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## The “Polish Moment” and Criminological Aspects of the United Nations’ Rule of Law

Putting the law above man is a problem in politics, which  
I compare to squaring the circle in geometry.<sup>2</sup>

The time given by history for experimentation has its limits.<sup>3</sup>

### 1. Introduction

For two reasons, the term “The Polish moment” came to my mind for the title of this article. The first came after reading studies of the works of Machiavelli and Montesquieu. With regard to Machiavelli, students of his *Discourses on the First Ten Books of Titus Livy* emphasise Machiavelli’s influence on current politics. That influence destabilizes state institutions (the “Machiavelli moment”<sup>4</sup>). As regards Montesquieu, his intellectual contribution to the reform of institutions to establish the rule of law (RoL), based on the tripartite separation of powers, is emphasized by commentators. The “Montesquieu moment” is a period in which there is a significant opportunity or need to implement a new framework of governance that balances these powers – usually in political crises, revolutions, or during major constitutional reforms.

In my book *The Rule of Law in Retreat*, I compare these two modes of thought against the rules of formal logic, that is, I ask whether they meet the requirements of

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<sup>1</sup> The author thanks Professor E.W. Plywaczewski for substantive comments on the content of this text. However, only the author is responsible for that content.

<sup>2</sup> J.-J. Rousseau, *Considerations on the Government of Poland, and on its Projected Reformation* [in:] *Collection complet des oeuvres*, Geneva, 1780–1789, vol. 1, no. 4, online edition [www.rousseauonline.ch](http://www.rousseauonline.ch), version of 7 October 2012, ch. I, § 417.

<sup>3</sup> L.J. Gorizontov, *Paradoksy impierskiej polityki: poljaki w Rossii i russkije w Polsce (XIX – naczalo XX v.)*, Moskva 1999, quoted after A. Nowak, *Powrót “Imperium zła”. Ideologie współczesnej Rosji, ich twórcy i krytycy*, Kraków 2024, p. 250.

<sup>4</sup> J.G.A. Pocock, *The Machiavellian Moment*, Princeton 1975.

deduction or induction. I conclude that formally speaking, Montesquieu argues more rigorously and justly in “good faith”/honestly. Montesquieu’s philosophy is an example of “benevolence” and the basis for “charity”; Machiavelli’s argument is the opposite. It reflects a “thief’s honour.” Machiavelli lowers legal standards, and Montesquieu raises them.<sup>5</sup>

At the level of domestic law, neither Machiavelli nor Montesquieu is an appropriate example for strictly legal thinking. At the level of international law, Machiavelli and Montesquieu give us the beginnings of knowledge about political and philosophical paths of making and breaking laws in Europe and the world. However, Montesquieu also analyzes the effectiveness of law in various geopolitical and climatic conditions. Politicians, on the other hand, think more intuitively and alternatively than modally and argue according to the need of the moment to gain or maintain power. What counts more than good faith in the settlement of effects is goodwill if it results in a benevolent act.

As for the “Polish moment”, since the end of 2023 (when a pro-democratic coalition regained power), this moment has been real but probated. This “moment” reverses acting in bad faith to acting in good faith (in the meaning of the UN Charter), that is, towards the restoration of RoL and the separation of powers in the spirit of Montesquieu’s ideas. If this tendency continues, it has potentially a geopolitical impact on Europe and beyond, not to mention on a larger geopolitical scale, one that may matter from the UN rule-of-law perspective.

The UN identified its own breakthrough “moment” at the 2024 Summit for the Future.<sup>6</sup> The Summit of the Future Outcome Documents mentions “the rule of law” seven times with a view to transforming global governance.<sup>7</sup> On the one hand, the documents’ contours were set by the risk of a Third World War and, on the other hand, outlined by a worldwide necessity to preserve peace and to give priority to RoL. Machiavelli and Montesquieu’s views sharpen such contours, but similar contrasts exist in other legal cultures.

Second, I was motivated to write this text because of a seemingly unrelated press release. I learned from it about a programme of extensive municipal investments in Poland, accompanying the earlier and now modified project of the Central Communication Port (CCP). As compensation for the nuisance associated with its construction in the vicinity, these investments were to go to the residents of the surrounding areas. The information stated that the programme was to finance the modernization of roads burdened by heavy construction equipment, the expansion of the district hospital, support for the Volunteer Fire Brigade, the co-financing of

<sup>5</sup> S. Redo, *On the Dialogues in Hell between Machiavelli and Montesquieu from the perspective of climate change, migration, and the rule of law* [in:] *idem, The Rule of Law in Retreat. Challenges to Justice in the United Nations World*, Lanham, Md. 2022, ch. 12.

<sup>6</sup> GA/12641, *United Nations adopts ground-breaking Pact for the future to transform global governance*, 2 October 2024, <https://bit.ly/3UYg0EX> [accessed: 2025.05.10].

<sup>7</sup> Summit of the Future Outcome Documents, *Pact for the Future, Global Digital Compact and Declaration on Future Generations*, New York 2024.

recreation for children and young people, the construction of a playground, and the renovation of three altars in the local church. The programme also was to provide micro-grants for local social organizations.<sup>8</sup>

## 2. Top-down weakening of the checks and balances of power

Before returning to these investments and placing them in the more general context of international development aid, a strand in which the leaven of RoL may (but does not have to) lie, this text draws attention to the results of the latest research in political science on the widespread erosion of RoL. In addition to Poland, two world-renowned American political scientists point to "backsliding" in Bangladesh, Brazil, El Salvador, the Philippines, India, Mexico, Nicaragua, Tunisia, Turkey, Hungary, and the USA. In these twelve countries, each in its own way, there has been a systemic violation of RoL by representatives of a new political elite. In Brazil, Poland, and in the USA, it was possible to stop this process through elections. The analysis offered by these experts does not include African countries nor, obviously, the results of the November 2024 results elections in the USA, results that renewed the process of erosion.

A slightly older, separate, and more incisive sociological analysis of the transformational problems with RoL in Poland, Hungary, and in ten other former Eurasian so-called "people's democracies" highlights the emergence of a common denominator for their backsliding: the creation of a "mafia state" in those countries.<sup>9</sup> This type of "criminal state"<sup>10</sup> is not mentioned in official UN nomenclature, but non-governmental organisations in consultative status with the UN Economic and Social Council plainly call such countries "mafia states."<sup>11</sup>

In the early 1990s, with Professor Emil W. Plywaczewski, I worked on creating the initial premises of what in 2000 became the UN Convention against Transnational Organized Crime. In work on the convention, "mafia-ness" was eventually interpreted as the existence of a hierarchy of at least three members of the group. This definition played a role in the finalization of the UN definition of such a group, in the sense that it allows the possibility of criminal liability of a patron of one or more group for all its crimes, regardless of whether s/he personally committed a specific crime or not, or knew about it or not. It is enough to participate in such a group according to the continental principle of civil law, *association de malfaiteurs* ("criminal association"), and for the patron to tolerate such an organizational form. Government bodies,

<sup>8</sup> P. Nodzyńska, *Razem Party: MP Matysiak has undermined our trust. And we used to say "Paulina, it's a bad idea"*, "Gazeta Wyborcza" 3 January 2024, <https://bit.ly/4dbSiM6> [accessed: 2025.05.10].

<sup>9</sup> B. Magyar, B. Madlovics, *A Concise Field Guide to Post-communist Regimes. Actors, Institutions, and Dynamics*, Vienna 2022; B. Magyar, *Hungary. Anatomy of a Mafia State. Is this the Future that Awaits Poland?*, transl. E. Sobolewska, foreword by R. Markowski, Warszawa 2018.

<sup>10</sup> D.O. Friedrichs, *Transnational crime and global criminology: Definitional, typological, and contextual conundrums*, "Social Justice" 2007, vol. 34, no. 2(108), pp. 4–18.

<sup>11</sup> *Intersections. Building blocks of a global strategy against organized crime*, Geneva 2024, p. 15.

corporations, and politicians can also be considered as perpetrators of organised crime if elements of the general definition of “transnational organised crime” are met.<sup>12</sup>

As noted, the convention does not speak of a “mafia state” or a “failed state.” UN member states would neither redefine themselves as such states nor admit occasional political domination of internationally organised criminals. Nevertheless, this residual state form bordering on or amounting to a “failed state” is unofficially recognized in the UN circle of donors providing development assistance.

This misused assistance is called “fungibility”, that is, the conversion of financial and material resources for purposes not previously agreed on in the development aid project and not authorized by the recipient of development aid. The criminological term “embezzlement” seems to be conceptually close to “fungibility.” To name the above operation, criminology lacks appropriate terms and linguistic tools. It could be called the development of “political international organised crime.”<sup>13</sup>

A vague idea of the risk of the emergence of political international organised crime emerges from an analysis of the results of Chinese development assistance provided to 106 countries in 2000–2014, that is, before the Belt and Road Initiative (2013–2049). The analysts conclude that when a donor gives recipients more freedom regarding their development flows, leaders can use resources to build and maintain policy support as a substitute for better economic performance facilitated by strong anti-corruption institutions. According to the evaluation, the absence of these institutions has also been an “institutional curse” to development aid provided through the Organisation for Economic Cooperation and Development (OECD), and has been a matter of “sixty years of experience with development aid from OECD donors.” “Bad faith” can lead to corruption (in the sense of “grand corruption”), regardless of the source of foreign development aid.<sup>14</sup>

In public choice-real elections, such diverted and stolen funds can be seen as a tool for gerrymandering in the recipient country. This practice raises concerns about fairness and freedom of elections. Ideally, they must be carried out impartially, transparently, and fairly. Fairness and freedom also mean that all participants have an equal opportunity to express their views, cast their votes, and have those votes

<sup>12</sup> A. Schloenhardt et al., *UN Convention against Transnational Organized Crime: A Commentary*, Oxford 2023, pp. 25–33 and 55–57; *Criminal association*, <https://bit.ly/4ffrWus> [accessed: 2025.05.10].

<sup>13</sup> In the case of receiving development assistance, according to the experience described above, the leading hallmark of political organized crime would be the general leadership of the main patron (“patronal”) president or prime minister. By directing this aid through concentrated power over the redistribution of material goods to a party-defined circle of beneficiaries (for example, an ethnic group), it enables a selected group of potential beneficiaries to derive profits from profitable branches of the national economy by its own decisions. The beneficiary, via the role granted, is obliged to reciprocate (not necessarily financially) to the patron or other person or persons from the patron's party circle who are more privileged than the beneficiary. The patron does not have to be aware of the specific purpose and object of each such transaction. Still, the beneficiary must be absolutely loyal under penalty of exclusion from the circle of profiteers.

<sup>14</sup> S. Brazys, K.C. Vadlamannati, *Aid curse with Chinese characteristics? Chinese development flows and economic reforms*, “Public Choice” 2021, vol. 188, no. 3–4, pp. 407–430.

counted accurately. The weakness of international development aid, which can affect free and fair elections, has led to widespread money laundering: that is of funds originally legally obtained through development aid but not used for this agreed-upon purpose. In the absence of official figures, the United Nations Office on Drugs and Crime (UNODC) estimates that between 2% and 5% of global GDP is laundered each year. This ranges from EUR 715 billion to EUR 1.87 trillion per year.<sup>15</sup>

Michel Camdessus, former director of the International Monetary Fund (1987–2000), recently opined that the monetary value of illicit financial flows in Africa, including corruption, tax evasion, and illegal transfers from African countries abroad, is in total twice as high as the value of development aid received from abroad by these countries.<sup>16</sup> This is commonly misappropriated development aid. The perpetrators of embezzlement are not only the leaders of countries, but also those subordinate to them who are not criminally responsible for these embezzlements.

Money laundering is being addressed more effectively through the UN Convention against Transnational Organized Crime and the draft United Nations Framework Convention on International Tax Cooperation, which is currently underway. These are elements of a common legal order, but they are much less complete than the legal order of the European Union, which itself is also very far from ideal.<sup>17</sup>

### 3. The legitimacy and cost-effectiveness of RoL

A recent UN report reported that half of the world's GDP depends on "nature," and every US dollar invested in the recovery of nature creates up to \$30 in economic benefits.<sup>18</sup> After a more in-depth analysis of the source cited by the authors of this report, it turns out that the profitability of an investment of one dollar is estimated to fluctuate *per capita* between seven and thirty dollars<sup>19</sup> in return, but this by no means concerns investments in the whole of nature, or even in its terrestrial part, but only concerning the reclamation of forest land.<sup>20</sup> However limited this estimate is, previous

<sup>15</sup> *Money laundering*, "Europol", <https://bit.ly/3WtE43R> [accessed: 2025.05.10].

<sup>16</sup> M. Camdessus, *Wyzwania i prognozy*, Warszawa 2019, p. 72; *Francuski ekonomista: Nie zatrzymamy migracji*, "Gazeta Wyborcza" 19 January 2019, <https://bit.ly/43HLvXa> [accessed: 2025.05.10].

<sup>17</sup> I have outlined how the practice of international development assistance can be improved by reducing impunity and making the return of stolen and transferred resources more effective in general. See: S. Redo, *For the Rule of Law: Action-oriented comments on the 'shocking' judgment in the Case N.D. and N.T v. Spain* [in: *O wolność i prawo. Księga jubileuszowa dedykowana Profesorowi Andrzejowi Rzeplińskiemu*, eds. B. Błońska et al., Warszawa 2022, pp. 309–322, <https://bit.ly/3KBXTyE> [accessed: 2025.05.10]; *idem*, *Whose rule of law and order?* [in: *Reinvigorating the United Nations*, eds. M. Kornprobst, S. Redo, London 2024, pp. 57–79.

<sup>18</sup> *Becoming #GenerationRestoration. Ecosystem Restoration for People, Nature and Climate*, UNEP, Nairobi 2021, p. 3, <https://bit.ly/41bjKHp> [accessed: 2025.05.10].

<sup>19</sup> H. Ding et al., *Roots of Prosperity: The Economics and Finance of Restoring Land*, Washington, DC 2018.

<sup>20</sup> M. Verdone, A. Seidl, *Time, space, place, and the Bonn Challenge global forest restoration target*, "Restoration Ecology" 2017, vol. 25, no. 6, pp. 903–911.

econometric and criminological studies have confirmed the cost-effectiveness of crime prevention, especially for the youngest people and separately for adults and in combatting various types of crime.<sup>21</sup>

This evidence prompts us to consider approaches to recultivating RoL in the world. The most common approach follows correlates showing that stricter adherence to RoL, understood as the legal protection of property rights and contractual obligations, stimulates economic growth.<sup>22</sup> Concerning the abovementioned press report on local investments related to the CCP, this may be an indirect indication of their connection with the consolidation of RoL or even their implicit concurrence with the World Bank's skeletal definition of RoL. This reads: "Rule of Law captures perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence."<sup>23</sup> This definition would have promoted the strengthening of RoL in Poland in 2015–2023, but the decision to donate funds for the renovation of three altars had nothing to do with it.

Sticking only to the above definition, I conclude that the Polish investor did not want to "rehabilitate" communal "land" in terms of its potential/prospective RoL value. Instead, the idea was to influence a community in favour of the ruling political elite before parliamentary elections by disregarding that value. This endeavour sought to maintain lawlessness rather than restore the rule of law. With this concept in mind (not in the ecumenical spirit of the innovative, progressive teaching of Thomas Aquinas<sup>24</sup>), the previous Polish government claimed to have introduced new social principles for the "re-Christianization" of the country to halt the erosion of "European values."<sup>25</sup>

From the point of view of political science and philosophy of law, this policy aimed at creating a so-called "civic religion", as advocated by Machiavelli. The author of the *Discourses* is not worried about the lack of innovation or the apparent religiousness of politics. He wants to discourage studying and learning constitutional law. In this way, Machiavelli advises strengthening government power over the intellectual elite. To discourage the use of RoL, he advocates the corruption of the elite's morality and ethics through a conservative interpretation of religion. His "moment" leads to a question that is by no means only crucial for the reconstruction of RoL in Poland. That question lies in the title of the next section of my article.

<sup>21</sup> J.J. Heckman, *The case of investing in disadvantaged young children* [in:] *Big ideas for children: Investing in our nation's future*, Washington 2008, p. 52; L.W. Sherman et al., *Preventing crime: What works, what doesn't, what's promising: A report to the United States Congress*, Washington, D.C. 1997.

<sup>22</sup> S. Redo, *On education in the global Culture of Lawfulness* [in:] *Advancing Culture of Lawfulness: Towards the Achievement of the 2030 Agenda*, eds. E. Pływaczewski, S. Redo (Special issue – "Białostockie Studia Prawnicze" 2018, vol. 23, no. 3), pp. 27–42.

<sup>23</sup> World Bank, *Meta glossary*, <https://bit.ly/4bZEfZh> [accessed: 2025.05.10].

<sup>24</sup> Cf. L. Strauss, *What is Political Philosophy and Other Studies*, Chicago & London 1988, pp. 13, 31.

<sup>25</sup> N. Duelholm, *New Polish PM sees return to Christian roots as only way to stop Europe's decline*, "LifeSiteNews" 14 December 2017, <https://bit.ly/3dobkkZ> [accessed: 2025.05.10]; U. Ziemska, *Wydawnictwo Ordo Iuris trafiło na listę punktowanych wydawnictw naukowych. Jak wydawnictwa UJ i UW*, "Gazeta.pl" 11 November 2020, <https://bit.ly/2JKnDx1> [accessed: 2025.05.10].

#### 4. How can local RoL be planted and cultivated in international development aid from the bottom up?

The full definition of RoL adopted in 2018 by the UN General Assembly is as follows:

[RoL] recognizes that respect for the rule of law, due process and access to justice are fundamental to all aspects of migration governance. This means that the State, public and private institutions and entities, as well as persons themselves, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and are consistent with international law.<sup>26</sup>

Subjectively and objectively, this is an expanded definition of RoL, promoting greater equality implicitly concerning the right to property. The definition embraces the prosecutor’s office, the prison system, and civil society, and all entities are subordinated to international law. However, to apply this expanded definition, neither the letter of the law itself nor its top-down implementation in the intergovernmental practice of development aid is sufficient.

For example, as reported in 2024, the US Agency for International Development (USAID) – now defunct – with a remarkable portfolio and range of development assistance projects, planned to allocate 25% of its funds directly to local organizations implementing its assistance.<sup>27</sup> That probably would have been a new average value.<sup>28</sup>

Localization should be a priority for properly configured development aid. This priority only incidentally coincided with development assistance for African countries financed by the Ministry of Foreign Affairs, responsible for awarding grants to Polish NGOs. In the official document of the Ministry for 2021–2030, there is a top-down institutional view:

Peace and security are an absolute condition for development. And sustainable development means a greater chance for lasting peace and international stability. Only countries with strong and stable institutions, good governance principles are applied, human rights are respected, and citizens have an equal say in decisions on matters that affect them, have a chance for sustainable development.

Therefore, we will support all partner countries in applying the principles of good governance by building such institutional systems that would be able to implement the policy of sustainable development, based on reliable knowledge of the sources and conditions that generate conflict and degradation situations on the scale of the entire civilization, as well as on the regional and local scale.<sup>29</sup>

<sup>26</sup> A/RES/73/195, *Global Compact for Safe, Orderly and Regular Migration*, 19 December 2018, § 15(d), <https://bit.ly/40VMbZx> [accessed: 2025.05.10].

<sup>27</sup> E. Miolene, *Are USAID localization results even worse than reported?*, “Devex” 20 June 2024, <https://bit.ly/3zOBpcf> [accessed: 2025.05.10].

<sup>28</sup> Cf. E. Miolene, *Why is localization surging in some countries and stalling in others?*, “Devex” 26 August 2024, <https://bit.ly/3Z4lyAU> [accessed: 2025.05.10].

<sup>29</sup> *Multiannual Development Cooperation Programme 2021–2030. Solidarity for Development*, Warszawa 2021, <https://bit.ly/3zRyBef> [accessed: 2025.05.10].

Time will reveal whether local communities will truly be actively included in these grants. Elevating moral and ethical standards necessitates establishing a grassroots catalyst for the Rule of Law. The assets seized from money laundering should meet the local community's materially and socially justified needs, incentivizing them on the basis of those needs. Such fund transfers foster positive relations between central and local authorities. They ensure that local needs are sustainably and appropriately met.<sup>30</sup> Meeting them is seen as fulfilling the following requirements:

- providing access to water and sanitation;
- implementing effective criminal prosecution of perpetrators of corruption, with an adequate penalty taking into account environmentally appreciated retribution and compensation for material, ethical, and moral damage caused to members of the local affected communities;
- ensuring safe foot-traffic at night in the area;
- awarding micro-grants;
- having accountable and fair local taxes enabling social investment;
- drawing on assistance in creating a participatory budget;
- providing training in preventing rigged tender procedures;
- training small entrepreneurs in the field of bookkeeping and accounting;
- offering assistance in introducing transparent sharing of the benefits of local taxes;
- teaching the principles of fair play in children's sports;
- promoting school and local self-government, etc.;
- mobilizing larger local communities for local projects;
- providing educational support for religious communities to prevent drug abuse in local communities;
- assisting religious communities in sex education to eliminate the culturally violent practice of female genital circumcision.

## 5. *Pro domo sua*

With such a listing, this text could end with the sacramental "Amen." However, this would simplify the role of religion in development aid, viewing it as a partner of the secular power, particularly in authoritarian contexts where it may actively and effectively promote a "civic religion." A clear example of this approach in Poland involved the government of the United Right (*Zjednoczona Prawica*). The government allocated funds to renovate several altars to foster good relations between the central authority and the local community.

With this example, I move from implementing the principles of international development assistance for bringing about RoL to assessing governments in Poland and other developed countries. By doing so, I note that these principles are common,

<sup>30</sup> E. Finkel, S. Gehlbach, *The Tocqueville Paradox: When Does Reform Provoke Rebellion?*, "Social Science Research Network" 4 November 2018.



even for organisers and technical assistance providers who, like the devil scared of holy water, are afraid of the religious value of the effectiveness of such assistance.

Thus, if any motivated investor were guided solely by secular rationalism, the spread of RoL under his/her banner would not have reached the roots of evil as thoroughly without religion as would have resulted from the requirements of the UN definition of RoL. This came into being seventy years after its nominal mention in the Universal Declaration of Human Rights, which was a result of the atrocities of the Second World War. Since then, the UN has distanced itself from such a drastically devalued interpretation of the truth. The UN operates under its own set of quasi-religious principles. It strives for goodness and charity as outlined in its foundational documents like the Charter of the United Nations and the Vienna Convention on the Law of Treaties. According to these articles of faith, the UN's philosophy of law and its legal instruments should be implemented with good faith. However, in the Middle Ages in England, the Cardinal Thomas Wolsey (1473–1530), a controversial advisor to King Henry VIII, noticed that it is not good faith that makes possible the fulfilment of treaty obligations but goodwill, that is, honesty, empathy, and inclusivity. There is no shortage of this in the UN Secretariat, but, in fact, it happens that it is lacking in UN member states, as well as good faith.

In his *Discourses*, Machiavelli maintains that the good (*virtù*) in politics arises, disappears, and returns.<sup>31</sup> The UN challenged this recurring cycle with its concept of "larger freedom," initially introduced in the UN Charter and subsequently reiterated in various legal documents and public declarations. The ebb and flow of this idea should not be interpreted through a Machiavellian lens. This is not because the idea of the UN idea ideologically suits a particular party (for example, the winners of the Second World War), but because the goal of "larger freedom" is supported by UN transformation instruments, such as the 2030 Agenda. Pursuing larger freedom is not just linear, but a progressive process of expanding it.<sup>32</sup>

## 6. Conclusions

In conclusion, one must retain great perseverance to restore good faith and will for more effective implementation of larger freedom and, thus, of the moralization of politics by RoL, that is, to move from merely squaring the circle to turning it into a regular dodecagon (see the motto to this article). Equality, writes Alexis de Tocqueville (1805–1859), the French political scientist, sociologist, and diplomat, whose genius was compared by his contemporary Zygmunt Krasiński to the mentality

<sup>31</sup> See: T. Flanagan, *Machiavelli and History: A Note on the Proemium to Discourses II*, "Renaissance and Reformation" 1971, vol. 8, no. 2, pp. 79–81.

<sup>32</sup> Cf. "progressive encirclement" (R. Gardiner, *Part II Interpretation applying the Vienna Convention on the Law of Treaties, A The General Rule, 5 The General Rule: (1) The Treaty, its Terms, and their Ordinary Meaning* [in:] *Treaty Implementation*, ed. R. Gardiner, 2nd ed., Oxford 2015, 2/55).

of Tacitus and Montesquieu,<sup>33</sup> is not an experience that can be imposed by force. It is only made possible by shaping new egalitarian customs and institutions aimed at their implementation.<sup>34</sup>

The listed above steps are, in fact, relevant in Poland and elsewhere in the world, and in any place where they have not been taken. The German sociologist Ralf Dahrendorf (1929–2009) prophetically emphasised the role of perseverance in post-1989 Poland and other countries of what were previously called people's democracies" He believed these countries would need six months to create a constitution, six years to institutionalize democracy, that is, to embody RoL in a parliamentary system with political and ideological pluralism, and sixty years to implement a democratic society.<sup>35</sup>

However, the time given by history and the actual paths and motives that create any moment also have geopolitical limitations. The UN Charter came out of the "San Francisco moment," but current geopolitical challenges have made that moment one of a past long gone. It is not easy to reignite faith in the UN, even if its Member States at the Summit for the Future solemnly recommitted themselves to RoL to transform global governance. Will the "Polish moment" continue in the future and matter for the United Nations Rule of Law in the world? I am ending this text not with a question mark but an exclamation mark, as in the appeal that emerges from the book by Stanisława Fleszarowa-Muskat: "*Tak trzymać!*" (Keep it up!).

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<sup>33</sup> E. Ciżewska-Martyńska, *Reading Tocqueville in Poland*, "Leggere Tocqueville" 2023, no. 6, p. 94.

<sup>34</sup> A. de Tocqueville, *Democracy in America*, London 1998, Book IV, ch. IV (4), pp. 350–355. For more information, see: T. Słupik, *Tocqueville i problemy z naturą demokracji*, "Horyzonty Polityki" 2020, vol. 11, no. 34, pp. 67–86.

<sup>35</sup> R. Dahrendorf, *Reflections on the Revolutions in Europe*, New York 1999, p. 99.

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## Summary

**Sławomir Redo**

### The "Polish Moment" and Criminological Aspects of the United Nations' Rule of Law

In international development aid (from 1948 to 2010), the rule of law (RoL) legitimized by the United Nations Charter and the Universal Declaration of Human Rights did not become the dominant feature of this aid. This is even less so now because, at the turn of the first and second decade of the twenty-first century, the general process of erosion of RoL in the world began. The UN can play a leading role in countering it. Recent empirical research suggests that the top-down weakening of the checks and balances on power causes erosion of RoL. This calls for countering impunity for perpetrators of abuse of power and those suspected of crime. Against the background of Polish and foreign experiences in restoring RoL to counteract traditional and political organised crime and corruption in the world, this article presents complementary/bottom-up ways of remedying erosion of RoL in international development aid, based on its UN definition.

**Keywords:** corruption, developmental aid, organised crime, rule of law, United Nations.

## Streszczenie

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### **„Polski moment” i kryminologiczne aspekty ONZ-owskiego rządu prawa**

W ramach międzynarodowej pomocy rozwojowej (1948–2010) praworządność, legitymizowana przez Kartę Narodów Zjednoczonych oraz Powszechną Deklarację Praw Człowieka, nie stała się dominującym motywem przewodnim tej pomocy. Jej obecność jest jeszcze mniej widoczna w XXI w., gdyż na przełomie pierwszej i drugiej dekady tego stulecia rozpoczął się ogólny proces erozji praworządności na świecie. ONZ może odgrywać wiodącą rolę w przeciwdziałaniu temu zjawisku. Najnowsze badania empiryczne sugerują, że erozja wynika z ogólnego osłabienia mechanizmów kontroli i równowagi władz. Wymaga to przeciwdziałania bezkarności sprawców nadużyć władzy oraz podejrzanych o przestępstwa. Na tle polskich i zagranicznych doświadczeń w przywracaniu praworządności w celu zwalczania tradycyjnej i politycznej przestępczości zorganizowanej oraz korupcji na świecie artykuł prezentuje komplementarne/oddolne sposoby rekultywowania praworządności w międzynarodowej pomocy rozwojowej, oparte na definicji ONZ.

**Słowa kluczowe:** korupcja, pomoc rozwojowa, przestępczość zorganizowana, rządy prawa, Narody Zjednoczone.