

## JUDICIAL REPORTING AS A GUARANTOR OF THE RULE OF LAW

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**Purpose:** is to show judicial reporting in relation to the rule of law. The text focuses on the considerations and analysis of the relativity of judicial reporting to the rule of law as a kind of values and subjective rights of civil society. An additional assumption is to indicate the essence of the issue in an interdisciplinary perspective, drawing attention to its importance, multidimensionality, connection and social significance, leaving room for own research.

**Design/methodology/approach:** The research method used in the article is the analysis of scientific studies, supplemented by the author's observations and experience. The research procedure included a review of Polish and foreign literature, an analysis of legal acts and court decisions, a case study and deductive reasoning. The above text evokes, in the author's opinion, a separate understanding and application, more and more commonly, also by journalists, of the concepts of justice, the rule of law and law.

**Findings:** A high level of influence of judicial reporting on the rule of law has been demonstrated. Great demand for this type of message and its values, which should be implemented by the rule of law – judgments of common courts, to be considered the most desirable form of the system. Social development in the face of values as an interdisciplinary concept in terms of direction and field allows you to maintain what is with what should happen in the future. It is important not only what intentions people have, but also what competences they have and according to what values they operate. The conducted analysis shows that the correctness of the message and the understanding of the meaning of the rule of law in the area of law are important and vice versa. An autocratically governed society can be fully governed by law, the courts can issue judgments and the court rapporteurs publicly present them, which does not necessarily mean that we are dealing with the rule of law and the rule of law.

**Research limitations/implications:** Limitations of the obtained results may result from a limited text sample, small text size.

**Originality/value:** The presented research and conclusions provide practical tips not only to people of science, but above all to average citizens, mainly those who are not aware that the world of values surrounds people, but depends on them, what values they pay attention to and to which he remains indifferent. Man has the freedom to choose what suits him best, but is rarely able to use it rationally and in an appropriate form and time. Among values, man does not have to do anything and can do much. The less complex and understandable the forensic message, the closer to the concept of simple principles of human life and action. Every aspect of judicial reporting contributes to strengthening the rule of law in the spirit of a democratic rule of law. Like the world to the world, there were processes and comments, and what resulted from them socially (...).

**Keywords:** reporting, value, rule of law, awareness.

**Category of the paper:** research paper.

Living in the face of uncertainty caused by the multiplicity of less and less justified changes, one could say: why do we need the rule of law, the law, what do we need judgments for, some patterns and rules, if almost no one obeys them, except that they talk about it loudly and often it enchants reality. This text focuses mainly on considering and analyzing the relativity of forensic reporting as a kind of civil society's subjective rights. Societies with a significant degree of social and legal awareness resulting from this fact of philosophical and sociological reflections, which we have or should face, because it seems worth it. Social development in the face of values as an interdisciplinary concept, in terms of direction and field, allows to maintain what is with what should happen in the future. It is important not only what intentions people have, but also what competences they have and according to what values they operate. In order to meet the challenges of time, a person must systematically improve their fitness. To understand the world and its needs, you need to acquire appropriate knowledge and use it properly. People have naturally always avoided difficult things, things that make them anxious, fear and insecure. Most of the time, people are afraid of what they do not know and understand. Even stupidity is not as destructive as ignorance – what is stupid for one, does not have to be stupid for another – he needs stupidity to achieve his goal. A person who is ignorant of yes and no seems defenseless, and is faced with the challenge of making a choice that he does not understand and is unable to make because he is not sure about yes and no. A person who seems to be helpless accepts every piece of information as true. Judicial reporting as one of the most important tools of the rule of law should be objective, but is it possible in the state of unpredictable changes, unstable politics and the decline of values and authorities (...)? The question for today and tomorrow does not seem to be what is the reality, but what is this reality in the future and why? One has to realize that in politics (which is omnipotent) the head is important, although the neck is no less important, and perhaps even more important. An unfavorable judgment can be presented favorably as well as favorable as unfavorable. It all depends on who reports and for what purpose. It should be borne in mind that in such a short study it is impossible to explore the non-uniform interpretation of the matter. However, due to its importance, each of the statements or reflections expressed in public may enrich or, in a sense, complement the scientific achievements to date. The above text evokes, in the author's opinion, the issue of separate understanding and application (more and more commonly, also by journalists) of the concepts of justice, rule of law and law. People often accepting such a great difference in interpretation, which raises the question: can it be true, where in some cases it unfortunately turns out to be a fact.

## 1. Introduction

Regardless of the level of our intellectual preparation, social status, worldview or religion, when making life decisions we ask or should ask ourselves one of the basic questions: is the rule of law the same as law, or maybe these concepts are not convergent and mean completely something else. Considering the number of statements and messages and the behavior of some self-proclaimed authorities, it does not seem so obvious. The judicial rapporteur should be aware that any decision or statement he makes is worth as much as the justification for it. That is why the correctness of the message and understanding of the meaning of the rule of law in the area of law is so important and vice versa. Values that should be implemented by the rule of law – judgments of common courts must be clear to be considered the most desirable form of the system. The way the law is formulated and its message should be clear and, if possible, commonly understandable (Kojder, 2001, p. 501 et seq.).

The interest of the society does not always coincide with the interest of the recipients, including some media. One gets the impression that the more global, the less ethical and moral. The rule of law should not be equated with the rule of law. An autocratically governed society may be fully governed by law, courts may issue judgments, and court reporters may present them publicly, which does not necessarily mean that we are dealing with the rule of law (Henley, 1992, p. 299). Courts should use axiology in their judgments, and the journalist and court-rapporteur should use the content of the law in line with the sense of justice and not expectations (conformity to natural justice) (Raz, 1979, pp. 214-218).

A human right is freedom to self-realization, expression, theses and teaching, but is it always and at any cost? An indisputable human right is the right to information, transmission and reception, but how does this work in reality? What is the role of individual social groups in it, the role of journalism and what are the consequences of this? Usually such as the level of journalistic message, the degree of politicization of the message and the level of its recipients. In order to be able to assess whether and to what extent the courts apply and obey the law in their judgments, their actions must be clear; must be intersubjectively verifiable, and the justifications written in a language understandable to everyone, not only to lawyers (Kondziela, 1972, p. 140).

Roughly speaking, the definition of law, justice and the rule of law in a more or less economical way does not pose the difficulty of identification for the average bread eater, which difficulty usually arises when justifying commonly accepted and recognized values (Gómez-Arostegui, 2000, p. 35). This is especially true in the context of spectacular events, including court judgments that cause social disapproval of bodies or institutions that apply law and justice in the spirit of the frequently quoted rule of law, the common good and unlimited sovereignty. Usually then (albeit briefly) the concept of justice, the rule of law and law occupies the head of a number of people making their own assessment (Kardasiewicz, 1991, p. 45-52).

How do we live – in the sense of the rule of law, and the law is the same as justice, or maybe it is different – is one of the doubts that appear more and more often. In the present shape of political and economic conditions, looking globally, can we say that we are dealing with a pure form of the rule of law, or maybe with one of its varieties or its multiple forms? Which of these guilt figures should be considered a model of the rule of law? Political correctness is of great importance in the implementation of the rule of law and justice through law, which is shaped, *inter alia*, by the legal awareness of persons participating in these trials. One of the most prominent contemporary theorists and practitioners in the field of values, M. Rokeach defines value as "the persistent belief that a given behavior is socially more attractive than other ways of behavior." The question that remains open is whether there are objective values, or whether they are a derivative of individual needs and ideas of man (Rokeach, 1993, p. 5).

The forensic rapporteur has two basic options – to decide to follow the patterns of reality assessment adopted by the community or not to use them, creating a picture of reality as needed. The judicial rapporteur – as a rule – does not decide anything, but he is able to distort almost everything in order to achieve a political goal and material gain (Tiersma, 1987). An example is the fast information transmission of competing TV stations regarding a socially important judicial sentence, which, apart from manipulation and persuasion, is largely different from the actual facts of the described event, usually, according to the often used technique, "the message must be short and sensational". It is said that the law can do this and that, that should be this and that, but what the law can really do – it seems that maybe not much, because it is not a law that can, but a man through law, provided that he or she wishes. But will he always want to?

## **2. The essence of forensic reporting**

Without going into the historical outline of the definition of communication – media message and its growing demand in the era of rapid exchange of human thoughts, clear technological progress and social communication of information, there is a noticeable social need for reliable judicial communication, often constituting a common awareness of the rule of law, widely understood justice in the field of applicable law and the implementation of justice, in which investigative journalism undoubtedly plays a key role, in various forms of communication.

When considering the question of determining the quality of the reality of forensic reporting for society as a whole, it seems even necessary to find a key answer to the question of whether judicial reporting is socially justified, socially desirable? If so, what is its actual level in the realities of social legal awareness – civic awareness, and very much in the sense of social rule of law and justice?

On the issue of the social need for judicial reporting, Jacek Sobczak made a broad statement in a 2000 study. Journalist – court rapporteur – rights and obligations, confirming the social legitimacy of this type of journalistic form, because punishable acts – "crime, misdemeanor and misdemeanor have always attracted and still attract attention audience (Sobczak, 2000, p. 9). It seems to be true, although such a thesis contains a specific subtext, not always finding full justification and explanation of the entire reflection of the social perception of ongoing court trials".

Society does not always have to be viewed as an audience that is part of it. This is justified when it concerns an active courtroom group as the audience. In support of this direction of considerations, attention should be paid to the degree and scope of the observers – recipients, legal awareness, their sense of democratization, the rule of law and justice. Is the interest of recipients in this type of information the result of searching for sensations, killing time, or is it a manifestation of civic concern for values, civic social involvement in public life? The perception of the rule of law and the judiciary and related judicial reporting in the period before the transformation in Poland differed significantly from the present situation. The Constitution of the People's Republic of Poland gave every citizen the right to speak, while the current one guarantees much more – it grants the right to speak after speech.

In explaining human behavior in the area of transmission and reception of information about the courtroom, the sociology of knowledge (the basis of theoretical reflection) may be helpful, focusing on the relations that exist between knowledge and other social factors. According to its assumptions, the content of views, statements or assessments are not subject to examination by confronting the evidence, but rather to answer the fundamental question in this regard, namely, how does it happen that such views exist. And the very assessment of the interpretation of thoughts is made on the basis of the criterion of source and psychological, economic or mass function.

Adopting such a theory (theoretical paradigm) seems to be correct for several reasons. First, legal awareness is only an aspect of social awareness. Secondly: assuming legal awareness as a part of social awareness, it is difficult to narrow down the considerations only to the knowledge possessed by an individual in the field of subjective rights. Thirdly: in order to discover the discrepancies in the understanding of the concept of social consciousness, the processes related to its acquisition and shaping, it is necessary to explore, for example, the achievements of Karl Marx, Max Scheler, Karl Mannheim, Emil Durkheim or Pitrim Sorokin, where they all share the thesis that thought has a basis existential (Marks et al., 1996, p. 9).

So far, scientists have failed to define the pure form of legal consciousness (there is a dispute between sociologists and legal theorists), however, there is general agreement that legal awareness is part of social consciousness. Using the dictionary knowledge, one can define the concept of legal awareness as a mutually interconnected and integrated whole of the content of

spiritual life, views, values, ideas, attitudes and beliefs of a given community (Olechnicki et al., 2004, p. 215).

Such a general definition does not fully explain the complex, also interdisciplinary, concept. This prompts us to refer to modern legal thought, which arises on the basis of empiricism and rationalism that characterize mechanistic – individualistic and contractualist interpretations of law. Empiricists (such as David Hume) emphasized experience as the primary source of human knowledge obtained through induction (they believed more in the probability than in the certainty of this human knowledge). On the other hand, rationalists derived abstract ideas from reason using the deductive method – remaining fully convinced as to the certainty of knowledge thus achieved.

A concept that is not widely accepted today is the theological one, according to which a special kind of jurisprudence was adopted, law was not distinguished from morality, and the understanding of law came exclusively from God (Leibniz et al., 1998, p. 112). Modern thought has recognized knowledge based on facts and observations as knowledge worthy of attention and trust, as the principles of rationality, cognitive abilities, a rich source of moral and legal ideas. It should not be surprising that this thought resulted in modern theories of subjective rights, individual rights and declarations of human and civil rights, the greatest of whose opponents turned out to be Thomas Hobbes, the creator of "Leviathan", who in his theories proved that "the law of nature (lex naturalis), there is a rule or a general rule which reason finds and which forbids man to do what is destructive to his life, which in some sense is not without logic" (Hobbes, 1954, p. 113).

For many of us, too much emphasis on legal awareness in the media may turn out to be unnecessary, deviating from the main topic. So where is the crux of the matter? It all depends on how prepared those who deal with the forensic reporting message and the preparation of the recipients of the message. How and according to what criteria the recipients analyze the received message. It is often the case that the message presented to recipients is incomprehensible to many, and also to the transmitters themselves, which is pure manipulation and distorts its content, but sometimes this is what it is all about.

### **3. The impact of forensic reporting on social legal awareness**

In order to achieve the assumed effect of judicial reporting, an important element is the transmission of complex information about the rule of law and law. There is no doubt that the condition for such communication is the knowledge of the concept of the rule of law and law itself. Simply put, the knowledge of both means a situation in which, first of all, the addressee, before making a decision on a specific behavior, is aware of the pattern of conduct established by law and the rule of law. Second: is aware of the nature of this pattern. He is aware that it is

only legal, democratic and lawful. This can only happen when there is a process of communicating information about the law, not about morality, custom or tradition, between the communicator and the addressee, not to mention rumors.

The greatest contributions to the analysis of the communication processes of transmitting information about the law belong to the studies of F. Studnicki (Studnicki et al., 1969, p. 92). Which treats the legal norm as one of the basic tools for shaping social relations. As a process of information from the point of view of the normative and assumptions, the achievement of maximum effectiveness. In his opinion, two issues are important for the effectiveness of providing information: who provides this information and what is its type. A perfectly formulated message can be considered one that is fully understandable to recipients belonging to all social groups. But is it possible? Due to the social multifaceted and interdisciplinary cross-section, it does not seem possible to achieve it.

The transmission of information about the law and the rule of law is not an easy and populist message, but it requires considerable knowledge of law making and application (Kuzior, Kwilliński, 2021, p. 89-106).

We deal with the process of interpretation when the meaning of the message about the law is not obviously imposed on the recipient, as well as in cases where the determination of a specific message requires complex mental efforts (Studnicki et al., 1969, p. 94).

It is commonly recognized that the knowledge of legal concepts among average people is low. Consequently, it could be said that the intelligibility of this matter concerns only lawyers. This view, however, was criticized by Maria Borucka-Arctowa and Franciszek Studnicki, who indicated that knowledge about law is conditioned by the social role of an individual, in the legal professions with a narrow specialization (Gryniuk, 1979, p. 18).

The legal assessment in the spirit of the rule of law of a court report by ordinary bread eaters with no legal knowledge is mainly related to their own experiences with law enforcement institutions and bodies. The assessment of the law and the rule of law of people who do not have in-depth knowledge of the law is particularly influenced not by the media coverage itself, but by its narrative, moment and content of the justification of court decisions, often presented in a manner incomprehensible to the average person, e.g. One of the judgments of the District Court in Warsaw stated that "the term today should not be understood as today". It is thanks to the justifications, and not the basis of the judgment, that the individual and the general public receive an explanation why the judgment has such and not another content and on what it was based. In this case, the source of the message plays a special role, especially when it comes to the message of investigative journalism.

Regardless of the source of information (legal source), recipients of information should be convinced of its accuracy, which is particularly important in the case of identifying issues widely publicized by the media and which are of great interest to the public.

It is quite often the case that the parties and the public, after reading the verdict of the ruling, do not pay attention to the arguments cited by the court underlying the decision. In such a situation, the opinion on the law and the rule of law and the assessment of the degree of justice is then based on the presumption that (...) this unknown law is right, useful, just, worthy of respect or on the presumption that it is dangerous, embarrassing, cruel, serving the elite not for the mediocre. Which justifies a thesis that the complexity of the assessment is an intensified issue of gaining knowledge about the rule of law and justice, which is included in the area of the decision rule, and the result largely depends on the degree of reflectivity of the assessment.

Explaining the social role of forensic reporting requires finding an answer to the question of what is the participation of the community itself in this. In the literature on the subject, the normative approach is dominant, in which a set of expectations towards an individual concerns how he or she is to behave. Among those who do not know the law literally, it assumes the nature of a phenomenon based on social awareness in the form of an image of a certain group of people (Wiatr, 1973, p. 110).

Elżbieta Łojko aptly explains it, quoting E. Durkheim in *Sociological Considerations*. M. Weber. T. Parsons. L. Petrażycki that one of the most important aspects of the level and type of integration of society are the mechanisms of shaping the images of the principles of law and the rule of law in social awareness and patterns of behavior. The conclusion is that a lot depends on what sources and how the society will create in its consciousness the image of the law, patterns of behavior in line with the spirit of the rule of law" (Łojko, 2013, p. 45).

Jacek Sobczak's view on the continuing demand for information from court trials still seems to be current, in which journalists – also known as investigative journalists – have a significant share. The open question is whether they have assumed the independent "role of the eyes and ears" of those who cannot observe the ongoing processes themselves? The direction of maintaining the character and rank of investigative journalism as a service to the state and society also seems to be correct. This form of journalism in its complexity undoubtedly has a social rank (Sobczak, 2000, p. 11). It should be pointed out here that the analysis would require extending the research to include forms of communication via the Internet.

In the era of the market economy, focused mainly on making a profit, it is difficult to predict whether the journalistic community itself will maintain and share the view on social service. With increasing difficulties (attributed to various crises), social sense will decline in favor of clean business.

Apart from the current condition of publishers and a number of troubles affecting them, it does not seem that they will focus on expanding the offer of forensic reporting as a basic product in the near future. Therefore, a question must be asked whether, as an alternative and reliable source of public information from the court, the state should not deal with it within the framework of universal legal education. Such a solution carries a high risk of manipulation, it is possible to use this information for the purposes of political games (Treiger, 1992, p. 98). On the other hand, like the world with the world, there were processes and comments, and what resulted from them socially (...).



## 4. Summary

Thanks to the widespread transmission of information in many areas, the public learns about a number of events related to lawmaking and application, including in the field of judicial reporting, but this is certainly not enough to raise public awareness of the law and the rule of law. Therefore, it seems to be highly justified to promote knowledge about the rule of law, starting from the level of early education. What is the difference between a 6-year-old learning a foreign language and a 6-year-old learning basic issues about law and the rule of law? The message about the law and the rule of law addressed to such young people would be received and used differently in their adult lives, also by young people joining the ranks of journalists or court reporters in the future.

It remains indisputable that there is a social need for journalistic judicial reporting and the need for the rule of law. The investigative journalist or court rapporteur should always remain objective and not succumb to any temptation (...). He should not use eristic stratagems in his report, prove the rightness of someone else's position and not draw unjustified conclusions or persuade the recipients to do so (Ziemiński, 1998, p. 214).

It is an open question whether only journalists should deal with forensic reporting, or also people from outside this profession. It seems that all those who have something interesting and correct to say on this subject do it honestly, to raise public awareness of the law and the rule of law, without exceeding the established patterns and rules in this regard (Kuzior, 2020, p. 351-363). This leads to a concluding conclusion that without the use of appropriate models – values and raising the level of citizens' awareness, it will not be possible to build a society aware of its rights and obligations, and it is not legitimate to say that every manifestation of judicial reporting contributes to strengthening the rule of law in the spirit of a democratic state. rights.

The world of values surrounds man, but it depends on him which values he pays attention to and towards which he is indifferent. Man has the freedom to choose what suits him best (Tischner et al., 2000, p. 22). Among values, man does not have to do anything and can do a lot. The less complex and understandable the forensic message, the closer to the concept of simple principles of human life and action.

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