwealth safe. Consequently, just as those who drag men to the flames only because of some error or other are wrong to do so, those who suppose that a civil magistrate has no right to employ capital punishment against heretics are also wrong. But when people who are considered heretics themselves argue that heretics should not be killed, it should be clear even to a blind man that such people are not defending the truth but seeking impunity for evildoers. Would not bandits and pirates want to make a case that a Christian prince has no right to put anyone to death? Fear, if it deters people from crime, is a good thing. (...) The severity of princes – which these people call savagery – is something necessary (CWE, vol. 78, p. 226).

His solution may be just a way to remove anomalies so that they do not turn into an even bigger disease. The advice, in this respect also related to the application of law, was concluded by Erasmus in his last great work – the *Ecclesiastes*.

ERASMUS' CONCEPT OF LAW IN ECCLESIASTES

It is worth mentioning that the *Ecclesiastes* was the work awaited by many of Erasmus' correspondents. He conceived its idea in 1519, when John Becker of Borselle asked him in a letter to write a book on the theory of preaching (*Ep.* 932, CWE, vol. 6, p. 279). It was only late in his life that Erasmus found time to do so. The *Ecclesiastes* is not only the first comprehensive manual of Christian rhetoric, however, but also – as rightly observed by McCullough – a work that gives the fullest presentation of Erasmus' views on the matters of law.

In the last book of *Ecclesiastes*, Erasmus presents a list of topics or *loci communes*. Among them there is a chapter about the law. He begins it by saying that a well-ordered society depends on laws and “the more equitable these are, the better the condition of the community”. Erasmus, drawing from the teachings of Aquinas, distinguishes several types of law. The highest law, *lex divina*, is equivalent with God's will and as such it is unchangeable in itself. But from a human point of view, it is being revealed in many ways according to historical conditions. At first, it was stated as the simple prohibition of eating fruit from the Tree of Knowledge. Then, after the expulsion from Paradise, it took the form of *lex naturae* in a very broad application: it has the power over all created things. Man is the only creature that opposes the law of nature, which has a consequence in nature's opposition to man; obedient to the divine law,

it acts against man through floods, eclipses or epidemics. When the passage of time and growth of sin caused the obfuscation of this law, God gave the law to Moses to show explicitly what was wrong and what was right, and to improve human behaviour.

But in the last times, after human impiety had turned even this gift of God into material for a graver condemnation, the law of the gospel was given in order to grant salvation through faith and grace (CWE, vol. 68, p. 1033).

Unlike the Reformers, Erasmus did not see the promises of the Gospel as sharply contrasting with the Mosaic Law. Both the Law and the Gospel have similar functions for him, even if the message of the Law is more austere in its message, since it is limited to the letter only and its sense is sketched in the shadowy outline.

But Christ at his coming scattered all the mist like the sun and revealed all truth both through the Holy Spirit, showing what was hidden beneath the covering of the letter and openly displaying what the Law had designated with types, what the prophets had promised under wrappings (CWE, vol. 68, p. 1033).

Therefore, since all these laws are subordinated to one supreme *lex divina*, it means that there is no contradiction at all between the law of nature and that of the Gospel; it is quite the opposite, as Erasmus explicitly states in another place:

No other teaching is more in agreement with nature than Holy Scripture; for what is more in accord with nature than for the creature to submit himself completely to his creator? Nature spontaneously seeks the preservation and perfection of itself; obedience to the Scriptures truly provides both. By nature all things desire the greatest good and happiness; only divinely inspired Scripture teaches both (CWE, vol. 68, p. 1041).

Erasmus opposes here the two-kingdoms theory of Luther, which was a rejection of traditional hierarchical theories of being, society and authority (cf. Witte, 2004, p. 6). In Erasmus, the state order does not have a merely pragmatic character but is essentially related to the natural hierarchy and the normative idea of justice originating in the divine law. As a result, there is hardly any tension between the individual with his expectations on the one side and the state, built on the fundament of the divine law, on the other; instead of the later doctrine of human rights, we find Christian friendship and natural piety that constitute, for Erasmus, the foundation of social relations.

The term [*pietas* – D.N.] embraces every affection, adoration, and all the duties that we owe to those from whom we have received life; and so the highest piety is owed to God, to whom we owe whatever we are, the next to our homeland, the third to our parents and children, the fourth to our teachers and catechists (who are in a sense the parents of our mind), the fifth to those by whose kindness we have been saved from death or otherwise very grave dangers. All of these are categories of justice (CWE, vol. 68, p. 1047; The theme of piety as a constitutive for social order is present also in Plato's *Laws*, 717a-b).

In Erasmus, there is no place for abstract duties, norms and regulations characteristic for modern bureaucracies; instead, we have the laws of friendship developed in the category of *pietas*, where the duties with respect to our neighbours become at the same time the duties of mercy. Consequently, if piety and acts that follow it are in agreement with the laws of the well-organized society, then all crimes are nothing else than acts of godlessness, since they result from man's improper relation to the requirements of piety. In *Ecclesiastes*, the process of reconciliation of the world with God, of integration of the whole creation in the order manifested in the *lex divina*, takes place not through the meticulous legal system organizing the life of the community by means of prohibitions and obligations but through the continuation of God's creative *Sermo* in preaching.

*ECCLESIASTES, PLATO'S NOMOI
AND THE IMPLEMENTATION OF LAW*

Bodies can be compelled; minds must be turned, since they cannot be compelled. (...) The king ties a thief in a noose but does not remove the flaw in his mind; he stretches the robber upon the wheel but does not cure the disease of robbing; he punishes adultery and incest but does not implant the love of chastity. The priest does not have the right to kill, but his work is to call back to life with his effective voice minds (...). If the only Christian king is one who administers his realm according to the divine laws, it is a priest who presents, reads, and explains the text; if anointing makes a king, it is a priest who administers it (CWE, vol. 67, pp. 380–381).

These words, which provided the title for my paper, are used by Erasmus not only to expose the weakness of purely rational, formal law, but also to point to the key role of exegetes and preachers in the implementation of the law. I do not think it is a mistake to see some faint traces of political advice given by Plato in his *Nomoi* in the political vision of old Erasmus. Also for Plato, the key motive to look for other ways of legislation was his desire to avoid violence that he found discreditable in dealing with people:

It appears – wrote Plato in *Laws* – that no legislator has ever yet observed that, while it is in their power to make use in their law-making of two methods, – namely, persuasion and force, – in so far as that is feasible in dealing with the uncultured populace, they actually employ one method only: in their legislation they do not temper compulsion with persuasion, but use untempered force alone (Plato, 1957, vol. I, p. 315).

According to Plato, what was missing in the existing laws was something like a prelude, of the kind that accompanies sung or recited works:

Indeed – says Plato later – we have examples before us of preludes, admirably elaborated, in those prefixed to the class of lyric ode called the “nome”, and to musical compositions of every description. But for the “nomes” (i.e. laws) which

are real “nomes” – and which we designate “political” – no one has ever yet uttered a prelude, or composed or published one, just as though there were no such thing. But our present conversation proves, in my opinion, that there is such a thing; and it struck me just now that the laws we were then stating are something more than simply double, and consist of these two things combined – law, and prelude to law (Plato, 1956, vol. I, p. 317).

If we link these words with Plato’s later comment from the tenth book of *Nomoi* that the teaching about gods is the best introduction to all our laws (Plato, 1956, vol. II, p. 305), then the possibility of political significance of preaching emerges spontaneously. We should not be surprised then that Erasmus, the diligent reader of Plato, placed the function of “bringing in the law” among various roles of a preacher, who is to point to its final nature and its spirit, which enables one to understand it and act in complete freedom. The preacher will speak not only about that which contributes to commending the virtues or pertains to theological dogmas, but also,

In addition to this he will observe vigilantly the laws that the mystical books prescribe for human actions, such as how marriage should be contracted or the reasons for which it should be sundered; the extent to which it is right to undertake a war; how magistrates should be appointed; the extent to which the edicts of princes should be obeyed; how heretics should be treated; what one should do in a persecution set in motion because of the faith. Yet in all of this he will consult the learned reflections of those who by daily study have acquired a deep knowledge of the Scriptures and have won great authority in the church by the holiness of their life and the honesty of their judgments (CWE, vol. 68, p. 1097).

In this way, a preacher becomes, as we read in the *Ecclesiastes*, a true leader of the people, someone even more important than the ruler (CWE, vol. 68, p. 613). For Erasmus, a preacher, as an interpreter of the *lex divina*, which is the source and fundament of authority of all law, is the true educator of mankind (Wozniak, 1996, p. 74). It is thanks to preaching of Gospel that people achieve spiritual understanding, which in turn makes them more obedient to the government and the law (cf. CWE, vol. 67, p. 246).

Regrettably, Erasmus’ proposal to ground order on rhetorical persuasion and lay foundation for jurisdiction in the uniform set of commonly shared classical values, Christian friendship, and natural piety, rather than rigorous application of the law, seen as a rational, positive system, was never realised. The *Ecclesiastes*, the treatise, which some call the crown of his intellectual work (Wozniak, 1996, p. 1), was overshadowed by another work composed roughly at the same time (in its first version at least) that exerted a much stronger influence on his contemporaries, the *Institutio religionis Christianae* of Calvin. Consequently, the West chose the path of “social disciplining”, which led to the emergence of a modern state. It was the path of extending the institutional control on both the subjects and the apparatus of power in the rationalist and bureaucratic spirit. The Humanist project of *respublica Christiana* fell into oblivion – possibly for ever.

BIBLIOGRAPHY

- Christ von Wedel, C. (2013). *Erasmus of Rotterdam. Advocate of a New Christianity*. London: University of Toronto Press, Toronto, Buffalo.
- Coing, H. (1964). *Römisches Recht in Deutschland*. Milan: Giuffrè.
- Erasmus of Rotterdam (1969–). *Opera omnia Desiderii Erasmi Roterodami*. Amsterdam: Brill (abbreviated as ASD).
- Erasmus of Rotterdam (1975–). *Collected Works of Erasmus*. Toronto: University of Toronto Press (abbreviated as CWE).
- Erasmus of Rotterdam (1997). *The Education of a Christian Prince*. Translated by N. M. Cheshire, M. J. Heath. Cambridge: Cambridge University Press.
- Goldsmith E. C. (1988). *Exclusive Conversations: The Art of Interaction in Seventeenth-Century France*. Philadelphia: University of Pennsylvania Press.
- Hall, J. (1956). Plato’s Legal Philosophy. *Indiana Law Journal*, 31 (2), pp. 171–206.
- Heckel, J. (2010). *Lex charitatis. A Juristic Diquistition on Law in the Theology of Martin Luther*. Translated by G. G. Krodel. Grand Rapids, Michigan: William B. Eerdmans Publishing Company.
- McCullough, C. D. (1978). *The Concept of Law in the Thought of Erasmus of Rotterdam*. Unpublished doctoral dissertation. Atlanta: Emory University.
- McCullough, C. D. (1981). The Concept of Law in the Thought of Erasmus. *Erasmus of Rotterdam Society: Yearbook One*, pp. 89–112.
- Plato (1956). *Laws*. Translated by R. G. Burry, vol. 1–2. London: The Loeb Classical Library.
- Ullmann, W. (1985). *Law and Politics in the Middle Ages. An Introduction to the Sources of Medieval Political Ideas*. New York: Cambridge University Press.
- Witte, J. jr. (2004). *Law and Protestantism. The Legal Teachings of the Lutheran Reformation*. Cambridge: Cambridge University Press.
- Wozniak, J. T. (1996). *A Time for Peace. The Ecclesiastes of Erasmus*. Los Angeles: University Press of the South New Orleans.