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The Category of Truth in the Constitutions of Modern States

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Słowa kluczowe: prawda, konstytucja, komparatystyka prawnicza, aksjologia, sprawiedliwość tranzycyjna, wolność słowa

Abstract

The subject of the article is references to the truth in the constitutions of modern states. The comparative study shows multiplicity of contexts in which the category of truth is mentioned in several dozen fundamental laws. The mention of truth in the constitutions as a component of the axiology of the legal and social order, the basis of transitional justice or the principle of court and administrative proceedings should be assessed positively. However, making the truth a limit of freedom of speech raises serious reservations. Granting constitutional protection only to truthful statements can stifle the public debate on socially prominent issues. The conducted analysis does not confirm the thesis of political liberalism that the truth is irrelevant for law and politics.

Streszczenie

Kategoria prawdy w konstytucjach państw współczesnych

Przedmiotem artykułu są odniesienia do prawdy w konstytucjach państw współczesnych. Komparatystyczne studium pokazuje wielość kontekstów, w których kategoria prawdy

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jest wzmiankowana w kilkudziesięciu ustawach zasadniczych. Pozytywnie należy ocenić wymienianie w konstytucjach prawdy jako części składowej aksjologii porządku prawnego i społecznego, podstawy sprawiedliwości tranzycyjnej czy zasady postępowania sądowego i administracyjnego. Poważne zastrzeżenia budzi natomiast czynienie z prawdy granicy wolności słowa. Przyznanie konstytucyjnej ochrony jedynie wypowiedziom prawdziwym może tłumić publiczną debatę na sprawy społecznie doniosłe. Przeprowadzona analiza nie potwierdza tezy liberalizmu politycznego o irrelewantności prawdy dla prawa i polityki.

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I. Introduction

The concept of truth has been the subject of multidimensional philosophical reflection since ancient times. However, there is no consensus on understanding the truth. On the contrary, in recent decades, subsequent theories of the truth have emerged, which in consequence bring us no closer to its explanation but they are sources of confusion and disorientation. In classical (correspondence) terms, deriving from Aristotle and developed by St. Thomas Aquinas, the truth is “the adequation of intellect and thing inasmuch as the intellect says that what is and what is not”². Quite differently is the truth conceived in other theories, for example, axiomatic, pragmatist, deflationary, epistemic, coherence, consensus, post-modern, pragmatic, or semantic theories.

The relentless intellectual reflection on the truth only proves that it constitutes something important for individual and social life, regardless of whether that “something” has been classified as a value, a virtue, good, a principle or otherwise. The category of truth is not strange to the legal order either. The term truth appears in different meanings in the normative legal acts of individual countries, including constitutions³. Legal literature is focused with a diversified intensity on issues of the truth. In this respect, considerable differences occur between individual legal sciences.

² St. Thomas Aquinas, *Summa Contra Gentiles*, I, p. 59.

³ M. Synoradzki, *Cztery rozumienia prawdy w polskich tekstach prawnych*, „Journal of Modern Science” 2013, no. 4, pp. 453–473.

The subject of the article is a comparative study of direct references to the truth in the constitutions of modern states. The category of truth has met with a relatively small interest in the science of constitutional law so far⁴, and even more so in the comparative context. The work has primarily a qualitative character. Its goal has been to make a functional typology of some constitutional references to the truth⁵. The individual, distinguished types of references to the truth have been synthesised and assessed, pointing to the accompanying doubts and controversies.

II. The truth as an element of constitutional axiology

In the constitutions of only a few countries, the truth has been indicated as one of the basic values or principles of the political, legal, and social order. In this capacity, the truth has usually been mentioned in the preamble. The Introduction to the Constitution of the Republic of Poland lists truth as one of the four “universal values”, alongside justice, good and beauty⁶. The judicial decisions indicate that the truth is “the good included in the axiology of the Constitution”⁷, “the foundation of the Polish legal system”⁸, the value “on which the political system of the Republic of Poland is based”⁹.

⁴ R. Lipkin, *Indeterminacy, Justification and Truth in Constitutional Theory*, „Fordham Law Review” 1992, vol. 60, no. 4, pp. 595–643; I. Villaverde Menéndez, *Verdad y constitución. Una incipiente dogmática de las ficciones constitucionales*, „Revista Española de Derecho Constitucional” 2016, vol. 106, pp. 149–201.

⁵ More than dozen instances of using the adjective “true”/“truthful” in the constitutions as a mainly linguistic mean emphasizing the properties of individual phenomenon, process, institution or state of affairs were left beyond the scope of the study. See e.g. “true democracy” [Suriname (Art. 52 sec. 3)] or “true faith and allegiance” [Ghana (second schedule)].

⁶ E. Gorlewska, *Słownictwo aksjologiczne w Konstytucji Rzeczypospolitej Polskiej. Znaczenia tekstowe a konotacje potoczne*, Białystok 2019, pp. 113–114.

⁷ Judgment of the Polish Constitutional Court of May 12, 2008, file ref. no. SK 43/05, OTK ZU no. 4/A/2008, item 57.

⁸ Judgment of the Polish Supreme Court of October 18, 2019, file ref. no. I NSK 60/18, LEX no. 2729320.

⁹ Judgment of the Polish Constitutional Court of September 12, 2005, file ref. no. SK 13/05, OTK ZU no. 8/A/2005, item 91.

In the preamble to the constitutions of four other countries the truth has been mentioned alongside such values as: justice, freedom, fraternity, love, equality, unity, peace, stability, prosperity, hard work and self-reliance¹⁰. Eritrea's constitution-maker has emphasised that making love for truth one of the core national values is a condition for building an advanced state. In Egypt's Constitution, the truth is presented as the limit of power exercise, quoting the leaders of the Egyptian Revolution of 1919: "Truth is above power and the nation is above the government". The reference to the truth as an axiological category also appears in articles of Finland's Constitution, where the role of a representative (MP) has been defined as a service to truth and justice¹¹.

Sometimes constitutional references to the truth combine the axiological dimension with the ideological or worldview dimension, and thus also with propaganda. The preamble to the Egyptian Constitution invokes the dissemination of "the message of truth and religious sciences across the world". In the Introduction to the Constitution of the People's Republic of China the victory of a New Democratic Revolution has been attributed to, *inter alia*, upholding truth by the Chinese people "under the leadership of the Communist Party of China and the guidance of Marxism-Leninism and Mao Zedong Thought". Similarly, the Iranian Constitution provides for the belief of the Iranian People in "the sovereignty of truth and Qur'anic justice"¹². References to the truth in the constitutions of non-democratic countries may cause a strong cognitive dissonance. For example, a provision of the Constitution of Iran considering that the "attainment of independence, freedom, and rule of justice and truth" is "the right of all people of the world"¹³ does not correspond to the power realities of the theocratic authoritarianism in that country.

The negligible presence of the category of truth among the values that make up the constitutional axiology should be assessed negatively. The present situation reflects a critical, or at least ambiguous, attitude to the truth in political liberalism and legal positivism. As early as in 1938, George Orwell made a diagnosis that "the very concept of objective truth is fading out of the world", which distinguishes the present day from the past, when "people de-

¹⁰ Egypt, Eritrea, The Philippines, Seychelles.

¹¹ Finland (Art. 29).

¹² Iran (Art. 1).

¹³ Iran (Art. 154).

liberately lied, or they unconsciously colored what they wrote, or they struggled after the truth, well knowing that they must make many mistakes; but in each case they believed that «the facts» existed and were more or less discoverable¹⁴. The contemporary political liberal thought is “in any way concerned with truth. Centuries of conflict about religious, philosophical and moral beliefs have created a liberal sensibility that assumes the practical impossibility of reaching reasonable and workable political agreement about the truth. Liberals now separate reason from the truth, taking «reasonable» to refer to a willingness to get along and suppressing that references to «truth» as barriers to agreement¹⁵.”

Scepticism or reluctance to refer to the truth in the constitutions cannot be justified by its ambiguity. A concept no less philosophically “entangled” and commonly mentioned in the constitutions is justice. Truth, and precisely the truth in the traditional sense is one of the determinants of the just law¹⁶. It is therefore reasonable for the constitution-maker to indicate it as “a certain ideal, goal for which the law should strive¹⁷.”

III. The truth as a component of transitional justice

The category of truth is mentioned in the constitutions of several states in the context of transitional justice. The term “transitional justice” has been popularised in recent decades, especially in the doctrine of international law. It refers to processes and mechanisms meeting “aspirations of post-conflict and post-regime communities to settle past events associated with massive, systematic violations of human rights¹⁸”. Transitional justice is aimed at redress-

¹⁴ G. Orwell, *Hołd dla Katalonii i inne teksty o hiszpańskiej wojnie domowej*, Warsaw 2006, pp. 293–294.

¹⁵ M. Sellers, *Republican Legal Theory. The History, Constitution and Purposes of Law in a Free State*, London 2014, p. 87.

¹⁶ W. Dziedziak, *O prawie słusznym (perspektywa systemu prawa stanowionego)*, Lublin 2015, pp. 58–61.

¹⁷ M. Frańczuk, *Prawda jako pojęcie języka prawnego*, „Zeszyty Naukowe UEK” 2015, no. 6, p. 119. See P. Häberle, *Verdad y Estado constitucional*, Mexico 2006.

¹⁸ I. Topa, *Prawo do prawdy o poważnych naruszeniach praw człowieka w prawie międzynarodowym*, „Roczniki Administracji i Prawa” 2019, no. 2, p. 210.

ing the damage and harm suffered by the victims and their relatives, bringing about the national reconciliation, as well as revealing and showing the truth about the past when the authority or persons acting with its consent violated the fundamental rights of the individual.

Increasingly more often in the context of transitional justice the so-called “right to the truth” both in individual and community dimension stands out¹⁹. This category is used both by legal doctrine and by domestic and international courts, especially the Inter-American Court of Human Rights.

In individual terms, the right to the truth is the right of a victim or their family to know the facts relating to specific criminal acts against them (the circumstances of the incident, the perpetrator, the crime’s principal, the motives, the course and outcome of the investigations and legal proceedings, etc.), e.g. in connection with kidnapping or missing of a given person. The right to the truth, considered from the public point of view, concerns informing citizens about the scale, nature, cases of human rights violations affirmed by the authorities and the responsible persons. One of the forms realizing such a profiled right to the truth is the activity of the truth and reconciliation commissions, mainly in Africa and South America. In the post-communist European countries, the right to the truth covers, for example, the issue of lustration (cleansing)²⁰.

The references to the truth in the context of transitional justice are an example of incorporation into the constitutions of some categories, developed originally in international law. In several constitutions linking of the truth with transitional justice has found its expression in the name of the institution appointed to carry out the process of settlement with the past and the social reintegration: The Sub-Commission of Truth, Justice and National Reconciliation²¹, The Truth Commission²², The Truth and Reconciliation Commission²³, The Commission for Reception, Truth and Reconciliation²⁴. Knowing or re-

¹⁹ G.B. Rojas, *Derecho a la Verdad*, „Estudios Constitucionales” 2016, vol. 14, no. 2, pp. 263–304.

²⁰ J. Kochanowski, *Lustracja a prawo do prawdy*, „Prawo Europejskie w praktyce” 2007, nr 5 (35) <https://www.rpo.gov.pl/pliki/1181049152.pdf>.

²¹ Burkina Faso (Art. 18).

²² Colombia (Art. 66 of the Transitional Provisions).

²³ Somalia (Art. 111I).

²⁴ East Timor (Art. 162).

vealing the truth has been given as one of the main goals of transitional justice in the Fundamental Laws of Colombia, Ecuador, and Egypt²⁵. In the first of the aforementioned Constitutions it has been indicated explicitly that the instruments of transitional justice are to ensure “victims’ rights to truth, justice and reparation”. The Constitution of Zimbabwe states that revealing the truth about the painful past of the state and its citizens serves to bring about the national reconciliation²⁶.

IV. The truth as the limit of the constitutional freedom of speech

The most controversial are constitutional references to the truth in relation to the freedom of speech, or more broadly, the freedom of expression. They are present in the Constitution of Spain and several Latin American states. The Spanish Constitution recognizes and protects the right to “freely communicate or receive truthful information by any means of dissemination whatsoever”²⁷. Venezuela’s Constitution articulates “the right to timely, truthful and impartial information, without censorship”²⁸. Ecuador’s Constitution guarantees “the right to look for, receive, exchange, produce and disseminate information that is truthful, accurate, timely, taken in context, plural, without prior censorship”²⁹. Likewise, the Nicaraguan Constitution states that “Nicaraguans have the right to truthful information. This right comprises the freedom to seek, receive and disseminate information and ideas”³⁰. References to the truth appear in the Constitutions of Bolivia and Mexico in the context of provisions bordering on the freedom of speech and the freedom of the media. According to the first Act, “information and opinions issued by the public means of communication must respect the principles of truth and responsibility”³¹. On the other hand, Mexico’s Constitution contains a statutory delegation to the establishment of a non-profit broadcast service provider

²⁵ Egypt (Art. 241); Ecuador (Art. 78); Colombia (Art. 66 of the Transitional Provisions).

²⁶ Zimbabwe (Art. 252 (c)).

²⁷ Spain (Art. 20 sec. 1(d)).

²⁸ Venezuela (Art. 58).

²⁹ Ecuador (Art. 18 sec. 1).

³⁰ Nicaragua (Art. 66).

³¹ Bolivia (Art. 107 sec. 2).

ensuring population access to, among others, “impartial, timely and truthful information about national and international news”³².

The above-quoted provisions should basically be assessed critically. Although the freedom of expression exercised individually or within the framework of the media freedom is not an absolute right and may be subject to limitations, yet making the truth a constitutive criterion for this freedom is a very risky solution that seriously threatens the free exchange of thoughts. With the indicated wording of the regulations, any statements deemed untrue would not be subject to constitutional protection at all. Although the actual form of the freedom of expression in individual countries depends to a greater extent on the judicial decisions than on the letter of the law, it is the wording of the legal provision, especially of the constitutional rank, that provides courts with arguments to define a more or less libertarian framework for this freedom. Except for Nicaragua and Bolivia, the criterion of truth has been nominally related to information, but not to ideas or opinions, for example. Such a solution is based on the assumption that information being a statement of facts (a sentence in a logical sense) is to be verified in terms of truth or falsehood, as opposed to value judgments that are not subject to such assessment verification. The importance of this distinction should not be overestimated, however, in the context of freedom of speech. First, it is often not clear whether a particular statement falls into the first or second category³³. Secondly, the case law of national courts in many countries, and international courts (particularly ECtHR) takes the position that the legality of a value judgment is determined by the sufficient or appropriate grounding of this opinion on the facts.

A serious threat to the freedom of speech is also Art. 67.1 sec. 3 of the Russian Constitution, which entered into force on July 4, 2020. According to it, “The Russian Federation honors the memory of defenders of the Fatherland and protects historical truth. Diminishing the significance of the people’s heroism in defending the Fatherland is not permitted”. While the authorities have the right to shape the historical policy, the legal prohibition of formulating statements inconsistent with the official narrative on the history of the state and the nation is difficult to reconcile with the essence of freedom of speech.

³² Mexico (Art. 6BV).

³³ A. Biłgorajski, *Prawda jako granica wolności wypowiedzi w toku kampanii wyborczej (referendalnej)*, „Przeгляд Sejmowy” 2009, no. 6, p. 251.

The criticism of treating the truth as a determinant of the limits of freedom of speech has not been dictated by the postmodern belief that there is no objective truth or the deference to relativism. This criticism is also accompanied by the awareness of harmful effects of lying on the civic life and democracy. However, the author shares the position of the American case law that the search for and discovering the truth is best served by the “free market of ideas”³⁴.

The US Supreme Court in its judgment in *United States v. Alvarez* decided that also false statements or outright lying about the facts fall under the freedom of speech as per the First Amendment to the Constitution, although their protection can be limited. This, in its opinion, is necessary for “an open and vigorous expression of views in public and private conversation”. Even false statements may in fact serve useful purposes, and “make a valuable contribution to public debate”³⁵. The conviction that in matters of public debate, “the court will find «a truer» truth than others, strikes naive” and “in fact it creates a fiction that the truth is what will be determined by the court, and not what truth is”³⁶.

As it was stated by the Inter-American Court of Human Rights: “A system that controls the right of expression in the name of a supposed guarantee of the correctness and truthfulness of the information that society receives can be the source of great abuse and, ultimately, violates the right to information that this same society has”³⁷.

The Declaration of Principles on Freedom of Expression adopted in 2000 by the Inter-American Commission of Human Rights at the Organization of American States says that prior conditioning of expressions on its “truthfulness, timeliness or impartiality is incompatible with the right to freedom of expression recognized in international instruments”. In the Commission’s opinion the freedom of expression also includes information which can be called “erroneous”, “untimely” or “incomplete”. The truth requirement ap-

³⁴ Cf. *Abrams v. U.S.*, 250 U.S. 616, 630 (1919) (Holmes, the dissenting opinion).

³⁵ *United States v. Alvarez* 132 S.Ct. 2537, 2544 and 2553 (2012).

³⁶ A. Młynarska-Sobaczewska, *Nieprawda a bezprawność. Wybrane zagadnienia z praktyki określania granic wolności prasy*, „Przegląd Sejmowy” 2008, no. 2, p. 152.

³⁷ Advisory opinion of the Inter-American Court of Human Rights of November 13, 1985, IACHR, OC-5-85, items 77 and 33.

plied to unprovable value judgments would eliminate “all public debate based primarily on ideas and opinions, which are inherently subjective”. It is also inappropriate to apply this requirement to statements of facts, since “there may be a considerable number of markedly different interpretations of a single fact or event”. There is a potential that the participants of the discourse, wishing to avoid sanctions, will engage in self-censorship. While knowingly providing false information can be a source of subsequent liability, making the criterion of truth the preliminary condition to speak is “a regression for freedom of expression and information”³⁸.

Similarly, the European Court of Human Rights in the case of *Salov v. Ukraine*, ruled that “Art. 10 of the Convention as such does not prohibit discussion or dissemination of information received even if it is strongly suspected that this information might not be truthful. To suggest otherwise would deprive persons of the right to express their views and opinions about statements made in the mass media and would thus place an unreasonable restriction on the freedom of expression”³⁹.

Threats to the constitutional freedom of speech due to making the truth the limit for this freedom are commonly attributed to states of immature and unstable democracy, like Colombia or Venezuela. However, more and more often, also in the countries considered to be models of democracy, some legislative initiatives are undertaken, which, motivated by the alleged concern for respecting the truth in the public debate, may be destructive to this debate⁴⁰.

The above remarks do not depreciate the value of truth for the freedom of speech, but they merely express scepticism against the *ex-ante* limitation of this freedom to true expressions. The possibility that the constitution-maker would affirm the importance of truth in the context of freedom of expression without the simultaneous disproportionate rationing of this freedom has been demonstrated by Art. 100 of the Norwegian Constitution, stating that

³⁸ <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=132&IID=1>. (27.04.2021).

³⁹ Judgment of the European Court of Human Rights of September 6, 2005, *Salov v. Ukraine*, app. no. 65518/01.

⁴⁰ F. Rose, J. Mchangama, *History proves how dangerous it is to have the government regulate fake news*, <https://theconversation.com/governments-are-making-fake-news-a-crime-but-it-could-stifle-free-speech-117654> (27.04.2021).

the grounds for freedom of expression are “the seeking of truth, the promotion of democracy and the individual’s freedom to form opinions”.

Conditioning the freedom of speech of an individual on the truthfulness of expression should be distinguished from – deserving of approval – providing citizens by the constitution-maker with the right to access truthful public information⁴¹, the right to rectify or delete untrue information or data concerning them, possibly also to compensation for their publication⁴², and also guaranteeing citizens as consumers the right to accurate information about goods and services⁴³.

Similarly, the reference to the truth in the Constitutions of Ecuador and Hungary should be assessed positively in the context of the freedom of science. According to the former, the autonomy of higher schools consists in “the right to search for the truth, without restrictions”⁴⁴. On the other hand, according to the Hungarian Fundamental Law, “the State shall have no right to decide on questions of scientific truth; only scientists shall have the right to evaluate scientific research”⁴⁵.

V. The truth as a rule of court and administrative proceedings

Constitutional references to the truth in the context of universally understood judicial, criminal (investigation) and administration proceedings are the most diversified. The constitutions of four countries provide that the purpose or the principle of court proceedings is to establish (discover, ascertain) the truth⁴⁶. Establishing or discovering the truth is also indicated as the activity goal of

⁴¹ Bolivia (Art. 242 sec. 4); Kenya (Art. 35 sec. 1); Cuba (Art. 53); Paraguay (Art. 28 sec. 1); See also Venezuela (Art. 143).

⁴² Albania (Art. 35 sec. 4); Azerbaijan (Art. 32 sec. 5); Montenegro (Art. 49); Kenya (Art. 35 sec. 2); Poland (Art. 51 sec. 4); Zimbabwe (Art. 62 sec. 3).

⁴³ Argentina (Art. 42 sec. 1); The Dominican Republic (Art. 53); Ecuador (Art. 66 sec. 25); Costa Rica (Art. 46 sec. 4); Cuba (Art. 78); Panama (Art. 49 sec. 1); East Timor (Art. 53 sec. 1); Thailand (Art. 61).

⁴⁴ Ecuador (Art. 355 sec. 2).

⁴⁵ Hungary (Art. 10 sec. 2).

⁴⁶ Azerbaijan (Art. 125 sec. 7); Bolivia (Art. 180 sec. 1); Bulgaria (Art. 121 sec. 2); Guyana (Art. 144 sec. 2).

institutions other than courts, such as the Commission on Human Rights⁴⁷, the Special Presidential Commission of Inquiry⁴⁸ or the judicial police⁴⁹. The Constitutions of Honduras and Equatorial Guinea mention the truth as the operating principle of the Superior Tribunal of Accounts (The Accounts' Tribunal)⁵⁰, and the Constitution of Colombia combines the same principle with the Office of the Controller General⁵¹. In the constitutions of three countries revealing the truth in criminal proceedings is given as a justification for restricting such rights as: personal liberty⁵², the right of a person suspected of a criminal offence to notify those closest to him or her of the deprivation of liberty⁵³, the right to inviolability of the home⁵⁴, the right to confidentiality of post and telecommunication correspondence⁵⁵ or the right to access information about himself or herself held in state agencies and local governments and in state and local government archives⁵⁶. Quite peculiar is Art. 29 of Afghanistan's Constitution, which prohibits the use of torture, even to discover the truth⁵⁷, as if torture were a reliable means of finding out the truth. Tonga's Constitution states that the principle of *res judicata* is not applicable except in cases where the accused shall confess after having been acquitted by the court and when there is sufficient evidence to prove the truth of his confession⁵⁸. The Constitution of Paraguay excludes the evidence of truth in certain categories of cases⁵⁹. Germany's Constitution states that "truthful reports of public sittings of the Bundestag and of its committees shall not give rise to any liability"⁶⁰. El Salvador's Constitution gives the Supreme Court the power to verify the truthfulness of financial declarations by functionar-

⁴⁷ The Philippines (Art. 13 sec. 8 p. 8).

⁴⁸ Sri Lanka (Art. 89).

⁴⁹ Morocco (Art 128).

⁵⁰ Honduras (Art. 222 sec. 3); Equatorial Guinea (Art. 118 sec. 8).

⁵¹ Colombia (Art. 268 sec. 8).

⁵² Bolivia (Art. 23).

⁵³ Estonia (Art. 21).

⁵⁴ Estonia (Art. 33).

⁵⁵ Estonia (Art. 43); Ukraine (Art. 31).

⁵⁶ Estonia (Art. 44).

⁵⁷ Afghanistan (Art. 29).

⁵⁸ Tonga (Art. 12).

⁵⁹ Paraguay (Art. 23).

⁶⁰ Germany (Art. 42 sec. 3).

ies and employees specified by law⁶¹. In turn, according to the Constitution of Colombia, the National Election Commission reviews the electoral documents to guarantee the truthfulness of the election results⁶².

VI. Summary

The assessment of constitutional literal references to the truth is ambivalent. It is worth mentioning the truth among the values that make up the constitutional axiology, although only a few legislators have done so. In some constitutions, the truth, including the right to the truth, has also been made legitimately an element of transitional justice. It is not possible to make settlements with the past in the context of the socio-political transformation in ignorance of the truth, or even more in hiding or warping it. One should also assess clearly positively the provisions of the constitutions that have shown the truth as a goal or principle of law enforcement bodies and inspection bodies. A court judgment or other decision of authorities in individual cases must not only meet the requirement of legalism (formal justice), but also be made in relation to the factual state that reflects the truth. On the other hand, objections are raised by making the statement truthfulness a precondition for giving it constitutional protection within the framework of the freedom of speech and the media. Because of not always obvious boundary between factual statements and value judgments such a solution threatens a free debate on issues that are socially important. In practice, “truth is the most common justification for censorship”⁶³, and “many governments use truth requirement’s to stifle criticism”⁶⁴.

The conducted analysis shows that the category of truth, although not crucial, is not marginal to the constitutions of modern states. The thesis of John

⁶¹ El Salvador (Art. 240 sec. 3).

⁶² Colombia (Art. 265 sec. 4). Similarly, Seychelles (Art. 51 sec. 6(c), Art. 79 sec. 8 and Art. 116 sec. 2).

⁶³ C. Wonnell, *Market Causes of Constitutional Values*, „Case Western Reserve Law Review” 1995, vol. 45, no. 2/3, p. 410.

⁶⁴ G. Alfredsson, *Unesco and a Common Framework for Ethics. Human Rights Concerns*, [in:] *Universal ethics. Perspectives and proposals from Scandinavian scholars*, eds. G. Bexell, D.E. Andersson, The Hague 2002, p. 57.

Rawls that the politics “does without the concept of truth”⁶⁵, does not reflect reliably the actual state. Some constitution-makers, although statistically constituting a minority, have found the reference to the truth useful in one context or another. According to the interpretative directive *per non est*, truth as a term from the text of the constitution cannot be treated in the category of meaningless ornamentation, *façon de parler*. By mentioning the truth in the constitution, it becomes a “normative not only purely factual concept”⁶⁶. Bearing this in mind, it can be expected that the legal doctrine in Poland and abroad will subject the truth to a wider scientific exploration as a constitutionally relevant category.

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⁶⁵ J. Rawls, *Political Liberalism*, New York 1993, p. 94.

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