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**JUSTICE DILEMMAS IN LAW:  
ON THE SENSE OF ANALYSING BIBLICAL TEXTS  
IN MODERN JURISPRUDENCE**

**Abstract:** This article deals with research problems related to justice and law. This is a perennial topic that has been widely discussed in literature but is somewhat forgotten today. Justice in law has been put aside along with values that are self-evident as a kind of dogma, which is utterly wrong. When we ask what such justice in law means, however, and what it affects, we do not get simple and satisfactory answers. Therefore I try to prove that a broad, multifaceted approach can prove valuable. To this end, in my view, it is reasonable and valuable to use all available research and sources. Some biblical texts, such as the parable of the owner of a vineyard, which I have chosen for analysis, may prove particularly interesting. The parable reveals a great many interesting issues. They are still relevant today and concern the problems faced by modern legal systems. I believe the texts can be beneficial for the development of jurisprudence. They also enable the integration of the science of state and law, either internally (e.g., with legal dogmatics, which permits the creation of just law) or externally (with sciences other than law). The claim here is that biblical texts, despite the fact that they do not belong directly with legal science, have qualities that enable their use in modern jurisprudence. The researched excerpt and the only biblical text discussed here will be that of Apostle Matthew.

**Keywords:** theory and philosophy of law; justice; just law; history of law; Bible; jurisprudence; state and law.

## INTRODUCTION

Justice dilemma in law is a keyword for my research process with a focus on justice. Justice is (rightly) considered to be a value of a superior nature. As such, it does not receive much attention in the legal sciences, recognizing that, in principle, the topic is studied and there is a kind of dogma that “law should be just.” However, upon further reflection, we can come to the conviction that it is not so easy in this area at all. Because, after all, one can ask the fundamental question: What is justice? What is just law? What qualities – manifested in specific legal provisions – should such a law have? And many others. Finally, we can legitimately ask what methodological apparatus to study justice in law is there. After all, over the centuries a lot of such tools have been devised. This is, incidentally, only a contribution to the problems that have repeatedly troubled numerous scientists over the centuries – but not only them.

Justice has been studied by many. It is of interest to philosophers, ethicists, lawyers, sociologists, economists, theologians, political scientists, psychologists – the list being non-exhaustive. It is present in everyday discussions, mass culture and in the Stanford Encyclopedia of Philosophy.<sup>1</sup> This is just a snippet, but one that shows the universality and magnitude of the concept. Since so many have dealt with this subject for so long, we can come to believe that there will be a multiplicity of views on justice. Therefore, there will be no consensus on its understanding. Moreover, the multiplicity of moral foundations and assumptions made leads to various meanings being assigned to the concept, and the creation of various divisions and typologies. Some examples in the literature include human and divine justice, all-human and individual justice, intergenerational justice, merciful justice, social justice, declared and actual justice, international and local justice, environmental justice<sup>2</sup> and many more.<sup>3</sup>

In this study, I would like to, first, refresh the discourse on justice and the role it can perform in the modern state and law.<sup>4</sup> Second, I would like to

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<sup>1</sup> Freely available at [plato.stanford.edu/entries/justice](https://plato.stanford.edu/entries/justice) (last accessed 24.10.2023).

<sup>2</sup> J. CIECHANOWICZ-MCLEAN, *Environmental Justice jako rodzaj sprawiedliwości*, “Gdańskie Studia Prawnicze” 35 (2016), no. 1, pp. 119-130.

<sup>3</sup> J. ALETTI, *God's Justice in Romans: Keys for Interpretating the Epistle to the Romans*, Rome: Gregorian & Biblical Press, 2010, p. 273.

<sup>4</sup> A. KOKOSZKIEWICZ, *Sprawiedliwy proces administracyjny jako zadanie państwa. Studium teoretycznoprawne. Just administrative process as a task of the state theoretical and legal study*, Warszawa: C.H. Beck, 2022.

express my strong support for the concept of integration of legal sciences with other sciences as well as the multifaceted study of problems that can be studied in this way (our problem at hand certainly can). Third, basically as a result of both the first and the second premise, I found it instructive to reach for historical material. Such research material is provided by the Bible and the passage from the Gospel of Matthew quoted at the outset. For it turns out – and here I am partly revealing further lines of this text – that the biblical text is extremely valuable for considering justice itself. It provides us with knowledge of the author's and his contemporaries' views on the subject. Moreover, as it turns out, biblical text provides information that is still relevant today. We can study, approve or criticize it. It is important to do that for the benefit of jurisprudence. Perhaps such considerations will also make it possible to work out some legal solutions, useful in modern legal systems.

The quotation from the Bible that follows is analyzed in the context of biblical norms of law. I provide a fundamental analysis of the text and relate it to the present day. I also make a research stipulation of a terminological nature. I use the term “jurisprudence” here in a relatively broad sense and assume that it means the science of law, in which we can accommodate the theory and philosophy of state and law as well as jurisprudence.

Although biblical texts do not directly relate to legal science, they have qualities that modern jurisprudence can benefit from. In modern jurisprudence (and especially Polish jurisprudence, which I represent), this approach is in minority but it is dominating. Biblical sources are, as a rule, not used when conducting a strictly legal research. I believe that this approach can change and bring positive results for the study of modern state and law. Moreover, the use of such texts can be profitable for researchers who do not identify with Christianity in any way. Biblical texts are universally relevant. Also, for reasons of space, but also not to lose the central theme, I adopt only one biblical text cited below as research material.

*The Parable of the Workers in the Vineyard (Matt. 20:1–16)*

The kingdom of heaven is like a landowner who went out at dawn to hire laborers for his vineyard.

After agreeing with them for the usual daily wage, he sent them into his vineyard. Going out about nine o'clock, he saw others standing idle in the marketplace, and he said to them, “You too go into my vineyard, and I will give you what is just.” So they went off. (And) he went out again around noon, and around three o'clock, and did likewise.

Going out about five o'clock, he found others standing around, and said to them, "Why do you stand here idle all day?"

They answered, "Because no one has hired us." He said to them, "You too go into my vineyard."

When it was evening the owner of the vineyard said to his foreman, "Summon the laborers and give them their pay, beginning with the last and ending with the first."

When those who had started about five o'clock came, each received the usual daily wage.

So when the first came, they thought that they would receive more, but each of them also got the usual wage.

And on receiving it they grumbled against the landowner, saying, "These last ones worked only one hour, and you have made them equal to us, who bore the day's burden and the heat."

He said to one of them in reply, "My friend, I am not cheating you. Did you not agree with me for the usual daily wage?"

Take what is yours and go. What if I wish to give this last one the same as you? (Or) am I not free to do as I wish with my own money? Are you envious because I am generous?"

Thus, the last will be first, and the first will be last.<sup>5</sup>

#### BIBLICAL LEGAL NORMS AND THEIR USE IN JURISPRUDENCE

The literature points out (and I agree with this) that the analysis of biblical legal norms makes it possible to create "a useful frame of reference for evaluating contemporary values and practices. This is because biblical norms have long influenced Western civilization and can be particularly important in providing an alternative model to contemporary postmodernism, moral relativism and anomie."<sup>6</sup> Such an assumption, as I noted at the very beginning, has a broad meaning, which is to say that the universalism of biblical texts can also be interesting and useful for researchers who have nothing to do with Christianity or even oppose its tenets. It highlights the historical, at least, or perhaps more historical-social or historical-legal context.

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<sup>5</sup> This English translation is available at [https://www.vatican.va/archive/ENG0839\\_\\_PVT.HTM](https://www.vatican.va/archive/ENG0839__PVT.HTM) (accessed 22.12.2023).

<sup>6</sup> R. HIERS, *Justice and Compassion in Biblical Law*, New York: T&T Clark, 2009, p. 2.

Moshe Weinfeld, who researches the meaning of justice in ancient Hebrew, Egyptian or Mesopotamian texts (with Hebrew texts of particular relevance to us), points out that it is often juxtaposed directly with righteousness, and that “justice and righteousness are considered a lofty, divine ideal.”<sup>7</sup> He concludes that “a judge, although subject to the laws, cannot overlook considerations of fairness and righteousness, which leads to ‘true judgment’. ‘Justice and righteousness’ is therefore not a concept that belongs exclusively to the legal community but is much more appropriate for socio-political leaders who create laws and take care of their execution.”<sup>8</sup> This theme is especially interesting, testifying to the universal meaning of the concept of justice. Slightly paraphrasing, we can say that such an inference about unique universality applies not only to the positive (state) sphere of law, but also has a general reference (abstract, broader than state law).

At this point, a caveat should be made because doubts may arise (quite legitimately!) Does the scholarly debate on the universalism of justice and on justice itself have a practical relevance for, say, legal dogmatics without affecting social life? Can we speak of its utilitarianism? I believe we can. In this way we can ask another question. How do we translate what the ancient texts tell us into modern practice, for example, when practicing as a lawyer? In that case it should be clarified that the most sensible use of such materials seems to be in areas of lawmaking. If biblical sources are to be of any value to contemporaries, they should be used, in the first place, when planning and making law. This is because they convey certain values and ideas, which only after being used in the process of lawmaking (so to speak, “transformed” into concrete norms and then legal regulations) will become valuable for dogmatics. Trying to point to a specific example, they can be a *sui generis* framework of legal principles, which will then, secondarily, shape laws.<sup>9</sup>

Pietro Bovati, after conducting research on a large number of biblical texts, points out that this made it possible “to expose an important fact: legal vocabulary can be found, albeit with varying frequency, in many biblical texts. The concern for justice, both in human history and in the relationship between God and humanity, appears as one of the most important themes in the text of the

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<sup>7</sup> M. WEINFELD, ‘Justice and Righteousness’—דָּבָר וְצֶדֶק—*The Expression and Its Meaning*, in *Justice and Righteousness: Biblical Themes and Their Influence*, ed. H. Reventlow, Y. Hoffman, Sheffield: Sheffield Academic Press, 1992, p. 230.

<sup>8</sup> *Ibidem*, pp. 245-246.

<sup>9</sup> See L. LESZCZYŃSKI, *Zasady prawa – założenia podstawowe*, “*Studia Iuridica Lublinensia*” 25 (2016), no. 1, pp. 11-16.

Bible.”<sup>10</sup> This is a very interesting and valuable conclusion allowing us to argue that the discourse on justice legitimate basis. As we shall see, it is worth “not running away” from the attempt to seek and legislate a “just law”, having first established the principles. This is because it is necessary to establish and understand what assumptions such justice is to make and realize.

Richard Hiers addresses the impact of regulations contained in the Bible on the functioning of society and how it translates into specific institutions of law. He discusses (as if by reference to modern jurisprudence) legal norms grouped according to typology: civil law norms, criminal law norms and social legislation. He concludes that “a significant number of biblical laws provide the accused with what can be aptly described as due process protection.”<sup>11</sup> We find in these texts certain values that retain universality even today. Of course, it should be underlined that these norms existed in very different realities in comparison to what we know today in modern Western democracies. On the other hand, certain reflections of universalism are, in my opinion, amazing in their own way. It seems that certain views on the principles of law (the aforementioned provision of procedural guarantees) are similar despite the passage of time. So we can conclude that the legal norms contained in the biblical texts point to certain universal values attributed to justice, such as the provision of procedural guarantees to a party. This may ultimately lead to the cautious conclusion that in the variable and diverse understanding of justice, however, some universal features are found.

From the research perspective adopted it may also be very interesting to note the “biblical social legislation” that can be related to modern administrative law legislation. This is due to the somewhat surprising discovery that “biblical legal texts imposed a number of regulations that, taken together, can reasonably be considered a well-developed system of social welfare.”<sup>12</sup> This refers to the elements of the social law system that is familiar to modern legal systems. We can mention here, for example, the provision of due process norms – equal procedural standing in the courts and the opportunity to assert one’s rights, anti-discrimination provisions relating subjectively to protected classes. We can indeed refer to customary consumer law, paraphrasing and relating this to the modern conceptual apparatus. This involved special

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<sup>10</sup> P. BOVATI, *Re-Establishing Justice Legal Terms, Concepts and Procedures in the Hebrew Bible*, Sheffield: JSOT Press, 1994, p. 389.

<sup>11</sup> R. HIERS, *Justice and Compassion*, p. 221.

<sup>12</sup> *Ibidem*, p. 174.

consumer protection, for example, regulations against corruption in commerce or the use of false weights and measures, which affected, among others, widows, orphans, wage earners, foreigners, or persons with disabilities.<sup>13</sup> These principles, containing certain values, are directly linked to justice in the biblical texts. They embody its essence. Justice is not typologized into, for example, material or formal justice. What is just is unitarian in both the material and the formal sense. This conundrum, too, may prompt a search for certain universals of the concept of justice in law.

Of course, there is a risk – and it should be fairly emphasized – that in other religious or ethical systems the above concept may not gain acceptance, so the hypothesis of the universality of the concept fails. However, accepting certain research limitations and studying, for example, the normative systems of the democratic state of law of the Western model (based on the idea of justice understood as in the above-mentioned sources), we can already make such a search with a certain degree of efficiency. So, we can conclude that biblical texts can provide valuable research material for the study of the understanding of justice in law, and thus provide material for drawing conclusions from them. These can apply, for example, to modern legal systems, as we will address in the next section on a selected text from the Bible.

Before that, however, one important observation should be made. Some of the legal solutions mentioned above are found in the legal systems of many countries today, for example, the Polish system and the system of social law *sensu largo*. Such solutions, especially in Polish literature, often refer to the concept of “social justice.”<sup>14</sup> Social justice is referred to in the Constitution of the Republic of Poland, where Article 2 states that “the Republic of Poland shall be a democratic state ruled by law and implementing the principles of social justice.” In the Constitution, we do not find additional provisions specifying what the principles of social justice are specifically based on. It is argued in the literature on constitutional law that “in academic and political discourse, social justice appears most often in the context of the theoretical dispute of the social (interventionist) state vs. the minimum (libertarian) state, or when analyzing the concept of political liberalism.”<sup>15</sup> This means

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<sup>13</sup> Ibidem, pp. 175-211.

<sup>14</sup> See, e.g., Z. ZIEMBIŃSKI, *Sprawiedliwość społeczna jako pojęcie prawne*, Warszawa: Wydawnictwo Sejmowe, 1996, p. 56.

<sup>15</sup> W. ARNDT, S. BOBER, *Sprawiedliwość społeczna w Konstytucji RP*, Kraków: Wydawnictwo WAM, 2016, p. 83.

that despite the passage of centuries, we can note certain convergences, especially at a high level in terms of the abstractness of legal solutions (i.e. non-casuistic level). Justice has therefore been present in scientific discourse since ancient times, shaping jurisprudence, courts and legislation.

UNDERSTANDING OF JUSTICE IN THE LAW BASED  
ON MATTHEW 20:1–16

In the biblical parable of the owner of the vineyard, we find a wealth of various thoughts, indications, views or conclusions. In the subject under study we can highlight the following problems: the concept of justice, the principle of *pacta sunt servanda*, the legitimacy of a party to a legal relationship to pursue a claim. In addition, we will find many other conclusions from the areas of sciences other than legal science (for example, concerning the social relations of the time or the organization of hired labor). Of course, it will be impossible to discuss these diverse contexts, so our considerations here are selective.

The text describes the situation faced by a vineyard owner who needs laborers to do some work on his plantation. He hires laborers one by one. This may seem a bit confusing in modern terms, but the owner continues to hire more laborers throughout the day. It's a bit of an abstract situation as Poles, for example, work typically from 8 am to 4 pm. The owner hires some laborers from 8 to 4, but others from 10 to 4, and some others even much later. The owner eventually pays the laborers the same amount, regardless of the number of hours worked. This is strictly in accordance with the contract between the owner and the laborers, but it causes dissatisfaction among some of them – those who worked the most hours. This is because they receive the same payment as those who worked the least. Their objection is not based on the contract they willingly entered into (because it clearly stated a specific wage), but on their expectation that since those who worked much less did receive the same wage, they would like to receive a correspondingly higher payment. In other words, there would be in fact a change in the contractual terms in their favor. However, this was not the case. The owner of the vineyard stands firmly on his position and explains calmly that, after all, they were contracted for a specific rate. The terms on which he hires other laborers should be his private matter. After all, he is free to dispose of his property, especially since the pay for a full day's work is fair and in line with economic relations.



As Wojciech Sadurski notes, “this [is] an interesting example of the conflict between the precepts of distributive justice and commutative justice understood solely as an obligation to keep promises [...]. From the point of view of any criteria of distributive justice, the conduct of the vineyard owner seems completely unjustified: the proportion between the merits of the various groups of workers is clearly distorted [...]. What is the owner’s argument? In defending his decision, he invokes the fact that, after all, no one was wronged, since those who had worked the longest got as much as they were contractually entitled to, and only the others got more than they expected to receive,”<sup>16</sup> which leads to the conclusion that “commutative justice reduced solely to the principle of keeping promises can lead to consequences contrary to the requirements of distributive justice.”<sup>17</sup>

That conclusion should be accepted, because indeed (to use simplistic terms) focusing exclusively on the principle of *pacta sunt servanda* can lead to incompatibility with the tenets of distributive justice. This example – seen against the backdrop of divisions, typologies and other classifications of the justice concept – reveals their weakness. They are, of course, very helpful for trying to understand the concept of justice. For it is impossible to deny the immense value of the output of thinkers who have dealt with justice over the centuries. Similarly, their rigorous observance and strict separation are fraught with risk, related to, first, the imperfection of these separations; second, disputes arising from differences in their understanding; and third, the practical consequences of differences in understanding, as we are observing. Therefore, in my opinion, it is so important, without detracting from the above-mentioned methodological procedures, to attempt to reflect on justice understood in a context that is as broad as possible, trying to find its essence in the area of the phenomenon under study.<sup>18</sup> This is an extremely difficult

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<sup>16</sup> W. SADURSKI, *Teoria sprawiedliwości: podstawowe zagadnienia*, Warszawa: PWN, 1988, pp. 76-77.

<sup>17</sup> *Ibidem*, p. 77.

<sup>18</sup> J. MIKOŁAJEWICZ, *Wybór formuły czy teoria sprawiedliwości*, “Etyka” 1990, p. 337. His reflections are very interesting: “Justice, however, is a peculiar concept. Containing in each version a considerable emotional charge, and always a positive one, it thus becomes an object of manipulation – in good or bad faith – in pursuit of intended social goals. While arguing in favor of one or another conception of substantive justice, one argues at the same time in favor of some existing or merely projected social system of which the law is only an expression. The argument is even stronger when it takes the expression of a ‘normative theory.’ By ruling on a moral property (this is the function of ‘normative theory’), for it is not the truth or falsity of some material conception of justice, one is in fact ruling on one’s own or a group’s moral

task, and therefore, in order for such reflections not to be empty slogans or campaigning in favor of “only the right, own conception of justice” it is necessary to relate them to a specific cultural circle and then narrow the research context even further. Therefore, in the research undertaken, I focus on a fraction of vast research material, i.e. justice, which can lead to both accusation and approval. In justifying this position about the difficulty of obtaining a consensus on the same phenomena under study, I do believe exactly the opposite unlike the proponents of distributive justice looking at the parable cited above. They believe that laborers who work longer should be paid more than the negotiated wage. I fully agree that no one was wronged here, because those who worked the longest got as much as they were contractually entitled to. There is no violation of justice here by paying the same amount to workers who worked much less. I do not consider it unfair that in such a situation the owner – if it is not his will – should be obliged to increase the wages of some of the workers above the level they mutually agreed upon. On the contrary, the opposite reasoning can directly cause injustice consisting in undermining the agreed solutions, uncertainty of the legal situation, and the destruction of economic growth. It would be impossible to say if, after a day’s work, one would receive the agreed denarius, two, or perhaps half or none, because such was the need in terms of finding a “fair solution.” The effects of distributive justice, if understood perversely, are well known from the experience of communism, and they are uniformly bad.

I will also refer (causally) to the issue of keeping the terms of a contract, embodied in the Roman maxim *pacta sunt servanda*. We read in Polish legal literature that “this is one of the fundamental principles of civil law, dating back to Roman law. This principle is expressed in the fact that a contract that has been properly concluded cannot be terminated by the decision of one of the parties.”<sup>19</sup> Of course, there may be some exceptions to this rule. There may also be regulations that weaken its validity. Nevertheless, its essence and meaning are clear and have basically stayed put for centuries. It can be said

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preferences. If the properties of these preferences manage to convince the majority of society, or at least that part that has a decisive influence on the course of public affairs, the desired change, modification or stabilization of the existing normative system takes real shape. Thus, in essence, the ‘normative theory of justice’ appears as an element of social engineering, and its evaluation depends on what are the practical consequences of its application and the evaluation of these consequences.”

<sup>19</sup> A. MALAREWICZ, *Pacta sunt servanda a prawo konsumenta do odstąpienia od umowy sprzedaży* in *Wokół zasad prawa cywilnego*, ed. T. Mróz, S. Prutis, Białystok: Uniwersytet w Białymstoku, 2008, p. 75.

that if the parties knowingly and in accordance with the applicable rules, without harming each other or a third party, have effectively entered into a contract, then the terms of that contract should be observed. The contract should be performed as the parties have made their promises to each other. Any changes to the terms of the contract, without the mutual consent of the parties, should be treated as impermissible. This is a fundamental rule of many legal systems, drawing from the legacy of Roman legal thought. It seems to me that it is also fundamental to the understanding of justice in law and, as it were, embodies such justice. Therefore, once again, it is worth emphasizing that since in the analyzed text there was a fulfillment of the conditions accompanying this principle, no assumption should be made that a violation occurred. The vineyard owner abides by the contractual terms, but also acts in a way that is atypical of shorter-term workers. He is free to do so because he has the fundamental right to freely dispose of his property. His behavior can be read as (depending on the optics assumed) merciful, or, as one might put it in modern terms, favoring certain persons. The point is that the owner, perhaps, found it legitimate (as is the case in the legal systems of Western countries) to provide some support to those who were unemployed. Thus, he decided (despite the lack of grounds and contrary to the prevailing rates) to pay them the entire salary for work for only part of the working day. After all, we are dealing with similar forms of support today, when, for example, wages are subsidized in some way. Or when we are faced with a situation where, for example, an elderly person (e.g., parents or grandparents), wishing to encourage a young person to be professionally active (but under their watchful eye and in conditions of special protection), offers them a salary far in excess of what they would get on the free market. This seems to be an obvious situation, which does not raise questions of both legal and moral nature.

Therefore, it is worth stressing after J. H. Gebhardt: “In the present stage of civilisation it is an unwritten condition of the law of free peoples that the law does not enslave.”<sup>20</sup> This is a very important conundrum, both in the narrower perspective of the *pacta sunt servanda* principle and in the much broader perspective of considering justice in law. The law, a just law, must

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<sup>20</sup> J. GEBHARDT, *Pacta Sunt Servanda*, “The Modern Law Review” 2 (1947), no. 2, p. 160. Despite the decades since the publication of this article, its message and main idea is still relevant and addressed in contemporary scientific literature. See Ł. Korporowicz, *Pacta sunt servanda w prawie kanonicznym* in *Pacta sunt servanda – nierealny projekt czy gwarancja ładu społecznego i prawnego?*, ed. E. Kozerska, P. Sadowski, A. Szymański, Kraków: AT Wydawnictwo, 2015, pp. 113-125.

not enslave. This means that it must give freedom to the individual to decide how he can act with his property, for example, as the vineyard owner did. It must give the opportunity to express and exemplify free will. Of course, this must follow the rules accompanying the situation. Resisting possible objections to such a claim, one can imagine a hypothetical situation. The vineyard owner, led by the desire to maximize his profit, having knowledge of the prevailing unemployment, takes advantage of this fact. Instead of agreeing on a wage that corresponds to socio-economic realities, i.e. one denarius per day, he offers half a denarius per day. Thus, he takes advantage of the pathological situation of workers, who are more than likely to agree to such a rate as well, in order to earn anything for their livelihood. This is not the sort of situation being discussed.

At the very end, one more reservation should be made, which basically corresponds with what has already been said earlier. Many threads can be built, analyzed and developed on the basis of the problems outlined above. For example, one can examine the origins of the *pacta sunt servanda* principle and its interpretation through the theological paradigm. You can also analyze the literature on the subject and judicial decisions of a given national legal system that would address the above problems. We can also analyze many more biblical texts – and this is an excellent research challenge. We can also compare these biblical texts with other texts and look for differences and similarities.

As I indicated at the beginning, this is not the purpose of this work. The topic of justice is so broad that its treatment will be relatively narrow in article form – in order not to lose the sight of the main message.

## CONCLUSIONS

When considering justice in law, it is first necessary to clearly establish the formal principles accompanying this justice. This is about what some of the doctrine considers “procedural justice”, without omitting reflection also in the layer called “substantive justice” by some scholars. The point is to think about justice in a way that corresponds to its meaning – as broadly as possible, so that a just normative system – or at least one considered such – does not become an instrument of lawlessness. For what is formally just (in keeping with the established law) may turn out to be quite different. For the concept of justice in law (and justice itself) is very broad and capacious so

it carries many values. For centuries, it has been the subject of interest to many people. Somewhat humorously, it can be said after Leszek Kołakowski that “since almost all philosophers, moralists and legal theorists have tried to clarify what justice, a righteous deed, a righteous man and a righteous state are about, one should think they have not reached clarity and agreement on this matter.”<sup>21</sup> Ronald Dworkin (less humorously, though) even points out that “it is difficult to find a statement of the concept at once sufficiently concrete to be useful. Our controversies about justice are too rich, and too many different kinds of theories are now in the field.”<sup>22</sup>

This does not, nevertheless, exempt us from the modern search. All the more so because justice in law should be recognized as one of the main (if not the most important) principles. Of course, it is impossible to satisfy all participants in the discourse on justice, since each may present different rationales. However, it seems that it is possible to find certain universal values, upon which to carry out further actions. They are indispensable, and this needs to be unequivocally emphasized. The very, very general consideration of what is and what is not fair in law (e.g., in a certain, analyzed legal system) is very necessary and valuable. However, it is a contribution, a beginning to the necessary further work of a dogmatic-legal nature. This is because the point is not to end research on buzzwords, slogans, but to turn them into legal regulations.

For these purposes, a variety of research materials are valuable, and among them, materials that are researched using historical-legal methods. Biblical texts are an excellent example of this. We find in them many references to problems that are also relevant today. This is confirmed by our analysis of the parable about the vineyard. It carries an important conclusion for contemporaries – a conclusion of a universal nature, also referring to ancient legal thought, which is present in modern legal systems. It says that, first, contracts are to be observed. Second, the law is to be an instrument of freedom, not enslavement. It is supposed to provide viable tools for realizing freedom. This reality can be the ability to freely dispose of one’s property and pay employees according to one’s will. This is very important, especially at a time when value relativism can negate such an approach. Therefore, let me conclude, perhaps somewhat pathetically but nevertheless with an impor-

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<sup>21</sup> L. KOŁAKOWSKI, *Mini-wykłady o maxi-sprawach: Seria trzecia i ostatnia*, Kraków: Wydawnictwo ZNAK, 2000, p. 50.

<sup>22</sup> R. DWORKIN, *Law’s Empire*, Cambridge, MA: Belknap Press, 1986, p. 74.

tant message, and use a quote from Montesquieu: “Not everything that is law is for this reason just; but what is just should become law.”<sup>23</sup> Perhaps such a formulation is not pathetic at all but refers directly to the possibility of formulating, for example, legal principles. I am convinced that despite our differences in the understanding of “justice”, it is good to refer to it when creating law. Such a procedure has certain ontological and axiological attributes, which means that statutory law can be a vehicle for values and ideas, embodying a certain concept of existence. This is always a more reasonable solution than a purely utilitarian approach. Of course, this is another scientific challenge and a proposal for conducting further research.

#### REFERENCES

- ALETTI Jean Noël, *God's Justice in Romans: Keys for Interpretating the Epistle to the Romans*, Rome: Gregorian & Biblical Press, 2010.
- ARNDT Wojciech, BOBER Sergius, *Sprawiedliwość społeczna w Konstytucji RP*, Kraków: Akademia Ignatianum, Wydawnictwo WAM, 2016.
- BOVATI Pietro, *Re-Establishing Justice: Legal Terms, Concepts and Procedures in the Hebrew Bible*, Sheffield: JSOT Press, 1994.
- CIECHANOWICZ-MCLEAN Janina, *Environmental Justice jako rodzaj sprawiedliwości*, “Gdańskie Studia Prawnicze” 35 (2016), no. 1, pp. 119-130.
- DWORKIN Ronald, *Law's Empire*, Cambridge, MA: Belknap Press, 1986.
- GEBHARDT J.H., *Pacta Sunt Servanda*, “The Modern Law Review” 2 (1947), no. 2, pp. 159-170.
- HIERS Richard H., *Justice and Compassion in Biblical Law*, New York: T&T Clark, 2009.
- KOKOSZKIEWICZ Artur, *Sprawiedliwy proces administracyjny jako zadanie państwa. Studium teoretycznoprawne. Just administrative process as a task of the state theoretical and legal study*, Warszawa: C.H. Beck, 2022.
- KOŁAKOWSKI Leszek, *Mini-wykłady o maxi-sprawach: Seria trzecia i ostatnia*, Kraków: Wydawnictwo Znak, 2000.
- KORPOROWICZ Ł., *Pacta sunt servanda w prawie kanonicznym* in *Pacta sunt servanda – nie-realny projekt czy gwarancja ładu społecznego i prawnego?*, ed. E. Kozerska, P. Sadowski, A. Szymański, Kraków: AT Wydawnictwo, 2015, pp. 113-125.
- LESZCZYŃSKI Leszek, *Zasady prawa – założenia podstawowe*, “Studia Iuridica Lublinensia” 25 (2016), no. 1, pp. 11-16.

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<sup>23</sup> MONTESQUIEU, *Mysli*, trans. Leopold Gluck, Warszawa: PIW, 1985, p. 56.

- MALAREWICZ Agnieszka, *Pacta sunt servanda a prawo konsumenta do odstąpienia od umowy sprzedaży* in *Wokół zasad prawa cywilnego*, ed. T. Mróz, S. Prutis, Białystok: Uniwersytet w Białymstoku, 2008, pp. 75-86.
- MIKOŁAJEWICZ Jarosław, *Wybór formuły czy teoria sprawiedliwości*, "Etyka" 25 (1990), pp. 333-337.
- MONTESQUIEU, Charles-Louis de Secondat, *Myśli*, trans. Leopold Gluck, Warszawa: PIW, 1985.
- SADURSKI Wojciech, *Teoria sprawiedliwości: podstawowe zagadnienia*, Warszawa: PWN, 1988.
- WEINFELD Moshe, 'Justice and Righteousness'—*דִּינָה וְצֶדֶק*—*The Expression and Its Meaning*, in *Justice and Righteousness: Biblical Themes and their Influence*, ed. H. Reventlow, Y. Hoffman, Sheffield: Sheffield Academic Press, 1992, pp. 228-246.
- ZIEMBIŃSKI Z., *Sprawiedliwość społeczna jako pojęcie prawne*, Warszawa: Wydawnictwo Sejmowe, 1996.

DYLEMATY SPRAWIEDLIWOŚCI W PRAWIE  
– O ZASADNOŚCI ANALIZY TEKSTÓW BIBLIJNYCH  
NA POTRZEBY WSPÓŁCZESNEGO PRAWOZNAWSTWA

STRESZCZENIE

Artykuł dotyczy problemów badawczych związanych z problematyką sprawiedliwości i prawa. Jest to temat stary jak świat, który z jednej strony zyskał obszerną literaturę, z drugiej jednak współcześnie jest jakby nieco zapomniany. Sprawiedliwość w prawie została odłożona na półkę z wartościami, które są oczywiste – są swego rodzaju dogmatem. Dzieje się to zupełnie niesłusznie, bowiem kiedy stawiamy pytania o to, co oznacza taka sprawiedliwość w prawie i na co wpływa, nie otrzymujemy prostych i zadowalających odpowiedzi. Staram się więc wykazać, że szerokie, wieloaspektowe podejście do tego tematu może okazać się wartościowe. W tym celu rozsądne i wartościowe wydaje się wykorzystanie wszelkich dostępnych badań i źródeł. Szczególnie interesujące mogą okazać się niektóre teksty biblijne, jak na przykład przypowieść o właścicielu winnicy, którą wybrałem do analizy, bowiem ujawnia wiele interesujących zagadnień. Są one nadal aktualne i dotyczą problemów stojących przed współczesnymi systemami prawnymi. Sądzę, że teksty te mogą być wartościowe dla rozwoju prawoznawstwa. Pozwalają także na integrację nauk o państwie i prawie; czy to o charakterze wewnętrznym (np. z dogmatyką prawniczą, pozwalającą na tworzenie sprawiedliwego prawa), czy zewnętrznym (z naukami innymi niż prawo). Tezą artykułu będzie stwierdzenie, że teksty biblijne, mimo że nie należą bezpośrednio do dziedziny nauk prawnych, posiadają cechy pozwalające na ich wykorzystanie we współczesnym prawoznawstwie. Wycinkiem badawczym i jedynym omawianym tutaj tekstem biblijnym będzie tekst ewangelisty Mateusza.

**Słowa kluczowe:** teoria i filozofia prawa; sprawiedliwość; sprawiedliwe prawo; historia prawa; Biblia; jurysprudencja; państwo i prawo.