

## I. ARTYKUŁY

### ZYGMUNT ZIEMBIŃSKI 1920–2020

#### Introduction

##### Wprowadzenie

It is more than a quarter of a century since the passing of Zygmunt Ziemiński, a scholar whose original scientific concepts left an indelible mark on the map of Polish legal theory. This seems a sufficient lapse of time to ask whether the Professor's achievement still endures, to inquire how contemporary Polish legal theory draws on the latter or which aspects it debates and confronts. Attempts to answer such questions were made at an academic conference organized by the Department of Theory and Philosophy of Law at the Adam Mickiewicz University in Poznań. The texts featured in this issue represent the yield of that conference, although the presentations delivered there were more numerous. They all focus on the core issues which Zygmunt Ziemiński addressed in his works.

This selection of conference contributions opens with a study by Jan Woleński entitled "Theory or philosophy of law?" Against a brief historical background, the author considers the relationship between philosophical and theoretical-legal reflection as well as its place in jurisprudence. Particular attention is paid to the evolution of views on this subject formulated in Polish legal theory in the latter half of the twentieth century, including those advanced by Ziemiński. He is interested not so much in the distinction between philosophy and theory of law, but in the philosophical self-knowledge of the theory of law and other legal disciplines as well. This is because he takes the position that both philosophy and theory of law may be practised as philosophical disciplines or as part of the legal sciences. Regardless of the declarations of those engaging with legal theory, he recognizes the philosophical penchant of this discipline, concluding that philosophy is indispensable in legal studies.

Two of the texts included in this volume are concerned with axiology, an issue Ziemiński did not refrain from exploring, though his opinions on the matter were fairly cautious and non-committal. Perhaps this is the reason

why it received limited interest among the researchers of Ziemiński's work, especially compared with his insights on the theory of law. Thus, the contributions by Marek Zirk-Sadowski and Marzena Kordela fill a gap in the study of Ziemiński's achievement.

Marek Zirk-Sadowski distinguishes three stages in Ziemiński's axiological reflection: the period of axiological psychologism, the semantic-pragmatic phase and the period in which Ziemiński embarks on the question of values in law. Each of the stages is therefore characterized in order to demonstrate how his views evolved. Against this background, the reader is acquainted with Ziemiński's philosophical and methodological views by way of a general outline. Marzena Kordela, on the other hand, examines how Ziemiński perceives the role of evaluations in broadly understood legal interpretation, discussing their manifestations in this process and the sources of evaluations used by the interpreter. The author draws on the Professor's early, now seldom cited works, to show that irrespective of the evolution of his views, evaluations were involved even as he began to reflect on interpretation, whereby he attributed them a vital role in the interpretive endeavour.

The subsequent three texts are devoted to theoretical-legal issues. The developed normative conception of sources of law is analysed by Leszek Leszczyński. Emphasizing its originality and 'comprehensive' nature, the author focuses on three components of the conception that he finds the least obvious: the law-making role of custom and precedent, and the political foundations of the system of law. Having interpreted these very components, Leszczyński debates some of Ziemiński's proposals, formulates pertinent questions or suggests how they may be supplemented. The study offers a major point of departure for a broader discussion of the Professor's conception.

The concept of legal norm is unquestionably central to Ziemiński's theory of law, and it became the subject of an extensive analysis that Andrzej Bator conducted adopting a structuralist perspective. In his inquiry, the author duly notes the intellectual climate at the time when the notion was conceived and discusses its further evolution.

In the closing study, Mikołaj Hermann takes a look at conventional acts, a paradigm developed by a team of Poznań legal theorists and a conception whose multiple elements are the object of some contention. The author's principal question concerns the relationship between norms of conduct and constitutive rules. The answer he puts forward relies on the distinction between two modes in which norms relate to conventional acts. Having distinguished two types of effects of conventional acts, namely the outcomes of a conventional act and the normative corollaries thereof, he concludes that a functional relationship arises between a conventional act and its normative effect. His study is thus yet another contribution to the ongoing discussion on conventional acts.

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