

## CONTENT OF THE RIGHT TO PARENTAL RESPONSIBILITY AND THE ACTIVITIES OF NON-GOVERNMENTAL ORGANIZATIONS IN POLAND

Michał Poniatowski\*

### ABSTRACT

*This study analyzes the relationship between the activities of non-governmental organizations and the content of parental authority in Poland. Thus, this study presents an outline of the sources of universally applicable law in the field of non-governmental organizations' activities with respect to public tasks, with due regard to the norms of organizational units of religious associations that may conduct activities significant from the perspective of parental authority. Simultaneously, it presents the basic sources of law relating to parental responsibility in the Polish legal system, in the relevant scope. Next, it presents the objectives of the activities of non-governmental organizations in the form of child welfare and family assistance, which may relate directly or indirectly to parental authority. Thereafter, the study, presents references to the possible interference of the activities of a non-governmental organization in the sphere of parental authority. Finally, it presents general and de lege ferenda conclusions.*

### KEYWORDS

*non-governmental organizations  
public benefit activities  
charity  
parental authority  
child welfare*

\* | Adjunct, Faculty of Canon Law, Cardinal Stefan Wyszyński University, Warsaw, Poland, [michal.poniatowski@adwokatura.home.pl](mailto:michal.poniatowski@adwokatura.home.pl), ORCID: 0000-0002-7263-4550.



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## 1. Introduction

Parental responsibility is essentially linked to parents.<sup>1</sup> However, this does not imply the isolation of the child in relation to other entities. This power is not absolute, and in certain circumstances, other entities may support, interfere, and sometimes even perform certain activities corresponding to the content of the natural parental authority for the best interests of the child.<sup>2</sup> Originally, such interference was restricted to State institutions because of significant interference with human rights. However, in the modern world, the dynamic development of non-governmental activities is noteworthy. A wide range of activities are conducted, including those that may involve explicit or implicit parental responsibility. These are precisely such activities of non-governmental organizations (NGOs) in the broad sense of the term that will be analyzed in this article against the backdrop of the current Polish legal system.

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## 2. Outline of the legal basis for the activities of NGOs in Poland

In the Polish legal system, the activities of NGOs in the broadest sense are complex with respect to the sources of law. Therefore, it is worth presenting an outline of these sources, which will allow for determining the scope of the relation of the aforementioned activity toward parental authority, which is also anchored in legal sources.<sup>3</sup> Regarding the legal basis for the activities of NGOs, which are not unimportant from the perspective of parental authority, several branches of law can be distinguished, in particular, religious law and administrative law. Additionally, owing to the nature of many NGOs, canon law should be considered following the binding constitutional and international principle of respecting the autonomy and independence of the Church and State — each in their own scope.<sup>4</sup>

1 | It should be noted that the understanding of the concept of 'parental authority' has changed in the Polish legal system, which is not the same as the concept of traditional authority. Cf. Smyczyński, 2012, pp. 219–220. As M. Andrzejewski rightly indicated, the careless questioning of the position of parents and educators in the perspective of children's rights raises justified concerns. Cf. Andrzejewski, 2006, pp. 135–136.

2 | In the doctrine of family law, parental authority is indicated as a multilateral legal relationship linking parents not only with children but also with third parties and the State. Cf. Andrzejewski, 2006, p. 136.

3 | Cf. Article 18, 48 of the Constitution of the Republic of Poland of April 2, 1997 (Journal of Laws 1997 No. 78, item 483), Article 3 section 2 of the Convention on the Rights of the Child of November 20, 1989 (Journal of Laws 1991 No. 120, item 526), Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on November 4, 1950 (Journal of Laws 1993 No. 61 item 284).

4 | Pursuant to Article 25 section 3 of the Constitution: 'The relationship between the State and churches and other religious organizations shall be based on the principle of respect

Bearing in mind the historical aspect, it should be indicated that charitable activities aimed at the welfare of children have been conducted in Poland for centuries by organizational units of the Catholic Church and other religious associations, which, regardless of the State legal system, operated and still operate on the basis of internal law.<sup>5</sup> Historically, the above organizational units were not called 'non-governmental organizations.' This concept is new to the Polish legal system.<sup>6</sup> However, in a broad sense, these units can be classified into this category while respecting their distinctiveness. This is important in terms of the relationship between parental authority and the activities of this type of organizational unit, which are primarily guided in their activities by religious premises. In this case, the relationship of such entities to parental authority is even more complex than in the case of NGOs of secular origin.<sup>7</sup>

In addition to the internal laws of individual religious associations, charity is also regulated by religious law as a universally applicable law. It is noteworthy that the activities of the organizational units of church were heavily limited during the communist period and sometimes even banned.<sup>8</sup> Despite this fact, these units ran

for their autonomy and the mutual independence of each in its own sphere, as well as on the principle of cooperation for the individual and the common good.' However, pursuant to Article 1 of the Concordat between the Holy See and the Republic of Poland of July 28, 1993 (Journal of Laws 1998 No. 51 item 318): 'The Republic of Poland and the Holy See confirm that the State and the Catholic Church are – each in their field – independent and autonomous and undertake to fully respect this principle in their mutual relations and cooperation for human development and the common good.' This principle is also found in many other modern concordats. See also Poniatowski, 2016, pp. 89–109.

5 | For example, in the case of the Catholic Church, in the current legal situation, a mention should be made of Benedict XVI's *motu proprio De Caritate ministranda* of November 11, 2012 [AAS 104 (2012 996-1004), which is a key source of canon law concerning the implementation of the so-called ministry of love. It includes helping others, including children who require special care also for religious reasons, and moreover, attention should be paid to bilateral international law in the form of a concordat.

6 | However, it is also worth paying attention to the activities of foundations, the regulations of which have been in force since the 1980s (with numerous subsequent amendments). Pursuant to Article 1 of the Act of April 6, 1984 on foundations (consolidated text, Journal of Laws 2020, item 2167): 'The Foundation may be established for the implementation of socially or economically useful goals consistent with the basic interests of the Republic of Poland, in particular, such as health protection, economic development and science, education and upbringing, culture and art, welfare and social assistance, environmental protection and protection of monuments.' This catalog is open and therefore, wider than the closed catalog of public tasks conducted by non-governmental organizations, which will be described later in the study. Importantly, the catalog of the foundation's goals contained in the statute may not, as a rule, be changed. Cf. Cioch, 2010, p. 19.

7 | An example is the functioning of the so-called 'windows of life,' which are located in establishments run by religious institutions. In such a place, a parent or parents can leave the child who is thereafter, transferred for possible adoption. In this case, the main value resulting from faith is the life of the child, which precedes in rank, for example, the issues of personal data or the right to know own parents' identity. However, it should be noted, that for this reason, certain other entities demanded the liquidation of such places in Poland.

8 | For example, after the end of World War II, the communist authorities liquidated Caritas organizational units that conducted charity work within the Catholic Church. Their reactivation could only occur after the political system changed.

various shelters, nurseries, and single mothers' homes. Only toward the end of the communist regime period, in 1989, laws were issued that guaranteed the organizational units of church as legal entities and the possibility of extensively conducting 'charity and care activities.' In the Polish legal system, charity and care activities are currently guaranteed both generally and individually. In the first case, the Act of May 17, 1989, on Guarantees of Freedom of Conscience and Religion<sup>9</sup> is applicable, pursuant to Article 19 section 2 point 15: 'By performing religious functions, churches and other religious associations may, in particular: [...] carry out charity and care activities.' It is worth emphasizing that the legislature clearly recognized the religious grounds for conducting charity and care activities by religious associations. However, in the individual aspect, it is noteworthy that the recognition of the right to conduct such activity applies both directly to church legal persons (direct aspect)<sup>10</sup> and also to the so-called Catholic organizations (indirect aspect)<sup>11</sup> that are established with the approval of the ecclesiastical authority.

In addition to charity and care, educational and upbringing activities, as well as numerous schools and other educational institutions are worth mentioning – from the perspective of paternal authority. In Poland, these activities that are similar to charitable activities have been conducted for centuries by organizational units of religious associations, and it developed further after the communist period.<sup>12</sup> Guarantees of conducting this type of activity arise mainly from the constitution,<sup>13</sup> international agreements,<sup>14</sup> and statutes.<sup>15</sup>

Regarding the next branch of law, it is noteworthy that it was only on June 19, 2003, that the Act of April 24, 2003, on Public Benefit and Volunteer Work entered into force in the Polish legal system.<sup>16</sup> This act defines NGOs.<sup>17</sup>

9 | Consolidated text, Journal of Laws, 2022, item 1435 as amended.

10 | Pursuant to Article 38 section 1 of the Act of May 17, 1989 on the relationship of the State toward the Catholic Church in the Republic of Poland (consolidated text: Journal of Laws 2019, item 1347, as amended): 'Legal persons of the Church have the right to conduct charity and care activities appropriate for each of them.'

11 | Pursuant to Article 35 section 2 of the Act of May 17, 1989 on the relationship of the State toward the Catholic Church in the Republic of Poland: 'Catholic organizations may aim, in particular, in accordance with the teachings of the Church, for socio-cultural, educational, charity and care activities.'

12 | Cf. the preamble to the Concordat. The original wording of the currently repealed preamble to the Act of 7 September 1991 on the education system (consolidated text Journal of Laws 2021, item 1915, as amended) is noteworthy: 'Education in the Republic of Poland is a common good of the whole of society; follows the principles contained in the Constitution of the Republic of Poland, as well as the indications contained in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Rights of the Child. Teaching and upbringing – respecting the Christian value system - are based on universal ethical principles. [...]'

13 | Article 53 sections 2–4, Article 73 of the Constitution.

14 | Article 14 of the Concordat.

15 | Cf. Article 1 point 4) of the Education Law of December 14, 2016 (consolidated text: Journal of Laws 2021 No. 1082).

16 | Consolidated text, Journal of Laws, 2022, item 1327 as amended.

17 | Pursuant to Article 3 section 2 of this Act: 'Non-governmental organizations are those: 1) which are not entities of the public finance sector within the meaning of the Act of 27

Public benefit activities can be conducted – as an additional aspect within their own autonomy and independence – also by, among others, the aforementioned organizational units of religious associations, although they are not included in the strict category of NGOs.<sup>18</sup> Additionally, in the case of administrative law, in the context of parental responsibility, focus should be on the activities of NGOs in the field of education. Pursuant to Article 3 section 1 of the Act of December 14, 2016, Educational Law (consolidated text 2021, item 1082, as amended): ‘The education system is supported by: 1) non-governmental organizations, including scouting organizations; 2) research institutes; 3) cultural institutions; 4) entities conducting statutory activity in the field of education.’ Public administration bodies, including the authorities running schools and institutions, are required to cooperate<sup>19</sup> with these entities in the performance of tasks specified in the broad catalog contained in the first article of this Act, *inter alia*, in exercising the right to education<sup>20</sup> or support by the school of the educational role of the family.<sup>21</sup> Nonetheless, it should be noted that NGOs may also independently establish educational institutions.<sup>22</sup> When such an establishment is created by organizational units of religious associations, there is a noticeable increase in the complexity of the sources of law regulating the activities of such an institution, for example, in the field of teaching in accordance with Christian values.<sup>23</sup>

Furthermore, the activities of NGOs are not restricted to administrative or religious law. Although these are the primary legal sources, they are not exhaustive. For example, copyright,<sup>24</sup> civil,<sup>25</sup> or penal law<sup>26</sup> may also apply.

Considering the above, it can be concluded that the activity of NGOs in the broad sense is regulated by many branches of law and at different levels in the hierarchy of sources of law. Therefore, a complex interpretation of the sources of law regulating the activities of these organizations should be used to subsequently refer to the relationship with the sources of law regulating parental authority. In both cases, it may also be necessary to refer to constitutional axiology owing to

August 2009 on public finance or enterprises, research institutes, banks and commercial law companies that are state or local government legal persons, 2) which do not operate in order to make a profit – legal persons or organizational units without legal personality to which a separate act grants legal capacity, including foundations and associations, subject to paragraph 4.’

18 | Cf. Article 3 of the Act on Public Benefit and Volunteer Work.

19 | Cf. Article 3 section 4 of the Educational Law.

20 | Cf. *ibid.*, Article 1 point 1).

21 | Cf. *ibid.*, Article 1 point 2).

22 | Cf. *ibid.*, Article 1 point 4).

23 | In practice, certain offices even require the removal of references to the principles of the Christian faith from the provisions of their statutes. In such a case, however, the institution, while protecting its identity and own rights, should refer to the appropriate sources of religious law and properly recognized canon law.

24 | For example, the issue of the use of photographs of a child from a school trip by non-governmental organizations.

25 | For example, the issue of contractual or tort liability for an accident during a cultural event involving children.

26 | For example, the issue of penal liability for the prohibited acts of employees or volunteers of such an NGO in relation to children.

the need to analyze a given value from the perspective of its hierarchy.<sup>27</sup> However, it should be considered that individual values may also have a superiority relationship.<sup>28</sup> Interestingly, the sources of law regulating the activities of NGOs and parental authority can be found simultaneously at various levels of the hierarchy of sources of law, including the constitution, international law, or statutes. It may often happen that a conflict of law rule that gives primacy to higher-order norms may therefore be insufficient to resolve a specific legal issue. Thus, an individual approach to individual legal issues arising from the relationship between the sources of law regulating the activities of NGOs and the exercise of parental authority is advisable.

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### 3. Child welfare and assisting the family as the goal of the activities of NGOs

The activities of NGOs are understood broadly. Bearing in mind the organizational units of religious associations, it should be noted that taking care of the child's welfare results not only from taking care of the man's good, but also the common good.<sup>29</sup> In this case, religious reasons are also important. Helping

27 | The Constitutional Court in its judgment of May 18, 2005 (file reference number K 16/04, Journal of Laws of 2005, No. 95, item 806, OTK ZU 5A / 2005/51) stated that: 'Once again, it is necessary to emphasize that in the light of the axiology adopted in the Polish Constitution, family and marriage are values that occupy a particularly high rank in the hierarchy of constitutional values.'

28 | In the jurisprudence of the Constitutional Court, priority is given to such values as life and human dignity. As stated by the Constitutional Court in the judgment of September 30, 2008 (file reference number K 44/07, Journal of Laws of 2008, No. 177, item 1095, OTK ZU 7A / 2008/126): 'These values constitute the foundation of European civilization and determine the semantic content of the concept of humanism, which is central in our culture (including the legal one). They are inalienable in the sense that they do not allow for being <<suspended>> or <<annulled>> in a specific situational context.'

29 | Cf. Article 25 section 3 of the Constitution, Article 1 of the Concordat. A certain refinement of the principle of cooperation can be noticed at the level of acts, which refer not only to organizational units of religious associations but also to non-governmental organizations. Pursuant to Article 2 clause 2 of the Act of March 12, 2004 on social assistance (consolidated text: Journal of Laws 2021, item 2268, as amended): 'Social assistance is organized by government and local government administration bodies, cooperating in this respect, on the basis of partnership, with social and non-governmental organizations, the Catholic Church, other churches, religious associations and natural and legal persons.' As I. Sierpowska rightly indicated, the cooperation of non-governmental organizations in this respect is optional, unlike in case of public entities. Cf. Sierpowska, 2014, p. 35. However, pursuant to Article 9 section 1 of the Act of July 29, 2005 on Counteracting Domestic Violence (consolidated text: Journal of Laws 2021, item 1249): 'Government and self-government administration bodies cooperate with non-governmental organizations, churches and religious associations in the field of providing assistance to persons affected by violence, influencing the perpetrators of violence and raising social awareness about the causes and effects of domestic violence.' See also Poniatowski, 2015, pp. 307–322; Zarzycki, 2007, pp. 23–60.

children is included in the commandments of love and the duty to help the poor, which is a broad concept. Further, these entities protect the integrity of the family. Undoubtedly, caring for a child's welfare is part of the ministry of mercy.

In the case of public benefit activities, which may be conducted by NGOs (and as mentioned also, *inter alia*, by organizational units of religious associations, i.e., as an additional or exclusive activity), it is worth indicating the so-called sphere of public tasks.<sup>30</sup> This sphere currently includes 41 tasks listed in the closed catalog.<sup>31</sup> Few of these tasks relate directly or indirectly to the welfare of the child and assisting the family.<sup>32</sup>

For example, the first category includes tasks such as social assistance, including helping families and people in a difficult life situation and equalizing opportunities for these families and people,<sup>33</sup> supporting the family and foster care system,<sup>34</sup> or activities for the family, motherhood, parenthood, and the protection of children's rights.<sup>35</sup> The second category is broader. It may include, for example: 1) providing free legal assistance and increasing legal awareness in the society;<sup>36</sup> 2) activities for the professional and social integration and reintegration of people at risk of social exclusion;<sup>37</sup> 3) charity work;<sup>38</sup> 4) maintaining and disseminating the national tradition, cultivating Polishness and developing national, civic, and cultural awareness;<sup>39</sup> 5) activities for the benefit of national and ethnic minorities and a regional language;<sup>40</sup> 6) activities for the integration of foreigners;<sup>41</sup> 7) health protection and promotion, including medical activities;<sup>42</sup> 8) activities for the benefit of the disabled;<sup>43</sup> 9) activities for the benefit of science, higher education, education, and upbringing;<sup>44</sup> 10) activities including leisure for children and adolescents;<sup>45</sup> and 11) promotion and organization of voluntary work,<sup>46</sup> or appropriate activities for the broadly understood NGOs that operate

30 | Cf. Article 4 of the Act on Public Benefit and Volunteer Work.

31 | This catalog is subject to gradual extension. See also Blicharz, 2012, p. 65.

32 | Simultaneously, it is noteworthy that the Constitutional Court in its judgment of October 11, 2011 (file reference number K 16/10, Journal of Laws 2011 No. 240, item 1436, OTK ZU 8A / 2011/80) recognized the child's best interests as 'a specific general clause, the reconstruction of which should take place by referring to the axiology of the Constitution and general system assumptions.' See also the judgment of the Constitutional Court of January 21, 2014, file ref. SK 5/12, Journal of Laws No. of 2014, item 135, OTK ZU 1A / 2014/2).

33 | Cf. Article 4 point 1 of the Act on Public Benefit and Volunteer Work.

34 | Cf. *ibid.*, Article 4 section 1 point 1a).

35 | Cf. *ibid.*, Article 4 section 1 point 31).

36 | Cf. *ibid.*, Article 4 section 1 point 1b).

37 | Cf. *ibid.*, Article 4 section 1 point 2).

38 | Cf. *ibid.*, Article 4 section 1 point 3).

39 | Cf. *ibid.*, Article 4 section 1 point 4).

40 | Cf. *ibid.*, Article 4 section 1 point 5).

41 | Cf. *ibid.*, Article 4 section 1 point 5a).

42 | Cf. *ibid.*, Article 4 section 1 point 6).

43 | Cf. *ibid.*, Article 4 section 1 point 7).

44 | Cf. *ibid.*, Article 4 section 1 point 14).

45 | Cf. *ibid.*, Article 4 section 1 point 15).

46 | Cf. *ibid.*, Article 4 section 1 point 27).

within the aforementioned tasks, both those directly and indirectly related to parental authority.<sup>47</sup>

Therefore, it can be concluded that the activity of NGOs in Poland is extremely broad. This spectrum of goals also includes helping the children and their families. The statutory activities of NGOs may include such assistance. However, it is extremely important in the Polish legal system that such aid is both, actually provided, and for formal reasons, it should be entered into the statute of a given organization or other documents regulating its activity.<sup>48</sup>

Individual NGOs are free to select statutory objectives, the boundaries of which are defined or properly recognized by law. It should be emphasized that the choice of statutory goals is usually unilateral, and only a registered non-governmental organization can enter into a relationship with parents. Sometimes, however, the parents themselves may establish a non-governmental organization, for example, to run an educational institution. The performance of statutory goals is also not specified. An organization may discontinue activities that may directly or indirectly relate to parental responsibility; however, it may also begin or develop such activities.

It should also be clearly emphasized that the activity itself, which is not absolute and is related to the rights of other people, including parental authority, should be distinguished from the provisions of individual statutory provisions.<sup>49</sup>

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#### **4. Activities of public benefit organizations from the perspective of exercising parental authority**

The activity of an NGO within the aforementioned legal basis and specific statutory activities is not always neutral from the perspective of exercising parental authority. It is worth remembering that a constitutional norm requires statutory premises and a legally valid court decision to limit or deprive parental rights.<sup>50</sup>

Often, there are various types of relationships between this activity and the exercise of parental authority by parents (although the international standard is that, as a rule, the rights and obligations of parents toward their children precede the rights and obligations of other entities).<sup>51</sup> Several situations can be distinguished

47 | Cf. *ibid.*, Article 4 section 1 point 33).

48 | See also Staszczuk, 2013, p. 22.

49 | For example, in certain cases, both public entities and parents, as persons having a legal interest, may initiate a procedure under which the court may even remove/cancel a non-governmental organization being a limited liability company from the National Court Register, if the provisions of the subject of activity specified in the statute are contrary to the law. Article 21 § 1 point 2) of the Act of September 15, 2000, Code of Commercial Companies (consolidated text: Journal of Laws 2022 item 1467).

50 | Cf. Article 48 section 2 of the Constitution. Cf. also 109–111 of the Act of February 25, 1964, Family and Guardianship Code (consolidated text, Journal of Laws 2020, item 1359).

51 | Smyczyński, 2012, p. 221.



in this regard. One of these criteria is the degree of interference with parental responsibility. In this respect, the activities of NGOs can be distinguished, which may comprise informing, supporting, or even replacing parental authority.

NGOs conducting informative activities both for parents and children may be problematic. Such activities may fall within the sphere of public tasks (and may be financed from public<sup>52</sup> or non-public funds<sup>53</sup>). For example, an NGO can train children on road safety. To determine whether such an activity is neutral from the perspective of parental authority, the example of first-aid training is used, the element of which is practicing artificial respiration by children. Certain examples further illustrate the overlap between NGO activities and parental responsibility. For example, certain NGOs attempt to conduct classes in public or private schools without the prior consent of the parents, although their content may be contrary to the parents' worldview or religious beliefs.

However, the procedure of acquiring prior consent occurs not only in educational or cultural institutions, where it is easier for parents to control their children's activities. Nonetheless, in the juridical sense, it is much more difficult for parents to control the activities of NGOs involving their children, conducted on other forums, such as social networking sites. In this respect, the Polish legal system does not contain detailed regulations. In addition, they often function through relevant provisions of regulations based on the standards of other legal systems. Thus, a significant interference in the exercise of parental responsibility cannot be ruled out. It is worth demanding a generally applicable law that regulates such websites by making the use of their websites by minors conditional on the consent of their parents and compliance with the norms of Polish law (and other countries). Otherwise, in certain cases, the exercise of parental responsibility may be illusory.

Another degree of interference may be the activity of NGOs that support parental authority. In this regard, it is worth mentioning, for example, the psychological help provided to a child. For this purpose, consent should be obtained from the parents (by psychologists, psychiatrists, employed by NGOs). Thus, this support is, in principle, optional, similar to an informative activity. From a legal perspective, the provision of free legal assistance to parents is noteworthy, for example, in the field of solving educational problems with the help of the court or explaining the reasons for limiting or depriving parental authority. Such aid is provided in Poland by many NGOs, which in this area are financed by public or non-public funds.<sup>54</sup>

The most far-reaching option is to somehow replace parents as part of the activities of NGOs.<sup>55</sup> For example, such an activity may comprise running an

52 | For example, see Article 8 point 7) lit. b) of the Act of July 29, 2005 on Counteracting Domestic Violence.

53 | Cf. also Article 10a section 1, pkt 4 letter a) of the Act on Public Benefit and Volunteer Work.

54 | Cf. Article 11 section 1 of the Act of 5 August 2015 on free legal assistance, free civic counseling and legal education (consolidated text, Journal of Laws 2021, item 945, as amended).

55 | Similarly, in H. Cieplý's opinion, depriving parents of parental authority is the most severe measure of court interference in the sphere of relations between parents and children, because parents lose this authority completely. Cf. Cieplý, 2011, p. 807.

orphanage.<sup>56</sup> In this case, obtaining consent is not necessary; however, the NGO must act on a clear legal basis and an appropriate court decision.

The second criterion for dividing the activities of NGOs in relation to parental authority can be the criterion of a voluntary or coercive decision on the part of the parents. In the first case, the aforementioned informative activity of NGOs conducted with the consent of parents can be indicated. The activity of NGOs is more complicated in relation to parental authority in the case of a lack of parental consent. Such an activity must always result from a specific legal basis and an appropriate court decision. In such cases, the activity of NGOs is only a consequence of coercion applied by the public authority because it can only be applied on the basis of the law. One example is the prevention of domestic violence.<sup>57</sup>

Therefore, it can be concluded that the nature of the relationship between the activities of NGOs and the exercise of parental authority is multifaceted. It is likely to intensify in the future owing to the development of NGOs, and conversely, owing to the frequent questioning of the foundations of parental authority in the modern world, or even the functioning of the family as a value protected by constitutional axiology. Various degrees can be distinguished in the relationship in question, which gives rise to specific legal consequences. In certain cases, where the activity of an NGO requires obtaining parental consent, such activity without obtaining parental consent results in civil liability, and may even result in penal liability. Alternatively, in the Polish legal system, it is also possible to simulate situations in which the activities of NGOs indirectly based on a relevant legal title do not require parental consent and may interfere with the exercise of parental authority. However, such an action should, in principle, be exceptional and not arbitrary.

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## 5. Conclusions

The relationship between the activities of NGOs and the exercise of parental authority is a complex and topical issue. Moreover, the development of NGOs within the sphere of public tasks allows us to assume that this issue may become even more complex. The increasing direct and indirect influence of NGOs on the upbringing and education of a child is noticeable, which is not indifferent from the perspective of parental authority.

Both the activity of NGOs and the exercise of parental authority are protected by the sources of universally binding law, in parallel with the constitution itself

56 | I. Sierpowska drew attention to the variety of ways of classifying educational institutions. In her opinion, one can mention public institutions that are run by a commune, *poviat* or *voivodeship* self-government, as well as non-public units run by other entities. Cf. Sierpowska, 2011, pp. 177–178.

57 | In Poland, the system of counteracting domestic violence is extensive. It includes activities undertaken by the commune, including the functioning of the so-called interdisciplinary teams, which also include representatives of non-governmental organizations. Cf. Article 9a of the Act on Counteracting Domestic Violence. See also Andrzejewski, 2021, p. 172.

and international law. However, this does not represent a sign of equality in terms of protection. Further, such parallel protection creates a relationship. Although parental authority is rooted in constitutional axiology and is natural, it is not absolute. The freedom to conduct public benefit activities by NGOs is not absolute either. The beginning of resolving a possible conflict should be a holistic understanding of the best interests of the child. However, the Polish legal system lacks detailed conflict-of-law rules. Nevertheless, it can be concluded that in principle, there is a need to obtain appropriate consent from parents in cases where the activity of NGOs affects the child and is conducted in charity, cultural, or educational institutions, both those run by public and non-public entities. Compliance with this principle should also be *de lege ferenda* required in the case of the activities of NGOs also in other spheres in which such activities may concern children, in particular as part of the cyberspace functioning.

It would be recommendable to supplement Article 4 of the Act on Public Benefit and Volunteer Work with paragraph 3 guaranteeing that the performance of tasks in the public sphere may not be directed to any persons or their representatives without their consent, unless it results from specific regulations.

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