

Interference with an object of religious worship as a sign of the crime of offending religious feelings in Polish law

Ingerencja w przedmiot czci religijnej jako znamię przestępstwa obrazy uczuć religijnych w prawie polskim

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Abstract: The paper addresses the recent issue of interference with an object of religious worship in the context of criminal liability for the crime under Art. 196 of the Penal Code (PC). It is based on events known to the public that have been assessed in the context of criminal liability for such an act (e.g., destruction of the Bible at a concert, dissemination of an image of the Mother of God with a rainbow halo, or the chopping down of a roadside cross). The paper discusses the issue of the protection of religious feelings, which is reflected in the criminalization of conduct consisting in insulting an object of religious worship. In particular, attention is paid to the multifaceted view of what an object of religious worship is, including not only its physical (material) form but also its spiritual (maetaphysical) aspect. In this regard, an analysis was carried out to answer the question of whether interfering with a certain symbolism and violating the specific canon in which an object of religious worship is presented can constitute the crime of offending religious feelings. It was assumed that, taking into account the subjective aspect of the crime under Art. 196 PC, criminal liability in this respect is possible. The paper also considers the so-called justification of art, which is supposed to lead to the exclusion of the unlawfulness of behaviours that involve artistic expression and are based on the freedom of expression. The paper employs primarily the dogmatic method, and to a limited extent also the historical method.

Key words: offending religious feelings; object of religious worship; freedom of conscience and religion; justification of art

Streszczenie: Artykuł odnosi się do aktualnego zagadnienia, jakim jest ingerowanie w przedmiot czci religijnej, ujętego w kontekście odpowiedzialności karnej za przestępstwo z art. 196 k.k. W rozważaniach oparto się na znanych opinii publicznej wydarzeniach, które oceniane były w kontekście odpowiedzialności karnej za powyższy czyn (np. zniszczenie Biblii podczas koncertu, rozpowszechnianie obrazu Matki

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Bożej z tęcza aureolą lub ścięcie przydrożnego krzyża). Omówiono problematykę ochrony uczuć religijnych, znajdującą swój wyraz w kryminalizowaniu zachowań polegających na znieważeniu przedmiotu czci religijnej. W szczególności zwrócono uwagę na potrzebę szerokiego rozumienia przedmiotu czci religijnej. Znaczenie tego określenia nie może być redukowane wyłącznie do przedmiotów fizycznych. Należy przyjąć, że obejmuje ono również przedmioty w znaczeniu duchowym – metafizycznym. Podjęto też próbę odpowiedzi na pytanie, czy ingerowanie w określoną symbolikę i naruszenie kanonu, w jakim przedstawia się przedmiot czci religijnej, może stanowić przestępstwo obrazy uczuć religijnych. Biorąc pod uwagę stronę podmiotową przestępstwa z art. 196 k.k., wyrażono opinię, że odpowiedzialność karna w tym względzie jest możliwa. Rozważaniami objęto również tzw. kontratyp sztuki, którego przyjęcie ma prowadzić do wyłączenia bezprawności zachowań stanowiących wyraz ekspresji artystycznej i opierających się na wolności wypowiedzi. W tekście wykorzystano przede wszystkim metodę dogmatyczną, a w ograniczonym zakresie również metodę historyczną.

Słowa kluczowe: obraza uczuć religijnych; przedmiot czci religijnej; wolność sumienia i wyznania; kontratyp sztuki

Introduction

The relationship between believers and the sphere of the *sacrum* and manifestations of public profession of faith are recognized as important values of individual and social significance in contemporary democratic societies. In Poland, these values are protected to a great extent as part of freedom of conscience and religion of every person. Conduct that expresses disrespect for the values, objects, and places revered by believers may result in criminal liability for offending religious feelings. This is set out in Art. 196 of the Act of 6 June 1997 – the Penal Code,¹ according to which criminal liability is incurred by anyone who offends the religious feelings of others by publicly insulting an object of religious worship or a place intended for public performance of religious rites. The perpetrator of such a crime is subject to a fine, restriction of liberty, or deprivation of liberty for up to two years.

Although the criminalization of acts violating religious values has a long tradition in Polish criminal law,² its scope, intensity, and justification have

¹ The Act of 6 June 1997 – the Penal Code, consolidated text: Dziennik Ustaw [Journal of Laws; hereinafter: Dz. U.] 2021, item 2345 as amended, hereinafter: PC.

² Under Art. 172 of the Penal Code of 1932, the crime was to blaspheme God in public (the Regulation of the President of the Republic of Poland of 11 July 1932 – the Penal Code, Dz. U. 1932, No. 60, item 571). The provision of Art. 198 of the Penal Code of 1968 introduced responsibility for offending the religious feelings of others by publicly insulting an object of religious worship or a place intended for the public performance of religious rites (the Act of 19 April 1969 – the Penal Code, Dz. U. 1969, No. 13, item 94). The provision is still effective today.

now become the subject of controversy and disputes at constitutional, human rights, sociological, criminological or technical and legislative levels. Seemingly, it may appear that the statistics do not confirm the great importance of this issue. The number of persons validly convicted of a crime under Art. 196 PC in recent years is, admittedly, not high, ranging between a few to over a dozen people,³ but police statistics from 2018 to 2020 indicate that there is a clear increasing tendency toward this behaviour. In the case of perpetrators of such crimes, courts have generally pronounced noncustodial penalties (fine, restriction of liberty, short-term deprivation of liberty with conditional suspension of sentence execution). However, an example of immediate deprivation of liberty for one year can be found in the sentence that the District Court in Szczecin handed down on 24 April 2022, to a perpetrator who painted the symbols of an inverted cross and a pentagram in red paint on a statue and shrine depicting the Mother of God.⁴ Acts constituting a crime under Art. 196 PC are usually events that have a strong social resonance, reverberate in the mass media, and are widely perceived by believers as demeaning or insulting to the values they believe in.⁵ Yet despite the unambiguously negative overtones of these actions, people's

³ The number of adults validly convicted of the crime under Art. 196 PC, as provided by the Ministry of Justice, was in 2010, 6; in 2011, 0; in 2012, 9; in 2013, 9; in 2014, 4; in 2015, 4; in 2016, 10; in 2017, 12; and in 2018, 7, see: The Statistical Database of the Statistical Directory of the Ministry of Justice. <http://isws.ms.gov.pl/pl/baza-statystyczna/> [accessed: 15 May 2022]. According to police data provided in 2020, 130 proceedings were initiated and 97 crimes ascertained under Art. 196 PC. This was a significant increase over previous years: 2019, 80 proceedings initiated and 53 crimes ascertained; 2018, 58 proceedings initiated and 45 crimes ascertained, see: *Postępowania wszczęte i przestępstwa stwierdzone z art. 196 KK za lata 1999–2020*. <https://statystyka.policja.pl/st/kodeks-karny/przestepstwa-przeciwko-5/63492,Obraza-uczuc-religijnych-art-196.html> [accessed: 15 May 2022].

⁴ See: TVP INFO. 2022. *Satanistyczne symbole na kapliczce. Jest wyrok sądu*, 27 April 2022. <https://www.tvp.info/59843807/szczecin-satanistyczne-symbole-na-kapliczce-jest-wyrok-sadu> [accessed: 15 May 2022].

⁵ Such incidents include the presentation of the installation entitled *Passion* by D. Nieznalska, dissemination of the image of the Mother of God in a “rainbow” halo, the tearing up of the Bible during a concert, the cutting down of a cross at a roadside shrine, disturbance of church services, and destruction of doors and walls of churches and placing vulgar inscriptions on them, see: Laboratorium Wolności Religijnej. 2020. *Raport przedstawiający przypadki naruszenia prawa do wolności religijnej w Polsce w 2020 r.* <https://laboratoriumwolnosci.pl/wp-content/uploads/2021/02/LWR-Raport-2020.pdf> [accessed: 15 May 2022]; Demenko 2016, 145; Warecka 2019; Artur Bartkiewicz. 2021. “31-latek ściął krzyż w Zielonej Górze. Nagranie umieścił w sieci.” *Rzeczpospolita*, 20 October 2021. <https://www.rp.pl/polityka/art19032011-31-latek-scial-krzyz-w-zielonej-gorze-nagranie-umiescil-w-sieci> [accessed: 15 May 2022].

reactions of indignation in Poland have not resulted in violent events that take the form of violations of public order or even terrorist attacks, as recorded in other contemporary democratic states.⁶

The protection of religious feelings is also an important, recent and at the same time controversial normative issue. This is evidenced by a number of legislative proposals in recent years, which, significantly, go in different directions: both toward the limitation or complete elimination of criminalization pursuant to Art. 196 PC, and toward the strengthening of the criminal law protection of religious feelings.⁷ In each case, the applicants referred to relevant constitutional values that might conflict with each other, giving priority either to rights derived from freedom of religion or from freedom of expression, broadly defined. The analysis of the normative construction of the crime under Art. 196 PC also reveals a number of detailed matters relating to criminal law science and dogmatics, the solution of which affects judicial practice. These matters include the need for the legislator to comply with the principle of proportionality when criminalizing socially harmful acts, the interpretation of the terms “religious feelings,” “offends,” “insults,” and “publicly,” the justification of the criminalization of insult with possible intent, and the impact of nonstatutory circumstances on the possible abrogation of criminal responsibility.

⁶ For example, in January 2015, the editors of “Charlie Hebdo” were attacked by Islamists in retaliation for publishing caricatures of the Prophet Mohammed, see: Cox 2017, 53 ff. In April 2022, violent street protests erupted in a number of cities in Sweden in response to news that politician Rasmus Paludan had burned the Koran, see: BBC News. 2022. *Dozens arrested at Sweden riots sparked by planned Quran burnings*. <https://www.bbc.com/news/world-europe-61134734> [accessed: 15 May 2022].

⁷ Two draft amendments to the Penal Code concerning the crime of offending religious feelings have been submitted to the 7th term of the Sejm. Solutions proposed in the draft of 24 January 2012 (Parliamentary Paper No. 240. <https://www.sejm.gov.pl/sejm7.nsf/druk.xsp?nr=240> [accessed: 4 May 2022]) aimed to delete the provision of Art. 196 PC and consequently to decriminalize the offending of religious feelings, and the draft of 20 April 2012 (Parliamentary Paper No. 383. <https://www.sejm.gov.pl/sejm7.nsf/PrzebiegProc.xsp?nr=383> [accessed: 24 May 2022]) assumed the modification of the constituent elements of the type of crime, combined with the reduction of the statutory threat and the introduction of the private prosecution procedure, see: Strzelecki 2012, 488–489. Recently, a draft of 11 April 2022 was submitted to the Sejm, assuming the introduction of two crimes to the Penal Code: public defamation or mockery of a church or other religious organization with regulated legal status, its dogmas, or rites, and publicly insulting an object of religious worship or a place intended for public performance of religious rites, see: Projekt z dnia 11 kwietnia 2022 r. [https://orka.sejm.gov.pl/Druki9ka.nsf/Projekty/9-020-881-2022/\\$fi1e/9-020-881-2022.pdf](https://orka.sejm.gov.pl/Druki9ka.nsf/Projekty/9-020-881-2022/$fi1e/9-020-881-2022.pdf) [accessed: 15 May 2022].

1. Protection of religious feelings

The normative basis for the criminalization of offending religious feelings is provided by suprastatutory norms. The matter of the protection of religious freedom concerns important legal values that have their axiological basis in the Constitution of the Republic of Poland.⁸ In its judgment of 7 June 1994,⁹ the Constitutional Tribunal confirmed that religious feelings, due to their nature, are subject to special legal protection. The court reasoned that they are directly linked to freedom of conscience and religion, which is a constitutional value protected under Art. 53 para. 1 of the Constitution of the Republic of Poland. This provision guarantees everyone freedom of conscience and religion. Pursuant to Art. 53 para. 2 of the Constitution, freedom of religion includes freedom to profess or embrace a religion of one's choice and to manifest one's religion individually or with others, in public or in private, through worship, prayer, observance, practice, and teaching. Freedom of religion also includes having temples and other places of worship according to the needs of believers and the right for people to receive religious assistance wherever they may be. The limitation clause expressed in Art. 53 para. 5 of the Constitution of the Republic of Poland allows the restriction of the freedom to manifest religion only by law and only if it is necessary to protect state security, public order, health, morals, or the freedom and rights of others.

Guarantees of freedom of conscience and religion also derive from international and European legal norms, such as Art. 18 para. 1 of the International Covenant on Civil and Political Rights,¹⁰ Art. 9 para. 1 of the European Convention on Human Rights,¹¹ and Art. 10 para. 1 of the Charter of Fundamental Rights of the European Union.¹² These regulations grant everyone the right to freedom of thought, conscience, and religion, which includes, among other things, the freedom, either alone or in community with others and in public or private, to manifest one's religion or beliefs

⁸ Constitution of the Republic of Poland of 2 April 1997, Dz. U. 1997, No. 78, item 483 as amended.

⁹ Judgment of the Constitutional Tribunal of 7 June 1994, K 17/93, *Orzecznictwo Trybunału Konstytucyjnego* 1994, No. 1, item 11.

¹⁰ International Covenant on Civil and Political Rights, opened for signature in New York on 19 December 1966, Dz. U. 1977, No. 38, item 167.

¹¹ Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950, as amended by Protocols Nos. 3, 5 and 8 and supplemented by Protocol No. 2, Dz. U. 1993, No. 61, item 284.

¹² Charter of Fundamental Rights of the European Union, consolidated text: Official Journal of the European Union C 202, 7 June 2016, p. 389.

in worship, teaching, practice, and ritual acts. It is therefore the duty of the state to ensure their freedom of expression, using appropriate legal means.

In the jurisprudence of the Constitutional Tribunal, it is possible to see a connection between the constitutional value of freedom of conscience and religion and the criminal law protection of religious feelings. In its judgment of 6 October 2015, the Tribunal reasoned that the object of protection to which Art. 196 PC refers is the right to the protection of religious feelings, which derives from the freedom of religion guaranteed in Art. 53 of the Constitution of the Republic of Poland.¹³

A detailed reconstruction of the value directly protected by the law under Art. 196 PC is necessary for a comprehensive interpretation of this provision to determine the scope of punishable conduct. The importance of this value not only constitutes a premise justifying the criminalization of socially harmful conduct but also serves as a guarantee to potential offenders of the prohibition, as it makes it possible to determine the exact scope of punishability and to distinguish between permitted and prohibited acts. The systematics of the Penal Code helps interpret the individual value protected by a particular provision of the law. The provision of Art. 196 PC is included in Chapter XXIV, which groups together crimes against freedom of conscience and religion. Its provisions ensure the freedom to hold certain views and values, whether of a religious nature or having characteristics of a nonreligious worldview.¹⁴ The doctrine indicates that this chapter ensures the implementation of

[...] the protection of religious freedom, which is a fundamental aspect of freedom in the inner (spiritual) sphere of human life, and its observance belongs to the standard of protection of fundamental human rights. In fact, from the very nature of human dignity derives the right to freedom to profess or embrace a religion of one's choice and to manifest one's faith publicly or privately.¹⁵

¹³ Judgment of the Constitutional Tribunal of 6 October 2015, SK 54/13, *Orzecznictwo Trybunału Konstytucyjnego. Zbiór Urzędowy. Seria A* 2015, No. 9, item 142.

¹⁴ See: Wróbel 2006, 571.

¹⁵ Hypś 2021, 1163.

It follows from the content of Art. 196 PC that the perpetrator of the crime offends “the religious feelings of others.” This wording has led scholars of criminal law to consider religious feelings themselves a direct object of protection.¹⁶ However, reconstructing more closely the legal interest thus defined reveals the existence of certain divergences of interpretation, in particular, concerning the understanding of the concept of “feelings.”

To clarify the meaning of this concept in terms of criminal law, it is first necessary to refer to the linguistic interpretation, according to which it can be assumed that “feelings” are “a mental state, the essence of which is the internal attitude to currently acting stimuli, past or future events and all elements of the surrounding world and to one’s own organism; an emotion.”¹⁷ Using this as a guideline, the Supreme Court in its judgment of 6 April 2004 concluded that religious feelings should be understood as a mental state, the essence of which is the internal attitude to past, present, and future events, directly or indirectly related to religion as a form of social consciousness, including beliefs about the meaning and purpose of the existence of man, humanity, and the world.¹⁸

In the academic literature, two positions on the essence and scope of human relations in relation to the sphere of the *sacrum* as protected under Art. 196 PC have been prominent. Some scholars reduce the scope of the value protected by the law to only the sphere of an individual’s personal and emotional relations to the professed faith. Marian Filar defines the value protected by the law in Art. 196 PC as “the freedom of individuals from any conduct which, by offending their religious feelings, creates for them a sense of psychological discomfort associated with a feeling of disrespect for their confession.”¹⁹ A similar perspective is presented by J. Strzelecki, who assumes that the value protected by the law is the individualized freedom of conscience and religion that in a negative aspect refers to the freedom from acts that may cause psychological discomfort in the sphere of religious feelings by insulting a particular object or place.²⁰

¹⁶ See: Piórkowska-Flieger 2016, 558.

¹⁷ See: Mieczysław Szymczak (ed.). 1989. *Słownik języka polskiego*. Warszawa: Polskie Wydawnictwo Naukowe, 578.

¹⁸ Judgment of the Supreme Court of 6 April 2004, I 484/03, *Orzecznictwo Sądu Najwyższego. Izba Cywilna* 2005, No. 4, item 69.

¹⁹ Filar 2010, 933.

²⁰ See: Strzelecki 2012, 483–484.

Natalia Kłaczyńska believes that the value protected by the law does not include objects or places of worship in themselves but rather “the religious feelings of specific individuals, hurt by the offender’s insulting conduct.”²¹ Thus, this position in general holds that the value protected by the law under Art. 196 PC becomes a purely personal and individual value belonging to the believer and, in addition, one with a clear emotional tone.

Those scholars who hold the second position argue that the reconstruction of the object of protection in Art. 196 PC should not be so narrow, because it cannot disregard the essence and rich content of the relationship between believers and the sphere of the *sacrum* and the professed faith, which cannot be reduced solely to perceived emotions.²² They link the protection of religious feelings with religious freedom, which is justified by the title of Chapter XXIV of the Penal Code regarding the protection of freedom of conscience and religion, within which Art. 196 PC has been placed. According to J. Wojciechowska, this provision protects “the idea, resulting from the constitutional principle of freedom of conscience and religion, of freedom of convictions (feelings) of citizens in matters of faith being an expression of worldview tolerance of the state maintaining neutrality in matters of religion and belief.”²³ Włodzimierz Wróbel believes that Art. 196 PC protects “the right to the protection of religious feelings, which stems from religious freedom.”²⁴ This view was also expressed by the Supreme Court in its resolution of 29 October 2012.²⁵ Sławomir Hypś recognizes as a value protected by the law “a certain attitude (mainly emotional) of a certain group of people to the faith they profess, which manifests itself also in the right to protection of respect for the values they profess as well as places and objects surrounded by reverence and respect.”²⁶ Wojciech Janyga assumes that man’s relation to the *sacrum* in all its aspects – not only emotional but also intellectual and volitional – is subject to protection.²⁷

²¹ Kłaczyńska 2014, 508.

²² See: Wiak 2017, 444.

²³ Wojciechowska 2012, 559.

²⁴ Wróbel 2006, 584.

²⁵ Resolution of the Supreme Court of 29 October 2012, I KZP 12/12, *Orzecznictwo Sądu Najwyższego. Izba Karna i Wojskowa* 2012, No. 11, item 112.

²⁶ Hypś 2021, 1170–1171.

²⁷ See: Janyga 2013, 592.

This second, broad view of the object of protection in Art. 196 PC presented above, seems to be accurate. First, it provides adequate protection for freedom of conscience and religion, which is an important constitutional value. Second, the results of linguistic interpretation turn away from positions that reduce the value protected under Art. 196 PC only to personal and individual values, which are expressed in the emotional attitude of persons to the faith they profess. By the term “religious feelings,” it is possible to understand the multifaceted mental state that reflects a person’s attitude to the surrounding world, to other people, and to oneself which results from his or her faith. It is therefore possible to accept the view that Art. 196 PC protects “the freedom to adopt and profess a particular religion in freedom from insulting conduct toward objects or places with which the content of the religion is closely connected.”²⁸

For the purposes of the normative analysis of the crime defined in Art. 196 PC, it should be noted that the punishability of the conduct of the perpetrator who offends the religious feelings of others has been limited to two situations: publicly insulting an object of religious worship or a place intended for the public performance of religious rites. This has the obvious consequence of excluding from the scope of criminalization such conduct that may potentially hurt the feelings of others related to their religion, but that is not relativized to the objects or places indicated in the provision. Further, the scope of the crime under Art. 196 PC does not cover offensive conduct that is not publicly offending or committed against a place intended for the public performance of religious rites.

2. Object of religious worship

Among the elements that are included in the comprehensive description of the crime under Art. 196 PC, the most controversial one seems to be the meaning of the expression “object of religious worship.” There should be no doubt that this term should mean any object recognized as such by the followers of a particular religion. Its special character derives from the content of that religion, its doctrine and dogmas, and the attitude of

²⁸ Ibidem.

the worshippers toward the meaning attributed to it.²⁹ Therefore, objects of religious worship may include, for example, the cross, the Star of David, the sacramental wafer, images and pictures of saints, and books that are the source of religious dogmas, rights, and obligations.³⁰

It is not obvious and unambiguous whatsoever to precisely interpret what an object of religious worship is as part of the structure of the crime discussed in this paper. According to the literal wording of Art. 196 PC, particularly in the initial period when the Penal Code of 1997 was in force, the representatives of the doctrine drew the conclusion that because the target of the offender's conduct was an "object," it was necessary to treat an object of religious worship as a material "object" within the meaning of civil law. Consequently, J. Wojciechowski claimed that the provision did not concern a "subject" of worship. That is, it did not cover, for example, liability for denigrating God if the act did not involve insulting a particular object or a particular place.³¹ Andrzej Wąsek adopted a similar approach, although he considered such a solution "paradoxical."³² Currently, however, the prevailing view is that the term "object of worship" should be interpreted in a broad way, that is, as an object of someone's interest or feelings. For that reason, an object of religious worship is also God (or deity), considered by any religion as holy, worthy of respect, reverence, and adoration, thus becoming an object of religious worship.³³ Such an interpretation seems to be clearly supported by the rule *a minori ad maius*. Because the legislator protects the attitude toward the material expressions of the subject of cult, the attitude toward that person (God), which is the subject of cult, should be provided with protection as well.³⁴ Justifying such a statement, it is indicated that, from the point of view of the purpose of including the provision under study (Art. 196 PC) in criminal law, it would be difficult to approve a situation in which insulting material objects associated with religion, and not the supernatural deity itself, worshipped by its followers, would be punishable. With such a juxtaposition, a material object has only

²⁹ See: Makarska 2005, 181.

³⁰ See: Paprzycki 2015, 116 and the literature referred to therein.

³¹ See: Wojciechowski 1997, 340; also: Górniok 2001, 117; Filar 2010, 933.

³² Wąsek 2003, 214.

³³ See: Dziwisz 2019, 153; Stanisław 2020, 122–123.

³⁴ More details in: Paprzycki 2008, 82–83; Wiak 2017, 447.

a supplementary or auxiliary meaning. The purpose of Art. 196 PC is, however, the protection of the religious feelings of the believers, and not of an object of religious worship itself. The feelings are related primarily to an object of worship.³⁵ Furthermore, it is also pointed out that the term “object of religious worship” has been appropriately specified in the doctrine of criminal law, taking the normative context into account. It has a clear and well-established meaning, and there is no doubt that the understanding of an object of religious worship in relation to religions commonly followed in a cultural area is further determined in social terms, that is, at a linguistic level.³⁶ As a side note, it is worth mentioning that, apart from the person of God or deity, other objects of religious worship that are not objects within the meaning of civil law but which are subject to protection under Art. 196 PC, include, *inter alia*, the names of saints, rituals, or words used in the performance of the holy sacraments and so on.³⁷

Taking into account the above findings, it should be noted that an object of religious worship consists of two spheres that are subject to protection: the physical (material) one (limited by the substance of the object, its shape, appearance, form, etc.) and the symbolic (metaphysical) one (related to the content, symbolism, essence of the manifestation of the religion and of the praise given to God or deities). Assuming that the good protected under Art. 196 PC is the comprehensive protection of religious feelings of people of faith, the two aspects indicated above permeate each other, and consequently, they should be treated in an integral manner. Therefore, when determining whether a person has met the criteria for a criminal act, it is not enough to limit the assessment to the physical, external, or visible form of impact on an object of worship, as a material object. It is also important to consider the attitude of worshippers toward this kind of interference and the way in which the offender’s behaviour may affect their religious feelings.

It is also worth adding that, despite the broad meaning of the term “object of religious worship,” its scope is not unlimited. In fact, the doctrine clearly indicates that clergymen (e.g., priests, popes, imams, etc.)

³⁵ See: Paprzycki 2008, 83.

³⁶ Judgment of the Constitutional Tribunal of 6 October 2015, SK 54/13; see also: Zieliński 2017, 249 ff.; Skwarzyński 2016, 115 ff.

³⁷ See: Wojciechowska 2012, 603; Gądzik 2021a, 20.

cannot be objects of religious worship – even if such persons enjoy respect or a certain form of reverence and adoration from the followers of a given religion. The protection of these persons is covered by the provisions related to the protection of a person's reverence against insult (Art. 216 PC). The motive of the offender is irrelevant in that case, even if it was related to the desire to offend the religious feelings of others.³⁸ Also, criticism of religious beliefs, criticism of a particular religious community, and criticism of the way it operates, including the beliefs it follows, do not meet the criteria for the crime under Art. 196 PC.³⁹

3. Offending religious feelings

The expression “insulting an object of religious worship publicly” was included within the detailed description of the crime under Art. 196 PC, the content of which, first, indicates the condition that such conduct leads to the offending of religious feelings. This should be understood as a negative reaction that goes beyond a critical assessment of a specific opinion or statement about an object of religious worship. It is necessary to verify whether such reaction is still related to religious values. A specific sign or object may also be considered a symbol of the identity of a particular group or a national symbol. In such a case, it is not “religious feelings” but feelings of a different kind (e.g., national) are offended.⁴⁰

It follows from the content of Art. 196 PC that it is stipulating a common crime. Thus, the perpetrator may be any person capable of committing a crime regardless of any specific personal qualities that may be attributed to that person. It is also indisputable that victims of a crime under

³⁸ If the reason for insulting a person is his or her affiliation, including religious affiliation, the person committing that act may be held liable under Art. 257 PC. According to that Article, anyone who publicly insults a group of people or an individual person because of his or her national, ethnic, racial, or religious affiliation, or because of his or her nondenominational status, or for such reasons violates the physical integrity of another person, shall be subject to deprivation of liberty for up to three years. In this case, the motive of the behaviour of that person is not so much the desire to offend someone else's religious feelings as a widely understood intolerance.

³⁹ See: Sobczak 2021; KroczeK 2014, 81; Gądzik 2021a, 20–21.

⁴⁰ See: Wróbel 2006, 643.

Art. 196 PC may only be persons of faith.⁴¹ Thus, protection under the above-mentioned provision does not cover the feelings of nonbelievers, due to their lack of a religious affiliation. It should be apparent that religious feelings are integrally related to the faith of a person rather than to other aspects of his or her emotional life or inner convictions.⁴²

The act discussed in this paper is a crime that can only be committed intentionally – with direct or conditional intent.⁴³ Any unintentional act, undertaken with recklessness or negligence, remains beyond the scope of criminal law. Therefore, an offender will be liable not only if that person intends to insult an object of religious worship with the aim of offending someone else's religious feelings, but also if that person anticipates his or her behaviour may result in such insult but still agrees to it. Such a view, which allows taking responsibility for committing an act with direct intent and also with conditional intent, is accepted by many scholars, including J. Wojciechowski,⁴⁴ M. Filar,⁴⁵ S. Hypś,⁴⁶ E. Kruczoń,⁴⁷ Ł. Pohl, and S. Czepita.⁴⁸ The above follows from the literal wording of Art. 196 PC, according to which the causative activity consists in “insulting” or “offending.” According to dictionary definitions of such conduct, it may take place not only through an act resulting from an intention to insult or offend but also through unintentional behaviour.⁴⁹ Thus, a punishable insult may become a side effect of an action, one not pursued or desired by the offender.⁵⁰ It should be noted that in the academic literature, there are also views expressed according to which the liability of the offender is limited only to

⁴¹ With regard to meeting the criteria for the crime under Art. 196 PC, it is irrelevant whether the perpetrator offended the religious feelings of one or more persons. It is assumed that the plural, which appears in that provision, is purely of a stylistic character. Therefore, offending religious feelings of a single person may also lead to criminal liability under that provision, see: Wróbel 2006, 643; differently: Filar, Berent 2016, 1204.

⁴² See: Gądzik 2021a, 22.

⁴³ See: Resolution of the Supreme Court of 29 October 2012, I KZP 12/12.

⁴⁴ See: Wojciechowski 1997, 340.

⁴⁵ See: Filar 2010, 1173.

⁴⁶ See: Hypś 2021, 941.

⁴⁷ See: Kruczoń 2011, 56.

⁴⁸ See: Pohl, Czepita 2012, 73.

⁴⁹ See more: Pohl, Czepita 2012, 73 ff.; Pohl, Czepita 2014, 131 ff.

⁵⁰ See: Wiak 2017, 449; Resolution of the Supreme Court of 29 October 2012, I KZP 12/12.

acting with a direct intent, which is to result from the use by the legislator of the intentional verbs “offend” and “insult.”⁵¹

Causative activity defined as “insult” can take many forms. Despite the obvious associations, it is not limited to verbal abuse. It may also involve the use of insulting gestures, written or sung words, happenings, the creation of audiovisual material, or exhibitions that contain offensive content with the use of an object of worship, parodying rituals, and so on.⁵² A manifestation of an insult may be the destruction of an object of religious worship itself or its transformation that is insulting in nature. In this way, a dual-level form of protection of an object of religious worship against abusive conduct is revealed. On the one hand, the disposition of the provision contained in Art. 196 PC covers any type of conduct, the target of which is the integrity of an object of religious worship, understood in a physical and material way (i.e., its shape, form, visible image). In that case, the offender destroys or modifies an object of religious worship and the effect of his or her action is assessed as offensive, profane, or as expressing contempt. On the other hand, the protection of an object of religious worship against insult should also be applied to the content and message attributed to its essence or symbolism. This is because it involves a specific content, closely related to the religious feelings of the followers of a given religion. Therefore, an object of religious worship is also insulted when the offender targets a symbolic and metaphysical aspect, which is characteristic of objects of religious worship. In that very aspect, the *de facto* essence of religious worship is expressed, which covers worshipping a deity, a person, or an object associated with a deity or treating a deity, a person, or an object associated with a deity in a manner similar to deification.⁵³

Obviously, to hold the offender liable under Art. 196 PC, it is necessary to prove that the action he or she took toward an object of religious worship was indeed of an insulting nature (i.e., profane, defamatory, or

⁵¹ See: Wojciechowska 2012, 561; Górniok 2001, 117; Filar 2010, 177. The same conclusions regarding limiting the scope of punishability to acts committed with a direct intent are also reached by J. Warylewski, but he uses different arguments. He proves that only such an interpretation allows artists to take risks within their creative activity in such a way that the effects of their activity may be assessed negatively by criminal law, see: Warylewski 2005, 377.

⁵² See: Budyn-Kulik 2014, 102; Hypś 2021, 1171; Kłączyńska 2014, 510.

⁵³ See: “Kult” [Worship]. In: *Słownik języka polskiego PWN*. <https://sjp.pwn.pl/doroszewski/kult;5444865.html> [accessed: 15 May 2022].

dishonourable⁵⁴). An objective measure should be used for such an assessment. The mere subjective conviction on the part of the aggrieved party resulting from the sense that his or her religious feelings were offended, although it should undoubtedly be taken into account, is not sufficient. Therefore, it is assumed that regardless of what the crime relates to, in each case the offender's action should be assessed based on objective criteria: the time and place where the act was committed, as well as criteria specific to a given community, region, or environment.⁵⁵ Regarding the jurisprudence, the attribution of an insulting nature to a given conduct should occur after taking into account the cultural and moral norms applicable in the society and the adopted assessment criteria.⁵⁶ Therefore, an average member of a particular religious group is assumed to be a representative model.⁵⁷

In that context, it is necessary to consider the principle according to which objects of religious worship operate. Every religious community has an accepted and acceptable formula. It is intended to express the essence of what constitutes an object of religious worship, above all, to enable the believers to pay due reverence to it. The aforementioned principle usually involves a long-standing tradition (often centuries old) cultivated among the followers of a given religion, which determines, for example, the way of presenting a deity or saints, of performing certain rituals, or the form and shape of ritual objects. It is also associated with a common symbolism that usually does not leave much room for free interpretation of the elements that are involved. It often stems from the dogma of a given denomination, its history, and accepted liturgical and ritual elements. For this reason, interference in such integrity may be associated with meeting the criteria for the crime under Art. 196 PC. This mainly includes adding extra motives, symbols, or elements that are in conflict with the values recognized by the followers of a certain religion or inconsistent with its doctrine.

Here, the context and the commonly accepted meaning of the added content as well as the way in which it is used in relation to an object of

⁵⁴ See: "Znieważać" [Insult]. In: *Słownik języka polskiego PWN*. <https://sjp.pwn.pl/doroszewski/zniewazac;5531128.html> [accessed: 15 May 2022].

⁵⁵ See: Sosnowska 2004; Kłaczyńska 2014, 511.

⁵⁶ See: Judgment of the Supreme Court of 17 February 1993, III KRN 24/92, Legalis No. 27994.

⁵⁷ Krajewski 2008, 72; Kruczoń 2011, 44.

religious worship are also important. When combined with religious symbolism, this content may lead to a distortion of the message attributed to an object of worship, resulting not only in criticism but also the *de facto* deriding of the professed values, provocation, and the offending or causing of indignation among members of a given religious group. An action consisting in altering and distorting the original form of an object of religious worship or removing elements from it, the lack of which is considered a form of blasphemy, should be interpreted in a similar way.

Taking into account that the act specified under Art. 196 PC may also be committed with conditional intent, it should be assumed that the above-described forms of interference in the integrity of an object of religious worship and, in particular, in the integrity of its symbolism, may be associated with meeting the criteria for that crime. If the offender, acting in a certain way toward an object of religious worship, is aware and accepts that the effect of his or her actions may cause the disgrace or indignation of the followers of a given religion or offend them – in view of the values and the principles they observe – he or she should be held liable for such an act. In this case, the fact that the main goal of the offender was to express another message, which is important in his or her opinion, appears to be irrelevant.⁵⁸

The elements of the crime under Art. 196 PC include only acts committed “in public.” This condition, in accordance with the rules of systemic interpretation, should be understood in the same way as in the case of other provisions, where it has been used by the legislator (e.g., Art. 135 para. 2 and Art. 216 PC), meaning that these acts must be noticed by a larger or indefinite number of persons.⁵⁹ This mainly applies to actions carried out in public places, where the person offends, with his or her behaviour, religious feelings of other people. The offender may also spread his or her message via mass media (e.g., posting a specific text on a publicly available profile on social media, live streaming, posting on an online blog or discussion

⁵⁸ A different, and for the reasons indicated above, inaccurate view was expressed by Mikołaj Małecki (see: idem. 2019. “Tęczowe znieważenie Czarnej Madonny – pytania i odpowiedzi.” *Dogmaty Karnisty*, 13 May 2019. <https://www.dogmatykarnisty.pl/2019/05/teczowe-zniewazenie-czarnej-madonny> [accessed: 15 May 2022]).

⁵⁹ Wiak 2017, 766. This view was expressed by the Supreme Court in its decision of 5 March 2015, III KK 274/14, *Orzecznictwo Sądu Najwyższego. Izba Karna i Wojskowa* 2015, No. 9, item 72.

forum, publishing an article in the press, making a statement on television or on a YouTube channel). An action that was not of a public nature, for example, that took place during a private conversation or in a closed meeting, does not meet the criteria for the crime under Art. 196 PC.⁶⁰ As stated in the decision of the Supreme Court of 5 March 2015:

The criteria for the crime under Art. 196 PC are met only when an object of religious worship is insulted in public. The public nature of the crime under Art. 196 PC comes down to the fact that the action of insulting an object of religious worship may be noticed by a large or undefined number of persons. The crime is not considered public in nature if the insulting conduct is recorded and then communicated via the printed press or via the Internet to a wider group of people. A person who publishes such material may, however, meet the criteria for the crime under Art. 196 PC. Consequently, conduct addressed to a person or a group of persons who voluntarily consent to receive the content that may lead to offending religious feelings does not meet the criteria for the crime under Art. 196 PC.⁶¹

4. The issue of the so-called justification of art

Concerning the elements of the crime of offending religious feelings, it is also necessary to mention the controversial idea of the justification of art. Supporters of that normative structure claim that if the circumstances specified by its content occur, they result in the exclusion of the unlawfulness of the offender's act and, consequently, in the absence of a crime. The genesis of the so-called justification of art is related to the desire to ensure legal guarantees of freedom of artistic expression and freedom of speech. Many times, the targets of artistic activity (musical, dramatic, visual, etc.) have been objects of religious worship.⁶² There have been cases

⁶⁰ See: Gądzik 2021b, 9–10.

⁶¹ Decision of the Supreme Court of 5 March 2015, III KK 274/14.

⁶² For example, in 2001, D. Nieznalska created an installation entitled *Passion*, which consisted of two elements: a video showing a man training at the gym and a metal cross hanging on a chain with a photo of male genitals on it (see: Karol Sienkiewicz. 2011. "Dorota Nieznalska, Pasja." *Culture.pl*, March 2011. <https://culture.pl/pl/dzielo/dorota-nieznalska-pasja> [accessed: 15 May 2022]). In 2007, A. Darski (the singer in a band "Behemot") tore up the Bible during one of his concerts (see: Marek Domagalski. 2015. "Eksces Nergala niedopuszalny, ale nie przestępstwo."

when artists, referring to the justification of art, tried to demonstrate that their actions could not be considered unlawful and their purpose was to affect, move, or shock the audience. Those are qualities that constitute the essence of art. Moreover, through art, artists have the opportunity to express specific views and opinions, and the freedom to manifest this is guaranteed by Art. 54 of the Constitution of the Republic of Poland.

Because the justification of art has no clear statutory grounds, some scholars have formulated their own proposals to establish its necessary premises. For example, J. Warylewski suggests taking three circumstances into account: 1) the performer of an act is an artist; 2) as a result of certain conduct, a work of art is created or presented; and additionally, not as a necessary condition; 3) the performer of an act is motivated by a desire to achieve an artistic goal. He adds that the occurrence of certain additional circumstances will only strengthen the criminal assessment of a specific conduct in relation to the justification of art (e.g., the artist's participation in institutional exhibitions, festivals, workshops, his or her level of professional education).⁶³ Describing the premises for applying the idea of the justification of art, W. Cieślak and J. Postulski state that its subject would be exclusively the creator (artist), and the result of his or her activity would be the creation of a work of art. Additionally, the artist should pursue an artistic goal.⁶⁴ Other authors have formulated further premises concerning the place where the work was created, the audience, or the reputation of the creator.⁶⁵

Referring to the issue in question, the justification of art should, first, be classified as a so-called nonstatutory justification, not regulated in normative acts of at least statutory rank but derived from views expressed in the science of criminal law or jurisprudence. For this reason, some doctrine representatives do not recognize it as having a potential impact on excluding the unlawfulness of an act, claiming that it is contrary to the principle of the tripartite division of power.⁶⁶ It should also be remembered that

Rzeczpospolita, 6 March 2015. <https://www.rp.pl/dobra-osobiste/art4653231-eksczes-nergala-niedopuszalny-ale-nie-przestepstwo> [accessed: 15 May 2022]); see also: Bieczyński 2012, 264 ff.

⁶³ See: Warylewski 2005, 378–379.

⁶⁴ See: Cieślak, Postulski 2012, 1073.

⁶⁵ See: Gardocka 2015, 24–30.

⁶⁶ See: Kopeć 2014, 224 ff.; Małecki 2016, 1421 ff.

the fact that a given content has been captured in the form of an artistic expression (e.g., a film, illustration, or musical piece) does not mean that there is no contradiction with the criminal law norm and the social harmfulness of the message. Similarly, in its decision of 5 March 2015, the Supreme Court found that “an artistic form or scientific purpose of an insulting act does not exclude criminal liability for offending religious feelings or insulting an object of religious worship publicly.”⁶⁷

It is also unacceptable to assume that the freedom to express one's views (guaranteed under Art. 54 of the Constitution of the Republic of Poland) ensures unlimited freedom of expression of any content. Pursuant to Art. 31 para. 2 of the Polish Constitution, everyone is obliged to respect the rights and freedoms of others, including the freedom of conscience and religion. With this in mind, it is appropriate to consider the following opinion:

Between [...] the right to the protection of religious feelings and the right to freedom of speech (freedom of opinion) there is [...] a significant interaction that requires drawing the line. That line concerns the way of expressing different views, which should be expressed with mutual respect for differences and not lead to offending such differences. A similar criterion applies in other areas of social life, in the sphere of culture, artistic activities, etc.⁶⁸

In this context, the Supreme Court, in its resolution of 29 October 2012, objected to the treatment of human freedom whether in the form of religious freedom or freedom of expression, including artistic freedom – as unlimited, because its boundaries always constitute borderlines of another type of freedom.⁶⁹

Conclusions

The interpretation of the provision of Art. 196 PC that criminalizes conduct which leads to offending religious feelings has given rise to numerous

⁶⁷ Decision of the Supreme Court of 5 March 2015, III KK 274/14; see also: Gądzik 2021b, 10–11.

⁶⁸ Hypś 2021, 1005–1006.

⁶⁹ Resolution of the Supreme Court of 29 October 2012, I KZP 12/12.

controversies in the judiciary and within the academic literature of Polish criminal law. The very concept of “an object of religious worship” is controversial. Its correct interpretation is thus important because offending religious feelings of other people is a crime only if it takes the form of publicly insulting an object of religious worship or a place intended for the public performance of religious rituals.

Linguistic, systemic, and pro-constitutional interpretations support the broad understanding of an object of religious worship as an object of someone’s feelings or worship. It should be assumed that the offender may target not only the material substance of an object, determined by its shape and form (e.g., destruction), but also the symbolism of the object that expresses its spiritual (metaphysical) content. This content may be distorted to such an extent the worshippers perceive it as offensive. The context in which a given symbol functions in a given community must be taken into account in such an assessment. The rules of faith and tradition usually determine a more or less consistent principle that defines the way of presenting an object of religious worship and the form of worship. This may be violated by actions, the purpose of which is to distort or add elements and motives to an object of worship that are contradictory to the values accepted by the followers of a given religion or that are incompatible with its doctrine. Those positions expressed in the academic literature and judiciary also deserve support that contradict the thesis that the artistic form given to an object of religious worship or the artistic goal pursued by the perpetrator should result in the exclusion of criminal liability for offending religious feelings. Such an approach to the scope of protection under Art. 196 PC ensures comprehensive protection of religious feelings that is adequate to the constitutional rank of that value.

The above-mentioned regularity remains important given the current trends. It can be concluded that the Polish judiciary will often face the dilemma of determining whether a specific act of a person, accused of the crime specified under Art. 196 PC, constitutes a form of offending someone else’s religious feelings, or whether it is part of the right to express one’s views.

To sum up, it should be noted that, despite numerous controversies and attempts to eliminate the provision of Art. 196 PC from the legal system, proposals are still made to tighten the current regulations in this regard.

In April 2022, the Polish Sejm received a draft amendment to the Penal Code.⁷⁰ According to the proposal contained therein, Art. 196 PC would have the following wording:

- § 1. Whoever publicly insults or derides church or other religious organization with regulated legal status, its dogmas, or rituals, shall be subject to a fine, restriction of liberty, or deprivation of liberty for up to 2 years.
- § 2. The same penalty shall be imposed on anyone who publicly insults an object of religious worship or a place intended for the public performance of religious rituals.
- § 3. If a person commits the crime specified in § 1 or 2 at the time and place of worship or performance of another religious act, or by means of mass communication, that person shall be subject to deprivation of liberty for up to 3 years.⁷¹

The above considerations suggest that the issue of the protection of religious feelings is still topical and reflects the need to react adequately to socially harmful behaviour that aims to violate the religious freedom of other people. The issue also reflects the need to set limits on freedom to express one's thoughts and opinions. The constitutional rank of the value of religious feelings also requires the establishment of boundaries that, if crossed, would entail criminal liability.

References

- Bieczyński, Mateusz. 2012. "Wolność twórczości artystycznej a granice wolności sumienia i wyznania." In: *Prawne granice wolności sumienia i wyznania*, ed. Roman Wieruszewski, Mirosław Wyrzykowski, Lena Kondratiewa-Bryzik, 259–270. Warszawa: Wolters Kluwer Polska.
- Budyn-Kulik, Magdalena. 2014. "Znieważenie uczuć religijnych – analiza dogmatyczna i praktyka ścigania." *Prawo w Działaniu* 19: 100–137.

⁷⁰ Projekt z dnia 11 kwietnia 2022 r. [http://orka.sejm.gov.pl/Druki9ka.nsf/Projekty/9020-881-2022/\\$file/9-020-881-2022.pdf](http://orka.sejm.gov.pl/Druki9ka.nsf/Projekty/9020-881-2022/$file/9-020-881-2022.pdf) [accessed: 15 May 2022].

⁷¹ See: Monika Sewastianowicz. 2022. "Jeszcze nie stos, ale państwo ma skuteczniej ścigać za obrażanie religii. Jest już projekt." *Prawo.pl*, 14 April 2022. <https://www.prawo.pl/prawo/zaostrenie-odpowiedzialnosci-za-obraze-uczuc-religijnych-196-kk,514616.html> [accessed: 15 May 2022].

- Cieślak, Wojciech, Jacek Postulski. 2012. "Przestępstwo obrazy uczuć religijnych (art. 196 k.k.). Wybrane problemy w świetle teorii i praktyki sądowej." In: *Państwo prawa i prawo karne. Księga jubileuszowa Profesora Andrzeja Zolla*. Vol. 2, ed. Piotr Kardas, Tomasz Sroka, Włodzimierz Wróbel. Warszawa: Wolters Kluwer Polska.
- Cox, Neville. 2017. "Blasphemy and defamation of religion following 'Charlie Hebdo'." In: *Blasphemy and freedom of expression. Comparative, theoretical and historical reflections after the Charlie Hebdo massacre*, ed. Jeroen Temperman, András Koltay, 53–84. Cambridge: Cambridge University Press.
- Demenko, Anna. 2016. "Wypowiedź jako czynność sprawcza – na przykładzie znieważenia przedmiotu czci religijnej." *Ruch Prawniczy, Ekonomiczny i Socjologiczny* 78(4): 137–149.
- Dziwisz, Stanisław. 2019. *Ochrona uczuć religijnych w polskim prawie karnym*. Lublin: Wydawnictwo KUL.
- Filar, Marian. 2010. In: *Kodeks karny. Komentarz*, ed. Marian Filar. Warszawa: Wolters Kluwer Polska.
- Filar, Marian, Marcin Berent. 2016. In: *Kodeks karny. Komentarz*, ed. Marian Filar. Warszawa: Wolters Kluwer Polska.
- Gardocka, Teresa. 2015. "Czy w polskim prawie karnym potrzebny jest kontratyp sztuki?" *Palestra* 1/2: 24–30.
- Gądzik, Zuzanna. 2021a. *Przestępstwa przeciwko wolności sumienia i wyznania*, Fundacja Instytut Prawa Ustrojowego. <https://efektywne-prawo.org.pl/wp-content/uploads/2021/12/Z.-Gadzik-przestepstwa-wobec-wolnosci-sumienia-i-wyznania4.pdf> [accessed: 15 May 2022].
- Gądzik, Zuzanna. 2021b. *Wolność religijna a granice wolności wypowiedzi*. Fundacja Instytut Prawa Ustrojowego. https://efektywne-prawo.org.pl/wp-content/uploads/2021/06/Wolnosc-religijna-a-granice-wolnosci-wypowiedzi_dr-Zuzanna-Gadzik_o.pdf [accessed: 15 May 2022].
- Górniok, Oktawia. 2001. In: *Kodeks karny. Komentarz*. Vol. 3, ed. Oktawia Górniok, Stanisław Hoc, Stanisław Przyjemski. Gdańsk: Arche.
- Hypś, Sławomir. 2021. In: *Kodeks karny. Komentarz*, ed. Alicja Grześkowiak, Krzysztof Wiak. Warszawa: Wydawnictwo C.H. Beck.
- Janyga, Wojciech. 2013. In: *Kodeks karny. Komentarz*. Vol. 1: *Część szczególna. Art. 117–221*, ed. Michał Królikowski, Robert Zawłocki. Warszawa: Wydawnictwo C.H. Beck.
- Kłaczyńska, Natalia. 2014. In: *Kodeks karny. Część szczególna. Komentarz*, ed. Jacek Giezek. Warszawa: Wolters Kluwer Polska.

- Kopeć, Mirosław. 2014. "Kontratypy pozaustawowe a zasada trójjpodziału władzy." In: *Odpowiedzialność karna artysty za obrazę uczuć religijnych*, ed. Filip Cieplý, 222–230. Warszawa: Instytut na Rzecz Kultury Prawnej Ordo Iuris.
- Krajewski, Radosław. 2008. "Ochrona wolności sumienia i wyznania w świetle Kodeksu karego z 1997 r." *Przegląd Sądowy* 3: 65–77.
- Kroczyński, Piotr. 2014. "Kaznodziejstwo w optyce polskiego prawa karnego." *Studia z Prawa Wyznaniowego* 17: 71–89.
- Kruczyński, Erwin. 2011. "Przestępstwo obrazu uczuć religijnych." *Prokuratura i Prawo* 2: 38–59.
- Makarska, Małgorzata. 2005. *Przestępstwa przeciwko wolności sumienia i wyznania w Kodeksie karnym z 1997 roku*. Lublin: Towarzystwo Naukowe KUL.
- Małkowski, Mikołaj. 2016. "Glosa do postanowienia Sądu Najwyższego z dnia 5 marca 2015 r., III KK 274/14." *Orzecznictwo Sądów Polskich* 10: 1418–1426.
- Paprzycki, Rafał. 2008. "Czy bluźnierca jest przestępcą? Rozważania na temat znamienia 'przedmiotu czci religijnej' przestępstwa obrazu uczuć religijnych – art. 196 k.k." *Palestra* 5/6: 81–90.
- Paprzycki, Rafał. 2015. *Prawna ochrona wolności sumienia i wyznania*. Warszawa: Wydawnictwo C.H. Beck.
- Piórkowska-Flieger, Joanna. 2016. In: *Kodeks karny. Komentarz*, ed. Tadeusz Bojarski. Warszawa: Wolters Kluwer Polska.
- Pohl, Łukasz, Stanisław Czepita. 2012. "Strona podmiotowa przestępstwa obrazu uczuć religijnych i jego formalny charakter." *Prokuratura i Prawo* 12: 72–82.
- Pohl, Łukasz, Stanisław Czepita. 2014. "Glosa do uchwały z 29.10.2012 r., I KZP 12/12." *Państwo i Prawo* 10: 131–140.
- Skwarzyński, Michał. 2016. "Orzeczenie Trybunału Konstytucyjnego w sprawie sygn. akt SK 54/13 w przedmiocie przestępstwa obrazu uczuć religijnych w świetle standardów strasburskich." *Przegląd Prawa Wyznaniowego* 8: 115–127.
- Sobczak, Jacek. 2021. In: *Kodeks karny. Komentarz*, ed. Ryszard Stefański. Warszawa: Legalis/el.
- Sosnowska, Małgorzata. 2004. "Uwagi o relacji między znieważeniem z art. 216 § 1 a innymi postaciami znieważenia w kodeksie karnym." *Nowa Kodyfikacja Prawa Karnego* 15: 159–181.
- Stanisz, Piotr. 2020. *Religion and law in Poland*. Alphen aan den Rijn: Kluwer Law International.
- Strzelecki, Jakub. 2012. "Kryminalizacja obrazu uczuć religijnych – analiza krytyczna." In: *Nauki penalne wobec szybkich przemian socjokulturowych. Księga jubileuszowa Profesora Mariana Filara*. Vol. 1, ed. Andrzej Adamski et al., 476–489. Toruń: Wydawnictwo Adam Marszałek.

- Warecka, Katarzyna. 2019. *Matka Boska w tęczowej aureoli. Trybunał w Strasburgu o ochronie uczuć religijnych obywateli w prawie karnym*. LEX/el.
- Warylewski, Jarosław. 2005. "Pasja czy obraza uczuć religijnych? Spór wokół art. 196 Kodeksu karnego." In: *W kręgu teorii i praktyki prawa karnego. Księga poświęcona pamięci Profesora Andrzeja Wąska*, ed. Leszek Leszczyński, Edward Skrętowicz, Zbigniew Hołda, 367–381. Lublin: Wydawnictwo UMCS.
- Wąsek, Andrzej. 2003. "Ochrona uczuć religijnych w prawie karnym." In: *Prawo wyznaniowe*, ed. Henryk Misztal, Piotr Stanisław, 25–52. Lublin–Sandomierz: Towarzystwo Naukowe KUL, Wydawnictwo Diecezjalne w Sandomierzu.
- Wiak, Krzysztof. 2017. "Kryminalizacja obrazy uczuć religijnych w polskim prawie karnym." In: *Pecunia servire debet sed non regere. Księga Jubileuszowa dedykowana Księdzu Profesorowi Stanisławowi Dubielowi*, ed. Krzysztof Wiak, Paweł Kaleta, 441–452. Lublin: Wydawnictwo KUL.
- Wojciechowska, Janina. 2012. In: *Przestępstwa przeciwko dobrom indywidualnym*, ed. Jarosław Warylewski. System Prawa Karnego 10. Warszawa: Wydawnictwo C.H. Beck.
- Wojciechowski, Janusz. 1997. *Kodeks karny. Komentarz i orzecznictwo*. Warszawa: Librata.
- Wróbel, Włodzimierz. 2006. In: *Kodeks karny. Część szczególna*. Vol. 2: *Komentarz do art. 117-277 K.K.*, ed. Andrzej Zoll. Kraków: Kantor Wydawniczy Zakamycze.
- Zieliński, Sebastian. 2017. "Glosa do wyroku Trybunału Konstytucyjnego z dnia 6 października 2015 r. (sygn. akt SK 54/13)." *Przegląd Sejmowy* 1: 249–255.