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Contents / Sadržaj

Editorial

It is our great pleasure to present the 30th issue of *Jahr – European Journal of Bioethics*. We are especially proud of the continuation of celebrating the important Kantian anniversary – the 300th anniversary of the birth of one of the greatest thinkers, Immanuel Kant (1724–1804) – by preparing again (as in the first number of this year's volume) a special thematic section on Kantian contributions to bioethics. We are particularly proud that several articles in this thematic block on Kant are based on presentations delivered at the conference "The Contribution of Immanuel Kant to the Historical Development and Identity of (Bio)Medical Sciences", held in Rijeka at the Faculty of Medicine, University of Rijeka, on June 13, 2024. All these efforts are part of a larger, coordinated project celebrating this important Kantian anniversary among the Croatian philosophical and bioethical communities in general, and they are also related to a specific scientific project supported by the University of Rijeka ("In a Healthy Mind, a Healthy Body – Reactualization of Kant's Philosophy in Light of Contemporary Challenges of Medical Science and Bioethics"; uniri-iskusni-human-23-133).

The general section gathers several important topics in the medical humanities and social sciences in medicine, all of which are extremely important in bioethical considerations. The first article is devoted to researching the experience of providing help and care services in the home and the need for support for formal caregivers of people with trauma experience. The second article analyses the sensibility of the social environment towards families of children with developmental disabilities and persons with disabilities from the parents' perspective. In the third article, the authors discuss the social distance of nurses and technicians in Bosnia and Herzegovina towards members of the Roma national minority. Philosophy as therapy in a culture of personality disorders is the research topic of the fourth article. In the fifth article, the authors show how European countries bordering the Mediterranean have affected bioethics, with special emphasis on Croatia, Greece, Italy, and Spain.

As previously mentioned, additional space has been given to six papers in the section devoted to Kantian contributions to bioethics, all presented in the guest editorial.

We are continuing our collaboration with the Humanities Research Institute from Chung-Ang University in Seoul, South Korea, which has once again resulted

in a special section devoted to Artificial Intelligence Humanities. The first article analyses classification outcomes in large Korean legal document datasets. The second investigates the connections between political artificial intelligence and Rousseau's concept of the general will. The last contribution deals with the nature of holographic beings through an analysis of Joi's independence in Denis Villeneuve's *Blade Runner 2049*.

Two book reviews are also a part of this issue.

I would like to thank the members of the Editorial Board, peer reviewers, and all other associates involved in the creation of this issue. Special thanks to the Executive Editor, Managing Editors, and our Language Editors for their tremendous help. A special thanks goes to both guest editors of the special Kantian section.

Enjoy reading *Jahr*!

Igor Eterović

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Maja Laklija*, Ana Hermanović**

Iskustvo pružanja usluge pomoći i njege u kući i potrebe za podrškom formalnih njegovatelja osoba s iskustvom traume

SAŽETAK

Zbog intenzivnog kontakta s korisnicima s iskustvom traume (osoba koje su preživjele Holokaust) i svoje radne uloge, formalni njegovatelji potencijalno mogu biti izloženi profesionalnom stresu, sagorijevanja na poslu, posrednoj traumi i drugim rizicima. S obzirom na to da je ova tema istraživački zanemarena, cilj je ovog rada produbiti spoznaje o iskustvu pružanja skrbi i potrebama za podrškom formalnih njegovatelja preživjelih (N = 7). Podaci su prikupljani metodom polustrukuriranog intervjua, a u obradi je korištena analiza okvira. Rezultati istraživanja ukazuju na kompleksnost njegovateljske uloge i navode brojne izazove s kojima se susreću u obavljanju svoje radne uloge. Doživljaj utjecaja izloženosti traumatskim iskustvima svojih korisnika njegovateljice opisuju kroz negativne aspekte koji se odnose na opis iskustva kao emocionalno pobuđujućeg te promjene kognitivnih shema o svijetu i ljudima. No, prepoznaju i pozitivne aspekte izloženosti traumi korisnika. Strategije koje koriste u suočavanju s izazovima odnose se na: strategije usmjerene na emocije i one usmjerene na problem. U istraživanju su identificirane potrebe za sustavnom podrškom njegovateljima u suočavanju s izazovima njegovateljske uloge i prevenciji sagorijevanja i posredne traume te date smjernice za unaprjeđenje pružanje podrške njegovateljima i brizi za njihovo zdravlje, a time i kvalitete usluge korisnicima.

Ključne riječi: formalni njegovatelji, osobe koje su preživjele Holokaust, trauma, izazovi njegovateljstva, potrebe za podrškom.

UVOD

Demografski trendovi ukazuju na izazove podmirivanja zdravstvenih i socijalnih potreba starijih osoba putem usluga dostupnih u sustavu socijalne i zdravstvene

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skrbi (Jarling i sur., 2020; Tilinger i Štambuk, 2018). Slijedom toga, usluge pomoći i njege u kući koje pružaju formalni njegovatelji (zaposlenici u agencijama ili organizacijama koje pružaju usluge skrbi organizirane od strane privatnih ustanova ili lokalne zajednice) predstavljaju značajan doprinos postojećim uslugama u zajednici (Saavedra, Murvartian i Vallecillo, 2020; Štambuk i Levak, 2018). Pružanje usluga pomoći i njege u kući: omogućuje starijoj osobi da čim duže ostane živjeti u svom domu (prevencija institucionalizacije) i povećava zadovoljstvo osobe jer se skrb odvija u poznatoj okolini te omogućava podmirivanje potreba korisnika na njemu prilagođen način (Despot Lučanin, 2022). Aktivnosti kojima njegovatelji pomažu starijoj osobi mogu uključivati: osobnu njegu; kućanske aktivnosti; pomoć pri kupnji i prijevoz; brigu oko financija i emocionalnu podršku (Štambuk, Rusac i Skokandić, 2019). Machielse i suradnici (2022) kao temeljne kompetencije njegovatelja navode: empatiju; komunikacijske vještine; kulturalne kompetencije (sposobnost osvještavanja svojih predrasuda i uvažavanje različitosti); sposobnost razvijanja dobrog odnosa i interakcija s korisnikom; moralne kompetencije (poštovanje individualnosti, dostojanstva i sigurnosti); sposobnost prepoznavanja i identificiranja potreba korisnika uz odabir prikladne intervencije te briga o sebi – odgovornost za osobno zdravlje i dobrobit. Program osposobljavanja za poslove njegovatelja/ice starijih i nemoćnih osoba pri Pučkom otvorenom učilištu Zagreb (2023) uključuje osnove gerontologije, anatomije i fiziologije, njegu starijih i nemoćnih bolesnih osoba, zaštitu na radu i prvu pomoć i praktičnu nastavu kroz aktivno sudjelovanje u radnom okruženju. Kompetencije koje polaznik stječe uključuju: razlikovanje, odabir i korištenje odgovarajućih postupaka u njezi korisnika, prepoznavanje promjena u procesu starenja zdravih i bolesnih osoba, primjerene komunikacije s korisnicima, poslovni bonton; primjenjivanje pravila i postupaka higijene prostora i pribora te zaštite na radu i prvu pomoć.

Saavedra, Murvartian i Vallecillo (2020) ukazuju na trend da je s porastom potražnje za uslugom njege i skrbi starijih osoba u njihovim kućanstvima, a time i formalnim njegovateljima, zamijećeno da je ovo područje postalo svojevrsni bazen za zapošljavanje teško zapošljivih osoba, koje su često i slabo plaćene. Upozoravaju da u nekim situacijama to znači manjak kvalifikacija njegovatelja za rad sa specifičnim skupinama (npr. osoba koje boluju od demencije, koje su pretrpjele traumu itd.) i nedostatnu podršku. Nadalje, sama zahtjevnost njegovateljske uloge uz izostanak edukacije, podrške i supervizije može narušiti psihofizičko zdravlje njegovatelja (prisutnost anksioznih i depresivnih simptoma), dovesti do, primjerice, psihičkih posljedica u vidu sagorijevanja na poslu te utječu na kvalitetu usluge (David, 2003; Petrović i Repovečki, 2016; Štambuk i Levak, 2018). Riziku od navedenog te posredne i vikarijske traumatizacije posebno su izloženi pomagači koji rade s osobama s iskustvom traume (Arambašić, 1996; Adams, Boscarino i Figley, 2006; Ćosić Pregrad, 2024; David, 2003).

U skupinu starijih osoba s iskustvom traume spadaju osobe koje su preživjele Holokaust, koje su pretrpjele različite traume, što je ostavilo dugoročne posljedice na njihovo funkcioniranje u različitim životnim ulogama (David i Pelly, 2003b) te zdravstvene probleme u području fizičkog i mentalnog zdravlja, čiji se intenzitet može pojačati u starijoj dobi (Horáčková i sur., 2020; Isserman, Hollander-Goldfein i Nechama Horwitz, 2017). Budući da je područje skrbi o starijim osobama koje su pretrpjele traumu kod nas zanemareno, a da su istraživanja o potrebama njegovatelja uglavnom usmjerena na neformalne njegovatelje (članove obitelji), postoji potreba za stjecanjem uvida u iskustvo i potrebe za podrškom formalnih njegovatelja koji rade s osobama koje su pretrpjele traumu, u kontekstu ovog rada s osobama koje su preživjele Holokaust.

Specifičnosti i utjecaj skrbi o osobama koje su preživjele Holokaust na njegovatelje

Utjecaj traume (događaj ili situaciju koja nadilazi mehanizme prilagodbe i suočavanja) može se manifestirati na fizičke, emocionalne i socijalne aspekte u životu pojedinca (Anderson, Fields i Dobb, 2011). Židovi koji su preživjele Holokaust pretrpjeli su različite traume: koncentracijske i sabirne logore, hapšenja, život u getu, nasilje, odvojenost od roditelja u ključnim razvojnim fazama; rani gubitak roditelja; život u skrivanju u potpunoj izolaciji od vanjskog svijeta te život pod lažnim identitetom, što je ostavilo posljedice na njihovo funkcioniranje u ulozi roditelja i odraslih (David i Pelly, 2003b) te zdravstvene probleme (npr. kronične plućne i srčane teškoće, dijabetes, karcinom ili autoimune bolesti) (Horáčková i sur., 2020), sklonost depresiji, anksioznosti i drugim psihološkim simptomima čiji se intenzitet može pojačati u starijoj dobi (Isserman, Hollander–Goldfein i Nechama Horwitz, 2017). S obzirom na to da je iskustvo Holokausta cjeloživotni narativ, nije iznenađujuće da se određeni simptomi i odgovori na traumatsko iskustvo mogu (ponovno) javiti ili intenzivirati u kasnijim životnim razdobljima (tijekom procesa starenja) prilikom sjećanja na stresor (Anderson, Fields i Dobb, 2011; Isserman, Hollander–Goldfein i Nechama Horwitz, 2017).

Pružanje skrbi starijim osobama koje su doživjele traumu može biti izazovno zbog potencijalnih okidača (npr. bolest, gubitak bliske osobe (posebno supružnika), odvajanje, umirovljenje (više vremena za razmišljanje o tom životnom periodu), institucionalizacija, veći fokus na Holokaust u medijima u odnosu na prošla desetljeća, zbivanja u Izraelu itd.) koji mogu izazvati retraumatizaciju i emocionalne i bihevioralne reakcije preživjelih, budući da sjećanja na traumu mogu utjecati na njihove reakcije prema naizgled običnim aktivnostima njegovatelja (npr. održavanje osobne higijene i oblačenje) (Pelly, 2003; David i Pelly, 2003). Prisutnost kognitivnih poteškoća kod korisnika (npr. demencija) može pojačati njegove emocionalne i

bihevioralne reakcije (Anderson, Fields i Dob, 2011). Naime, osobe koje boluju od demencije, kako bi zadržale svoju samosvijest, ovise o dugoročnom pamćenju koje kod preživjelih uključuje sjećanje na traumatske događaje, što kod nekih preživjelih dovodi do intenziviranja tih sjećanja, noćnih mora i poremećaja spavanja te *flashbackove*. Intenzivno razmišljanje o proživljenom uz lošije fizičko i mentalno zdravlje pojačava učinak sjećanja na traumu Holokausta te može izazivati i osjećaj gubitka kontrole na životom (Isserman, Hollander-Goldfein i Nechama Horwitz, 2017).

Posljedice traume na pojedinca treba promatrati kao istovremeno postojanje ranjivosti i otpornosti. Naime, preživjeli su većinom nakon rata vodili produktivan život, noseći se sa dugoročnim psihosocijalnim posljedicama traumatskog iskustva (David i Pelly, 2003a; Teshuva, 2010). Unatoč tome što se u literaturi spominju destruktivne emocionalne posljedice za preživjele, preživjeli najčešće nisu dobili nikakvu formalnu psihološku podršku. Svoju traumu su uglavnom nosili u sebi (Levine, 2001). Strategije suočavanja uz pomoć kojih su se nosili s traumom u starijoj dobi slabe (Issserman i sur., 2017). Zbog reduciranih mehanizama suočavanja i resursa kod starijih osoba koje su pretrpjele traumu može doći do ponovnih intenzivnih reakcija na traumu, čak i kod onih koji u ranijim životnim razdobljima nisu pokazivali simptomatologiju (Anderson, Fields i Dob, 2011). Za razliku od aktivnih strategija suočavanja koje su koristili za vrijeme i nakon rata kako bi izgradili svoj život, u starijoj dobi glavnu ulogu u nošenju sa stresom preuzimaju obrambeni mehanizmi.

Osobe koje skrbe o preživjelima trebaju razumjeti da su individualna traumatska iskustva oblikovala te osobe i imaju direktan učinak na skrb o njima (David, 2003). David (2003) ističe da slušanje o iskustvima iz Holokausta može istodobno biti izazovno i nagrađujuće za stručnjake koji rade s tim osobama. Uloga je njegovatelja pomažuća i uključuje neposrednu komunikaciju s korisnikom koja traži uživljavanje u njegovo emocionalno stanje i empatiju. S obzirom na intenzitet kontakta i bliskost odnosa formalnih njegovatelja i osoba o kojima skrbe, slušanje s empatijom i adekvatno reagiranje može biti izazovno za njegovatelje, budući da neke životne priče mogu biti doista uznemirujuće i traumatizirajuće. Navedeno može predstavljati opterećenje za mentalno zdravlje pomagača te djelovati stresogeno i dovesti do posljedica u vidu sagorijevanja na poslu (osjećaj tjelesne, mentalne i emocionalne iscrpljenosti, gubitak osjećaja osobne vrijednosti, negativizam, gubitak zanimanja za korisnike, cinizam i neosjetljivost za tuđe potrebe, osjećaj bespomoćnosti i beznađa, pesimizam, razdražljivost i niska tolerancija na frustraciju, srdžba kao česta emocija, netrpeljivost, sumnjičavost, povlačenje u socijalnim odnosima (npr. od kolega, korisnika, prijatelja, obitelji), izostajanje s posla i dr.), protuprijenosa ili posredne traumatizacije pomagača (Ajduković i Ajduković, 1996). Prema Davidu (2003) mogu se osjećati bespomoćno, ljutito, tužno, anksiozno, pa čak i razviti osjećaj krivnje. Prema Juczyński, Wojciechowska i Ogińska-Bulik (2022) kod članova obitelji

(neformalni njegovatelji) osoba koje su preživjele Holokaust prisutne su promjene u pobuđenosti i reakcijama (iritabilnost, ispadi bijesa, teškoće u koncentraciji, problemi sa spavanjem, negativni osjećaji te gubitak interesa), pri čemu intenzitet promjene ovisi o duljini skrbi i učestalosti kontakta (značajnija odstupanja prisutna kod osoba u ulozi njegovatelja 10 i više godina te osoba koje pružaju svakodnevnu i kontinuiranu njegu i skrb). S obzirom na vrstu i opseg poslova koje obavljaju formalni njegovatelji osoba koje su preživjele Holokaust, unutarnji izvori profesionalnog stresa njegovatelja mogu proizlaziti iz identifikacije s korisnikom i njegovim problemima; pretjerane vezanosti uz posao te osjećaja stručne nekompetentnosti. Uz izvore vezane uz organizaciju rada, može se pretpostaviti da profesionalni stres njegovatelja može biti vezan uz količinu vremena provedenog u radu s korisnikom, preveliku odgovornost u odnosu na raspoložive mogućnosti rješavanja problema korisnika te, s obzirom na to da kod jednog korisnika može biti raspoređeno više njegovatelja u različitim smjenama, izvori stresa mogu biti prisutni i zbog nejasne podjele poslova. Dodatni stresogeni činitelj na razini odnosa s drugima unutar organizacije može predstavljati nedostatak povratne informacije o postignućima i planovima te nepostojanje sustava podrške.

S obzirom na to da izloženost tuđim traumatskim iskustvima može dovesti do posredne traume, njegovatelji osoba koje su preživjele Holokaust zbog prirode svog posla mogu biti u riziku od posredne pomagačke traume (engl. *Secondary Traumatic Stress*). Tu je riječ o traumi koja se „sastoji od događaja što ih klijenti opisuju svojim pomagačima, a ti događaji onda posredno traumatizirajuće djeluju na pomagače" (Arambašić, 1996:147). Posredna pomagačka trauma odnosi se na grupu simptoma koji su specifični za posttraumatski stresni sindrom te uključuje učestale, nametljive misli i vizije o klijentu, hiperpobuđenost i proživljavanje klijentova traumatskog iskustva u snovima (Knight, 2018). Slušanje o traumatskim iskustvima korisnika, posebno kod korisnika koji su nepristupačni, može kod pomagača rezultirati zamorom suosjećanja i nemogućnosti empatije s korisnikom (Adams, Boscarino i Figley, 2006). Čosić Pregrad (2024) ističe da rezultat empatije pomagača prema klijentovu traumatskom iskustvu može dovesti i do vikarijske traumatizacije zbog koje dolazi do poremećaja i promjena kognitivnih shema, svjetonazora i pogleda na svijet (npr. o tome kakav svijet jest i kakvi su odnosi u njemu kao i pomagačevu percepciju sigurnosti i povjerenja u druge).

CILJEVI ISTRAŽIVANJA I ISTRAŽIVAČKA PITANJA

Cilj istraživanja je produbiti razumijevanje iskustva formalnih njegovatelja s pružanjem usluge pomoći i njege u kući osobama s iskustvom traume (osobama koje su preživjele Holokaust) i potrebe za podrškom formalnih njegovatelja u radu s tim osobama. Sukladno navodima iznesenim u uvodu te cilju istraživanja, postavljena su

sljedeća istraživačka pitanja: 1) Kako formalni njegovatelji opisuju svoje iskustvo rada s osobama koje su preživjele Holokaust?; 2) Kakve su potrebe za podrškom formalnih njegovatelja osoba koje su preživjele Holokaust?

METODOLOGIJA ISTRAŽIVANJA

Sudionici istraživanja

Istraživanje je provedeno na namjernom uzorku od sedam njegovateljica koje pružaju usluge pomoći i njege u kući u sklopu Programa pomoći osobama koje su preživjele Holokaust[1] Židovske općine Zagreb. Kriteriji odabira sudionica bili su da imaju najmanje tri godine iskustva u svojstvu njegovateljice osobe koja je preživjela Holokaust i da je količina vremena provedena u neposrednom radu s korisnikom 12 i više sati tjedno. Dob sudionica kreće se od 59 do 64 godine (M = 63,71, SD = 4,92). Po zanimanju su dvije medicinske sestre, dvije ekonomistice i po jedna diplomirana ekonomistica, trgovkinja i njegovateljica. Program stručnog usavršavanja za njegovateljicu završile su dvije sudionice istraživanja. Duljina staža u njegovateljstvu varira od tri pa do 25 godina (M = 9,28, SD = 6,86). Raspon godina iskustva u skrbi o osobama koje su preživjele Holokaust kreće se od tri do 10 godina (M = 5, SD = 2,45). Sve sudionice imaju iskustvo pružanja skrbi najmanje dvama korisnicima.

Postupak prikupljanja podataka

Prvi kontakt s potencijalnim sudionicama istraživanja ostvarila je socijalna radnica Židovske općine Zagreb, pri kojem ih je informirala o svrsi, cilju i procesu istraživanja. Po dobivanju usmenog pristanku na sudjelovanje u istraživanju sudionike su kontaktirale vanjske neovisne istraživačice u svrhu dogovora o vremenu i mjestu njegova provođenja. Sve sudionice su potpisale suglasnost za sudjelovanje u istraživanju i snimanje intervjua diktafonom. Sudionice su bile upoznate s mogućnošću odustajanja od sudjelovanja u istraživanju u bilo kojem trenutku, bez negativnih posljedica te da će u prikazu rezultata odgovori biti anonimizirani i prikazani grupno. Podaci su prikupljeni polustrukturiranim intervjuom u prostoru Židovske općine Zagreb, u razdoblju od svibnja do lipnja 2023. godine. Prosječno trajanje intervjua bilo je 40 minuta.

[1] Židovska općina Zagreb kroz Program pomoći osobama koje su preživjele Holokaust trenutno skrbi o 140 korisnika. Primarni cilj programa usmjeren je na podizanje kvalitete života preživjelih, dostojanstveni život u starijoj dobi te omogućavanje njihova ostanka u vlastitom domu. U suradnji s privatnim ustanovama organizirane su usluge pomoći i njege u kući na dnevnoj, tjednoj ili mjesečnoj bazi. Usluge provode gerontodomaćice te njegovateljice ili medicinske sestre. Raspon dobi korisnika kreće se od 78 do100 godina; to su osobe s višestrukim zdravstvenim teškoćama, kroničnim bolestima te teškoćama u kognitivnom funkcioniranju (demencija).

Metoda obrade i analize podataka

S obzirom na eksplorativni cilj istraživanja, u ovom je istraživanju korištena analiza okvira koja se koristi kad je iz dotadašnjih spoznaja moguće unaprijed izabrati teme koje će predstavljati »okvir« prikupljanja i analize kvalitativne građe te omogućava i identificiranje novih tema koje nisu bile postavljene u polaznom okviru analize (Ajduković i Urbanc, 2010). Analitički proces uključivao je upoznavanje s građom, definiranje tematskog okvira, kodiranje (indeksiranje), unošenje u tablice, povezivanje i interpretaciju (Srivastava i Thomson, 2009). Vjerodostojnost je osigurana kroz triangulaciju perspektiva te refleksije članova istraživačkog tima tijekom analize. Kategorije i teme raspravljene su s aspekta više istraživačkih perspektiva (u kontekstu ovog istraživanja radilo se o dvjema perspektivama).

REZULTATI I RASPRAVA

Sadržaj pod ovim podnaslovom podijeljen je na dva tematska dijela sukladno postavljenim istraživačkim pitanjima.

ISKUSTVO RADA S OSOBAMA KOJE SU PREŽIVJELE HOLOKAUST

U okviru prvog istraživačkog pitanja *Kako formalni njegovatelji opisuju svoje iskustvo rada s osobama koje su preživjele Holokaust?* identificirano je nekoliko tema: doživljaj vlastite radne uloge, izazovi u pružanju njegovateljske skrbi, doživljaj utjecaja izloženosti traumatskim iskustvima iz Holokausta na njegovateljice i strategije suočavanja s traumatskim iskustvima korisnika.

Doživljaj vlastite radne uloge

Sudionice svoju ulogu vide kao **pružanje zdravstvene njege i prevenciju zdravstvenih rizika** (*„...zdravstveni ste radnik, brinete o njihovom zdravstvenom stanju.“ (S1)*; *„Pregledi, medicinska njega.“ (S3)*; *„I oprati ih, njega, lijekovi…“ (S5)*; *„Pranje... sve što se tiče njege.“ (S7))*; **pomoć u kućanstvu** *(„…od kuhanja, administracije. Odlaska u banku, nabavku.“ (S3)* ; *„Nabava, pomoći u kućanstvu i skuhati, počistiti.“ (S5)*; *„…nabava, priprema ručka, čišćenje. Presvlačenje kreveta, nje.“ (S7))* i **pružanje psihološke podrške (***„…nekad morate biti psiholog, moraš imati empatiju da bi razumio… da je on živo biće koje treba ljubav, nježnost, pažnju.“ (S2)*; *„...od tješitelja, psihijatra, psihologa... (S3)*; *„Imaju potrebu pričati… da se isprazne. Da budem uz nju. Mogu ja mijenjati pelene i davati injekcije, ali sam joj potrebnija u ovom dijelu podrške.“ (S6)* ; *„Saslušam… ona mi se pojada i ispriča svoje životne događaje.“ (S7)).*

Osim što ističu različite poslove koje svakodnevno obavljaju, sudionice ističu i ulogu **člana obitelji i prijatelja** (*„…neki put ste kćer... prijatelj." (S1)*; *„…dio ste kućanstva." (S2)*; *„…dio ste njegove obitelji. Imam osjećaj kao da je to netko od mojih roditelja." (S3)).* Govoreći o svojoj ulozi navode i da kao svoj zadatak **vide zadovoljavanje svih potreba korisnika** (*"…apsolutno sve." (S3)*; *„Sve što treba." (S5)*; *„Osjećam se tamo da vodim kroz život, očekuje i treba od mene razne stvari… sve što treba." (S6)).*

Rezultati ukazuju na kompleksnost potreba korisnika, kao i njegovateljske uloge u domu korisnika, o čemu govore i Batista i suradnici (2014) i Jarling i suradnici (2020). Njegovatelj prema Zdravstvenom učilištu Medical (2023) koje provodi program osposobljavanja za zanimanje njegovatelj pomaže osobama u obavljanju njihovih svakodnevnih aktivnosti (hranjenje, održavanje osobne i higijene prostora, pomoć kod odijevanja i kretanja te nadzor kod uzimanja lijekova) te brinu za psihičko, mentalno, socijalno i emocionalno stanje osoba pružajući im utjehu i podršku. Njega starijih osoba, da bi bila kvalitetna, podrazumijeva individualizirani i cjelovit pristup usmjeren na osobu (Rusac, Bošnjak i Kletečki Radović, 2017). Njegovatelj ima ulogu i u osnaživanju korisnika kako bi on što dulje zadržao svoje kapacitete i kako bi se osiguravale dobrobiti korisnika. Proces starenja nosi tjelesne, kognitivne i psihosocijalne promjene. Javljaju se usamljenost, smanjenje socijalne mreže, depresivnost, anksioznost, osjećaji tuge i nemoći, žaljenje za prošlosti i drugo (Rusac, 2021). Kod preživjelih iz Holokausta tu je i dodatna dimenzija da kao svjedoci svog vremena žele da se Holokaust ne zaboravi i da se čuva sjećanje na žrtve i preživjele. Emocionalna podrška preživjelima znači poštovati potrebu preživjelih da govore, kao i da ne govore o svom iskustvu (Pelly, 2003). Prema Rusac, Bošnjak i Kletečki Radović (2017) i medicinske sestre u domu navode da osim zdravstvene njege imaju ulogu i razgovarati s korisnicima, što im uslijed nedostatka osoblja može predstavljati radno opterećenje i emocionalno ih iscrpljivati. Slično kao i u istraživanju Jarling i suradnika (2020) formalni njegovatelji svoju odgovornost doživljavaju „bezgraničnom" (zadovoljavanje svih potreba korisnika) zbog ranije istaknutih brojnih i kompleksnih potreba korisnika. Nadalje, kao i u ovom istraživanju, i istraživanje o tipovima odnosa između djelatnica pomoći u kući i starijih osoba (Piercy, 2000) govori o odnosima prijateljstva i osjećaja pripadnosti obitelji korisnika. Razvijanje kvalitetnog odnosa njegovatelj – korisnik osnovni je princip skrbi usmjerene na osobu (Teshuva, 2010). Njegovatelji koji razviju bliski odnos s korisnikom i koji su upoznati s njegovim/njezinim iskustvom Holokausta bolje će razumjeti dugotrajni učinak traume na pojedinca i ponašanja korisnika. Nadalje, specifična obilježja i uspostavljanje bliskog kontakta s korisnikom koji je preživio Holokaust (izloženost njegovatelja narativu Holokausta), emocionalno iscrpljivanje i svijest o velikim potrebama korisnika može dovesti do profesionalnog stresa, sagorijevanja i posredne traumatizacije formalnih njegovatelja (Juczynski, Wojciechowska i Oginska-Bulik, 2022).

Izazovi u pružanju njegovateljske skrbi

Izazovi koje navode, a s kojima se suočavaju formalne njegovateljice tijekom obavljanja svoje uloge, su brojni. **Zahtjevnost zdravstvene njege** vezano uz zdravstveno stanje korisnika (*„…zahtjevna kompletna njega, stoma, davanje terapije." (S2)*; *„…nema svatko želudac za to." (S4)*; *„Teško je zbog probavnih problema… moraš izdržati. Onda operemo, pa bude opet, pa ispočetka." (S7)*). Odgovornost za različite medicinske postupke, poput anitdekubitalne njege, promjene katetera, davanje više vrsta lijekova nekoliko puta dnevno, kupanje korisnika koji to odbija, može i u najstručnijih njegovatelja izazivati stres (Reinhard i sur., 2008). **Izazovna ponašanja korisnika** prepoznata su kao izazov i izvor stresa u poslu njegovatelja, a posljedica su zdravstvenog stanja korisnika, npr. demencije (*„...najteže mi je kad osjetim njenu nemoć, zahtjevnost, a vidim da je to iracionalno." (S6)*; *„...gospođa je dementna, ali nastojite ući u taj njezin svijet da bi njoj bilo lakše... Napor je jer morate iznova ponavljati jedne te iste stvari." (S2)*; *„On je znao upasti u faze kad nije htio ništa i to su jako tužne faze… Svu energiju sam usmjerila da ga podignem, razveselim, da mu pomognem… kad bih otišla od njega, onda bih osjetila da je to naporno." (S6)*; *„..osoba može biti dementna i ona ponavlja neke stvari... dva dana ćemo voditi isti razgovor... kad peti put vodiš isti razgovor onda ga više ne možeš voditi... Strpljenje prije svega i pristupanje tim osobama kao ljudima." (S1)*; *„…demencija. To mi je prestrašno, traumatično." (S5)*). Briga o osobi koja boluje od demencije sa sobom nosi brojne probleme s kojima se susreću njegovatelji zbog visoke opterećenosti zahtjevima dnevne skrbi (Reinhard i sur., 2008; Tilinger i Štambuk, 2018) te povećava rizik od kroničnog stresa, psihičke i fizičke iscrpljenosti (Ploeg i sur., 2020) i predstavlja rizik profesionalnog sagorijevanja (Rusac, Laklija i Milić Babić, 2012). Prema Milić Babić, Rusac i Oreb (2021) njegovatelji svjedoče promjenama oboljele osobe zbog mentalnog propadanja te manifestiranju novih i ponekad zastrašujućih ponašanja korisnika (ispadi neprijateljstva, lutanja itd.) i komunikacijskim poteškoćama oboljelih (npr. problemi s pronalaženjem riječi, izražavanjem, ponavljanje istih tema). Tilinger i Štambuk (2018) navode važnost edukacije njegovatelja o tijeku bolesti u cilju boljeg razumijevanja ponašanja oboljelog, načina komunikacije s oboljelima te strategijama suočavanja sa stresom.

Sudionice ističu teškoće vezane uz **zadovoljavanje psiholoških potreba korisnika** (*„…najveći je problem taj psihološki dio" (S2)*; *„Najteže mi je to kad se žali, priča te teške trenutke. Imala je stvarno težak život i to kao dijete, žena i majka... pa me to žalosti. Majka sam i baka, pa to teško prihvaćam, emotivno baš… teško je ako ste i malo osjećajni, ako se hoćete dati, ako hoćeš napraviti da im bude ugodnije… daš se najviše koliko možeš." (S7)*). Rad s osobama koje su preživjele Holokaust može biti izazovan zbog **izloženosti traumatičnom iskustvu korisnika** („*To su ljudi sa svojim pričama. Kupite na sebe te priče, dojmove, doživljaje, sve..." (S1)*; *„...preuzimam tugu, samoću*

ljudi. Koliko god nastojim to maknuti od sebe…" (S3); *„To su strašne priče... svaki dan živjeti to je jako teško…" (S5)*). Njegovatelji provode značajno vrijeme u interakciji s korisnicima te tijekom kontakta s njima slušaju mnoge tužne i tragične životne priče, opise traumatskih događaja koji ih mogu emocionalno „preplaviti" (Teshuva, 2010). Njegovatelj osobe koja je preživjela Holokaust nalazi se u poziciji da se istovremeno mora nositi s boli i drugim teškoćama korisnika te svojim osobnom reakcijama na traumatično iskustvo o kojem sluša (David, 2003).

Rad za vrijeme kriznih razdoblja istaknut je kao značajan izazov u radu njegovateljica (*„U koroni, to je bilo prestrašno... ona nema nikoga… to su situacije u kojima smo se mi morali snalaziti na bilo kakve načine." (S3)*; *„U potresu sam bila kod jedne gospođe, sreća da sam bila… ja ne znam kako bi ta žena, što bi bilo… Opet sam došla u 10 ujutro k njoj, računajući da ću doći doma u nekakvo normalno vrijeme. Ostala sam do 8 navečer." (S3)*). Krize poput pandemije i prirodnih katastrofa mogu probuditi teška sjećanja, izazvati osjećaje nesigurnosti za vlastiti život, bespomoćnosti te djelovati kao okidači za retraumatizaciju (Meirzon, 2020). Naime, kao i korisnici, i sami njegovatelji osobno su im bili izloženi i pandemiji i potresima koji su pogodili Zagreb i Petrinju. Pandemija Covid-19 imala je velik utjecaj na mentalno zdravlje pojedinaca i iako se njeni učinci još uvijek istražuju, neosporno je da su stresori vezani uz pandemiju donijeli brojne izazove na osobnoj i profesionalnoj razini. Vlastiti strah od infekcije i strah da se korisniku ne prenese bolest, teškoće uz zadovoljavanje različitih potreba korisnika poput onih vezanih uz osiguravanje zdravstvene skrbi i druge svakodnevne zadatke poput nabavke utjecale su na razinu stresa njegovatelja (Franc-Guimond i Hogues, 2021) i profesionalnog sagorijevanja. Nadalje, potresi su izložili njegovatelje direktnoj traumi, dok su istovremeno morali brinuti o potrebama svojih korisnika.

Neke od sudionica kao izazov navode iskustvo **kontakta s članovima obitelji korisnika**, pri čemu kao izazovne situacije navode skrb o dvama članovima iste obitelji: *„…manevrirala sam između njih dvoje. I to je znalo biti strašno naporno." (S6)*; *„Kod gospođe gdje sam bila i sin je pacijent... odrastao čovjek koji nije sposoban brinuti o sebi. Teško je. Ja se dam koliko mogu, ali mi je nekad teško njega saslušati. Kad je mama u problemu, on to jako teško prihvaća, onda ga treba smirivati." (S7).* Kod korisnika koje ne žive sami, njegovatelj je u interakciji i s drugim članovima kućanstva. U slučaju kada je to bračni partner primarnog korisnika ili odraslo dijete koje, uslijed zdravstvenih teškoća, nije sposobno za samostalnu brigu o sebi, njegovatelj se može naći u ulozi da istovremeno skrbi o dvije osobe, od kojih svaka ima svoje specifične potrebe i teškoće. To može predstavljati dodatni izvor profesionalnog stresa i zahtijeva dodatne kompetencije i stručnost te adekvatne oblike podrške njegovatelju. Sudionice u istraživanju ističu i poteškoće u odnosima s članovima obitelji (*„djeca koja su većinom izvan Hrvatske ili pak žive s njima stvaraju veći problem nego ta majka." (S3)*). Interpersonalni odnosi između ne samo njegovatelja i korisnika, nego

i njegovatelja i obitelji korisnika, ulogu formalnih njegovatelja u nekim slučajevima mogu dodatno otežati (Jarling i sur., 2020).

Sudionice također navode da im izazov predstavlja i **postavljanje granica** (*„…kako napraviti granicu između profesionalnog i privatnog... trudim se kontrolirati, ali nekad imate situacije kad ne možete. Kad Vam čovjek ispriča više intimnih stvari nego što bi možda trebao." (S3)*). Profesionalna uloga njegovatelja zahtijeva formalne kompetencije uz istovremeno ispreplitanje formalnog i neformalnog odnosa. Njegovatelj koji se zbližio s korisnikom i pobliže upoznao život svog korisnika može imati poteškoća između zadržavanja onog „formalnog" u odnosu s korisnikom upravo zbog empatije koju osjeća prema korisniku (Janssen i sur., 2013) te su ti njegovatelji u većem riziku od profesionalnog sagorijevanja i posredne traumatizacije (Ludick i Figley, 2017). S druge strane, ponekad je teško postaviti granicu kad je odnos već izgrađen i kad se radi o osobama u potrebi. Nepredvidivost situacija u skrbi za korisnika može dovesti i najiskusnijeg njegovatelja u situaciju da „mora" prijeći svoju granicu (Jarling i sur., 2020). Prema navodima sudionica, poteškoće u postavljanju granica često dovode do rada izvan radnog vremena njegovateljica (*„…zovu me u neko doba večeri, trebaju razgovor. Oni vjerojatno nisu svjesni da uzmu od mog slobodnog vremena... ali to mene iscrpljuje." (S3)*; *„...ništa se alarmantno ne dešava, ali oni su navečer budni, sami, otežano dišu... i onda je poziv - ne mogu disati, nije mi dobro - i sjednete u auto i dođete." (S1)*). Velika očekivanja i radni entuzijazam te preveliko osobno ulaganje u posao, poput ulaganja dodatnog vremena u posao izvan dogovorenih sati ili telefonski pozivi s korisnicima izvan radnog vremena, kao i teškoće u postavljanju granicu mogu dovesti do emocionalne iscrpljenosti koja je prepoznata kao jedan od znakova sagorijevanja na poslu. Ovdje možemo govoriti o neadekvatnom postavljanju jasnih granica prema korisniku, čemu pridonosi blizak odnos i povezanost s korisnikom. U takvim situacijama važna je podrška i osnaživanje njegovatelja u svrhu stjecanja kompetencija prepoznavanja granice između profesionalne i osobne odgovornosti. Sudionice naglašavaju i **visoka očekivanja od sebe samih** (*„Imala sam potrebu da im u svakom trenutku uskočim u sve... potrebu napraviti sve, a ne možete sve." (S5)*). Rezultati ukazuju na doživljaj velike odgovornosti koju njegovateljice osjećaju za dobrobit korisnika te izloženost njegovatelja nepredvidivim i izazovnim situacijama tijekom skrbi, o čemu govore i Batista i suradnici (2014) i Jarling i suradnici (2020). Formalni njegovatelji imaju veliku odgovornost, a motivacija za pomaganjem korisniku u svakom segmentu njegova života može kod njegovatelja značiti postavljanje previsokih vlastitih očekivanja te izazvati osjećaj da ne čini dovoljno. Prema tome, odgovornost istovremeno može, iako stimulirajuća, predstavljati i stres i rizik za mentalno zdravlje pomagača (Jarling i sur., 2020).

Sudionice kao jedan od izazova navode i **suočavanje sa smrću korisnika** (*„...toliko godina smo uz nju... baš se bojim što će biti kad dođe do toga da je nađemo… da će otići na*

drugi svijet. Već me sad u grlu guši." (S3)). Zbog emocionalne povezanosti i bliskosti s korisnikom, smrt korisnika može intenzivno pogoditi njegovatelja (Leverton, 2021). Neke organizacije svojim djelatnicima u sklopu podrške nude slobodne dane i potiče ih se da prisustvuju pogrebu korisnika (Yeh, 2019). Unatoč socijalnoj podršci koju pojedinci možda i imaju u svom okruženju, u slučaju teškog nošenja s gubitkom korisnika, njegovateljima mogu pomoći neke od psiholoških i kriznih intervencija.

Doživljaj utjecaja izloženosti traumatskim iskustvima iz Holokausta na njegovateljice

Svoj doživljaj izloženosti traumatskim iskustvima korisnika opisuju kroz negativne i pozitivne aspekte.

1. Negativni aspekti izloženosti traumatskim iskustvima korisnika

Sudionice istraživanja svoj doživljaj rada s osobama koje su preživjele Holokaust opisuju kao **emocionalno pobuđujuće iskustvo** koje, uslijed izloženosti, tj. slušanju o traumi korisnika, kod njih izaziva izmjene različitih emocija i promjene raspoloženja, nemogućnost otpuštanja priča i emocija te okupiranost njegovateljica sadržajem priča korisnika/ca. Njegovateljice navode **izmjene različitih osjećaja i raspoloženja**, poput osjećaja tuge (*„Par dana osjećaja tuge… ostavlja posljedice, neću reći psihički izgubljen, to bi bilo preoštro. Ali Vas tri dana muče neka pitanja, osjećaš da nisi baš sav svoj" (S1)*; *„…toliko tuge iznesu. Osjetim tu tugu." (S3)*; *„To je strašna trauma, ja bih se sad rasplakala… ja se s njom rasplačem... žao mi bude, to me užasno pogodi." (S4)*; *„…žalost, tuga…" (S7))*; šoka (*„…doživio si izvjestan šok s tim informacijama." (S1)*; *„...još uvijek znam zaplakati. To su sudbine, priče da čovjek ostane skamenjen. U prvom trenutku to je šok. Čuti što je tko prošao i naravno da taj dio traume ostavlja i na mene." (S3)*), osjećaja krivnje i srama (*„To je nešto što je tu zauvijek…osjećaj krivnje. Kao osobe katoličke vjeroispovijesti. Pomalo me sram zbog toga." (S2),* ljutnje (*„Osjećaj bijesa…" (S1)*; ljutnje (*…da je to sve morao proživljavati*." *(S2)*). Pružanje skrbi osobama koje su preživjele traumu može imati utjecaj na fizičko i emocionalno stanje njegovatelja i dovesti do psihološke uznemirenosti. Al-Mahdi (2017) kao emocionalne odgovore koji se mogu javiti kod njegovatelja izloženih traumatskom narativu korisnika navode tugu, šok, strah, frustriranost, osjećaj bespomoćnosti te očaj, ovisno o intenzitetu traumatskog narativa te dužini trajanja izloženosti takvom sadržaju. Što je odnos između njegovatelja i korisnika bliži, to je veći rizik od psihološke uznemirenost, patološke reakcije ili posttraumatskog stresnog poremećaja (Teshuva, 2010). Istraživanja o problemima vezanim uz mentalno zdravlje i sagorijevanje formalnih njegovatelja pokazuju da je prisutna veća emocionalna iscrpljenost kod zaposlenih u izvaninstitucijskim oblicima skrbi za starije, što se tumači time da je njegovatelj istovremeno zadužen za različite tipove poslova (kućanske poslova, njege i

emocionalne podrške korisniku), dok u institucijskim oblicima skrbi postoji podjela poslova prema vrsti osoblja. Također, u oblicima institucionalizirane skrbi postoji mogućnost međusobne podrške među članovima tima (de Rooij i sur., 2012).

Njegovateljice navode i **nemogućnost otpuštanja priča i emocija te okupiranost njegovateljica sadržajem priča korisnika/ca** *(„…iscrpljujuće, na izvjestan način proživljava sve što su ti ljudi prolazili… pokupite na sebe te priče, dojmove, doživljaje, sve... I to su situacije gdje se čovjek ne uspije oporaviti… dosta ljudi ne zna način na koji bi pomogao samom sebi da se u relativno kratkom roku skulira i da može nastaviti." (S1)*; *„Prestrašne su emocije koje morate kanalizirati... preuzimam tugu, samoću ljudi. Koliko god nastojim to maknuti od sebe… bilo bi najbolje kad bi moglo to na jedno uho da uđe, na drugo izađe, ali ne možeš. Meni treba nekakvih dobrih sat, da otpustim to od sebe, da mogu funkcionirati sa svojom porodicom." (S3)*; *„Trebate se vi stopiti s njima u tu njihovu priču…" (S4)*; *„Svaki put kad odem doma se rasplačem, baš me dirnu... toliko emotivno da mi treba dan da dođem k sebi. To su strašne priče... svaki dan živjeti to je jako teško... o tome razmišljam svaki put i kod svakoga" (S5)*; *„Užasno je teško za slušati, a kompletne priče sam čula. Strašno to proživljavam… Jedno je kad na televiziji gledate, a drugo je kad živite s tim ljudima i od njih čujete… onda to nisu samo riječi. Onda je to izraz lica, vidite patnju. Teško mi je... oni su stalno opterećeni s nekakvim samosažaljenjem, što razumijem. I onda je prilično zahtjevno pokušati ih voditi prema životu, da ne budu depresivni... zahtjevni su" (S6)*; *„Često me svladaju emocije i ne mogu ih suzdržati, iako bih htjela to pred njom sakriti." (S7)*). Njegovanje starije osobe može biti iscrpljujuće i zahtjevno iskustvo (Štambuk, Rusac i Skokandić, 2019), a kada se radi o njezi osobe koja je preživjela Holokaust, nosi i određenu traumu te može imati negativan učinak za njegovatelje (npr. emocionalnu iscrpljenost, nemogućnost otpuštanja priča i emocija) (Anderson, Fields i Dobb, 2011), što potvrđuje i ovo istraživanje. Navedeno može utjecati i na korisnike u vidu lošije kvalitete skrbi. Poznavanje životne priče korisnika važan je uvjet za pružanje skrbi usmjerene na osobu, posebno kada ona uključuje traumatsko iskustvo (Craftman i sur., 2019). U istraživanju Leonharda (2013) medicinske sestara koje njeguju osobe koje su preživjele Holokaust u domu za starije i nemoćne svoj rad opisuju kao izrazito težak i zahtjevan te ističu da zahtijeva puno strpljenja, vremena i razumijevanja.

Sudionice navode i **promjene kognitivnih shema o svijetu i ljudima**, pa tako navode **preispitivanje ljudskosti** („*Nevjerica da su takve stvari uopće moguće… ne da ne vjeruješ da se to desilo, nego postavljaš si pitanje da li mogu postojati takvi ljudi." (S1)*; *„…To mi je nepojmljivo, preteško shvatiti…" (S2)*; *„…Ne možete vjerovati kad Vam netko kaže što mu se događalo kad je bio dijete… zašto netko, neko dijete mora proći takve stvari. Zašto je do toga došlo? Zašto se nitko tome nije suprotstavio? Zašto je toliko dugo trebalo da netko reagira? Zašto su susjedi šutjeli kad su gledali da ti ljudi odlaze i ne vraćaju se? Meni je to stalno tema…" (S3)*; *„…osjećaj nepravde… zašto se to moralo tako dogoditi?...što su ti ljudi*

nekome skrivili da su morali doživjeti takvu sudbinu." (S4); *„…osjećaj užasa, nepravde." (S6)*) *i* **izmijenjeni pogled na život** (*„Ne samo da drugačije proživljavam aktualne situacije, nego to zlo koje je bilo i koje je i mene promijenilo, zahvaljujući tih par klijenata s kojima sam vodila dugačke razgovore, promijenilo me da na mnoge svakodnevne situacije drugačije gledam…" (S1)*). Kako rezultati ovog istraživanja pokazuju izloženost tuđem traumatskom iskustvu može kod njegovatelja ugroziti osjećaj sigurnosti i povjerenja u sebe i svijet te može rezultirati posrednom traumatizacijom i sagorijevanjem. Slično kao i u ovom istraživanju i Al-Mahdi (2017) kao posljedicu izloženosti traumatskom iskustvu korisnika ističe preispitivanje života i traženje smisla. Dobiveni rezultati ukazuju da su neke sudionice ovog istraživanja u riziku, a neke već pokazuju znakove koji ukazuju na prisutnost profesionalnog sagorijevanja i/ili posredne traume. Kako bi se navedeno previralo ili ublažilo Al-Mahdi (2017) ističe važnost edukacije, supervizije i podrške njegovateljima, u osvještavanju osobne ranjivost te uspostavljanju osobne i profesionalne mreže podrške.

2. Pozitivni aspekti izloženosti traumatskim iskustvima korisnika

Sudionice o svom iskustvu istovremeno govore i kao o **emocionalno ispunjavajućem iskustvu** (*„… koliko god je posao težak, meni je blagoslov da mi je osvijestio more nekakvih stvari. Ja joj se divim." (S3)*; *„Dobijete nekakav balans, neku mirnoću." (S4)*; *„…Recimo dođem k njima i oni su loše volje, onda ja osmislim što ću s njima, a oni se smješkaju i bolje su volje… to je meni onda zadovoljstvo." (S6)*). Iskustvo rada opisano je i kao prilika za učenje i osobni rast (*„...puno sam dobila slušajući te ljude koji su to proživljavali… stekla sam znanje, nešto što ne možeš naučiti iz knjige, filma, u svakodnevnom životu." (S1)*; *„To su ljudi koji imaju silno iskustvo, od kojih možete naučiti čuda. Ja sam toliko toga naučila. Nevezano samo na povijest, nego toliko tih nekih običnih stvari... vidite da je to onaj neki iskonski nagon za preživljavanje i onda si mislim, ako je to njima bio nekakav iskonski nagon, vjerojatno ga i ja negdje u sebi imam da tu traumu prebrodim na neki način..." (S3)).* I rezultatima istraživanja Craftman i suradnika (2019) o iskustvu njegovatelja osoba koje su preživjele Holokaust a koje žive u domu za starije i nemoćne pokazuju da njegovatelji svoj rad vide kao nagrađujući te kao priliku da nešto nauče. Slično kao i u rezultatima ovog istraživanja, istraživanju Teshuva i sur. (2017) formalni njegovatelji preživjelih iz Holokausta također ističu rad s preživjelima kao iskustvo koje obogaćuje i omogućava neku novu životnu perspektivu te naglašavaju svoje divljenje prema preživjelima i njihovoj otpornosti zbog svega što su prošli. Usmjerenost na dobrobiti koje proizlaze iz uloge njegovatelja i odnosa s korisnikom služi njegovateljima i kao strategija nošenja s izazovima skrbi (Ploeg i sur., 2020). Prema Knight (2018) pozitivni ishodi skrbi za pomagače mogu uključivati veći kapacitet za suosjećanje i empatiju, reorganizaciju osobnih ciljeva i prioriteta te veću zahvalnost za prednosti u svom životu. Pozitivni aspekti njegovateljstva

manje se ističu u literaturi, iako predstavljaju važan zaštitni čimbenik u zadržavanju zadovoljstva sa svojom radnom ulogom, što u konačnici utječe i na kvalitetu rada (Hall i sur., 2022). Neki njegovatelji ističu da im novac nije primarna motivacija za posao, već želja za pomaganjem drugima i mogućnost pozitivnog djelovanja. Kao dobrobiti rada formalnih njegovatelja navode se povećani osjećaj smisla, zadovoljstvo postignutim i osobnog dobitka u smislu životnih lekcija (Hart, Bowman i Mallet, 2019; Štambuk i Levak, 2018). U pozitivne učinke ubrajaju se i posttraumatski rast – kognitivno restrukturiranje osjećaja i misli vezanih uz traumu (Brajković, 2019), otpornost na traumu, osobni rast i osnaživanje. Istovremeno, preduvjet da bi uopće došlo do pozitivnih ishoda za pomagača je da postoje adekvatne strategije suočavanja, edukacija i sustav podrške (Al-Mahdi, 2017). Neki autori navode da su pozitivni ishodi koje percipiraju njegovatelji važniji od njihovih načina suočavanja sa stresom (Reinhard i sur., 2008).

Izloženost slušanju o traumatskom iskustvu korisnika **utječe na kvalitetu usluga** sudionica tako da im daje **poticaj u radu** (*„...nastojim da im olakšam, da pružim što više tih ljudskih osobina, da bi olakšali taj njihov zadnji period života." (S2)*; *„... pokušavaš razumjeti što su ti ljudi prošli, što proživljavaju, kako im pomoći, što ja mogu za tog čovjeka napraviti. Kako mogu pokazati da cijenim tu njihovu nesreću, iskustvo, život koji su prošli, da podržim, pomognem. Ne mogu povijest promijeniti, ali mogu tim ljudima pomoći." (S3)*; *„…imate potrebu s njim biti 24 sata… Mislim da im je jako ružno bilo djetinjstvo… pa zato mislim da im ta starost treba biti barem malo lijepa." (S5)*; *„…poticaj da se probam što više organizirati oko njih da pomognem." (S6)*; *„... koliko god najviše mogu pružam, napravim, pomognem. Napravim im kolače, svašta, da ih razveselim." (S7)*) te **utječe na odnos s korisnikom** u kontekstu razvoja bliskosti (*„…Koliko dopušta, toliko možete ući u intimu korisnika… valjda sam zato ostala u svemu tome i dalje jer imate s tim ljudima povezanost… osjećate vezu. To se osjeća." (S2)*; *„Prisna sam joj." (S7))* i većeg osjećaja empatije i identifikacije s korisnikom (*„…drukčije gledate na tu osobu… jer je teško povjerovati da se to može preživjeti… kad imate živu riječ i kad Vam netko kaže, to je bila moja mama, tata, brat… neminovno to povezujete sa svojom obitelji (S1)*; *„…kad mi je pričala… morate ući u to vrijeme zajedno s tom osobom i te njezine doživljaje…" (S2)*; *„Suosjećam s njom. Kao da se meni dogodilo primam to k srcu." (S4)*; *„...najradije bih ih zagrlila i plakala s njima... Ta tuga i strah kada priča o logoru u kojem je bila kao dijete, to ne možete opisati. Tad smo svi plakali." (S5)*; *„Teško je to. Ne možeš da ne suosjećaš. Osjećam se kao da sam ja to proživljavala, kao da sam u njezinoj ulozi, tako mi to dođe." (S7).* Svijest o tome što su njihovi korisnici prošli može pomoći njegovateljima da razumiju neka izazovna ponašanja korisnika (Teshuva, 2010). Blizak odnos s korisnikom može biti zaštitni čimbenik u suočavanju s profesionalnim stresom te može pomoći u prevladavanju svakodnevnih neugodnih situacija i održavanju zadovoljstva poslom

te zaštiti mentalnog zdravlja njegovatelja (Grasmo i sur., 2021; Rusac, Bošnjak i Kletečki Radović, 2017). S druge strane, bliski odnosi s korisnicima mogu imati i nepovoljan emocionalni učinak na zdravlje njegovatelja i utjecati na kvalitetu skrbi te ja važno sagledavati npr. pretjerano suosjećanje nasuprot djelotvornosti i sl. Empatija kao jedno od temeljnih načela pomagačkog posla i identifikacija s korisnikom koji je pretrpio traumu može dovesti do posredne traume. Njegovatelj koji često sluša o detaljima traume korisnika i pritom pokazuje suosjećanje te osjeća „kao da sam to prolazi" u neminovnom je riziku od posredne traume (Arambašić, 1996). Iz izjava njegovateljica u ovom istraživanju zamjetan je i razvoj tzv. „spasiteljskog poriva"**,** koji je važno promatrati u kontekstu kao strategiju preživljavanja pomagača, ali i u kontekstu trošenja resursa njegovatelja, profesionalnog sagorijevanja i negativnih učinaka rada u području traume. Navedeno ukazuje na važnost ulaganja u ciljanu prevenciju na području mentalnog zdravlja pomagača (Ćosić Pregrad, 2024). U slučaju bolesti i smrti korisnika, upravo zbog emocionalne vezanosti za korisnika, njegovatelji mogu osjećati i neugodne emocionalne posljedice (Grasmo i sur., 2021). Istovremeno, rad u domu korisnika često znači manjak kontakta s kolegama i sustava podrške, pa može pridonijeti osjećaju izoliranosti i usamljenosti.

Strategije suočavanja s traumatskim iskustvima korisnika

Tema strategija suočavanja s traumatskim iskustvom korisnika istaknula se kroz sljedeće kategorije: strategije usmjerene na emocije i one usmjerene na problem.

Kao **strategije usmjerene na emocije** (na lakše podnošenje osjećaja koje izaziva stresna situacija) sudionice ističu da koriste: **humor** kao način udaljavanja od emocionalnih reakcija na stresor (*„Neozbiljnost... okrenem na šalu."* (S4)); **ventiliranje i potrebu za iznošenjem sadržaja** *(„Uvijek se treba isprazniti. Kad potisnete nekakve loše osjećaje to negdje unutra ostane i negdje prsnete. Gdje ne treba." (S6)*; *„…pričam svojoj djeci iskustvo koje sam čula i opet sam u emociji i opet me to savlada. Onda mi je lakše. Ja se ispucam kad djeci pričam." (S7)*; *„...i onda dođeš doma i pustiš sve to da izleti iz tebe, pustiš da isplačeš... Onda kad se saberem ja tu priču ispričam svojoj djeci, da se zna (S5)*) te **traženje emocionalne podrške od članova obitelji** (*„… druženje s djecom. To me čini zadovoljnom, sretnom.*" (S2); *„… pričam sa suprugom." (S4)*). Emocionalna podrška jedna je od potreba formalnih njegovatelja i ključna je u savladavanju poteškoća i kriza (Milić Babić, Rusac i Oreb, 2021). Očuvanje smisla za humor, njegovanje bliskih odnosa te traženje socijalne podrške pomaže u nošenju sa stresnim situacijama i traumom, kako u trenutku izloženosti traumi, tako i u nošenju s njenim posljedicama (Sippel i sur., 2015) te ima zaštitnu funkciju u očuvanju zdravlja i otpornosti pomagača (Killian, 2008). Istraživanja pokazuju kako se pojedinci najviše oslanjaju na neformalne izvore socijalne podrške, pri čemu

članovi obitelji predstavljaju primarni izvor socijalne podrške (Milić Babić, Laklija i Rusac, 2014), što je u skladu s dobivenim rezultatima. No, dobiveni rezultati ukazuju i na rizik za mentalno zdravlje i članova obitelji njegovateljica uslijed izloženosti sadržajima traumatskih priča korisnika koje njegovateljice prenose, posebice djece njegovatelja. S druge strane, manjak socijalne podrške povezan je s višim stupnjem sagorijevanja i depresije njegovatelja (Milić Babić, Laklija i Rusac, 2014). Sudionice koriste i različite **strategije distrakcija** kako bi postigle emocionalni i misaoni otklon poput: fizičke aktivnosti (*„...svaki put kad odlazim od korisnika sat i pol do dva šećem. Ne odlazim svojoj obitelji puna dojmova koje sam pokupila, nego to pustim." (S1)*; *„… Kad hodam, kao da to izlazi iz mene... plivala sam i to mi je bilo ispucavanje negativne energije." (S3)*; *„Otišla bih od njih i napravila jednu veliku rundu žustrog hoda. To bi me ispraznilo." (S6)*), uzimanja vremena za sebe (*„,,,,sjednem na kavu." (S1)*; *„Ili bih otišla u park, sjela u klupu i potpuno se opustila" (S6))*; čitanja (*„…kad mi je najgore, uzmem knjigu i čitam… ili mobitel. Onda malo čitate što se događa." (S5)*) *i* meditacije (*„Meditiram, to je način da kockice koje su poispadale, da si vratim natrag." (S1)*). Na individualnoj razini pomagači koje rade s osobama koje su pretrpjele traumu trebaju primjenjivati strategije usmjerene na brigu o sebi, a koje uključuju npr. tjelovježbu, aktivnosti koje su usmjerene na duhovnost te socijalnu podršku obitelji, prijatelja i zajednice (Kanter i Whitfield, 2014, Knight, 2018).

Od **strategija usmjerenih na problem** (aktivno djelovanje kojim se nastoji djelovati na izvor stresa), sudionice ističu da koriste: **informiranje i traženje savjeta/podrške** kroz neformalna grupna druženja njegovatelja (*„Imamo grupu na* whats appu *i em se dopisujemo, em odemo na kavu… i onda se izjadamo ili se prenesu informacije, neka ideja." (S1)*; *„…kanaliziranje kroz razgovore s kolegicama… nađemo se na kavi pa pričamo... Onda jedna kaže, to možeš možda ovako. Mi smo jedna drugoj podrška." (S3)* i razgovor s iskusnijim kolegicama (*„...kolegica koja ima puno iskustva mi je maksimalna podrška." (S3)*). Ovakvi razgovori omogućuju ventiliranje i verbaliziranje stresa (Rusac, Bošnjak i Kletečki Radović, 2017). U nedostatku podrške i formalnog voditelja može se među njegovateljicama razviti i neformalno vodstvo koje preuzima iskusniji njegovatelj koji pokazuje jaču psihološku otpornost i koji posjeduje potrebne vještine (Swedberg i sur., 2013). Navedeno ilustrira izjava njegovateljice koja glasi: *„…nakon 10 i više godina iskustva usuđujem se reći da znam kako da si pomognem, makar nije loše saznati još neke stvari. Ali većina njih se ne uspijeva oteretiti dana da bi sutra krenula dalje. Vrlo često to ja sa strane prije primijetim." (S1).* Ajduković i Ajduković (1996) ističu dobrobiti povremenih susreta pomagača u cilju razmjene iskustava i normalizacije iskustava i osjećaja. Konzultacije sa socijalnim radnicama također se ističu kao strategija suočavanja sa stresom usmjerena na problem (*„Socijalne radnice su me saslušale… pokušale su napraviti što mogu, meni je to velika stvar, da netko stoji iza mene tko razumije što se događa." (S3)*). Interakcije s članovima tima

koje pružaju podršku i pozitivan *feedback*, kao i mogućnosti za profesionalni razvoj i konstruktivne razgovore utječu pozitivno na zadovoljstvo pomagača (Grasmo i sur., 2021). Neke sudionice su istaknule da im u suočavanju s profesionalnim izazovima pomaže stručna edukacija (*„Jedna udruga radi s palijativnom skrbi… Imaju fantastične edukacije, same smo se prijavile. Puno smo naučili." (S3)*). Proaktivno traženje podrške u vidu edukacije o specifičnom području za njegovateljice djeluje osnažujuće: na taj način dobivaju važne informacije i priliku za stjecanje dodatnih vještina i znanja.

Njegovateljima je potrebna podrška u pronalaženju načina za suočavanje sa zahtjevima skrbi (Kanter i Whitfield, 2014). Uz obitelj i prijatelje, mreža podrške odnosi se i na dostupne edukacije, konzultacije i obrazovanje, podršku u obliku individualnog i grupnog savjetovanja te supervizije u svrhu osiguravanja kvalitete rada i prevencije profesionalnog izgaranja (Ploeg i sur., 2020, Milić Babić, Rusac i Oreb, 2021). Odgovornost za skrb o dobrobiti njegovatelja je svakako i organizacijska (Jarling i sur., 2020). Iskustva pokazuju da osnaženi pomagači mogu pružiti potrebnu skrb osobama koje su preživjele određenu traumu, za razliku od onih koje pate od simptoma sagorijevanja (Killian, 2008).

POTREBE ZA PODRŠKOM FORMALNIM NJEGOVATELJIMA OSOBA KOJE SU PREŽIVJELE HOLOKAUST

Potrebe za podrškom formalnim njegovateljima osoba koje su preživjele Holokaust jesu: grupe podrške, stručna psihološka pomoć, konzultacije sa stručnjacima, podrška u komunikaciji sa zdravstvenim sustavom, priznanjem za rad i edukacija,

Sudionice prepoznaju potrebu za **grupom podrške** (*„..druženja njegovatelja. Da bez imena klijenata izbace svoja iskustva… nešto što će olakšati rješenje te muke i skupit će se iskustva, da vidite da nije samo Vama tako… kako je netko riješio problem" (S1)*; *„… da iznesu iskustvo. Možda donesete neki odgovor… svaki svoje iznese i onda dođete do srži gdje je problem." (S4)*; *„…grupni razgovori su jako bitni jer se iskustva iznose i onda se tu rješava." (S6)*; *„Grupno, da se čuje neka druga mišljenja i olakšavajuće okolnosti." (S7)*). Killian (2008) ističe da je za očuvanje mentalnog zdravlja pomagača ključno dijeljenje svojih briga i pružanje međusobne podrške s kolegama, po mogućnosti u redovitim strukturiranim grupama. Dostupnost stručne podrške i sudjelovanje u grupama podrške dovodi do većeg osjećaja zadovoljstva i smanjenja osjećaja napora i razočaranja (Milić Babić, Laklija i Rusac, 2014) te veće psihološke dobrobiti (Bernabéu-Álvarez. i sur., 2022). To mogu biti (ne)formalne grupne podrške s voditeljem koji strukturira teme proizašle iz individualnih potreba članova grupe koje grupa zajednički spoznaje, prorađuje, dijeli te dolazi do uvida. Sudionice ističu i potrebu za **stručnom psihološkom pomoći** (*„Psihološka pomoć... kad završite tečaj*

ili medicinsku školu, Vas više nitko ne osposobljava kako da rješavaš te probleme. Ne s klijentima, nego koje imaš sam sa sobom... koje ćeš pobrati sve od svog klijenta. I kako da se s time nose i da se riješe tog dojma, te težine." (S1) i **konzultacijama sa stručnjacima** (*„… grupe gdje će doći psihologica jednom mjesečno… razgovori što se kome dešava." (S1)*; *„…razgovor s psihologom, možda bi dao smjernice za rad." (S2)*; *„Da nekome možete iznijeti iskustvo… možda će psiholog, socijalni radnik, doktor, znati dati savjet... tako timski" (S3)*; *„…kad imate stručnu osobu koja Vam da savjet, onda je to lakše primijeniti." (S4)*). Razmjena mišljenja i znanja, pojašnjavanje nekog konkretnog područja rada pod vodstvom osobe koja posjeduje znanja i vještine iz specifične profesije kroz oblik podrške – konzultacije, može pomagačima pomoći u rješavanju stručnog problema i unaprijediti njihovu kompetentnost (Ajduković i Cajvert, 2004). Nadalje, kao odgovor na potrebe za podrškom koju njegovateljice navode prikladne bi mogle biti supervizija i krizne intervencije nakon nekog kriznog događaja. Njima bi se moglo pomoći njegovateljima da prevladaju psihološke posljedice traumatskog iskustva koje su doživjeli u obavljanju svoje profesionalne uloge te osigurala podrške kako bi se s izazovima u radu mogli nositi na zdrav način (Poelg i sur., 2020). Iako nisu izrijekom navele, sudionice su u svojim odgovorima opisale potrebu za podrškom koja po svojim funkcijama odgovara opisu supervizije, kao formalnom obliku pomoći i očuvanja mentalnog zdravlja pomagača. Supervizija stručnjaka predstavlja važan alat za ublažavanje profesionalnog stresa i sagorijevanja, povećanja zadovoljstva poslom, omogućava profesionalni rast i razvoj kroz osvještavanje novih perspektiva i/ili dobivanje potvrde za rad te osiguranje kvalitete skrbi (Bethell i sur., 2018; Edgar, Moroney i Wilson, 2023; McCarron, Eade, i Delmage, 2018; Stijepović i Rusac, 2019). Supervizija pomagača utemeljena na znanjima o traumi može pomoći u smanjivanju posljedica izloženosti traumatskih iskustvima korisnika te u normalizaciji iskustava i simptoma posredne traumatizacije, kao i pomoći njegovateljima da osvijeste i promotre svoje reakcije na korisnike i svoj posao (Bercier, 2013; Kanter i Whitfield, 2014; Knight, 2018).

Sudionice ističu potrebu **podrške u komunikaciji sa zdravstvenim sustavom** (*„… podrška u komunikaciji s liječnicima. Kako doći do liječnika, kako da liječnik shvati da taj čovjek, bez obzira što ima toliko i toliko, zaslužuje poštovanje i maksimalnu skrb... Dođe ti da bi vrištao jer ti je teško, jer ne možeš dobiti termin, a znaš da ga treba." (S3)*; *„Problemi s liječnikom … teško se dobije, narudžbe su rijetke." (S7)*). (Ne)formalni njegovatelji nailaze na teškoće u komunikaciji sa zdravstvenim sustavom te iskazuju potrebu za unapređenjem komunikacije s pružateljima zdravstvenih usluga, za primjenom od strane zdravstvenih djelatnika holističkog pristupa i skrbi usmjerene na osobu (Hall i sur., 2022; Ploeg i sur., 2020).

Sudionice istraživanja iskazuju potrebu dobivanja **priznanja za rad** (*„Problem je sustava koji ne priznaje njegovatelja. Mi smo njegovatelji u rangu spremačica, nitko*

nije svjestan koliko mi tim ljudima značimo i trebamo. Značilo bi da netko poštuje i cijeni posao koji radim." (S3). Pravilno raspoređene radne obveze i priznanje za obavljeni posao pomažu u jasnijem definiranju profesionalnih granica (Kanter i Whitfield, 2014). S obzirom na to da formalni njegovatelji često rade u izolaciji, s malo kontakata s drugim kolegama (Leverton, 2021), osjećaj da su važni organizaciji i da dobro obavljaju svoj posao ima za njegovatelje veliku važnost (Ploeg i sur., 2020). S druge strane, izostanak povratne informacije o učinku i vrijednosti na poslu može biti izvor profesionalnog stresa njegovatelja.

Njegovateljice prepoznaju potrebu za dodatnom i trajnom **edukacijom** kako bi se mogle nositi sa zahtjevima skrbi ističući slijedeće teme: izgradnja odnosa s korisnikom (*„...sam pristup korisniku. Prepoznati je li taj korisnik za suradnju ili nije, i na koji način..." (S3))*; strategije suočavanja usmjerene na emocije (*„Naučiti kako se postaviti, kako ne izgubiti živce nakon neke situacije... u psihološkom smislu na koji način pomoći sebi… da sutra može krenuti dalje… tek kad sam ja posložena mogu nekom pomoći." (S1)*; *„…na koji način se lakše nositi s tužnim situacijama korisnika." (S7)* i postavljanje granica (*„Vi ste vezani uz klijenta, član njegove obitelji i on Vaše, da treba imati jako dobru granicu između emocija i racija." (S1)*; *„...da netko kompetentan kaže do tuda možete; nemojte si dozvoliti da Vas klijent uvuče u toliko svojih intimnih detalja." (S3)*). Njegovateljice navode i teme vezane uz skrb usmjerenu na osobu (*„… da znate prepoznati ako on stvarno to ne može… U puno situacija je lakše pomoći nego podržati. Lakše je dohvatiti čašu, nego hodati uz korisnika dok on ode po čašu vode." (S1)*; *„…misle da mogu nešto, a ne mogu. Da im možemo to lakše objasniti… moramo ih motivirati da budu aktivni dok god mogu jer ih to drži." (S2)*), psihološku podršku starijim osobama (*„…na temu psihološka podrška korisnicima, smjernice koje bi mogle primjenjivati" (S2)*) te teme vezane uz specifičnosti rada s osobama koje su preživjele traumu Holokausta (*„Npr. židovski blagdan… Kako mogu pomoći? Da nabavim nešto, skuham… da se osjeća važan, da se poštuje njegova tradicija, što napraviti, na koji način." (S3)*; *„Da stručnjak kaže koja je povezanost tih užasnih događaja i njihovih današnjih ponašanja." (S6)*; *„…na koji način im pristupiti… s njima raditi da bi to bilo još stručnije." (S7)*).

Kao i u ovom istraživanju, potrebe za podrškom njegovateljima koje su identificirane u brojnim istraživanjima odnose se na emocionalnu potporu, grupe podrške i edukativne intervencije (Hall i sur., 2022). Pristup u skrbi za preživjele iz Holokausta označava se pojmovima „skrb osjetljiva na traumu, utemeljena na znanjima o traumi" (engl. *trauma sensitive care)*, a podrazumijeva informiranost o životnom iskustvu korisnika, osjetljivost na njegovo traumatsko iskustvo i razumijevanje specifičnosti traumatskog iskustva te poznavanje strategija usmjerenih na osobu i osjetljivih na traumu, koje pridonose kvalitetnom odnosu njegovatelj – korisnik. Razumijevanje učinka i kompleksnosti traume, utjecaja rane traume i njenim potencijalnim manifestacijama

u ponašanju i funkcioniranju osobe te poznavanje temeljnih principa[2] za odgovaranje na potrebe korisnika s traumatskim iskustvom treba biti temelj edukacije njegovatelja za skrb o preživjelima iz Holokausta te time i proaktivnog pristupa u skrbi (Anderson, Fields i Dobb, 2011; Berger i Quiros, 2014; Teshuva, 2010). Takav pristup u fokus stavlja korisnika kao pojedinca i prepoznaje njegove sposobnosti i potencijale da unaprijedi svoje stanje, poštuje njegovu autonomije te ga osnažuje da sudjeluje u odlučivanju o svojoj skrbi (Meirzon, 2020).

Edukacija o utjecaju traume na mentalno zdravlje pomagača, psihološka pomoć, uključivanje njegovatelja u savjetovanje i grupe podrške, učenje od iskusnijih kolega te validacija osjećaje od strane organizacije može smanjiti rizik i pridonijeti ublažavanju posredne traume kod pomagača (Kanter i Whitfield, 2014; Yeh, 2019). Nadalje, smatra se da je osoblje koje pruža skrb usmjerenu na osobu profesionalno zadovoljnije, osjeća se kompetentnije i ispunjenije (Edgar, Moroney i Wilson, 2023). Uvažavajući prirodu posla njegovatelja, postupci smanjivanja profesionalnog stresa na organizacijskoj razini uključuju stručno osposobljavanje i usavršavanje njegovatelja, uključujući pojašnjavanje njihove odgovornosti i prava, edukaciju o utjecaju rada s traumatiziranim korisnicima na pomagača i potrebu brige o sebi (Knight, 2018) te superviziju i sažeto psihološko integriranje traume itd. (Edgar, Moroney i Wilson, 2023). U većini organizacija fokus je usmjeren na korisnika i izvršavanje zadataka njege, uz nedostatak sustavne podrške njegovateljima (Hall i sur., 2022). Hall i suradnici (2022) navode da njegovatelji iskazuju potrebe za razmjenom iskustava s kojima se suočavaju u skrbi i strategijama suočavanja s istima, za prepoznavanjem simptoma profesionalnog stresa, sagorijevanja i posredne traume; jačanja strategija brige o sebi, unapređivanja vještina rješavanja problema i nošenja s teškim emocijama, raznim oblicima edukacije o specifičnim temama i psihosocijalnom podrškom (individualnom i grupnom). Da bi to mogli, trebaju biti uključeni u edukaciju, superviziju i podršku koji će im omogućiti da osvijeste svoju ranjivost i brinu o sebi (Al Mahdi, 2017).

ZAKLJUČAK

Njegovateljice osoba koje su preživjele Holokaust ukazuju na kompleksnost njegovateljske uloge i navode brojne izazove s kojima se susreću u obavljanju svoje radne uloge (zahtjevnost zdravstvene njege, izazovna ponašanja i zadovoljavanje

[2] Pet je principa na kojima se zasniva praksa utemeljena na znanjima o traumi: sigurnost (pretpostavlja kreiranje okoline u kojoj će se klijent osjećati sigurno), povjerenje (proizlazi iz jasno postavljenih granica koje štiti povjerljivost), suradnja (terapeuta i klijenta koja podrazumijeva aktivnu ulogu klijenta u tretmanu), izbor (metoda i postupaka intervencija od strane klijenta) i osnaživanje (mogućnost izbora i utjecaja na planiranje, provedbu i evaluaciju usluga) (Knight, 2018).

psiholoških potreba korisnika, izloženosti traumatičnom iskustvu korisnika, rad za vrijeme kriznih razdoblja, kontakti s članovima obitelji korisnika, postavljanje granica, visoka osobna očekivanja te suočavanje sa smrću korisnika). Doživljaj utjecaja izloženosti traumatskim iskustvima korisnika opisuju kroz negativne aspekte koji se odnose na emocionalno pobuđujuće iskustvo (izmjene osjećaja i raspoloženja, nemogućnost otpuštanja priča i emocija i okupiranost sadržajem priča korisnika/ca) te promjene kognitivnih shema o svijetu i ljudima (preispitivanje ljudskosti i izmijenjen pogled na život). No prepoznaju i pozitivne aspekte izloženosti traumi korisnika koji se ogledaju u doživljaju emocionalno ispunjavajućeg iskustva te utjecaju na kvalitetu usluge. U prevladavanju izazova radne uloge njegovatelji koriste strategije suočavanja usmjerene na emocije (humor, ventiliranje i potrebu za iznošenjem sadržaja, traženje emocionalne podrške od članova obitelji te strategije distrakcija) i one usmjerene na problem (informiranje i traženje savjeta/podrške od kolegica te konzultacije sa socijalnim radnicama). Strategije samopomoći koje njegovateljice koriste jedan su od glavnih načina za regulaciju vlastitih emocionalnih odgovora i iskustava, no ne smiju biti jedini, posebice zbog činjenice da neke udomiteljice već pokazuju znakove traumatizacije ili su u riziku od posredne traumatizacije. Rezultati istraživanja pokazuju da su se njegovateljice, u nedostatku formalnih oblika podrške, samostalno organizirale kako bi razmijenile iskustva i međusobno se podržale. Nadalje, ukazuju i na potrebu organiziranja sustavnih oblika podrške (grupe podrške, stručnu psihološku pomoć, konzultacije sa stručnjacima, edukacije te podrške u komunikaciji sa zdravstvenim sustavom i potrebu dobivanja priznanja za rad). Temeljem opisa potreba za podrškom koje su njegovateljice istaknule prepoznaje se potreba uvođenja supervizije utemeljene na znanjima o traumi. Istraživanje također ukazuje i na područja koja je potrebno unaprijediti vezano za edukaciju formalnih njegovatelja koji rade s osobama koje su preživjele traumu te osobama starije dobi na način da se unaprijede postojeći kurikuli njihova osposobljavanja i obrazovanja.

U kontekstu ovog istraživanja važno je spomenuti i neka od metodoloških ograničenja istraživanja. Istraživačice nisu raspolagale podacima o fizičkom i mentalnom zdravlju korisnika niti postojanju simptoma PTSS-a, čija prisutnost može utjecati na razvoj posredne traume njegovatelja. Također, nisu imale ni saznanja o eventualnim osobnim traumatskim iskustvima sudionica istraživanja, koja su mogla utjecati na rezultate. U budućim istraživanjima i produbljivanju nalaza ovog istraživanja bilo bi važno uključiti i navedene čimbenike. Nadalje, ovo istraživanje provedeno ja na uzorku ženskih sudionica s obzirom na to da je njegovateljski posao uglavnom „ženski“, čime je izostala perspektiva muškaraca. Iako je sudionicama naglašena povjerljivost i anonimnost, profesionalna suradnja jedne od istraživačica sa sudionicama (iako je intervju provela vanjska neovisna stručnjakinja) mogla je utjecati na davanje pristanka na sudjelovanje u istraživanju i to kako će sudionice formulirati svoje

odgovore. Unatoč ograničenjima, istraživanje daje relevantan uvid u iskustvo i potrebe za podrškom formalnih njegovatelja osoba koje su preživjele Holokaust. U daljnjim istraživanjima bilo bi važno produbiti i istražiti profesionalno sagorijevanje i posrednu traumatizaciju, čimbenike koji dovode do njih (čimbenike rizika, zaštite, npr. na razini njegovatelja i organizacije), ali i otpornosti te načine suočavanja s traumatskim iskustvom korisnika/ce kao važnim aspektima razvijanju intervencija i podrške njegovateljima.

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The Experience of Providing Home Care Services and the Support Needs of Formal Caregivers for People with Trauma Experiences

SUMMARY

Formal caregivers may be exposed to occupational stress, job burnout, vicarious trauma, and other risks due to the intensive contact with users who experienced trauma (Holocaust survivors) and the demands of their work roles. As this topic has been relatively underexplored in research, the aim of this paper is to deepen knowledge about the caregiving experience and the support needs of formal caregivers for survivors (N = 7). Data were collected using a semi-structured interview method and analysed using a frame analysis approach. The research results indicate the complexity of the caregiver's role and the numerous challenges they face in performing their work. Caregivers report the impact of exposure to their users' traumatic experiences through negative aspects that refer to the description of the experience as emotional arousal and changes in cognitive schemas about the world and people. However, they also recognise the positive aspects of exposure to user's trauma. The strategies they use to cope with challenges are both emotion-focused and problem-focused approaches. The research identifies the need for systematic support to help caregivers address the challenges of their caregiving role and prevent burnout and vicarious trauma. It also provides guidelines for improving support systems for caregivers and care for their health, thus enhancing the quality of service provided to users.

Keywords: formal caregivers, Holocaust survivors, trauma, caregiving challenges, support needs.

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Kvalitativna analiza senzibiliteta društvenog okruženja prema obiteljima djece s teškoćama u razvoju i osoba s invaliditetom: perspektiva roditelja

SAŽETAK

Skrb o djeci s teškoćama u razvoju i osobama s invaliditetom crpi psihofizičke i ostale resurse roditelja te nepovoljno djeluje na njihovo zdravlje, zbog čega je izuzetno važna formalna i neformalna podrška društva. S obzirom na to da je jačanje bioetičkog senzibiliteta društva prema djeci s teškoćama u razvoju i osobama s invaliditetom preduvjet poticanja promjena na socijalno-političkom planu, osnovni cilj istraživanja bio je ostvariti dublji i detaljniji uvid u senzibilitet društvenog okruženja prema obiteljima djece s teškoćama u razvoju i osoba s invaliditetom. Pri tome su korištena roditeljska iskustva i perspektive prikupljene na istraživačkoj radionici, na kojoj je sudjelovalo 16 roditelja djece s teškoćama u razvoju i osoba s invaliditetom (jedanaest majki i pet očeva). Podaci su prikupljeni metodom vođene grupne rasprave te je provedena tematska analiza. Unatoč uočenim pozitivnim promjenama tijekom posljednjeg desetljeća senzibilitet društvenog okruženja prema obiteljima djece s teškoćama u razvoju i osoba s invaliditetom je iz roditeljske perspektive opisan kao nedostatan, i to na razinama formalnog i neformalnog okruženja. Rezultati upućuju na niz praktičnih smjernica usmjerenih k potrebama i podršci ovim obiteljima: potreba osnaživanja roditelja i obitelji, potreba jačanja stručnih kompetencija i komunikacijskih vještina stručnjaka te potreba daljnje senzibilizacije šireg društvenog okruženja o zahtjevima i izazovima života ovih obitelji.

Ključne riječi: roditeljstvo djece s teškoćama u razvoju i osoba s invaliditetom, senzibilitet društvenog okruženja, formalna i neformalna podrška.

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UVOD

Obiteljska dinamika i iskustva u društvenom okruženju obitelji djece s teškoćama u razvoju i osoba s invaliditetom zaokupljaju pažnju stručnjaka različitih disciplina, dok je znanstvenih istraživanja u ovom području (barem u našoj zemlji) još uvijek relativno malo (npr. Gović i Buljevac, 2020; Martinac Dorčić, 2008; Ombla i sur., 2023a; Ombla, 2023; Šarčević Ivić-Hofman i Wagner Jakab, 2023; Vlah i sur., 2019) da bi mogla podržati djelovanje u praksi. Potreba za sveobuhvatnim modelom roditeljstva djece s teškoćama u razvoju i osoba s invaliditetom istaknuta je u literaturi te različiti autori (npr. Billen i sur., 2022; Keleynikov i sur., 2023; Raina i sur., 2004) pokušavaju konceptualno pojasniti izazove i zahtjeve ovakvog tipa roditeljstva. Ipak, ostaje činjenica da je iskustvo skrbi o ovisnom članu obitelji uklopljeno u društveni i kulturalni kontekst koji određuje percepciju teškoće i invaliditeta i samim time više ili manje podržava obitelj. No, prije pojašnjenja značaja uvažavanja društvenog i kulturalnog konteksta valja istaknuti kako je zajednička odrednica izazova koje će skrb o djetetu atipične razvojne putanje ili specifičnih zdravstvenih teškoća postaviti pred same roditelje upravo vrsta i stupanj oštećenja funkcionalnosti kod djeteta. Uzevši u obzir navedeno, valja imati na umu kako je sama populacija djece s teškoćama u razvoju, jednako kao osoba s invaliditetom, vrlo heterogena. Prema definiciji dijete s teškoćama u razvoju je „dijete koje zbog tjelesnih, senzoričkih, komunikacijskih, govorno-jezičnih ili intelektualnih teškoća treba dodatnu podršku za učenje i razvoj, kako bi ostvarilo najbolji mogući razvojni ishod i socijalnu uključenost" (Zakon o socijalnoj skrbi, 2022, čl. 15. st. 10) dok je osoba s invaliditetom definirana kao osoba koja ima „dugotrajna tjelesna, mentalna, intelektualna ili osjetilna oštećenja koja u međudjelovanju s različitim preprekama mogu sprječavati njezino puno i učinkovito sudjelovanje u društvu na ravnopravnoj osnovi s drugima" (Zakon o socijalnoj skrbi, 2022, čl. 15. st.11).

Roditeljstvo djece s teškoćama u razvoju i osoba s invaliditetom obilježeno je specifičnim putem suočavanja od trenutka saznanja o teškoćama te, osobito, od trenutka uspostavljanja dijagnoze(a) (Graundgaard i Skov, 2007). Posve je jasno kako se uloga svakog roditelja sastoji u potpunoj posvećenosti brizi o djetetu. No, skrb o djetetu čiji je opći funkcionalni status neočekivan u odnosu na dob ili zdravstveno specifičan nerijetko znači cjelodnevan angažman skrbnika u tzv. izuzetnoj njezi (engl. *exceptional care*) koja značajno crpi psihofizičke i ostale resurse kod roditelja te nepovoljno djeluje na njihovo zdravlje (Brennan i sur., 2016; Muller-Kluits i Slabbert, 2018). S obzirom na osnovne karakteristike roditeljstva djece s teškoćama u razvoju i osoba s invaliditetom, jasno je koliko može biti važna i značajna formalna i neformalna podrška društva za ove obitelji (Billen i sur., 2022; Milić Babić, 2019).

Ranija istraživanja koja su se bavila položajem djece s teškoćama i osoba s invaliditetom u društvenoj zajednici (Leutar i sur., 2014; Ombla i sur., 2023b; Vidaković i sur., 2022) nedvojbeno ukazuju na značaj i potrebu kontinuiranog osvještavanja javnosti, poglavito u odnosu na inkluzivne prakse u različitim sektorima društva. U preglednom radu koji se fokusirao na dobrobit zaposlenih roditelja djece s teškoćama u razvoju Slišković i suradnice (2022) ističu kako je procjenu društvene podrške ovim obiteljima moguće ostvariti gotovo isključivo analizama u okviru nacionalnog konteksta. Trenutni podaci prikupljeni na uzorcima roditelja u našoj zemlji ukazuju na još uvijek prisutne brojne manjkavosti sustava formalne podrške ovim obiteljima: od opterećujuće birokracije i nedostatnog sustava informiranja pri pokušajima ostvarivanja socijalnih prava te neosjetljivih socijalnih prava, izostanka jedinstvene metodologije vještačenja, nedovoljnih financijskih naknada u odnosu na zahtjeve skrbi, neosjetljivih stručnjaka s nedostatnim kompetencijama, do nezadovoljene potrebe za psihološkom podrškom te dodatnom socijalnom integracijom korisnika (Ombla i sur., 2023a; Ombla, 2023; Pećnik i Pribela-Hodap, 2013; Vlah i sur., 2019). Konačni cilj referiranih istraživanja je upravo poticanje daljnjeg razvoja i promjena socijalnih politika u smjeru koji će dodatno podržavati ove obitelji. Znanstveni interes prema istraživanjima položaja i specifičnih potreba osjetljivijih i/ili nezaštićenih skupina društva ima još jedan primijenjeni cilj, a to je podizanje svijesti o navedenim temama u javnosti i formalnim strukturama, odnosno jačanje bioetičkog senzibiliteta društva prema tim skupinama (Zagorac i Jurić, 2008). Budući da je preduvjet realnih socijalno-političkih promjena prepoznavanje potrebe za njima, osnovnu istraživačku ideju ovog rada koji se fokusira upravo na perspektivu roditelja u odnosu na društveno okruženje legitimno je promatrati kao bioetičko pitanje. Bioetika invaliditeta (engl. *disability bioethics*) podrazumijeva metodološki pristup identificiranju, analizi i rješavanju problemskih pitanja u zdravstvu i biomedicinskim znanostima, pri čemu se u obzir uzima iskustvo invaliditeta, odnosno percepcija i mišljenje osoba s invaliditetom (Guidry-Grimes, 2022). S obzirom na dinamičnu prirodu bioetike, ispitivanja senzibiliteta društva konkretno prema djeci s teškoćama u razvoju i osobama s invaliditetom mogu se promatrati kao kontinuirani proces, dok je uvažavanje mišljenja i percepcije samih korisnika sustava društvene podrške ključno jer prepoznaje njihovu ulogu kao relevantnih dionika procesa preispitivanja postojećeg stanja i poticanja promjena (Garland-Thomson, 2017).

Konačno, istraživanja percepcije i iskustava skrbi roditelja djece s teškoćama u razvoju i osoba s invaliditetom važno je planirati i provoditi na što heterogenijim uzorcima kako bi se obuhvatile roditeljske perspektive koje ovise o brojnim sociodemografskim, radnim i obiteljskim čimbenicima (Slišković i sur., 2022). Primjerice, na važnost sociodemografskih i socioekonomskih čimbenika pri procjeni podrške uputilo je i recentno domaće istraživanje Šarčević Ivić-Hofman i Wagner Jakab (2023), pokazavši

kako očekivanja koja roditelji djece s teškoćama u razvoju imaju vezano uz različite oblike formalne podrške ovise o njihovu obrazovanju i procijenjenom financijskom statusu.

S obzirom na dosad navedeno, u ovom su istraživanju uključeni roditelji maloljetne djece različitih vrsta teškoća u razvoju, ali i roditelji osoba s invaliditetom (dosad istraživački zanemarena skupina) čije iskustvo skrbi ukazuje na određene specifičnosti (Ombla, 2023). Također, s obzirom na dostupne podatke jedinog istraživanja kod nas koje se usmjerilo na iskustva zaposlenih roditelja djece s teškoćama u razvoju (Ombla i sur., 2023a), u ovom su se istraživanju nastojala objediniti iskustva roditelja različitog radnog statusa. Uz to, opći doprinos ovog istraživanja očituje se upravo u zahvaćanju iskustava roditelja koji se međusobno razlikuju prema nekim temeljnim sociodemografskim karakteristikama, relevantnim za istraživačku temu. S obzirom na navedeno, osnovni cilj ovog istraživanja bio je dobiti dublji i detaljniji uvid u senzibilitet društvenog okruženja prema obiteljima djece s teškoćama u razvoju i osoba s invaliditetom, utemeljen na roditeljskim iskustvima i perspektivama prikupljenim na istraživačkoj radionici. Radionica je bila tematski usmjerena na roditeljsku percepciju društvenog okruženja kao relevantne odrednice dobrobiti obitelji djece s teškoćama u razvoju i osoba s invaliditetom. Preciznije, temeljna istraživačka pitanja ovog rada bila su vezana za dobivanje uvida u subjektivnu percepciju roditelja djece s teškoćama u razvoju i osoba s invaliditetom o *formalnoj podršci*, *neformalnoj podršci* i *potrebnim promjenama u društvenom okruženju*.

METODA

Sudionici

Sudionici radionice prikupljeni su uz pomoć udruga koje okupljaju roditelje djece s teškoćama u razvoju i osoba s invaliditetom, pri čemu se nastojao obuhvatiti što heterogeniji uzorak sudionika u pogledu sociodemografskih karakteristika njih i njihove djece. Na radionici je sudjelovalo ukupno 16 roditelja djece s teškoćama u razvoju i osoba s invaliditetom, od čega jedanaest majki i pet očeva. Dobni raspon roditelja iznosio je od 37 do 55 godina (M = 44,5, SD = 4,90). Svi su roditelji u braku (N = 14) ili u izvanbračnoj zajednici (N = 2). Najveći broj roditelja ima završenu diplomsku (N = 6) i srednju razinu obrazovanja (N = 5), troje je roditelja s poslijediplomskom i dvoje s preddiplomskom razinom obrazovanja. Većina roditelja je zaposlena (N = 11); na puno (N = 7) ili na pola radnog vremena (N = 4), dvoje je nezaposlenih te troje roditelja koji imaju status roditelja njegovatelja. Raspon ukupnog broja djece iznosi od jednog djeteta do petero djece, pri čemu većina roditelja ima ukupno dvoje djece (N = 9). Većina roditelja (N = 14) ima jedno dijete

s teškoćama u razvoju ili invaliditetom, dok po jedan roditelj ima dvoje, odnosno troje djece s teškoćama u razvoju.

Dobni raspon skupine djece s teškoćama u razvoju i osoba s invaliditetom (ukupan N = 19, od čega su četiri osobe s invaliditetom) čiji su roditelji bili prisutni na radionici iznosi od dvije do 29 godina (M = 11,13, SD = 7,23) te su većinom muškog spola (N = 17). Navodi roditelja o vrsti i stupnju teškoća u razvoju/invaliditeta kategorizirani su u skladu s nacionalnom klasifikacijom (Zakon o jedinstvenom tijelu vještačenja, 2016; Uredba o metodologijama vještačenja, 2017). Petero djece i jedna osoba s invaliditetom ima višestruke teškoće/oštećenja, nadalje, dijagnoze troje djece i tri osobe s invaliditetom spadaju u kategoriju kroničnih, genetskih i rijetkih bolesti, petero djece ima poremećaje iz spektra autizma, jedno dijete ima tjelesna oštećenja te jedno dijete ima poremećaje glasa, jezika i govora. U pogledu stupnja oštećenja, u ispitanoj skupini prevladava četvrti stupanj oštećenja, odnosno teški invaliditet (N = 13), troje djece ima drugi stupanj oštećenja (djelomični utjecaj na funkcionalnu sposobnost), treći stupanj (teži invaliditet) i prvi stupanj (bez utjecaja na funkcionalnu sposobnost) ima po jedno dijete, dok jedno dijete u ovoj skupini još nije prošlo proces vještačenja.

Postupak

Podaci na kojima se temelji ovaj rad prikupljeni su metodom vođene grupne rasprave u sklopu istraživačke radionice, provedene u travnju 2023. godine. Radionica je okupila roditelje djece s teškoćama u razvoju i osoba s invaliditetom čiju je raspravu vodila i moderirala jedna od autorica rada. Rasprava je trajala 2 sata i 10 minuta te je uz pristanak sudionika auditivno snimana.

Na uvodnom dijelu radionice predstavljen je opći cilj radionice - dobiti dublji i širi uvid u iskustva sudionika u pogledu društvene podrške obiteljima djece s teškoćama u razvoju i osoba s invaliditetom u RH. Sudionicima radionice kazano je da je šira svrha radionice dobiti potpuniji uvid u ovo područje, otvoriti nova pitanja te tako doprinijeti osvještavanju relevantnih problema u javnosti i poticanju konkretnih akcija i rješenja. Sudionicima je, nadalje, objašnjeno da sudjelovanje u istraživanju dobrovoljno i da postoji obveza zaštite identiteta i povjerljivosti podataka. Nakon razjašnjavanja pravila komuniciranja na radionici, međusobnog upoznavanja članova grupe, pristajanja na raspravu i snimanje te korištenje prikupljenih podataka, sudionici su ispunili kratku anketu. U anketi su naveli osnovne sociodemografske podatke vezane za sebe (dob, spol, razina obrazovanja, bračni status, zaposlenost, ukupni broj djece i broj djece s teškoćama u razvoju/invaliditetom) i svoje dijete/djecu (dob, spol, vrsta i stupanj teškoće u razvoju/invaliditeta).

Potom je sudionicima postavljeno prvo ključno pitanje: *Koliko je naše društveno okruženje podržavajuće i inkluzivno prema djeci s teškoćama i osobama s invaliditetom?* U svrhu dobivanja detaljnijih odgovora i poticanja rasprave sudionici su dodatno upućeni da odgovarajući na ovo pitanje *u obzir uzmu svoje iskustvo u pogledu mogućnosti ostvarivanja zakonskih prava i pristupa potrebnim uslugama te života svoje obitelji u zajednici.* Sudionicima je također naglašeno da u iznošenju *svojih iskustava o formalnoj i neformalnoj društvenoj podršci nastoje obuhvatiti i ograničenja i primjere dobre prakse.*

Drugo ključno pitanje postavljeno sudionicima bilo je: *Što možemo učiniti sada, u ovom trenutku, s resursima i zakonima kojima trenutno raspolažemo, a da dodatno podržimo obitelji djece s teškoćama u razvoju i osoba s invaliditetom?* Dodatna uputa za ovo pitanje je glasila: *Molimo vas za analizu našeg društvenog uređenja u pogledu ove tematike te vaše sugestije oko bolje/uspješnije iskoristivosti postojećih zakona i resursa.*

U završnom dijelu radionice sudionici su zamoljeni da pokušaju sažeti najvažnije probleme i prijedloge iz rasprave. Radionica je završila zahvalom i dogovorom oko povratne informacije sudionicima.

Analiza podataka

Audiosnimka provedene radionice je prije nego što se pristupilo analizi doslovno transkribirana u tekstualni oblik. U analizi podataka korišteno je šest osnovnih koraka tematske analize (Braun i Clarke, 2006). U analizi su sudjelovale dvije autorice rada koje imaju prethodno obrazovanje u polju psihologije te istraživačko iskustvo u kvalitativnoj metodologiji, ali i u užem području ovog rada. U prvoj su fazi analize nezavisno prolazile kroz podatke te ih inicijalno kodirale. Nakon međusobnog usklađivanja oko kodova i inicijalnih tema pristupilo se razvoju i identificiranju tema koje odgovaraju na postavljeni istraživački cilj.

Dobivene teme vezane za tri tematske cjeline koje odgovaraju istraživačkim pitanjima ovog rada prikazane su u Rezultatima, pri čemu su sve teme ilustrirane primjerima citata roditelja. Kao identifikacijska oznaka u prikazu citata korišteni su brojevi (1 – 16) uz kraticu R (roditelj). U svrhu zaštite osobnih podataka sudionika citatima nisu pridruženi podaci poput spola, dobi, dijagnoze njihovog djeteta i drugih podataka, iako bi navedeno dalo širi kontekst samim citatima. Ipak, na mjestima gdje je bilo potrebno i opravdano navedeni su neki sociodemografski i/ili drugi podaci, važni za kontekst, iz kojih nije moguće identificirati sudionike.

REZULTATI

Analiza podataka prikupljenih kroz grupnu raspravu ukazuje da je, iz perspektive sudionika provedenog istraživanja, položaj obitelji djece s teškoćama u razvoju i osoba s invaliditetom u društvenom okruženju još uvijek nepovoljan. Ovdje treba napomenuti da je velik broj sudionika istaknuo promjene na bolje u funkciji vremena, što je vidljivo iz dvaju citata koji slijede, koji prikazuju perspektive roditelja osoba s invaliditetom:

*Znači moj *, kad se rodio prije 19 god…, primjeri inkluzije u redoviti sustav školovanja, odnosno integracije, kako smo to onda zvali, nisu postojali. Ali ne želim biti negativna zato što se u ovih 15 do 16 godina to stvarno promijenilo jako puno. (R1)*

Bilo je puno teže prije šest mjeseci; naime, otvorio se centar za starije, poludnevni, dnevni boravak i to je stvarno olakšanje za roditelje. Koliko god smo bili osuđeni biti 24 h s djetetom u kući, sad više nismo. (R3)

Neki su sudionici iznosili i određene primjere dobre prakse iz svojih iskustava. Citat koji slijedi prikazuje perspektivu majke (R7) čije dijete ima rijetki genetski poremećaj te je vrlo brzo ušlo u sustav rane intervencije:

Taj sustav roditelja i podrške, poznanstva i prijatelji; stvarno sam zahvalna na tim informacijama. Tako da smo mi jako brzo ušli u cijeli taj sustav, nismo se gubili. (R7)

Neki su sudionici, uz opise primjera podrške koja je danas dostupnija, iznosili i svoj pozitivan stav u nošenju s izazovima, što je vidljivo iz perspektive jedne majke djeteta s teškoćama u razvoju:

E sad, ja bih se nadovezala – mislim da nam je svima bitna podrška – i ovo što smo mi danas tu, za mene je veliko, jer mi pričamo, mi razgovaramo, mi dijelimo, mi suosjećamo. I to je nešto što je najbitnije. Nama je u početku to falilo. Mi sada idemo u radionice „Rastimo zajedno". (R9)

Ipak, unatoč navedenome, u većem dijelu rasprave je, kada se radi o analizi društvenog okruženja, odnosno formalne i neformalne podrške obiteljima, prevladavala negativna perspektiva. Drugim riječima, subjektivna percepcija roditelja ukazala je na bolji, ali još uvijek nedostatan senzibilitet društvenog okruženja prema obiteljima djece s teškoćama u razvoju i osoba s invaliditetom na dvije razine; *formalnoj razini* koja podrazumijeva stručnjake koji djeluju u sustavima formalne podrške i *neformalnoj razini* koja podrazumijeva šire društveno okruženje. Dobiveni rezultati su grupirani, u skladu s postavljenim istraživačkim pitanjima u tri tematske cjeline: formalna podrška, neformalna podrška i potrebne promjene u društvenom okruženju.

Formalna podrška obiteljima djece s teškoćama u razvoju i osoba s invaliditetom

Prva razina analize ukazala je da sudionici u pogledu formalne podrške prvenstveno ističu nedostatke u pogledu sustava socijalne skrbi (npr. problematika nekonzistentnih i opetovanih vještačenja, problemi u ostvarivanju pripadajućih prava, neprepoznata prava itd.), zdravstvenog sustava (npr. nedostatak stručnjaka, liste čekanja, cijene u privatnom sektoru itd.) te odgojno-obrazovnog sustava (npr. problemi inkluzije u vrtiće i škole, nedostatna stručna podrška itd.), koji su već prepoznati u prethodnim istraživanjima (npr. Ombla i sur., 2023a). Daljnja je analiza roditeljskih perspektiva i iskustava ukazala na *nedostatan senzibilitet na formalnoj ili stručnoj razini*, što je vidljivo iz tema koje slijede.

Prva se tema odnosi na ***ranjivost roditeljske pozicije u odnosu na stručnjake***. Naime, roditelji u komunikaciji sa stručnjacima koji rade s njihovom djecom (npr. liječnicima koji postavljaju dijagnozu, psiholozima koji rade procjenu, edukacijskim rehabilitatorima koji provode određenu terapiju itd.) često osjećaju bespomoćnost koja proizlazi iz njihove neravnopravne uloge. Veći broj sudionika rasprave usuglasio se u zaključku da su stručnjaci većinom prvenstveno usmjereni na samu dijagnozu, odnosno teškoću ili invaliditet, odnosno općenito nemogućnosti umjesto na snage, mogućnosti i prilike djeteta/osobe. Osim što je takva isključivo medicinska perspektiva nesukladna suvremeno prihvaćenim definicijama teškoća u razvoju i invaliditeta, takav pristup koji naglašava diskrepanciju između stručne i roditeljske procjene dodatno stavlja roditelje u ranjivu poziciju pred stručnjacima. Naime, roditelji osjećaju da neprestano moraju „dokazivati" što dijete može, a pri tome su često proglašeni subjektivnim, nejednako vrijednim partnerima u zdravstvenim, rehabilitacijskim i odgojno-obrazovnim postupcima koji se tiču njihovog djeteta. Primjeri citata roditelja djece s teškoćama u razvoju:

Svoje dijete nikad nisam promatrala u svjetlu hemipareze, u svjetlu epilepsije i svega toga, ja sam uvijek vidjela ono pozitivno u njemu, što je meni davalo snage da guramo. Znači, nisam gledala da lijeva ruka ne radi već da smo funkcionalni koliko toliko. A onda bih došla kod stručnjaka koji kaže da sam ja nerealna mama... (R2)

(...) zovete inspekciju (napomena: u odgojno-obrazovnom sustavu) *i onda ta osoba koja je zadužena da tu osobu evaluira kaže: Ja neću sumnjati u stručnost svog kolege, on ima diplomu, a vi ste roditelji, vi nemate diplomu... (R16)*

Dodatno, ranjivost roditelja u odnosu na stručnjake proizlazi i iz roditeljske ***bespomoćnosti u pogledu formalnog sustava***, koje su pojedini roditelji dodatno opisali „licemjernim", imajući u vidu dvostruka mjerila u postupcima procjene mogućnosti njihova djeteta. Primjer citata majke djeteta s teškoćama u razvoju:

(...) kako je sustav posložen nakaradno, kad ti trebaš ostvariti neko pravo – roditelj ili dijete, e onda se gleda što dijete može, samo da te skinu. E, a kad ga trebaš progurati u školu gdje bi mogao, e onda se gleda što on ne može... (R13)

Nadalje, u preporukama stručnjaka koji rade s djecom roditelji ne nalaze adekvatan savjet koji bi trebao biti usmjeren na ***važnost očuvanja roditeljske uloge***, koja je iz perspektive sudionika, ***zanemarena*** u rehabilitacijskim procesima. Primjer citata (prvi prikazuje perspektivu roditelja djeteta s teškoćama u razvoju, a drugi roditelja osobe s invaliditetom):

*Ja sam u hrpi tih terapija, gdje bismo se mi gubili od jutra do navečer, osjećala da mi gubimo * u tom jednom, znate, roditeljskom dijelu. Znači nema druženja, nema igre s bratom, znači bili smo samo u trci i jurnjavi za nečim upravo, jer očekuješ da su ti terapeuti netko tko ti može više pomoći, sugerirati, više pružiti itd. (R9)*

*(...) kad se sjetim, zapravo, toga da smo išli na gomilu terapija, ali sve to nije vrijedilo ništa ako mi svaki božji dan nismo satima radili s njim. I ja mislim da ne bismo nikad ni došli do toga da nismo tako radili. Ali apsolutno se slažem sa *, roditelj zaista ne bi trebao biti terapeut... Ja vidim koliko je roditeljima teško i koliko se obitelji i raspadaju kad vidite – dođe mama i ima troje djece, vi kažete super, al' sad još morate napraviti ovo, ovo i ovo. Ti njemu napraviš toliko breme da je to prestrašno. (R1)*

Istovremeno su roditelji izloženi ***(pre)visokim očekivanjima od strane stručnjaka,*** primjerice terapeuta, učiteljice i sl., koje onda postavljaju i pred svoju djecu. Navedeno ilustrira citat majke djeteta s teškoćama u razvoju koji slijedi:

Čujte, nekoj djeci će se upalit lampica nakon drugog puta, nekom djetetu treba tisuću puta da se upali, ali bitno je da se upali. Mom djetetu treba tisuću puta i zbog toga i guram, jer znam da će se jednog dana upaliti. Neće onda kada terapeuti očekuju, ali meni je bitno da se upali. S te druge strane, kad dođete kod terapeuta i niste uspjeli napraviti doma to što su oni zacrtali, jer dijete nije takvo i treba mu tih tisuću puta, onda doslovno kao da vam piše na čelu – vi uopće niste radili s djetetom. (R5)

Rezultanta visokih očekivanja iz roditeljske perspektive je ***osjećaj krivnje***; primjer citata majke djeteta s teškoćama u razvoju:

Mislim da bismo svi potpisali da naša djeca ne bi bila tu gdje jesu da nije roditelja. Ali to je isto jedna zamka. Bila je zamka za mene i moju obitelj. Jer osjećaš automatski pritisak. Znači, ti ćeš platiti terapije, ti znaš da je odgovornost na kraju na tebi. I ako ti taj jedan dan ili taj mjesec nisi radio ili dijete regresira u nekom pogledu, ti se ne možeš odmaknuti od tog osjećaja krivnje. Ja mislim da to nije zdravo za roditelja na neki način. Ja se sjećam tih suza kad bih ja napravila to sve što mi stručnjak kaže – i onda, a niste uspjeli ili tako nešto... Trebao je biti tu… Pa nije trebao biti tu, danas mogu reći – tu je gdje je, bio je

jučer tu, danas je ovdje. Jel' napredak – je. Ali nisam to mogla prije osam godina reći kad sam bila nova. (R2)

Sudionici su nadalje ukazali da je ***odgovornost u donošenju važnih odluka*** koje se tiču budućnosti njihovog djeteta potpuno na njima samima. Primjeri takvih odluka za koje nisu dovoljno educirani podrazumijevaju odluke glede vrste i oblika tretmana u javnom ili privatnom zdravstvenom sektoru, odabir adekvatne odgojno-obrazovne ustanove za optimalan razvoj svog djeteta itd. Navedeno je ilustrirano u iskustvu majke djeteta s teškoćama u razvoju, čiji prikaz slijedi, gdje izostaje bilo kakav oblik upute, praktičnog savjeta ili navođenja mogućnosti; citat:

*Nama je specijalist *, nakon što smo napravili milijun pretraga i svega, i magnete i to sve… onda je došao, i prvo su nam rekli on neće moći sjediti, neće nikad moći stajati na nogama, neće hodat, ovo, ono, i onda nam je došao i rekao: „I, što mislite dalje?", onda gledate, ono, k'o tele u šarena vrata, šta ću ja misliti dalje kad nemam pojma što mi je s djetetom. Di ću dalje? (R5)*

Sudionici radionice isticali su da je problematika odgovornosti roditelja u donošenju brojnih odluka koje se tiču mogućnosti optimalnog razvoja njihove djece jako izražena i danas, no refleksije na prošla iskustva mnogo su drastičnije, što prikazuje citat majke osobe s invaliditetom:

(...) da ga upišem u redoviti vrtić, to je bilo strašno, oni su mene ispratili s riječima: „Mama, vi niste normalni, vi ćete uništiti svoju djecu, svoju obitelj, jel' vi znate što vi radite svojoj djeci, svojom djetetu?" Ja sam njima objašnjavala da se to već sto godina radi u svijetu, da je to normalno. Znate vi koji je to teret bio, kad vam se stavi na vas, vi uopće ne znate jel' vi radite dobro ili radite loše... (R1)

Neformalna podrška obiteljima djece s teškoćama u razvoju i osoba s invaliditetom

U pogledu neformalne podrške su roditelji, očekivano, istaknuli važnu ulogu uže i šire okoline (članovi šire obitelji, prijatelji, udruge itd.) te važnost doživljaja prihvaćanja njihovog djeteta u široj društvenoj zajednici, ali i mnoge aspekte društvene okoline koji ukazuju na manjak informiranosti, znanja i razumijevanja u društvenoj zajednici. Drugim riječima, senzibilitet šireg okruženja prema obiteljima djece s teškoćama u razvoju i osoba s invaliditetom je iz perspektive sudionika percipiran nedostatnim, što je detaljnije prikazano u temama koje slijede.

Nedostatan senzibilitet u širem društvenom okruženju proizlazi, po navodima roditelja, iz ***neinformiranosti i neosviještenosti javnosti*** o teškoćama u razvoju i invaliditetu te svakodnevnim izazovima ovih obitelji. Primjer citata majke dvoje djece s teškoćama u razvoju:

Ja isto kad izađem sa svojih dvoje vani, pa kad nešto okrene, pa ne znam, pa sam izgubljena kad vidim ljude kad me onako gledaju, ne znam što ću, hoću reći – sve je ok, ne znam gdje sam, ne znam čija sam, onda stavim se... Izađem iz same sebe, stavim se u poziciju tog čovjeka, ne zna on što je djetetu, jesam ga ja sad nalomila, istukla, pa se zato tu krevelji, mislim to razumijevanje, širenje te svijesti, objašnjavanje, znam da je jako važno jer ljudi ne znaju... (R13)

U nastavku slijede citati koji ilustriraju ***neadekvatne percepcije teškoća i invaliditeta*** koje su, prema iskustvima sudionika, i danas široko rasprostranjene u javnosti. Citat koji slijedi primjer je iskustva od prije dvije godine:

*(...) u javnosti se djeca s autizmom većinom predstavljaju kao djeca koja imaju tantrume, koji tuku svoje roditelje ili tako nešto, i to je ono što javnosti jest prezentirano. Kad je * trebao ići u vrtić rečeno je da njegova dijagnoza ne može ići u vrtić, spektar autizma, iako – nikad ga nisu upoznali, a * je, ako mogu ko' mama reći, stvarno dobrica... (R14)*

Znaš, kad kažu Down sindrom, dijete puno ljubavi, moš misliti koje ljubavi... uopće neću govoriti da uz Down često može ići i spektar, da ne govorim oni imaju sav mogući spektar emocija kao i svako drugo dijete. I onda mi je... kad mi ga je dala (opaska: u rodilištu, radi se o refleksiji na davno iskustvo, budući da je dijete danas odrasla osoba) *rekla: „Vi ste dobili dijete suncokreta. Super, super." Mi došli kući, on počeo plakat, ne znam koje sunce, ja sam jako loša mama, to je tako smiješno, ali to je živa istina. Ja ne znam kako, sve nešto djeca ljubavi, ovaj moj grize, udara, baca, mislim, uopće..., nego su jednaki kao i svi drugi, suncokreti, djeca ljubavi, ma kako da nisu. Mislim, krasni su, kad vole, vole malo više nego možda mi obični, ali imaju sav mogući spektar emocija i to nam je isto „medvjeđa usluga". (R1)*

Dodatno, kao tema vezana za šire društveno okružje nametnulo se ***stanje svijesti društva***; primjer citata:

Ali ja mislim da je najdublji problem, htjeli mi to priznati ili ne, stanje svijesti društva. Naša djeca su građani drugog reda. I oni su netko – mi to nikad nećemo izgovoriti naglas – u koga ne vrijedi ulagati, ne isplati se, i zato je ovako kako je i dok god ne promijenimo stanje svijesti tako će biti... da nije bitan doktor, profesor, u kvaliteti života baš je presudno je li netko doktor na fakultetu ili ima Downov sindrom. (R1)

Iskustava roditelja iz inkluzivnih vrtićkih i razrednih odjeljenja pokazala su nadalje na ***nejednak tretman djece s teškoćama u razvoju u odnosu na djecu urednog razvoja***; primjer citata majke čije je dijete s teškoćama u razvoju u inkluzivnoj vrtićkoj skupini:

*(...) naljutila se i ugrizla je, baš je dobro ugrizla, * je počela plakat, vratila se u sobu, pokazala je teti i onda je bilo: „Mama, desilo se to i to, pa ugrizla je", pa ja govorim: „Ok, djeca se grizu, neću ja sad praviti problem, djetetu i mami…", što-što, ugrizla je, je da*

*je grozno, bilo mi je užasno, ali samo vodite računa o tome da je dijete urednog razvoja ugrizlo dijete s teškoćom, što bi bilo da je obrnuto? Što bi bilo da je moja * ugrizla tu curicu. A je, a je, a je... To je skroz druga percepcija. Ona je dijete koje smije i to prolazi, to je dijete urednog razvoja... (R13)*

Na koncu, sudionici su istaknuli i ***otuđenost i izoliranost*** među ljudima općenito, kao dodatan izvor nedostatka senzibiliteta prema obiteljima djece s teškoćama u razvoju i osobama s invaliditetom, iako je u raspravi bilo i pozitivnih primjera. Citati koji slijede odnose se na trenutna iskustva; prvi je citat oca djeteta s teškoćama u razvoju, a drugi majke djeteta s teškoćama u razvoju.

*Na selu je ljepše živjeti nego u gradu... Moja *, sestra od * dođe, daj nam stavi * u kolica, idemo na igralište, u školi dole hrpa djece, on se smije, on se veseli, to u gradu nema. U gradu mama ne zna objasniti djetetu – što je – dijete u kolicima. Ma daj, objasni djetetu što je, da nije u čudu, nije ne znam što, to je dijete u kolicima. (R4)*

*(...) ja to tek sad osvještavam. Kad je moj * bio mali bilo je prirodno da ide sa mnom, da ga ja vodim u igraonicu, da ga ja vodim kod prijatelja koji se žele družiti. Ali ja danas želim da on ima vršnjake, prijatelje koji se žele družiti. Iskreno, ne namećem se nikome, ali ljudi me ne pozivaju. Znači, ako ćemo se družiti, ja moram biti ta koja organizira druženje i dovesti se u situaciju pet poziva, a da mene ne poziva nitko. To je meni sve prihvatljivo, ja ću uvijek naći neke grupe, mamu koja se želi družit s djecom. Ali, moj * ima sad devet godina, ja želim da on ima svoje vršnjake koji će njega povući za rukicu da on ne ide sa mnom. Mi smo u zgradi četiri godine, nitko od tih prijatelja nije došao po njega, iako ja nisam mama koja šuti. Ja kažem, mi smo slobodni za druženje, dođite kad god hoćete. Nitko nije pokucao niti ga uzeo na igralište dolje. A moram biti iskrena – nitko ni od mojih prijatelja koji imaju vršnjake. To je sad ta inkluzija o kojoj mi pričamo, gdje je inkluzija? Svi smo mi na kraju u svojim kućama sami, ljudi moji. Potpuno sami navečer sa svojim mislima i željom da moje dijete sutra ima prijatelja. (R2)*

Izoliranost je pri tome osobito prisutna kod obitelji osoba s invaliditetom, budući da one, u odnosu na djecu s teškoćama u razvoju, većinom nisu uključene u odgojno-obrazovni sustav te općenito imaju manje mogućnosti primanja usluga u zajednici. Navedeno ilustrira citat oca osobe s invaliditetom:

*Ono što treba je logistika. Recimo, da nema dida i bake, ja sad ne bih bio ovdje. Žena je na *, ja moram biti uz dijete. Znači, iznimno, ovaj put oni ga čuvaju da ja mogu doć' ovdje, inače toga nema. Uvijek mora netko uskakat. Prijatelji s godinama sve manje uskaču, dida baka su stariji, ostaje sve na nama, a mi smo već iscrpljeni. Zato je taj centar **(napomena: centar za pružanje usluga u zajednici) *došao u pravi tren. Ostatak Hrvatske većinom nema to, pogotovo u manjim sredinama. Tu je taj najveći problem za*

nas roditelje što, ono… osuđeni smo na izolaciju. Meni paše izolacija, mojoj ženi ne paše, recimo. Ona je drugi tip. (R3)

Potrebne promjene u društvenom okruženju

Analiza podataka prikupljenih u svrhu odgovora na treće istraživačko pitanje ukazala je da se potrebne promjene u društvenom okruženju koje su istaknuli sudionici mogu podijeliti u tri ključne teme, koje slijede.

Potreba osnaživanja roditelja i cjelovitih obitelji djece s teškoćama u razvoju i osoba s invaliditetom

Velik dio rasprave odvijao se u smjeru potrebe za osnaživanjem samih roditelja, kako potrebe za dostupnijom psihološkom podrškom, tako i potrebe za osnaživanjem roditeljskih kompetencija u skrbi za dijete s teškoćama u razvoju i/ili osobu s invaliditetom te jačanja otpornosti cjelovite obitelji. U navedenom je izuzetno važno dobiti pravovremene savjete i podršku stručnjaka, odnosno uključiti roditelje i cijele obitelji u terapijske i rehabilitacijske procese. Primjeri citata:

(...) i meni je nedostajalo u tom početnom dijelu baš to osnaživanje roditelja. Imam dojam da su svi na početku usmjereni na dijete, od liječnika do rehabilitatora, logopeda, i negdje roditelji ostaju sami bez alata, bez motike što i kako dalje. (R2)

Evo, nadam se da ovakvi skupovi i ova zajednička snaga može zaštititi neke buduće roditelje koji dolaze da im bude lakše, jer kad su neka vrata otvorena, zaista je puno manja ta količina stresa koja valjda nas sve skupa preplavi. (R1)

Znači, dijete ima status epilepticus, onda smo završili tu u bolnici, izvlačenje djeteta, vi kao roditelj bojite se, ne znate hoće li dijete preživit, i onda vam dođe do vas sestra i pita vas: „Kako ste?" I kako ste navikli da se sve vrti oko djeteta, onda pođete objašnjavat – on je ovako, on je onako. Onda ona ponovi: „Ali, mama, kako ste Vi?" Ono, netko pita kako si ti. (R5)

S djecom s Down sindromom može se živjeti jedan vrlo kvalitetan život… ako na početku uložite jako puno da osnažite roditelja, a to je ono što kroz udrugu najviše radimo na početku, jer smo naučili da je to ono najvažnije. I da zaštitite cijelu obitelj, uključujući braću i sestre, bake i djedove, to zapravo može biti jedna jako lijepa priča. (R1)

U osnaživanju roditelja presudnim se aspektom čini proces prihvaćanja teškoće u razvoju /invaliditeta i oslobađanje od apsolutne odgovornosti, očekivanja i krivnje; primjer citata:

Mi se moramo osloboditi toga. I moramo se oslobodit očekivanja. Mene je to spasilo, moju obitelj je spasilo onaj trenutak kad smo se mi oslobodili očekivanja. Znači, nikad više

nismo radili vježbe s razmišljanjem – ovo radimo da bi sutra bilo ovako. Dajemo sve od sebe, i što će biti – bit će, s tim ćemo živjet. Što neće biti, hvala Bogu, živjet ćemo i s time. Zbog toga smo sretniji, zbog toga je i on sretan. Jer zaboravljamo što radimo toj djeci. Stalno ih vodimo na jednu terapiju, na drugu, na treću, reci, kaži, kako si, kako se zoveš, koja je ovo boja… mislim, što radimo od te djece? (R1)

U prilog navedenome idu podaci koji ukazuju da ovaj proces rezultira osobnim rastom i razvojem samih roditelja koji ima, iz perspektive roditelja, pozitivne učinke na kvalitetu života njihove djece i cjelovitih obitelji. Primjeri citata:

...on je vjerojatno iz nekog razloga izabrao vas... Sve nas su oni birali. I moramo napraviti najbolje što možemo. (R14)

(...) strašno mi je bitno što se otvaramo, što smo tu, što se čujemo, što drugi čuju za nas. I to je nešto što nas sve može voditi u jednom pozitivnom duhu da rastemo svi i da za našu djecu osiguramo nešto što je najbitnije. Prvo emocija, a onda sve ostalo. (R9)

Potreba jačanja stručnih i komunikacijskih kompetencija kod stručnjaka involviranih u rad s djecom s teškoćama / osoba s invaliditetom

Iz navoda roditelja o prošlim i trenutnim iskustvima evidentna je potreba za većim senzibilitetom stručnjaka prema obiteljima djece s teškoćama u razvoju i osoba s invaliditetom, koji, međutim, podrazumijeva i odabir profesije sukladno intrinzičnim motivima za rad s ovim skupinama, profesionalni razvoj odnosno jačanje potrebnih kompetencija za rad te senzibilniju komunikaciju. Primjeri citata:

Nama je (opaska: radi se o fizioterapiji preko osnovnog zdravstvenog osiguranja) *dolazila gospođa koja se s djetetom 45 min igrala… Žena je rekla: „Gledajte igrati se mogu i ja, nemojte nam više slati nikoga." (R4)*

Jer ona kad ima 20-ero druge djece u skupini, ona je pogubljena kad dobije dijete s poteškoćama, a najčešće nije ni educirana. Ako vi njoj pružite podršku i kažete ok, mi smo vam tu iza leđa… (R1)

Što se tiče škole, od mojeg djeteta učiteljica – njoj je ispod časti valjda nekog pitati kako pomoći, kako napraviti nešto. Mi smo tek neki dan doznali, od asistentice, kad su ostali nešto pisali. On ima komunikator na kojem rješava. Što je učiteljica napravila, pustila mu je YouTube i crtiće na tome u školi. (R4)

Ja sam išla na testiranje s djecom u školu, meni je edukacijska rehabilitatorica u školi došla - mislila je da ću ja sad htjet djecu u tu njenu školu… „Znate, gospođo, mi stvarno nemamo iskustva s djecom u spektru, mi ne znamo s djecom u spektru." „Pa što ste vi po struci?" „Ja sam edukacijski rehabilitator." Ja govorim: „Mene je sram to sad slušati, jel' Vas sram? Jednom nogom ste u mirovini, jedan edukacijski rehabilitator da ne zna raditi s djecom u spektru, što ste Vi mislili da ćete Vi raditi kad dobijete diplomu s ERF-a?" (R13)

*Drugo mišljenje je bilo poprilično onako hladno – sasjeklo me. Dakle, drugi doktor... mi nije ni rekao što je vidio na ultrazvuku. To me silno pogodilo, jer nije postupio profesionalno. Ja sam morala izaći vani, izvan ordinacije, pročitati nalaz, i onda sam ostala zatečena, jer pisalo je *... Dakle, on nije bio u stanju to meni objektivno reći, pripremiti me na to, i ono guglam jer nikad čula prije nisam za to. I vidim što je to, i ono potpuno sasječena… (R7)*

Dodatno, važno je istaknuti da je velik broj roditelja istaknuo važnost pravovremenog i adekvatnog dijagnosticiranja koje često izostaje. Roditeljima je lakše *kad znaju tko je neprijatelj (citat R2),* budući da rana intervencija daje optimalnije rezultate i proces prihvaćanja i rehabilitacije krene ranije.

Potreba senzibiliziranja šireg društvenog okruženja

Sudionici istraživanja ukazali su i na potrebu senzibiliziranja društva po pitanju teškoća u razvoju i invaliditeta. Stručnjaci koji rade s obiteljima djece s teškoćama u razvoju i osoba s invaliditetom trebali bi, prema mišljenju roditelja, preuzeti aktivniju ulogu u senzibiliziranju šireg društvenog okruženja. Čini se, po navodima sudionika, da navedenu aktivnost provede prvenstveno roditelji sami ili međusobnu udruženi kroz različite udruge civilnog društva koje bez šireg umrežavanja ne mogu polučiti jači glas u društvu. Važnost senzibiliteta stručnog osoblja kao preduvjet većem senzibilitetu u široj društvenoj sredini zorno predočava sljedeći citat, izvučen iz dijela rasprave koji je vodio zajedničkoj percepciji roditelja da su i stručnjaci i društvo usmjereni na teškoće i invaliditet umjesto na prilike i mogućnosti:

...to je psihologica, logopedica, edukacijska rehabilitatorica, tako gledaju djecu. Kako će onda onaj čovjek na ulici koji nema pojma... taj čovjek koji nema pojma što je spektar, što je dijete s teškoćama, što on zna o mojim problemima i o mojoj borbi. (R13)

Iz roditeljskih je navoda jasno da čak ni članovi šire obitelji, a pogotovo članovi društvene zajednice koji nisu u osobnom ili profesionalnom kontaktu s djecom s teškoćama u razvoju i osobama s invaliditetom nisu dovoljno upoznati ni osviješteni o životima ovih obitelji. Primjeri citata dvaju očeva djece s teškoćama u razvoju:

(…) obitelj kaže: „Ma nije to, to ti oni krivo govore." Ja kažem: „Ma, ljudi moji, tako je kako je. Moramo se pomirit s tim." (R10)

Trebala bi edukacija neka, ne samo za roditelje, nego i za cijelo društvo, obitelj, da se nekako prenese jer to… ne mogu ja di god dođem – e, slušajte, ovo su nam naša uputstva… (R8)

RASPRAVA

Uzevši u obzir temeljno polazište bioetike invaliditeta, pojam invaliditeta usko je vezan uz društveno-povijesni kontekst te se pitanja senzibiliteta određenog društva prema invaliditetu trebaju razmatrati upravo sa stajališta osoba s invaliditetom. Primijenjeni ciljevi bioetike invaliditeta usmjereni su k jačanju kulturalnih, političkih, institucijskih i materijalnih resursa koji trebaju podržati sposobnosti i potencijale osoba s invaliditetom te omogućiti kvalitetan život u određenoj sredini (Garland-Thomson, 2017). Uzevši u obzir navedeno, ovim se istraživanjem nastojala obuhvatiti perspektiva roditelja koji skrbe o djeci s teškoćama i osobama s invaliditetom u odnosu na društvenu podršku obiteljima djece s teškoćama u razvoju i invaliditetom u RH. Praktični cilj ovog istraživanja usmjeren je k daljnjem podizanju svijesti o percepciji i pristupu teškoćama u razvoju i invaliditetu u našoj zemlji, što je prvi korak u poticanju društvenih promjena u smjeru jače podrške kvaliteti života cjelovitih obitelji djece s teškoćama u razvoju i osoba s invaliditetom. Temeljno pitanje roditeljima koji su sudjelovali na istraživačkoj radionici odnosilo se na to koliko je društvo podržavajuće i inkluzivno prema djeci s teškoćama i osobama s invaliditetom. Analiza odgovora uputila je općenito na problematiku provođenja propisanih zakonskih procedura u svakodnevnoj praksi, i to na svim razinama sustava formalne podrške; u sustavima socijalne skrbi, zdravstva i odgoja i obrazovanja. Poteškoće u ostvarivanju socijalnih prava, „borba" s neujednačenim procedurama (npr. kod vještačenja) te nedostatak stručnjaka i adekvatne stručne podrške u dosadašnjim istraživanjima već su prepoznati čimbenici društvenog okruženja koje roditelji ističu te opisuju kao nedovoljno osjetljive (ili čak nepostojeće) prema potrebama obitelji djece s teškoćama osoba s invaliditetom (Gović i Buljevac, 2022; Ombla i sur., 2022a; Ombla, 2023; Pećnik i Pribela-Hodap, 2013; Slišković i sur., 2022; Vlah i sur., 2019). Štoviše, u istraživanju Šarčević Ivić-Hofman i suradnica (2024) utvrđeno je kako roditelji djece s teškoćama u razvoju visoko vrednuju formalnu i neformalnu podršku, no isto tako formalnu podršku procjenjuju važnijom. Nadalje, sukladno prethodnim nalazima (npr. Ombla i sur., 2022a), roditelji ističu važnost podrške iz neformalnih izvora (obitelj, prijatelji, udruge) te doživljaja prihvaćenosti njihova djeteta u širem društvenom okruženju. Važno je istaknuti kako su roditelji koji su sudjelovali u istraživačkoj radionici govorili o svim svojim dosadašnjim iskustvima, opisujući svoj životni put kao roditelja djeteta s teškoćama u razvoju ili osobe s invaliditetom. Pri tumačenju njihovih navoda, stoga, valja uzeti u obzir vremensku perspektivu, budući da su se unatrag petnaestak godina dodatno u pozitivnom smjeru razvijali programi podrške ovim obiteljima u našem društvu, kao i odnos stručnjaka prema roditeljima. Najočitiji je primjer inkluzije u obrazovni sustav, koja gotovo da nije postojala ranije, dok danas roditelji ističu upravo mogućnost redovitog školovanja djece s teškoćama u razvoju kao primjer pozitivne društvene promjene.

Senzibilitet društvenog okruženja detaljnije je analiziran s pozicije formalnog i neformalnog okruženja. S obzirom na to da se preduvjetima promjena na razini zakonskih odredbi i formalnog djelovanja institucija smatraju upravo promjene u kolektivnoj osviještenosti o tome kako je živjeti s invaliditetom u konkretnom okruženju, prvo će se protumačiti teme proizašle iz odgovora roditelja koji upućuju na trenutnu percepciju i stav prema teškoćama i invaliditetu u našem društvu. Roditelji djece s teškoćama u razvoju i osoba s invaliditetom smatraju kako je javnost nedovoljno informirana o teškoćama u razvoju i invaliditetu te kako su percepcije određenih teškoća (i dijagnoza) dobrim dijelom rezultat tipičnih stereotipa koji prevladavaju u društvenoj svijesti. Pritom, ističu kako prevladavajući stereotipi predstavljaju problem i kad je riječ o inkluzivnim praksama (primjer citata koji opisuje odbijanje upisa u vrtić zbog dijagnoze autizma), ali i kad je riječ o njihovom osobnom putu prihvaćanja djetetove dijagnoze (primjer citata koji opisuje nametnuto očekivanje spektra isključivo pozitivnih emocija kod djeteta s Downovim sindromom), što ilustrira prožimajuće efekte ukorijenjenih percepcija i stavova na svim razinama društva. Istraživanja uglavnom ukazuju na zastupljenost negativnih stereotipa vezanih uz razvojne poremećaje, mentalne poteškoće i invaliditet (npr. Chatzitheochari i Butler-Rees, 2022; Sharac i sur., 2010; Wood i Freeth, 2016), međutim, jasno je i iz navedenog primjera s Downovim sindromom kako i pozitivni stereotipi mogu imati negativne učinke kad postoji mogućnost da su netočni (Wang i Guan, 2021). I dok analize provedene na reprezentativnim uzorcima građana RH upućuju na pozitivne stavove prema djeci s teškoćama i deklarativnu podršku društvenom modelu ljudskih prava (Ombla i sur., 2022; Vidaković i sur., 2022), upravo podaci koje iskazuju roditelji djece s teškoćama u razvoju i osoba s invaliditetom pokazuju koliko je u analizi bioetičkih pitanja važna i specifična perspektiva određenih društvenih skupina. Potrebno je uložiti dodatan angažman u sustavnu edukaciju javnosti o razvojnim poremećajima i teškoćama te invaliditetu, s ciljem umanjivanja negativnih učinaka postojećih stereotipnih konstrukcija kod same obitelji djece s teškoćama u razvoju i osoba s invaliditetom i šire. Koliko je nužno raditi na informiranju javnosti ukazuje niz citata koji ilustriraju praktične smjernice proizašle iz diskusije s roditeljima, koje idu u tri smjera. Senzibilizacija šireg društvenog okruženja, prema mišljenju roditelja, trebala bi biti prvenstveno zadatak stručnjaka, a ne roditelja koji „sami“ nisu dovoljno glasni.

Roditelji nadalje izvještavaju o iskustvu neravnopravnosti te osjećaju kako su njihova djeca nedovoljno cijenjena u društvu i u neravnopravnom položaju u odnosu na djecu urednog razvoja (citat koji opisuje djecu s teškoćama kao građane drugog reda i citat koji opisuje nejednak tretman u vrtiću), što ih dovodi u poziciju otuđenosti i usamljenosti u odnosu na obitelji djece urednog razvoja. Nedovoljna posvećenost socijalnoj integraciji u okviru sustava formalne skrbi zamjerka je koju su roditelji

osoba s invaliditetom izrazili u istraživanju koje je provela Ombla (2022), dok je u ovom istraživanju iskazano kako su poteškoće u socijalnoj integraciji djece s teškoćama u razvoju i osoba s invaliditetom evidentne i u svakodnevnom privatnom životu ovih obitelji, pri čemu je veći osjećaj izolacije kod starijih (citat R3). Dobiveni rezultati u skladu su s rezultatima stranih istraživanja koja ukazuju na socijalnu izolaciju, usamljenost i doživljaj odbačenosti od društva kod ovih obitelji, što ostavlja negativne posljedice na mentalno zdravlje, ponašanje i psihosocijalni razvoj djece s teškoćama u razvoju i osoba s invaliditetom (npr. Emerson i sur., 2021; Kwan i sur., 2020), dok su se učinci socijalne izolacije pokazali osobito nepovoljnim za vrijeme protekle pandemije COVID-19 virusa (Lunt, 2021). U javnom diskursu vode se uglavnom rasprave o potrebama ravnopravne inkluzije djece s teškoćama u razvoju i osoba s invaliditetom u formalne strukture društva (vrtiće, škole, sportske i umjetničke aktivnosti, radna mjesta, razne funkcije u javnom životu i sl.), dok se zanemaruju aspekti socijalnog života u svakodnevici, gdje kao društvo na globalnoj razini i dalje pokazujemo sklonosti k grupnoj segregaciji (u ovom slučaju temeljem (ne)jednakih sposobnosti). Kao što sugeriraju Corrigan i suradnici (2001), ostaje potreba za daljnjim radom na informiranju javnosti o teškoćama u razvoju i invaliditetu te uspostavljanju kontakata na različitim razinama u društvu, kao temeljnim strategijama u borbi protiv negativnih stavova i stigmatizacije djece s teškoćama u razvoju i osoba s invaliditetom.

Nedostatak senzibiliteta prema obiteljima djece s teškoćama u razvoju i osoba s invaliditetom očit je i iz odgovora roditelja koji upućuju na formalne strukture društva, i to prvenstveno na odnos stručnjaka prema roditeljima i njihovoj djeci. U komunikaciji s liječnicima, psiholozima, edukacijskim rehabilitatorima i učiteljima roditelji osjećaju kako neprestano trebaju isticati djetetove sposobnosti te kako je fokus stručnjaka na dijagnozi i nemogućnostima naspram postojećih snaga i potencijala djece. Ovakva percepcija roditelje vodi u neravnopravnu poziciju „nekompetentnih zagovaratelja" djetetovih sposobnosti što, prema iskazu roditelja, stručnjaci jasno daju na znanje. Usmjeravanje na dijagnozu i stupanj oštećenja funkcionalnosti zastarjeli je pristup u tumačenju i ophođenju s teškoćama (tzv. medicinski model teškoća), dok su suvremeni trendovi usmjereni k jačanju zastupljenosti društvenog modela teškoća koji naglašava aktivnu ulogu stručnjaka u jačanju kompetencija kod osoba s invaliditetom te modela ljudskih prava koji podržava uključenost pojedinca u donošenje svih odluka koje se tiču njega samog te utječu na njegov život (Lawson i Beckett, 2021; Ombla i sur, 2023b; Urbanc, 2005). Republika Hrvatska kao potpisnica UN-ove Konvencije o pravima osoba s invaliditetom (UN, 2006) dužna je na svim razinama formalnih struktura društva (potom i šire) poštovati model ljudskih prava u pristupu teškoćama i invaliditetu, naglašavajući dostojanstvo i prava svakog čovjeka (bez obzira na zdravstveno stanje) te podrazumijevajući pravo glasa kad je

riječ o donošenju i provođenju odluka koje se tiču skrbi. Roditelji navode i kako doživljavaju licemjerje stručnjaka i sustava u odnosu prema njihovoj djeci, pa je fokus pažnje u procedurama podložan i promjenama: s mogućnosti i sposobnosti djece kad je riječ o pokušajima ostvarivanja socijalnih prava na nemogućnosti i nesposobnosti kad je riječ o inkluzivnim praksama. Takva nestabilnost zasigurno dodatno otežava funkcioniranje u roditeljskoj ulozi koja je sama po sebi prepuna izazova (Slišković i sur., 2022).

Unatoč činjenici da su starija hrvatska istraživanja ukazala na tzv. izgubljenost roditeljske uloge u terapeutskoj, odnosno pokazala da roditelji djece s teškoćama često ostavljaju roditeljsku ulogu sa strane na račun okupirajućih rehabilitacijskih postupaka koji ispunjavaju svakodnevicu (Ljubešić, 2004), čini se da stručnjaci i dalje ne prepoznaju istinski angažman roditelja djeteta s teškoćama u razvoju u svakodnevnoj skrbi o djetetu. Roditelji doživljavaju kako su izloženi prevelikim očekivanjima od strane stručnjaka koji rade s njihovom djecom. Zbog navedenog osjećaju teret u roditeljskoj ulozi, koja je gotovo u potpunosti ispunjena „zadacima" upućenim od strane stručnjaka te istovremeno i krivicu zbog doživljaja vlastite odgovornosti za svaki djetetov korak naprijed, ali i vraćanje unatrag. Ovi primjeri ukazuju na nedostatan senzibilitet stručnjaka prema roditeljstvu djece s teškoćama u razvoju i osoba s invaliditetom općenito, kao i nerazumijevanje spektra mogućih psiholoških reakcija na zahtjeve ovakvog tipa roditeljstva, što može dodatno otežati funkcioniranje u roditeljskoj ulozi. Poznato je, naime, kako upravo doživljaj krivnje zbog pripisivanja odgovornosti za djetetovo stanje sebi, može voditi roditelje djece s teškoćama u razvoju i osoba s invaliditetom k sagorijevanju u roditeljskoj ulozi (Gérain i Zech, 2019). Dodatno, problemi nedostatne i neprimjerene komunikacije stručnjaka u određenim situacijama postavljaju roditelje pred zid i to uglavnom kada je riječ o donošenju važnih odluka koje se tiču djeteta (odabir zdravstvenog i/ili rehabilitacijskog tretmana, odabir odgojno-obrazovne institucije), a koje se prepuštaju roditeljima, bez primjerenog stručnog savjetovanja. Sve to opterećuje roditelje i u kontekstu preuzimanja odgovornosti za donošenje takvih važnih odluka. McNeilly i suradnici (2017) proveli su istraživanje u Sjevernoj Irskoj na 77 roditelja djece različitih stupnjeva oštećenja, dobi od 3 do 28 godina, te ističu kako je u procesu donošenja odluka vezanih uz skrb o djeci s teškoćama i osobama s invaliditetom važno partnerstvo između roditelja i stručnjaka. Kao ključni čimbenici koji otežavaju donošenje odluka ističu se nedostatak informacija koje pružaju stručnjaci te osjećaj kod roditelja da ih se „ne čuje", odnosno da se njihova perspektiva ne uzima u obzir. Odgovori roditelja dobiveni u ovom istraživanju navedenim primjerima citata ilustriraju vrlo slične teme. Roditeljstvo djece s teškoćama u razvoju obilježeno je neprestanim procjenama djetetova stanja, kontinuiranim angažmanom usmjerenim k podršci snagama i sposobnostima kod djeteta, i generalno fokusom na djetetu, dok se

roditelji i njihove potrebe uglavnom ostavljaju sa strane. Kao što Connor i Cavendish (2018) sugeriraju, minimum podrške od strane formalnih struktura društva trebao bi se očitovati upravo u razumijevanju položaja roditelja djece s teškoćama u razvoju i osoba s invaliditetom te uvažavanju njihove perspektive u svakodnevnoj komunikaciji uz empatičan pristup i otvoreno iskazivanje ravnopravnosti. Uzevši u obzir odgovore roditelja prikupljene na ovoj istraživačkoj radionici, ali i neke dosadašnje rezultate koji idu u sličnom smjeru (npr. Ombla i sur., 2023a; Ombla, 2023; Vlah i sur., 2019) jasno je kako bi obrazovni programi struka koje su direktno uključene u rad s ovim obiteljima trebali biti dodatno razrađeni za aspekte psihologije obitelji djece s teškoćama i osoba s invaliditetom te komunikacijskih vještina. Potrebu jačanja stručnih i komunikacijskih kompetencija stručnjaka uključenih u rad s djecom s teškoćama i osobama s invaliditetom dodatno prikazuju citati istaknuti u obliku praktičnih smjernica proizašlih iz diskusije s roditeljima. I naposljetku, kako konačan smjer djelovanja formalnih struktura sustava skrbi o obiteljima djece s teškoćama u razvoju i osoba s invaliditetom, u okviru rasprave s roditeljima istaknuta je potreba osnaživanja ovih obitelji, prvenstveno u vidu dostupnije i organizirane psihološke podrške, a potom i u smjeru jačanja roditeljskih kompetencija. Već je ranije navedeno kako roditelji doživljavaju da je fokus sustava na djetetu, te zapravo kao jedini vid vlastitog osnaživanja vide međusobno udruživanje i povezivanje. Pozitivni učinci socijalne podrške kod ranjivih skupina poznati su otprije, a evidentirani su i u nizu recentnih istraživanja provedenih kod roditelja djece s teškoćama u razvoju (npr. Hadjicharalambous, 2021; Park i Lee, 2022; Ren i sur, 2020; Vidaković i Ombla, 2019). Iz citata istaknutih u ovom istraživanju evidentno je kako roditelji vrednuju međusobnu podršku jer je to kanal unutar kojeg uspijevaju doći do informacija, „do alata i motike"(citat) koji im pomažu u početnoj skrbi o djetetu, što bi trebali biti zadaci sustava, odnosno stručnjaka. Pravovremena i organizirana procedura informiranja roditelja o njihovim pravima i pravima djeteta te o adekvatnom terapijskom procesu i postupcima osobito je važna i za sam proces suočavanja s teškoćama i mogućim invaliditetom i za kvalitetnu skrb o djetetu od trenutka saznanja o dijagnozi (Martínez-Shaw i Sánchez-Sandoval, 2022; Sabins, 2019). Na kraju, posve je jasno iskazana i potreba za psihološkom podrškom roditeljima i cjelovitim obiteljima, u kontekstu podrške u procesu prihvaćanja djetetovih teškoća (invaliditeta) te oslobođenja bremena odgovornosti i osjećaja krivnje zbog djetetova stanja. Već je ranije navedeno kako, prema iskazu roditelja, pritisak previsokih očekivanja dolazi od strane stručnjaka, što remeti proces prihvaćanja te doprinosi negativnim psihološkim reakcijama kod roditelja. Svaka obitelj prolazi svoj put suočavanja s teškoćama u razvoju i invaliditetom i taj je put zasigurno obilježen ponavljajućim krizama kako dijete stari, a resursi roditelja bivaju podložni promjenama. No, većina obitelji ipak se prilagodi i stekne vlastite resurse suočavanja koji im pomažu (Kandel i Merrick, 2007). Uloga stručnjaka trebala bi biti

da prepoznaju specifične životne prekretnice kod kojih se takve krize unutar obitelji tipično javljaju (npr. traganje za dijagnozom, adekvatnim terapijskim postupkom, primjerenom odgojno-obrazovnom institucijom itd.), pruže psihološku podršku prvenstveno u vidu empatičnog pristupa i komunikacije te uvažavanja partnerskog odnosa s roditeljima. Navedeno su temelji suvremenih trendova u razvoju skrbi za obitelji djece s teškoćama u razvoju i osoba s invaliditetom koji se u literaturi mogu pronaći pod opisima tzv. skrbi orijentirane na potrebe obitelji (engl. *family-centered care*) (King, 1999; Kuo i sur., 2012; Mas i sur., 2019; Novak-Pavlic i sur., 2023; Raina i sur., 2004). Na taj način organizirana skrb umanjuje roditeljski stres i potkrepljuje roditeljsku efikasnost, pospješuje protok informacija te djeluje povoljno na interakciju obitelji s profesionalnim osobljem (Moradian, 2018). Na koncu, svaka intervencija usmjerena k obiteljima djece s teškoćama u razvoju i osoba s invaliditetom treba podržavati osobni rast i razvoj unutar roditeljske uloge, zbog blagotvornih učinaka takvog *razvojnog* ishoda na same roditelje i njihove obitelji, što je ilustrirano i citatima proizašlim iz rasprave s roditeljima te potvrđeno u nizu dosadašnjih istraživanja (npr. Beighton i Willis, 2017; Picoraro i sur., 2014; Qin i sur., 2021).

Ograničenja i doprinosi istraživanja

Prvo i najočitije ograničenje provedenog istraživanja proizlazi iz veličine i neprobabilističke prirode uzorka sudionika. Osim toga, važno je napomenuti da se radi o sudionicima koji su se dobrovoljno javili za sudjelovanje na istraživačkoj radionici. Iako je uzorkom ostvarena heterogenost sudionika po sociodemografskim i drugim karakteristikama, njihova motiviranost za sudjelovanje zasigurno je mogla utjecati na dobivene rezultate. Osim subjektivnosti sudionika, ne može se isključiti ni utjecaj samih istraživačica na dobivene rezultate. Naime, dobiveni odgovori zasigurno su dijelom i odraz postavljenih pitanja, načina moderiranja rasprave i vrste analize te općenitije epistemološke pozicije i osobnih karakteristika istraživačica. Nadalje, s obzirom na to da je analiza prikupljenih podataka ukazala da među roditeljima djece s teškoćama u razvoju i osoba s invaliditetom prevladava percepcija o nedostatnom senzibilitetu u društvenom okruženju, važno je naglasiti da je moderatorica, ali i nekolicina sudionika, poticalo na razgovor o pozitivnim iskustvima i primjerima dobre prakse. Razlog prevladavanja „negativne“ perspektive proizlazi iz činjenice da su ovako okupljene skupine sudionika sklonije iznositi probleme s kojima se susreću i predlagati načine njihovog rješavanja, nego iznositi pozitivna i/ili neproblematična iskustva. Ovdje je važno i još jednom spomenuti činjenicu da su sudionici tijekom radionice na pitanja vezana za društvenu podršku obiteljima djece s teškoćama u razvoju i osoba s invaliditetom, osim trenutnih, iznosili i svoja prošla iskustva (refleksija koja je prirodna i logična). Pritom je većina sudionika bila suglasna u percepciji promjena na bolje u funkciji posljednjih desetak godina, ali i u stavu

da je formalna i neformalna podrška i dalje nedovoljna. Na kraju, s obzirom na heterogenost sudionika, nedostatak komparativnih analiza u radu može se smatrati ograničenjem, međutim, s obzirom na veličinu i neprobabilističku prirodu uzorka te postavljena istraživačka pitanja, komparativne analize procjene društvenog okruženja s obzirom na različita obilježja sudionika preporučuju se za daljnja istraživanja.

Usprkos navedenim ograničenjima, u odnosu na dosadašnja, još uvijek rijetka istraživanja ove tematike u našem društvu, osnovni doprinos ovog istraživanja ogleda se u obuhvaćanju skupine roditelja heterogenih karakteristika (spol, dob i radni status roditelja, širok dobni raspon njihove djece – djece s teškoćama u razvoju i osoba invaliditetom, heterogenost vrste i stupnja oštećenja/invaliditeta). Dodatno, odabranim kvalitativnim pristupom ostvaren je dublji i detaljniji uvid u aspekte života ovih obitelji do kojih je teško doći kvantitativnim istraživanjima. Konačno, rezultati ovog istraživanja mogu poslužiti u primjeni ciljeva bioetike invaliditeta koji se očituju u jačanju društvenih resursa usmjerenih prema podršci kvalitete života obitelji djece s teškoćama u razvoju i osoba s invaliditetom.

ZAKLJUČAK

Ovim istraživanjem prikupljeni su podaci o subjektivnoj percepciji roditelja djece s teškoćama u razvoju i osoba s invaliditetom u pogledu formalne i neformalne podrške njihovim obiteljima. Rezultati provedenog istraživanja ukazuju da iz perspektive roditelja postoji mnogo mjesta za napredak u pogledu senzibiliteta društvenog okruženja prema njihovim obiteljima. Uvid u stanje bioetičkog senzibiliteta društva prema teškoćama u razvoju i invaliditetu moguće je ostvariti upravo putem ispitivanja postojećih institucijskih i društvenih mehanizama, odnosno njihova funkcioniranja i provođenja u praksi. Pritom se iskustva roditelja koji skrbe o djeci s teškoćama i osobama s invaliditetom kao korisnika postojećih socijalnih prava promatraju kao temeljno polazište analize. Dodatno, rezultati provedenog istraživanja upućuju na niz praktičnih smjernica usmjerenih k potrebama i podršci kvaliteti života obitelji djece s teškoćama u razvoju i osoba s invaliditetom, koje se mogu sumirati na sljedeći način: potreba dodatnog osnaživanja roditelja i cjelovitih obitelji, potreba jačanja stručnih kompetencija i komunikacijskih vještina stručnjaka koji rade s djecom s teškoćama i osobama s invaliditetom te potreba daljnje senzibilizacije šireg društvenog okruženja o zahtjevima i izazovima života obitelji djece s teškoćama u razvoju i osoba s invaliditetom.

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Qualitative Analysis of the Sensibility of the Social Environment towards Families of Children with Developmental Disabilities and Persons with Disabilities: The Parents' Perspective

SUMMARY

Caring for children with developmental disabilities and persons with disabilities depletes the psychophysical and other resources of parents and affects their health, so formal and informal support from society is extremely important. Since strengthening the bioethical sensibility of society towards children with developmental disabilities and persons with disabilities is a prerequisite for promoting change at the socio-political level, the main objective of the research was to gain deeper and more detailed insight into the sensibility of the social environment towards families of children with developmental disabilities and persons with disabilities. This was performed by using the experiences and perspectives of parents collected in a research workshop attended by 16 parents of children with developmental difficulties and persons with disabilities (11 mothers and 5 fathers). Data were collected using the guided group discussion method, and a thematic analysis was conducted.

Despite the observed positive changes during the last decade, the sensibility of the social environment towards the families of children with developmental disabilities and persons with disabilities is described as insufficient from the parent's perspective, both at the level of the formal and informal environment. The findings point to a number of practical guidelines aimed at addressing the needs and support of these families: the need to empower parents and families, the need to strengthen the professional competencies and communication skills of professionals, and the need to sensibilize the broader social environment to the demands and challenges in the lives of these families.

Keywords: parenting children with developmental disabilities and persons with disabilities, sensibility of the social environment, formal and informal support.

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Socijalna distanca prema pripadnicima romske nacionalne manjine od strane medicinskih sestara i tehničara u Bosni i Hercegovini

SAŽETAK

Romi su najveća od 17 nacionalnih manjina u Bosni i Hercegovini (BiH) koja predstavlja najsiromašniju, najviše marginaliziranu te najomraženiju etničku grupu koja trpi najizraženiju diskriminaciju, između ostalog vezano i s ravnopravnim pristupom kvalitetnoj zdravstvenoj zaštiti. Socijalno distanciranje od pacijenata je relevantna bioetička tema jer može imati značajan negativan utjecaj na kvalitetu zdravstvene skrbi i udariti direktno na temeljna načela biomedicinske etike. Budući da dosad nisu provedena istraživanja socijalne distance prema Romima od strane medicinskih sestara i tehničara, u proljeće 2023. na uzorku od 160 ispitanika istraženo je postojanje socijalne distance prema Romima korištenjem Bogardusove skale te su identificirane pozadinski relevantne sociodemografske varijable, koje utječu na postojanje i intenzitet socijalne distance. Rezultati istraživanja potvrdili su da medicinske sestre i tehničari u sustavu zdravstva BiH iskazuju veću socijalnu distancu prema pripadnicima romske nacionalne manjine u odnosu na druge nacionalne i etničke skupine. Utvrđeno je i da manju socijalnu distancu pokazuju ispitanici koji su u svojem poslu imali kontakte s Romima kao pacijentima, kao i oni koji bolje poznaju romsku kulturu i običaje. Veća razina socijalne distance nije se pokazala statistički značajno povezana s dobi, spolom, završenom razinom obrazovanja, mjestom stanovanja, kantonalnom lokacijom, pripadnošću određenoj nacionalnoj manjini te iskazanom većom religioznošću.

Ključne riječi: Romi, Bogardusova skala, socijalna distanca, bioetika, medicinska sociologija, medicinske sestre, Bosna i Hercegovina.

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UVOD

Romska nacionalna manjina (RNM) je najveća etnička manjinska skupina u Europi čiju je točnu veličinu populacije teško odrediti, budući da njezine karakteristike, kao i moguće administrativne prepreke koje ometaju registraciju ove populacije, čine njezinu reprezentativnost u popisima nižom od stvarne (Macias, 2022), a procjenjuje se da bi taj broj mogao iznositi 10 do 12 milijuna (Institucija ombudsmana za ljudska prava Bosne i Hercegovine, 2013; Vojak, 2021).

Većina europske romske populacije živi u zemljama istočne Europe, a zemlje s najvećim postocima romske populacije su Makedonija, Bugarska, Rumunjska, Slovačka Republika i Republika Makedonija, od kojih je Rumunjska s 1,8 milijuna stanovnika zemlja s najvećim brojem Roma. Slijede ih Španjolska, Mađarska i Bugarska (Laparra i Macias, 2009).

Romi su etnička skupina s potpuno drugačijim statusom i načinom postojanja od pripadnika drugih etničkih/nacionalnih zajednica u državama u kojima žive. Njihov je svakodnevni život marginalan i samo djelomično integriran u osnovne društvene sfere. Različitost Roma u usporedbi s drugim etničkim manjinama posljedica je životnog stila i stoljetne socijalizacije koja se temelji na brojnim stereotipima izvan same romske zajednice, ali i unutar nje (Škiljan i Babić, 2014).

U Bosni i Hercegovini registrirano je 17.000 Roma, uz procjenu da u BiH živi između 30.000 do 40.000 Roma, što ih čini najvećom od 17 nacionalnih manjina. Informacije koje je Institucija ombudsmana primila od romskih udruga, putem provedene ankete, pokazale su da na teritoriju BiH živi otprilike 50.000 Roma, od čega oko 35.000 Roma u FBiH, preko 3.000 u RS i između 2.000 do 2.500 u Brčko distriktu. Prema drugim dostupnim informacijama najčešće spominjan broj Roma u BiH je između 65.000 do 70.000, međutim, podaci dobiveni iz posljednjeg provedenog popisa stanovništva nisu potvrdili opisane procjene (Institucija ombudsmana za ljudska prava Bosne i Hercegovine, 2013).

Kao i u drugim državama Balkana, Romi i u Bosni i Hercegovini po mnogim indikatorima predstavljaju najsiromašniju i najviše marginaliziranu skupinu u zemlji (Miladinović, 2008) te najomraženiju etničku grupu (Ivanović, 2015) koja trpi najizraženiju diskriminaciju i segregaciju u društvenom, ekonomskom i političkom smislu. To je skupina koja se suočava s nizom poteškoća pri realiziranju temeljnih ljudskih prava, zajamčenih Ustavom, a posebno su zabrinjavajuća prava u vezi s pristupom socijalnoj i, posebice, zdravstvenoj zaštiti, obrazovanju i zapošljavanju.

Romi, kao jedna od najdiskriminiranijih manjinskih skupina u Europi, imaju i najgore zdravstvene ishode (McFadden i sur., 2018). Očekivano trajanje života Roma je kraće, a stopa dojenčadi umrle pri porodu veća je među Romima (Belak i sur.,

2017). Prosječno, Romkinje žive 11 godina manje nego žene u općoj populaciji, a Romi žive 9,1 godinu manje od muškaraca u općoj populaciji (FRA, 2022). Osim toga, Romi su značajno skloniji dugotrajnim bolestima, zdravstvenim problemima ili invaliditetu koji ograničava svakodnevne aktivnosti ili rad, a također se navodi da ova manjinska skupina ima više poteškoća sa samozbrinjavanjem, boli ili nelagodom, anksioznošću ili depresijom (Parry i sur., 2007) te da je relativno niske razine dobrobiti (Dimitrova, Tarpomanova i Rizov, 2014).

Nedostatak čiste vode i kanalizacije, loši stambeni uvjeti, sakupljanje otpada i korištenje sekundarnih sirovina glavni su uzroci lošeg zdravlja Roma. Nadalje, niske stope imunizacije, kao i uživanje alkohola, droga i duhana, uočeni su kao zdravstveni problemi u romskim zajednicama (Dančević-Gojković, 2010). Neposjedovanje odgovarajućih dokumenata ograničava pristup zdravstvenim uslugama i dodatno pogoršava zdravstveno stanje (ECRI, 2011). Niz čimbenika isprepletenih u začaranom krugu odgovorno je za diskriminaciju i posljedičnu socijalnu isključenost i segregaciju Roma; od siromaštva, ekonomske nestabilnosti, loših stambenih uvjeta, niske obrazovanosti roditelja, napuštanja redovitog obrazovanja djece, pa sve do geografski izoliranog položaja, udaljenog od kulturnih, obrazovnih, socijalnih i zdravstvenih službi, što ostavlja duboke posljedice na fizičko, psihičko i mentalno zdravlje (UNICEF, 2013). Moguće je da problemi u ostvarivanju prava na zdravstvenu zaštitu uglavnom proizlaze zbog toga što su Romi zdravstveno neosigurani, a oni koji imaju zdravstveno osiguranje tretirani su po principu ravnopravnosti, iako neki ističu neravnopravan odnos koji prema njima iskazuje zdravstveno osoblje (Petrić i sur., 2010).

Rome, iako su stoljećima na prostorima Bosne i Hercegovine, nije prihvatilo većinsko stanovništvo i prisutno je sveopće nepoznavanje, ali i nezainteresiranost za romsku kulturu, jezik, tradiciju i običaje (Malovrh, 2018). Kao rezultat kulturne, etničke i rasne izolacije, romska manjina doživljava ograničenja u pružanju visokokvalitetne medicinske skrbi, što djelomično dovodi do veće učestalosti bolesti i smrtnosti među njenim pripadnicima. Nadalje, *„kao posljedica nepoznavanja kulturne raznolikosti Roma, etničkog identiteta, socijalnog stanja, kao i deficita kulturološke osjetljivosti na različitosti i specifičnosti potreba i pristupa korištenju zdravstvene zaštite od strane pripadnika romske nacionalne manjine (RNM) kod dijela medicinskih sestara može dovoditi do kulturno neprilagođene zdravstvene skrbi"* (Zalewska-Puchała, Majda i Bodys-Cupak, 2020, str. 257). Upravo je zbog navedenog socijalno distanciranje od pacijenata važna i relevantna bioetička tema, jer ima značajni negativni utjecaj na kvalitetu zdravstvene skrbi i udara direktno na temeljna načela biomedicinske etike. Socijalno distanciranje može smanjiti emocionalnu povezanost između zdravstvenih radnika i pacijenata, što može rezultirati manjom pažnjom prema individualnim potrebama pacijenata. To je dokazano pri istraživanju utjecaja socijalne distance

zdravstvenih radnika prema određenim grupama pacijenata (Wong i Chiong-Hee, 2021). Nedostatak bliske interakcije može otežati pružanje suosjećajne i personalizirane skrbi, dovodeći do smanjenja dobročinstva prema pacijentima (Babbie i Rubin, 2016). Distanciranje može uzrokovati propuste u dijagnostici, terapiji i praćenju stanja pacijenata. Nedostatak neposredne interakcije može rezultirati nedostatkom brzog prepoznavanja potencijalnih komplikacija ili promjena u stanju pacijenta, što može povećati rizik od neželjenih događaja i loših ishoda (Derek Brown, Martinez i Hebl, 2018; Freeman i Payne, 2000). Socijalno distanciranje može dovesti do neravnoteže u pružanju zdravstvene skrbi, posebno ako određene skupine pacijenata nisu u mogućnosti dobiti istu razinu pažnje i brige kao i druge, što može potencijalno povećati postojeće nejednakosti u pristupu zdravstvenoj skrbi (Anderson, Green i Payne, 2009; Hoffman i sur., 2016). Konačno, nedostatak bliske interakcije može utjecati na sposobnost pacijenata da izraze svoje želje. Ako zdravstveni radnici nisu uključeni u dijalog s pacijentima, autonomija pacijenata može biti narušena, a odluke mogu biti donesene bez dovoljno informacija ili razumijevanja pacijentovih vrijednosti (Stone i Moskowitz, 2011).

Ukupno gledano, važno je uspostaviti strategije koje će omogućiti očuvanje ljudskosti u pružanju zdravstvene skrbi, čak i uz prisutnost socijalnog distanciranja, kako bi se osiguralo poštovanje etičkih standarda i pružila optimalna skrb pacijentima.

Za unapređenje položaja Roma u ostvarivanju temeljnog prava na univerzalnu i besplatnu zdravstvenu zaštitu garantiranu Ustavom prethodno je potrebno provesti ciljano istraživanje odnosa medicinskih sestara i tehničara prema pripadnicima RNM-a, pri čemu je vrlo važno istražiti postojanje i razmjere socijalne distance koju medicinske sestre i tehničari osjećaju prema pripadnicima RNM-a u odnosu na socijalnu distancu prema drugim nacionalnim manjima ili marginalnim skupinama.

Socijalna distanca je zapravo stupanj bliskosti u socijalnim odnosima koje neka osoba prihvaća s pripadnicima drugih društvenih skupina, a varira od srdačnih i bliskih odnosa, preko ravnodušnih do neprijateljskih odnosa, tj. neprihvaćanja prema određenim skupinama, pojedincima ili vrijednostima (Supek, 1968). Socijalna distanca ponajviše ovisi o predrasudama, stereotipima, poznavanju određene skupine i pojedinaca. Naime, socijalna distanca nije samo znak neprijateljstva, već i neznanja (pa i straha) prema određenoj skupini. Nedovoljno poznavanje pojedinih naroda, generalizacije, pojednostavljeni zaključci i opći sudovi, kao što je to slučaj prema Romima, dovode do stvaranja predrasuda i socijalne distance većine stanovnika prema njima. Članove druge grupe ljudi obično doživljavaju kao sličnije jedan drugome nego članove svoje vlastite grupe. Jedno od pitanja koje se postavlja jest smanjuju li ili povećavaju češći kontakti Roma i većinskog stanovništva socijalnu distancu među njima (Šlezak i Šakaja, 2012). U istraživanju provedenom na području Međimurja u

RH autori su došli do zaključka da i u području čestog kontakta s Romima ne dolazi do smanjivanja ksenofobnih osjećaja, odnosno da se ne smanjuje socijalna distanca ondje gdje postoje češći kontakti Roma i većinskog stanovništva.

Prema istraživanju socijalne distance koju je proveo Puhalo 2003. godine vidljivo je da je najveća socijalna distanca građana Federacije Bosne i Hercegovine bila izražena upravo prema Romima (od devet ponuđenih odnosa Romi se najviše odbacuju u pet odnosa), dok su na području Republike Srpske najmanje prihvaćeni Bošnjaci, a potom Romi.

Poznavanje socijalne distance s kojom se Romi susreću u sustavu zdravstvene zaštite od strane osoba prvog kontakta tek je prvi korak za uspostavljanje sustavnog praćenja prepreka u ostvarivanju zdravstvene zaštite na koje pripadnici RNM-a nailaze. To je posebno važno kako bi se donijele adekvatne mjere za sprječavanje i borbu protiv diskriminacije i socijalne izolacije Roma, predložene u novom strateškom okviru za ravnopravnost, jednakost, uključivanje i sudjelovanje Roma. Ciljevi novog strateškog Okvira (Europska komisija, 2020) uključuju nužnost da se postigne poboljšanje zdravlja Roma i povećanje efektivnog jednakog pristupa kvalitetnoj zdravstvenoj skrbi te sprječavanje i uklanjanje segregacije i socijalne distance prema pripadnicima RNM-a od strane zdravstvenih radnika na području zdravstvenih usluga (Samarasekera, 2020).

Primarni cilj ovog istraživanja bio je utvrditi postojanje i intenzitet socijalne distance prema pripadnicima RNM-a među medicinskim sestrama i tehničarima kao najbrojnijom podskupinom zdravstvenih radnika zaposlenih na razini sekundarne i tercijarne zdravstvene zaštite u svim kantonima države. Sekundarni ciljevi ovog istraživanja bili su: utvrditi povezanost socijalne distance prema pripadnicima RNM-a s pojedinim sociodemografskim karakteristikama ispitanika, odnosno, identificirati pozadinski relevantne sociodemografske varijable, odnosno, pozadinske sociodemografske strukture ispitanika koje utječu na postojanje i intenzitet socijalne distance prema pripadnicima RNM-a. Također se nastojalo utvrditi povezanost socijalne distance prema pripadnicima RNM-a s ideološko-svjetonazorskim stavovima ispitanika, utvrditi povezanost socijalne distance prema pripadnicima RNM-a s osobnim kontaktom među članovima većinske i manjinske skupine, odnosno njihova povezanost s postojanjem i učestalošću kontakta s pripadnicima RNM-a. Konačno, željelo se utvrditi povezanost socijalne distance prema pripadnicima RNM-a s poznavanjem kulture Roma, kao i postojanjem zainteresiranosti i otvorenosti ispitanika za njeno upoznavanje.

HIPOTEZE

Glavnom hipotezom vezanom uz primarni cilj istraživanja pretpostavljeno je da medicinske sestre iskazuju veću socijalnu distancu prema pripadnicima RNM-a u odnosu na druge nacionalne i etničke skupine.

U istraživanju su bile postavljene i 4 pomoćne hipoteze i to:

- Pomoćna hipoteza 1: „Postoji povezanost između socijalne distance prema pripadnicima RNM-a i pojedinih sociodemografskih obilježja ispitanika (dob, spol, veličina i regionalni položaj mjesta prebivališta, razina obrazovanja)."
- Pomoćna hipoteza 2: „Postoji povezanost između socijalne distance prema pripadnicima RNM-a i političke orijentacije i religioznosti ispitanika."
- Pomoćna hipoteza 3: „Postoji povezanost između izražene socijalne distance prema pripadnicima RNM-a i postojanja osobnog kontakta s pripadnicima RNM-a."
- Pomoćna hipoteza 4: „Postoji povezanost između izražene socijalne distance prema pripadnicima RNM-a i poznavanja romske tradicije, kulture i običaja, kao i zainteresiranosti za njihovo upoznavanje."

METODOLOGIJA

Istraživanjem je bilo obuhvaćeno ukupno 160 ispitanika koji su dragovoljno ispunili *online* postavljenu anketu. Prethodno su u uvodnom dijelu bili informirani o svrsi istraživanju, ciljanoj populaciji, nositeljima istraživanja te o potpunoj anonimnosti sudjelovanja u istraživanju i mogućnosti da u svakom trenutku odustanu od sudjelovanja bez objašnjenja. Istraživanje je bilo usmjereno prema medicinskim sestrama i tehničarima zaposlenim u sustavu zdravstvene zaštite na razini primarne, sekundarne i tercijarne skrbi koji neposredno rade s pacijentima. Metoda prikupljanja bila je „snježna gruda", inicirana objavom i slanjem javnih poziva na sudjelovanje u istraživanju preko Alumni klubova i službenih stranica visokoškolskih ustanova koje školuju medicinske sestre i tehničare u Sarajevu i Mostaru, kao i preko službenih stranica strukovnih komora. Istraživanje je bilo provedeno u razdoblju od 1. travnja do 1. svibnja 2023. godine, unutar 30 dana tijekom kojih je bila otvorena anketa kao presječno istraživanje u jednoj vremenskoj točki. Uzorak je bio neprobabilistički.

Način provođenja upitnika bio je u potpunosti anonimiziran, uz prethodno pribavljenu suglasnost Etičkog povjerenstva Zdravstvenog veleučilišta (Klasa: 602-03/22-18/509; URBRJ: 251-379-10-22-02; 20.7.2022.) kao ustanove koja je nositelj projekta pod naslovom „Negativni stereotipi i socijalna distanca medicinskih sestara

prema pripadnicima romske nacionalne manjine kao korisnicima zdravstvene skrbi". Za sudjelovanje ispitanici nisu dobili nikakvu nagradu, materijalnu ili nematerijalnu.

Podaci su prikupljani pomoću anketnog upitnika koji je bio testiran u pokusnom istraživanju u pripremnoj fazi istraživanja, a sastavljen je integriranjem ranije korištenih upitnika, uvažavajući specifičnost ispitanika medicinskih sestara i tehničara zaposlenih u području biomedicine i zdravstva (Bilać, 2017.; Grgić, 2017).

Opis upitnika

U prvom dijelu upitnika prikupljeni su podaci o sociodemografskim osobinama ispitanika: spol, dob, profil zdravstvene struke, duljina radnog iskustva, mjesto rada s obzirom na razinu pružanja zdravstvene zaštite (primarna, sekundarna i tercijarna), mjesto življenja (grad/selo) te županija iz koje dolaze na razini BiH. U drugom dijelu upitnika prikupljeni su podaci korištenjem modificirane Bogardusove skale socijalne distance prema etničkim i religijskim skupinama, koja mjeri spremnost da se s pripadnicima različitih etničkih skupina stupi u prisne kontakte. Zadatak ispitanika bio je procijeniti najviši stupanj bliskosti na koji su spremni pristati s pripadnicima etničkih skupina prema kojima se istraživala socijalna distanca ispitanika. Anketni upitnik u trećem dijelu sadržavao je dva instrumenta kojima se željelo ispitati poznavanje i interes ispitanika za kulturu, tradiciju i običaje Roma. U četvrtom dijelu upitnika analiziran je odnos ispitanika prema religiji. U petom dijelu analizirana je i samoprocjena vlastite pozicije ispitanika na političkom spektru.

Obrada podataka

Obrada podataka provedena je korištenjem SPSS 20.0 programa. Empirijski podaci analizirani su metodama i postupcima deskriptivne te inferencijalne (induktivne) statistike. U okviru deskriptivne statistike u radu su prikazani osnovni deskriptivni statistički pokazatelji (frekvencije, postoci, prosječne vrijednosti) te su ti podaci prikazani tabličnim prikazima.

Analiza podataka pokazala je da distribucija rezultata nije normalna, pa su u daljnjoj analizi korišteni neparametrijski testovi, i to Kruskal-Wallisov test, dok je kod križanja s intervalnim varijablama korišten Spearmanov test, s obzirom na to da je skala socijalne distance zapravo ordinalna, a ne intervalna skala.

Kod nominalnih varijabli s 2 podskupine također je korišten Kruskal-Wallisov test, a provedena je i kontrolna značajnosti razlika korištenjem Wilcoxon-Mann-Whitneyjeva testa, koji se koristi za slučajeve s 2 podskupine. No, rezultati su pokazivali isto kao i pri korištenju Kruskal-Wallisova testa, koji je zapravo generalizacija Wilcoxon-Mann-Whitneyjeva testa, pa su u rezultatima prikazani rezultati dobiveni tim testom.

REZULTATI

Istraživanjem su bile obuhvaćene 142 ispitanice ženskog spola (88,8 %) i 17 (10,60 %) ispitanika muškog spola, uz jednog ispitanika koji se nije želio izjasniti (0,60 %). Raspodjela odgovara uobičajenoj raspodjeli po spolu unutar struke medicinskih sestara i tehničara i zastupljenosti studenata sestrinstva po spolu na visokoškolskim ustanovama.

U istraživanju su značajno više bile spremne sudjelovati osobe rođene nakon 2001. godine, dakle osobe koje su u dobi do 23 godine (73 ispitanika ili 45,60 %). Drugi najveći odaziv bio je kod ispitanika rođenih u razdoblju od 1976. do 1980. godine (13,80 %), dok je odaziv u ostalim dobnim skupinama bio manji. Kod ispitanika rođenih između 1996. i 2000. iznosio je 8,10 %, rođenih između 1991. i 1995. (7,50 %), između 1986. i 1990. (8,10 %), između 1981. i 1985. (7,50 %), između 1971. i 1975. (6,20 %), između 1966. i 1970. (2,50 %), a najmanji je odaziv bio kod rođenih između 1961. i 1965. (0,60 %).

Analiza obrazovne strukture ispitanika pokazala je da su u istraživanju najviše sudjelovale medicinske sestre i tehničari, njih 56,90 % sa završenim srednjoškolskim obrazovanjem u strukovnim medicinskim školama, kao i dodatnih 9,40 % onih koji su završili ostale profile srednjoškolskog obrazovanja, ali rade u sustavu zdravstva, što je višestruko više nego broj ispitanika sa završenom višom ili prvostupničkom razinom obrazovanja (13,80 %) ili visokoškolskom razinom obrazovanja (13,00 %). Ispitanika koji su završili još neko drugo obrazovanje, pored sestrinstva, bilo je 6,9 %.

Kao mjesto boravka tijekom većeg dijela života 91 ispitanik (56,90 %) označava grad, a 69 (43,10 %) seosku sredinu..

Raspodjela ispitanika po regijama u kojima žive pokazala je da se najviše ispitanika, njih 32 (20,00 %) odazvalo iz dvaju kantona; Kantona Sarajevo i Zapadnohercegovačkog kantona, te Kantona 10 njih 29 (18,10 %), dok je njih 27 (16,90 %) iz Hercegovačko-neretvanskog kantona. Odaziv iz ostalih kantona bio je znatno manji: Zeničko-dobojski kanton (6,90 %), Entitet Federacija BiH (6,20 %), Srednjobosanski kanton (5,60 %), Posavski kanton (2,50 %), Entitet Republika Srpska (1,90 %), Tuzlanski kanton (1,20 %) i Unsko-sanski kanton (0,60 %).

Sukladno podacima o dobnoj raspodjeli, s obzirom na to da su u istraživanju sudjelovali većinom ispitanici mlađe životne dobi, najviše je sudjelovalo onih ispitanika koji imaju manje od 1 godine radnog staža, njih 40 %, te onih koji imaju 2 – 5 godina radnog staža (18,80 %). Zabilježen je nešto niži odaziv ispitanika koji imaju više od 21 godine staža, njih 16,9 %, dok je odaziv u drugim dobnim skupinama bio slabiji i to kod onih sa 6 do 10 godina radnog staža (7,50 %), 11 do 15 godina (5,00 %),

16 do 20 godina (11,90 %), 21 do 25 godina (9,4 %) te onih s više od 26 godina radnog staža (7,50 %).

Većina ispitanika, njih 86,90 % sebe smatra pripadnicima većinskog stanovništva, a njih 13,10 % pripadnicima određene nacionalne manjine.

Rezultati pokazuju da 35,60 % ispitanika ima, a 64,40 % nema poznanika ili prijatelja među pripadnicima RNM-a. Također, 58,80 % ispitanika imalo je dosad u privatnom životu osobni kontakt s pripadnikom RNM-a, dok ih 41,20 % nije imalo takav kontakt.

Nadalje, istraživanjem se željelo analizirati dodatne osobine ispitanika – religioznost, političko uvjerenje, važnost nacionalnog identiteta, poznavanje romske kulture, jezika i običaja te zainteresiranost za njeno upoznavanje, što je prikazano sljedećim tablicama.

Tablica 1. Raspodjela s obzirom na iskazanu religioznost.

Označite onu tvrdnju koja najbliže opisuje Vaš odnos prema religiji	**f**	**%**
Uvjereni sam vjernik i prihvaćam sve što vjera uči.	75	46,90 %
Religiozan sam, ali ne prihvaćam sve što vjera uči.	47	29,40 %
Dosta razmišljam o tome, ali nisam siguran vjerujem li ili ne.	6	3,80 %
Nisam religiozan, iako nemam ništa protiv religije.	3	1,90 %
Prema religiji sam ravnodušan.	4	2,50 %
Nisam religiozan i protivnik sam religije.	1	0,60 %
Ne želim odgovoriti na to pitanje.	24	15,00 %

Ne ulazeći u konkretnu pripadnost određenoj vjerskoj konfesiji, Tablica 1 pokazuje da se 112 ispitanika smatra religioznim osobama, budući da ih je 47 (29,40 %) izjavilo da se smatra „religioznim ali ne prihvaća sve što vjera uči“, dok ih 75 (46,90 %) sebe smatra „vjernikom koji prihvaćam sve što vjera uči“. Ukupno je 76,30 % ispitanika koji se smatraju religioznima, njih 30 (18,80 %) nije se odredilo ili željelo izjasnili o tom pitanju, dok se 8 ispitanika (5,00 %) ne smatra religioznim osobama.

Tablica 2. Raspodjela s obzirom na iskazano političko uvjerenje.

Označite tvrdnju koja najbliže opisuje Vaše političko opredjeljenje.	**f**	**%**
Smatram se apolitičnim, politika me uopće ne zanima.	82	51,20 %
Jasno podržavam stranke lijevog spektara.	5	3,10 %
Naginjem više lijevom spektru uz blago odstupanje od centra.	4	2,50 %
Ne podržavam ni lijeve ni desne stranke, u pravilu bliske su mi stranke uskog centra.	4	2,50 %
Jasno podržavam stranke desnog spektra.	3	1,90 %
Naginjem više desnom spektru uz blago odstupanje od centra.	3	1,90 %
Ne želim odgovoriti na to pitanje.	59	36,90 %

Tablica 2 donosi prikaz iskazanog političkog uvjerenja ispitanika, pri čemu 9 ispitanika odnosno njih 5,60 % sebe svrstava blago ili jače usmjereno lijevo od centra, dok se njih 6 (3,80 %) svrstalo na stranu desnog političkog spektra. Najveći broj ispitanika, njih 82 (51,20 %) izjavio je da se smatra apolitičnima, odnosno da ih politika uopće ne zanima, dok ih je 59 (36,90 %) odbilo odgovoriti na to pitanje.

Tablica 3. Raspodjela s obzirom na važnost nacionalnog identiteta.

Navedite u kojoj se mjeri slažete sa sljedećim izjavama na skali od 1 do 5, gdje je 1 – uopće se ne slažem; 2 – ne slažem se; 3 – niti se slažem, niti se ne slažem; 4 – slažem se; 5 – u potpunosti se slažem.											
	Apsolutna frekvencija (f)					Relativna frekvencija (%)					
	1	2	3	4	5	1	2	3	4	5	SV
To što sam pripadnik konstitutivnog naroda je važan dio mog identiteta.	19	23	73	35	10	11,9 %	14,4 %	45,6 %	21,9 %	6,3 %	2,96
Kada govorimo o pripadnicima konstitutivnih naroda ja najčešće govorim MI, a ne ONI.	19	22	73	41	5	11,9 %	13,8 %	45,6 %	25,6 %	3,1 %	2,94
Važno mi je da sam sebe vidim i doživljavam kao pripadnika konstitutivnog naroda.	19	19	82	32	8	11,9 %	11,9 %	51,3 %	20,0 %	5,0 %	2,94
Važno mi je da me drugi vide i doživljavaju kao pripadnika konstitutivnog naroda.	25	22	83	22	8	15,6 %	13,8 %	51,9 %	13,8 %	5,0 %	2,79

Tablica 3 donosi prikaz u kojoj mjeri ispitanici doživljavaju važnost svojeg nacionalnog identiteta, pri čemu se 21,9 % slaže, a 6,3 % u potpunosti slaže s tvrdnjom da „to što su pripadnici konstitutivnog naroda jest važan dio njihova identiteta". Nadalje, 25,6 % ispitanika se slaže, a 3,1 % ispitanika se u potpunosti slaže s tvrdnjom da „kada govore o pripadnicima konstitutivnih naroda oni najčešće govore izrazom MI a ne ONI". Podaci pokazuju da se 20,0 % ispitanika slaže, a 5,00 % ispitanika u potpunosti slaže s tvrdnjom da im je važno da „sami sebe vide i doživljavaju kao pripadnika konstitutivnog naroda". Među četiri ponuđene tvrdnje, najmanja je prosječna vrijednost (2,79) iskazana uz tvrdnju da je „važno da ih i drugi vide i doživljavaju kao pripadnika konstitutivnog naroda"; 13,8 % ispitanika se slaže, a 5,00 % je onih koji se u potpunosti slažu.

Tablica 4. Raspodjela s obzirom na samoprocjenu upoznatosti s elementima kulture i tradicije Roma.

Navedite u kojoj ste mjeri upoznati s kulturom Roma na skali od 1 do 5, gdje je 1 – uopće nisam upoznat; 2 – nisam upoznat; 3 – niti sam upoznat, niti nisam upoznat; 4 – upoznat sam; 5 – u potpunosti sam upoznat.											
	Apsolutna frekvencija (f)					Relativna frekvencija (%)					
	1	2	3	4	5	1	2	3	4	5	SV
Jezik Roma	49	58	37	16	0	30,6 %	36,3 %	23,1 %	10,0 %	0,0 %	2,13
Povijest Roma	44	57	42	16	1	27,5 %	35,6 %	26,3 %	10,0 %	0,6 %	2,21
Glazba i umjetnost Roma	26	29	59	42	4	16,3 %	18,1 %	36,9 %	26,3 %	2,5 %	2,81
Običaji Roma	28	37	68	25	2	17,5 %	23,1 %	42,5 %	15,6 %	1,3 %	2,60

Tablica 4 donosi samoprocjenu upoznatosti s elementima kulture i tradicije Roma iz koje se vidi da ispitanici priznaju da je vrlo mali postotak njih upoznat ili u potpunosti upoznat s jezikom Roma (10,0 %), s povijesti Roma (10,6 %), s glazbom i umjetnosti Roma (28,8 %) i s običajima Roma (16,80 %). Vidljivo je da se Rome upoznaje kroz glazbu (prosječna vrijednost 2,81), tek ponešto kroz običaje (prosječna vrijednost 2,60), a najmanje kroz povijest (prosječna vrijednost 2,21) i jezik Roma (prosječna vrijednost 2,13).

Tablica 5. Raspodjela s obzirom na iskazanu spremnost za upoznavanje s elementima kulture i tradicije Roma.

U kojoj mjeri ste na skali od 1 do 5 (gdje je 1 – uopće nisam zainteresiran; 2 – uglavnom nisam zainteresiran; 3 – niti sam zainteresiran, niti nisam zainteresiran, svejedno mi je; 4 – dosta sam zainteresiran; 5 – u potpunosti sam zainteresiran) zainteresirani za kulturu, običaje i način života Roma.

	Apsolutna frekvencija (f)					Relativna frekvencija (%)					
	1	2	3	4	5	1	2	3	4	5	SV
Jezik Roma	30	61	53	14	2	18,8 %	38,1 %	33,1 %	8,8 %	1,3 %	2,36
Povijest Roma	23	40	63	31	3	14,4 %	25,0 %	39,4 %	19,4 %	1,9 %	2,69
Glazba i umjetnost Roma	19	31	59	42	9	11,9 %	19,4 %	36,9 %	26,3 %	5,6 %	2,94
Običaji Roma	22	34	57	40	7	13,8 %	21,3 %	35,6 %	25,0 %	4,4 %	2,85

Tablica 5 pokazuje da ispitanici nisu iskazali ni ukupno visok interes za upoznavanje s pojedinim elementima romske kulture i tradicije. Najviše su interesa pokazali prema upoznavanju s glazbom i umjetnošću Roma (prosječna vrijednost 2,94) te običajima (prosječna vrijednost 2,85), a najmanji s jezikom Roma (prosječna vrijednost 2,36).

Tablica 6. Najviši stupanj bliskosti na koji su ispitanici spremni u odnosu na pripadnike većinskog stanovništva i nacionalnih i drugih manjina.

Označite najviši stupanj bliskosti na koji biste pristali (označite samo jedan odgovor). 1 – Stupili bismo u brak; 2 – Imali bismo za bliskog prijatelja; 3 – Prihvatili bismo za prvog susjeda; 4 – Radili bismo u istoj zdravstvenoj ustanovi; 5 – Pristali bismo samo na poznanstvo; 6 – Prihvatili bismo samo kao posjetitelja u svojoj državi; 7 – Izbacili bismo ih iz države.

	Apsolutna frekvencija (f)							Relativna frekvencija (%)							
	1	2	3	4	5	6	7	1	2	3	4	5	6	7	SV
Hrvati	100	33	14	9	4	0	0	62,5	20,6	8,8	5,6	2,5	0,0	0,0	1,65
Srbi	24	87	20	16	9	2	2	15,0	54,4	12,5	10,0	5,6	1,3	1,3	2,46
Romi	8	64	34	23	17	11	3	5,0	40,0	21,3	14,4	10,6	6,9	1,9	3,14
Talijani	28	58	30	16	13	14	1	17,5	36,3	18,8	10,0	8,1	8,8	0,6	2,84
Bošnjaci	43	75	21	10	4	6	1	26,9	46,9	13,1	6,3	2,5	3,8	0,6	2,24
Albanci	11	69	34	20	13	12	1	6,9	43,1	21,3	12,5	8,1	7,5	0,6	2,97
Make-donci	9	77	35	14	15	9	1	5,6	48,1	21,9	8,8	9,4	5,6	0,6	2,88

Slovenci	13	66	35	17	16	12	1	8,1	41,3	21,9	10,6	10,0	7,5	0,6	2,98
Kinezi/ Nepalci	8	66	36	12	14	20	4	5,0	41,3	22,5	7,5	8,8	12,5	2,5	3,21
Politički migranti i izbjeglice	6	47	35	19	23	19	11	3,8	29,4	21,9	11,9	14,4	11,9	6,9	3,67
Stanovnici iz EU-a	27	56	31	18	13	13	2	16,9	35,0	19,4	11,3	8,1	8,1	1,3	2,88

Tablica 6 donosi prikaz najvišeg stupnja bliskosti na koji su ispitanici spremni u odnosu, kako prema pripadnicima većinskog stanovništva, tako i prema pripadnicima drugih nacionalnih i manjinskih skupina. Očekivano, najveći stupanj bliskosti ispitanici su iskazali za pripadnike konstitutivnih naroda: prema Hrvatima (prosječna ocjena 1,65), prema Bošnjacima (prosječna ocjena 2,24) i prema Srbima (prosječna ocjena 2,46).

Ispitanici pokazuju nešto niži stupanj sklonosti prema drugim narodima iz bivše države, među kojima su kao najprihvatljivija nacionalna skupina Makedonci (prosječna vrijednost 2,88) i Slovenci (prosječna vrijednost 2,98). S druge strane mjerne skale puno manji stupanj bliskosti iskazuju prema onima koje zapravo najmanje poznaju, čiji jezik ne razumiju, ali ih doživljavaju kao strance – Albancima (prosječna vrijednost 2,97), Kinezima/Nepalcima (prosječna vrijednost 3,21). Najmanji stupanj bliskosti ispitanici su iskazali prema Romima (prosječna vrijednost 3,14). Iako nisu nacionalna manjina, ispitanicima su bili ponuđeni i politički migranti i izbjeglice; prema njima su ispitanici izrazili najveći stupanj neprihvaćanja (prosječna vrijednost 3,67), čak veći nego prema Romima.

S obzirom na to da su Romi predmet ovog istraživanja, treba istaknuti da bi Rome u odnosu na druge ponuđene skupine, u odnosu na druge narode iz bivše države, najveći postotak ispitanika (1,1 %) izbacio iz zemlje, no taj postotak je manji nego što je postotak onih koji bi iz zemlje izbacili stanovnike iz EU-a (1,3 %), Kineze i Nepalce (2,55 %) i, posebno, političke migrante i izbjeglice (6,9 %), što odražava visok stupanj netrpeljivosti prema drugima i drugačijima – političkim migrantima i izbjeglicama. Oni iz uglavnom ratom pogođenih područja dolaze u BiH, koja je postala linija na kojoj se zadržavaju na rubnim granicama EU-a. Tu je i izraz netrpeljivosti dijela ispitanika prema stanovnicima EU-a. Na drugoj strani skale su skupine koje su najpoželjniji za stupanje u brak, a to su daleko najviše Hrvati (62,5 %), zatim Bošnjaci (26,9 %) te Talijani (17,5 %).

Rome bi 6,9 % ispitanika prihvatilo tek kao posjetitelje u svojoj državi. Na poznanstvo bi pristalo samo 10,6 % ispitanika, a s Romima bi u istoj ustanovi radilo 14,4 %, za prvog susjeda prihvatilo bi ih 21,3 % ispitanika, a 40,0 % bi moglo imati Roma kao bliskog prijatelja. Usprkos svemu navedenom, tek bi 5,0 % ispitanika stupilo u brak s Romima.

U usporedbi s političkim migrantima i izbjeglicama, manji postotak ispitanika, tek njih 3,8 % bi stupilo u brak s njima, a 29,4 % bi ih prihvatilo za bliskog prijatelja, 21,9 % za prvog susjeda, 11,9 % bi radilo s njima u istoj ustanovi, 14,4 % pristalo bi samo na poznanstvo, 11,9 % bi prihvatilo političke migrante i izbjeglice samo kao posjetitelje u svojoj državi.

Istraživanje je pokazalo da postoje sljedeći zaključci.

- Korelacija po vjerskom opredjeljenju pokazala se statistički značajnom (p < 0,05), pri čemu su ispitanici koji su iskazali religioznost ili nisu željeli odgovoriti na pitanje pokazali veću socijalnu distancu prema Romima, sve nakon provedene agregacije u grupe – religiozni, nereligiozni, ostali i oni koji ne žele odgovoriti (*Kruskal-Wallis chi-squared* = 9,6825, df = 3, *p-value* = 0,02147).
- Korelacija po postojanju prijateljskih odnosa s pripadnicima RNM-a pokazala se statistički značajnom (p < 0,01), pri čemu ispitanici koji nemaju poznanike i prijatelje među pripadnicima RNM-a pokazuju veću socijalnu distancu prema Romima (*Kruskal-Wallis chi-squared* = 8,9025, df = 1, *p-value* = 0,002848).
- Korelacija prema stupnju poznavanja kulture i običaja Roma pokazala se statistički značajnom (p < 0,01), pri čemu ispitanici koji su manje upoznati s kulturom i običajima Roma pokazuju veću socijalnu distancu prema Romima, ali je snaga korelacije slaba (S = 888903, *p-value* = 0,0001031, *Spearman's rank correlation rho* = -0,3021555).
- Korelacija prema stupnju iskazane zainteresiranosti za upoznavanja s kulturom i običajima Roma pokazala se statistički značajnom (p < 0,01), pri čemu ispitanici koji su manje zainteresirani za upoznavanje s kulturom i običajima pokazuju veću socijalnu distancu prema Romima, ali je snaga korelacije umjerena (S = 920200, *p-value* = 6,509e-06; *Spearman's rank correlation rho* = -0,3480014).
- Korelacija u iskazanoj važnosti nacionalnog ponosa pokazala se statistički značajnom (p < 0,01), pri čemu ispitanici koji iskazuju veći nacionalni ponos pokazuju veću socijalnu distancu prema Romima (S = 513455, *p-value* = 0,001579, *Spearman's rank correlation rho* = 0,2478392).

Istraživanje nije pokazalo da razlike u spolnoj, dobnoj, obrazovnoj strukturi, duljini radnog staža, veličini i urbaniziranosti mjesta stanovanja, regiji stanovanja, postojanju

profesionalnog kontakta s pripadnicima RNM-a te u političkoj orijentaciji ispitanika dovode da iskazivanja različite socijalne distance prema Romima.

DISKUSIJA

Romi su često izopćena skupina u društvima zemalja u kojima borave (Kılıçoğlu i Kılıçoğlu, 2018) jer postoji široka predrasuda prema toj manjinskoj skupini u cijeloj Europi (Romani CRISS, 2003). Socijalna distanca prema Romima stvorena je kod europskih naroda zbog nedovoljnog poznavanja romske kulture, običaja, jezika i načina života, a jedan od razloga koji su doprinijeli razvijanju socijalne distance leži i u činjenici da Romi u najvećoj mjeri žive segregirano od naselja u kojima žive pripadnici većinskog naroda (Babić i Škiljan, 2019).

Socijalna distanca prema Romima posebno je pojačana u svim postsocijalističkim zemljama koje su prolazile kroz doba tranzicije, pa tako i u BiH. Jednako kao i u Hrvatskoj, i ona ima različite manifestacije (Bennett, 2012) koje Rome dodatno čine zdravstveno ranjivom skupinom izloženom diskriminatornom ponašanju od strane većinskog stanovništva i posljedično lošijim zdravstvenim ishodima (Tutić Grokša, 2021). Treba, međutim, problematizirati i vrlo nisku razinu znanja romskih žena. One nisu dovoljno informirane, odnosno, imaju nedostatno znanje o nužnosti vlastite skrbi o zdravlju. To je potvrdilo istraživanje o znanju Romkinja o reproduktivnom zdravlju, prevenciji bolesti reproduktivnih organa, važnosti redovitog odlaska ginekologu, važnosti metoda zaštite od spolnih bolesti i kontracepcije provedeno na području Rijeke, na uzorku od 62 ispitanice i publicirano 2021. godine (Redžepi i Bošković, 2021).

Istraživanje o intimnom partnerskom nasilju u romskim obiteljima provedeno u izoliranim romskim naseljima na sjeveru Hrvatske također je dotaknulo problem nepovjerenja koje zbog višekratno doživljene netolerancije od strane zdravstvenih radnika imaju Romkinje kao žrtve nasilja u situacijama kada im je potrebna medicinska i psihološka skrb (Racz, Rončević i Milošević, 2022).

Rezultati ovog istraživanja ne mogu se usporediti s nekim ranije utvrđenim mjerenjima socijalne distance medicinskih sestara i tehničara prema Romima jer takva istraživanja na populaciji zdravstvenih radnika nisu dosad provedena ni u Bosni i Hercegovini niti u zemljama okruženja.

Rezultate ovog istraživanja treba, međutim, sagledati u kontekstu istraživanja socijalne distance prema Romima na području BiH provedenim na drugačijim grupama ispitanika, koja također potvrđuju ono što je pokazalo i ovo istraživanje, a to je da je etnička distanca prema romskom narodu oduvijek bila prepreka njihovoj integraciji

i ravnopravnom odnosu s drugim narodima u BiH (Milinović i Arsenijević-Puhalo, 2009; Puhalo, 2003). U usporedbi sa svim drugim etničkim zajednicama, pokazalo se da je etnička distanca prema romskoj populaciji najveća i najizraženija. Prethodna istraživanja o međuetničkoj toleranciji u Bosni i Hercegovini i regiji ukazuju na to da većinske etničke grupe uglavnom imaju negativan stav prema Romima (Šuman, 2020).

Konkretno istraživanje provedeno korištenjem Bogardusove ljestvice socijalne distance na 1000 ispitanika Federacije Bosne i Hercegovine te 850 ispitanika Republike Srpske pokazalo je da građani Federacije Bosne i Hercegovine najviše odbacuju Rome, zatim Albance i Makedonce, potom Srbe i Crnogorce, dok su Slovenci i Hrvati najmanje odbijeni. Predrasude građana Bosne i Hercegovine, najviše prema Romima, a potom prema Albancima i Makedoncima, puno su važnije za odbacivanje ili prihvaćanje ponuđenih odnosa nego što je to slučaj s otvorenim neprijateljstvom i ratnim sukobima sa Srbima, Crnogorcima i Hrvatima. Građani Republike Srpske najmanje prihvaćaju muslimane (Bošnjake) i Rome, zatim prema prihvaćenosti slijede Hrvati, Slovenci i Makedonci, a Crnogorci su najmanje odbačeni (Puhalo, 2003).

I u istraživanju provedenom na 150 studenata Filozofskog fakulteta u Banjaluci pokazalo se da je bila najizraženija distanca prema Romima i to za odnos „Da budemo u braku“ (M = 0,08) i „Da budem u vezi s njom/njim“ (M = 0,18) (Haneš, 2012).

Ranija istraživanja u Hrvatskoj i Srbiji također ukazuju da većinske etničke grupe imaju dominantno negativne stavove prema Romima (Đurović, 2002; Milošević i Rodović, 2011; Puhalo, 2003; Šlezak i Šakaja, 2012).

Moguća usporedba može se povući s istraživanjem iz Poljske provedenom 2020. godine među medicinskim sestrama i tehničarima kojim je utvrđeno da je 30,92 % ispitanika bilo definitivno protiv, a daljnjih 19,67 % vjerojatno protiv prihvaćanja Roma za bračnog partnera od strane nekog iz uže obitelji ispitanika. Nadalje, 21,24 % ispitanika sigurno ne bi, a daljnjih 16,88 % vjerojatno ne bi prihvatilo Roma za prijatelja; 25,18 % sigurno ne bi, a 19,98 % ispitanika vjerojatno ne bi prihvatilo Roma za susjeda. Dio ispitanika, njih 22,50 %, sigurno ne bi, a 16,76 % vjerojatno ne bi prihvatilo Roma za radnog kolegu, odnosno njih 31,78 % sigurno ne bi, a 20,46 % vjerojatno ne bi prihvatilo Roma za nadređenu osobu. Ili, promotreno drugačije, samo bi 6,29 % ispitanika prihvatilo Roma za člana obitelji, 9,68 % za prijatelja, 6,85 % za susjeda, 7,71 %, za kolegu na poslu i tek 5,43 % za nadređenu osobu na poslu (Zalewska-Puchała, Majda i Bodys-Cupak, 2018).

Rezultati navedenog istraživanja zanimljivi su, budući da je istraživanje socijalne distance prema Romima kod medicinskih sestara i tehničara provedeno u Poljskoj, za razliku od rezultata ovog istraživanja, pokazalo da u Poljskoj razina socijalna distance

značajno korelira ($p < 0,05$) s učestalošću kontakta (što je kontakt s Romima češći, to je bila manja socijalna distanca), obrazovanjem (što je bilo više obrazovanje, to je bila manja socijalna distanca), mjestom stanovanja (ispitanici iz gradova s preko 20.000 stanovnika imali su manju socijalnu distancu prema Romima nego ispitanici sa sela), kontaktom i pruženom skrbi (u prošlosti ili sada) osobi romskog podrijetla (osobe koje su imale takva iskustva imale su manju socijalnu distancu prema Romima). Kao i u ovom istraživanju provedenom u BiH, tako ni u Poljskoj razina socijalne distance nije značajno korelirala s dobi, radnim stažem te spolom.

No dok u Poljskoj socijalna distanca nije korelirala s vjeroispoviješću ispitanika (Zalewska-Puchała, Majda i Bodys-Cupak, 2020) u BiH religioznost ili izbjegavanje odgovaranja na pitanje o religioznosti značajno korelira sa socijalnom distancom tako da su religiozne osobe pokazale veću socijalnu distancu prema Romima.

Rezultati ovog istraživanja, dakle, potvrdili su ranije istaknutu vezu religioznosti sa socijalnom distancom i to tako da veća religioznost znači i veću socijalnu distancu te netoleranciju prema drugim etničkim grupama (Hodson, Sekulic i Massey, 1994; Sekulić, 2004; Šiber, 1997).

Upravo kako je potvrdilo i ovo istraživanje, ranije su autori također ukazali na to da na iskazivanje predrasuda utječu religijske vrijednosti pojedinca te je njihovo istraživanje pokazalo da su pojedinci koji iskazuju veću tradicionalnu religioznost skloniji izražavanju više razine socijalne distance prema pripadnicima RNM-a.

Vučković, Dobrotić i Zrinščak (2014) su također pokazali na velikom istraživanju provedenom u Hrvatskoj na vezu između religioznosti i etničke distance i netolerancije, pa je tako i u njihovim rezultatima veća socijalna distanca prema nacionalnim i etničkim skupinama, posebice Romima, bila povezana s većom religioznošću ispitanika.

I ovo istraživanje potvrdio je rezultate ranijih istraživanja koja su pokazala da je tendencija prema nacionalnom ekskluzivizmu obično povezana s većom socijalnom udaljenosti prema drugima (Banovac i Boneta, 2006; Malenica, 2003; Medlobi i Čepo, 2018).

Nadalje, ovo istraživanje nije potvrdilo da je politička orijentacija ispitanika povezana s razinom njihove socijalne distance prema Romima, za razliku od ranije provedenih istraživanja u Hrvatskoj (Medlobi i Čepo, 2018).

Također, za razliku od Hrvatske u kojoj blizina fizičkog kontakta zbog većeg broja naseljenih Roma u nekim dijelovima Hrvatske (Međimurska županija, sjeverni dio Hrvatske) dovodi do iskazivanja veće socijalne distance, u ovom istraživanju blizina kontakta s Romima, kako osobno poznanstvo tako ni profesionalni kontakti, a niti život u kantonima u kojima živi veći broj pripadnika RNM-a, nisu doveli do

statistički značajne korelacije sa socijalnom distancom. Iako neki teoretičari tvrde da bi sukladno hipotezi kontakta (Allport, 1954) kontakt s vanjskom grupom trebao dovesti do boljih međugrupnih odnosa, odnosno do smanjenja socijalne distance, ovo istraživanje to nije potvrdilo, što se možda može objasniti činjenicom da se Rome zbog složenosti etničkog i nacionalnog sastava BiH ne doživljava „vanjskom grupom" u toj mjeri u kojoj se Rome doživljava u nacionalno koherentnijim zemljama, poput Hrvatske.

I ovo istraživanje pokazalo je da nedovoljno poznavanje Roma, njihove kulture, jezika, tradicije i umjetnosti, dovodi do jače odbojnosti i nepoželjnosti Roma. S druge strane, poznavanje romske kulture omogućava uspostavljanje komunikacije i dijaloga te razvijanje tolerancije među ljudima različitog vjerskog, socijalnog i kulturnog podrijetla (Mrnjaus, 2013).

Poznavanje kulture, jezika i običaja onih „drugih" važno je, budući da kulturološko nerazumijevanje i nepoznavanje može postati izvor odbojnosti, straha i nesigurnosti. Naime, promatranje „drugog" kao zanimljivog, poticajnog i vrijednog potiče interakcije temeljene na uzajamnom priznavanju i poštovanju te usmjerava interakcije prema suradnji. No kada se „drugi" doživljava kao kulturološki bezvrijedan, to izaziva agresivno ponašanje, antagonizam i dominaciju (Majda i Zalewska-Puchała, 2011).

Nedostatak razumijevanja potreba pripadnika RNM-a od strane medicinskih sestara i tehničara, uz diskriminirajuće prakse, bilo pojedinačno ili institucijski, također može biti povezano sa smanjenim pristupom i korištenjem usluga od strane Roma. Raniji radovi (Hawes, 1997; Parry; Van Cleemput i Peters, 2004) sugeriraju da jedan od razloga zbog kojih Romi ne pristupaju zdravstvenim uslugama na vrijeme čine neispunjena očekivanja i prošla iskustva lošeg tretmana. Ako iskustvo nekih korisnika usluga ukazuje na nepravedan tretman, to dovodi do mogućnosti da je smanjena spremnost da se angažiraju s uslugama na vrijeme ili na odgovarajući način. Potreba da zdravstveni radnici budu kulturno kompetentni postaje sve očitija kako zajednice postaju raznolikije i kako se pojavljuju razlike u zdravstvenim stanjima (Gee, 2002; Nazroo i Mason, 2003). Podupirući ovaj argument, Giddings (2005) zaključuje da medicinske sestre i tehničari trebaju imati vještine za dekonstrukciju marginalizirajućih procesa koji omogućavaju održavanje nejednakosti u zdravstvenoj skrbi.

Goward i suradnici (2006) primjećuju da zdravstvenim radnicima nedostaju znanje o vjerovanjima i kulturi romskih zajednica. To može dodatno stigmatizirati romske zajednice, što kao rezultat dovodi do daljnjeg ograničavajućeg i/ili kažnjavajućeg djelovanja jer se njihova kultura ignorira ili patologizira (Garrett, 2005). Postojanje prethodnih uvjerenja i kulturnih predrasuda među kojima je socijalna distanca jedna od najvažnijih posljedica može značajno utjecati na sam zdravstveni sustav na više načina (Sharifi, Adib-Hajbaghery i Najafi, 2019; Surbone, 2012). Kulturološke predrasude

često dovode do stigmatizacije određenih zajednica, uključujući etničke ili romske zajednice. Stigmatizacija može rezultirati diskriminacijom u pružanju zdravstvene skrbi, što znači da određene skupine pacijenata možda neće dobiti jednaku pažnju ili pristup kao ostali (Drewniak, Krones i Wild, 2017). Ako zdravstveni stručnjaci nisu educirani o kulturnim specifičnostima i vjerovanjima određenih zajednica, može doći do neprepoznavanja ili krivih pretpostavki o zdravstvenim potrebama pacijenata. To može rezultirati suboptimalnim dijagnozama i liječenjem, s obzirom na nedostatak razumijevanja kulturnih čimbenika koji mogu utjecati na zdravlje (Harkess i Kaddoura, 2016; Stone, 2008). Kulturne predrasude mogu utjecati na povjerenje između pacijenata i zdravstvenih stručnjaka. Ako pacijenti osjete da su suočeni s predrasudama ili nepoštovanjem zbog svoje kulturne pripadnosti, manje je vjerojatno da će otvoreno komunicirati o svojim zdravstvenim problemima, što otežava pružanje učinkovite skrbi (Alpers, 2018). Nadalje, kulturne pretpostavke često su povezane sa socioekonomskim faktorima koji mogu utjecati na zdravlje. Ako zdravstveni sustav ne uzima u obzir te kulturno uvjetovane socioekonomske faktore, može propustiti priliku za holističkim pristupom zdravstvenoj i socijalnoj skrbi (Štambuk i Obrvan, 2017). One mogu rezultirati nejednakim pristupom relevantnim zdravstvenim informacijama određenim zajednicama. Ako zdravstveni radnici nisu obučeni za rad s raznolikim kulturnim skupinama, nedostatak kulturne kompetencije može dovesti do lošijeg razumijevanja pacijenata, što utječe na kvalitetu i pristup zdravstvenoj skrbi (Lin, Lee i Huang, 2017).

Uzimajući u obzir ove faktore ključno je raditi na edukaciji zdravstvenih stručnjaka o kulturnoj osjetljivosti kako bi se osiguralo pravedno i jednakopravno pružanje zdravstvene skrbi svim zajednicama. Kako bi se to prevladalo potrebno je u obrazovne kurikulume medicinskih sestara i tehničara uvesti sadržaje koji će ih obrazovati na osnovama interkulturalnosti, što podrazumijeva pozitivan i aktivan odnos između skupina i pojedinaca koji se međusobno razlikuju prema određenim karakteristikama, bilo da se radi o nacionalnim, etničkim, religijskim, vjerskim, klasnim, rasnim ili spolnim razlikama (Mrnjaus, 2013).

Takav zaključak nalazi svoje utemeljenje i u radu Ramšak i suradnika (2023) u kojem je dokazano da se jednakost u pružanju zdravstvene skrbi može postići kroz podizanje svijesti o raznolikosti i kompetencijama za raznolikost kod zdravstvenih radnika. Nedovoljno financiranje zdravstvene skrbi, jezične barijere, neadekvatna kulturna obuka ili nedostatak međuljudskih kompetencija te nedostatak institucijske podrške predstavljeni su kao glavni izazovi u pružanju zdravstvene skrbi koja odgovara na raznolikost, a ovaj rad u tu grupu svrstava i socijalnu distancu.

Ovo istraživanje pokazalo je da medicinske sestre i tehničari iskazuju snažnu socijalnu distancu prema pripadnicima romske nacionalne manjine, što u praksi može dovesti

do nejednakog pristupa zdravstvenoj zaštiti romske populacije. Naime, dobiveni rezultati ovog istraživanja otvaraju nekoliko vrlo ozbiljnih etičkih pitanja iz nekoliko razloga. Prvo, socijalna distanca dovodi do stigmatizacije pacijenata, što može otežati pružanje adekvatne skrbi. Drugo, nedostatak kulturne osjetljivosti može rezultirati neprepoznavanjem specifičnih zdravstvenih potreba romske zajednice, dovodeći do suboptimalne dijagnoze i liječenja. Treće, predrasude medicinskih stručnjaka mogu utjecati na kvalitetu interpersonalne komunikacije između pacijenta i zdravstvenog osoblja, čime se smanjuje povjerenje pacijenata u zdravstveni sustav. Osim toga, nepravedan pristup može rezultirati smanjenom pristupu preventivnoj skrbi, što dugoročno utječe na zdravlje romske populacije. Konačno, socijalna distanca medicinskog osoblja prema pripadnicima određene nacionalne manjine, Romima, krši temeljna načela pravednosti i jednakosti u pružanju zdravstvene skrbi, stvarajući ozbiljne etičke dileme u medicinskoj praksi, posebice budući da prava Roma nisu posebno obrađena zakonodavstvom o zdravstvenoj skrbi, iako Hrvatska provodi odredbe o zaštiti od diskriminacije na temelju rase ili etničkog podrijetla u svojim općim antidiskriminacijskim zakonima (Bielinska i sur., 2022; Orzechowski i sur., 2020).

Ograničenja istraživanja vežu se uz relativno mali uzorak koji nije reprezentativan s obzirom na ukupnu populaciju medicinskih sestara i tehničara u BiH, kao ni po pojedinim kantonima. Nadalje, u uzorku je više zastupljena mlađa populacija, što se možda može povezati s većom otvorenošću mlađe populacije prema *online* istraživanjima. *Online* istraživanja često privlače određenu demografsku skupinu koja ima pristup internetu i sklonost sudjelovanju u *online* anketama, što može rezultirati uzorkom koji nije reprezentativan za cijelu populaciju medicinskih sestara. Medicinske sestre koje nemaju redovit pristup internetu ili nisu tehnološki pismene možda neće sudjelovati, što dodatno ograničava raznolikost uzorka. Iako anonimnost može potaknuti iskrenost, postoji rizik da sudionici neće odgovarati iskreno zbog straha od negativnih posljedica ili društvene poželjnosti. Bez mogućnosti osobne interakcije istraživači ne mogu pratiti neverbalne znakove ili dodatno pojasniti nejasna pitanja, što može utjecati na kvalitetu prikupljenih podataka. Svaka od ovih slabosti treba biti uzeta u obzir prilikom planiranja, provođenja budućih istraživanja kako bi se osigurala što veća pouzdanost i valjanost dobivenih podataka.

ZAKLJUČAK

Rezultati istraživanja potvrdili su glavnu hipotezu istraživanja prema kojoj medicinske sestre i tehničari u sustavu zdravstva BiH iskazuju veću socijalnu distancu prema pripadnicima RNM-a u odnosu na druge nacionalne i etničke skupine.

Rezultati istraživanja nisu potvrdili prvu pomoćnu hipotezu prema kojoj razlike u pojedinim sociodemografskim obilježjima ispitanika utječu na razinu socijalne distance prema pripadnicima RNM-a, budući da se korelacije po spolnoj, dobnoj, radnoj i obrazovnoj strukturi_nisu pokazale statistički značajnima, tako da ispitanici različite dobi, spola, duljine radnog staža i završene razine obrazovanja ne pokazuju različitu socijalnu distancu prema Romima. Nije uočena ni razlika u socijalnoj distanci prema Romima među ispitanicima koji stanuju na selu u odnosu na one koji stanuju u gradu, kao ni među onima koji žive u različitim kantonima. Također se ni korelacija po pripadnosti nacionalnoj manjini nije pokazala statistički značajnom, tako da nema razlike u socijalnoj distanci prema Romima među ispitanicima koji su pripadnici različitih konstitutivnih naroda.

Rezultati ovog istraživanja nisu potvrdili ni drugu pomoćnu hipotezu, prema kojoj postoji povezanost između socijalne distance prema pripadnicima RNM-a i političke orijentacije ispitanika. Potvrđena je, međutim, povezanost između socijalne distance prema pripadnicima RNM-a i religioznosti ispitanika.

Rezultati ovog istraživanja potvrdili su povezanost između izražene socijalne distance prema pripadnicima RNM-a i postojanja poslovnog kontakta s pripadnicima RNM-a. Također je potvrđena četvrta pomoćna hipoteza, prema kojoj postoji povezanost između izražene socijalne distance prema pripadnicima RNM-a i poznavanja i/ili zainteresiranosti za upoznavanje romske tradicije, kulture i običaja, odnosno povezanosti između izražene socijalne distance prema pripadnicima RNM-a i iskazivanja nacionalnog ponosa.

Dobiveni rezultati ovog istraživanja mogu poslužiti i kao polazište za izradu edukacijskih programa na temu interkulturalnosti i multikulturalnosti na razini cjeloživotnog obrazovanja medicinskih sestara i tehničara s ciljem sprječavanja i suzbijanja distanciranja od Roma kao pacijenata, pri čemu su važni i edukacijski programi koji imaju za cilj podizati svijest o pružanju zdravstvene skrbi i pristupu zdravstvu bez diskriminacije, koji uključuju osposobljavanje zdravstvenih djelatnika, posebice studenata sestrinstva za metode prepoznavanja i rješavanja problema diskriminacije i njezinih temeljnih uzroka, uključujući antiromizam i nesvjesnu pristranost.

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Social Distancing towards Members of the Roma National Minority by Nurses and Technicians in Bosnia and Herzegovina

SUMMARY

The Roma are the largest of the 17 national minorities in Bosnia and Herzegovina (BiH), representing the poorest, most marginalised, and most disliked ethnic group suffering from the most pronounced discrimination, including equal access to quality healthcare. Social distancing from patients is a relevant bioethical topic as it can significantly negatively impact the quality of healthcare and directly strike at the fundamental principles of biomedical ethics. Since no research had been conducted on social distance towards Roma by nurses and technicians, a study was conducted in the spring of 2023. The study included a sample of 160 respondents to investigate the existence of social distance towards Roma using the Bogardus scale. It also aimed to identify relevant socio-demographic background variables that affect the existence and intensity of social distance. The research results confirmed that nurses and technicians in the BiH healthcare system exhibit greater social distance towards members of the Roma national minority compared to other national and ethnic groups. It was also found that respondents who had contact with Roma patients through their work and those more familiar with Roma culture and customs showed less social distance. A higher level of social distance was not found to be statistically significantly associated with factors such as age, gender, education level, place of residence, cantonal location, belonging to a national minority, or greater religiosity.

Keywords: Roma, Bogardus scale, social distance, bioethics, medical sociology, nurses, Bosnia and Herzegovina.

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Philosophy as Therapy in a Culture of Personality Disorders[1]

SUMMARY

Much of the current development of both philosophical practice and psychotherapy teases out the theoretical foundations of psychotherapy, on the one hand, and the practical, therapeutic applications of philosophy, on the other. This debate has led to different conceptualizations of both disciplines, where one of the proposals, espoused here, is that all of psychotherapy might be seen as inherently philosophical in nature, and that philosophical practice, especially philotherapy as its counseling offshoot, is in fact an integrative discipline bringing together a number of bioethical dimensions of both philosophy and psychotherapy. The paper explores several aspects through which the concept of psychic wellbeing, on the one hand, and the traditional philosophical concept of the good life, on the other, reflect two sides of the same normative structure of "normalcy" or "wellness" that reverberate through the drama of individual development and culture alike. This particularly reflects in the modern culture of narcissistic values, which casts a sequence of questions on whether, to what extent, and on what basis we can pathologize narcissism and value-charged personality disorders.

Keywords: philotherapy, psychotherapy, narcissism, responsibility, personality.

Writing in lieu of what is fundamentally a blueprint to therapeutic philosophy, or philotherapy as its practical application, requires both mentioning some of the key paradigms in philosophical practice and addressing some broader societal tendencies that play pivotal roles in the development of philotherapy. First, in my vision, philotherapy is not merely philosophical practice or the practical application of philosophy. It is based on philosophical practice but goes further and integrates the therapeutic and

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theoretical views of psychology in so far as it is seen as an interpretative science or skill. Secondly, a point I make in this paper is that philotherapy is the proper disciplinary and methodological context within which to address one of the main bioethical challenges in the field of psychiatry and psychotherapy of our times: the normative question of narcissism both as a personality organization and as a cultural tendency.

The various methodologies used in philosophical practice are taken over and implemented in integrative philotherapy, including the Socratic method, the various methodologies based on the Stoic and other ancient traditions, and the decision-making technologies such as Marinoff's PEACE method (Marinoff, 2000, 2002) and Henk van Luijk's Dilemma Training (Luijk, 1993).

The way we play with our own and the ideas of others and develop argumentation in philosophy requires a distance towards ourselves that allows us to assume that we might be wrong about everything we believe in. Without such a reservation and willingness to question one's convictions one cannot engage in philosophy in earnest. However, the narcissistic structure of modern society that militates against self-doubt and promotes a sense of entitlement and ambition stifles philosophical impulse and causes rampant psychological complaints associated with motivation and a lack of meaning. Philotherapy thus addresses cultural and social norms as they reflect on individual and group wellbeing, in much the same way as the very beginnings of philosophy in the ancient philosophical schools addressed the normative assumptions of what it was to lead a good life and what social and personal circumstances contributed to it or detracted from it. The fate of philotherapy, thus, like the fate of any interpretative and helping discipline, depends on the sort of individual we encounter in our practice. In turn, the prevalent types of individuals "on the couch" in philotherapy are largely determined by the normative structure of modern society. This is manifested in different priorities in the therapeutic discourse, including the insistence on various "diagnoses" in the medicalized language of psychotherapy. An emphasis on personality disorders over the recent years is a good example of how this focus on the various diagnoses depending on the changing nature of society works.

THE FASHIONABLE PERSONALITY DISORDERS IN A DISORDERED SOCIETY

The turn of the 21st century has been marked, for several decades, by an enormous prevalence of diagnoses of Borderline Personality Disorder (BPD). This phenomenology has controversial origins, for which Lacanian psychotherapists believe that they have something to do with a political decision to diminish the widespread diagnoses of schizophrenia (Redmond, 2014). Thus, according to the same view, the Diagnostic and Statistical Manual (DSM) IV eliminated the latent

schizophrenias and introduced Cluster B personality disorders with the foundational BPD (Gunderson, 1979). At the turn of the century, BPD was the single most frequently given diagnosis worldwide: it was so prevalent that it gained notoriety as a "kitchen sink diagnosis", which caught everything that could not be diagnosed as more traditional disorders. The general discourse on the borderline vacillated between two different understandings of the very concept of borderline: one that purported to signify a grey area between neurosis and psychosis, where occasional psychotic episodes were seen as a sign of the person inhabiting a "semi-psychotic" diagnostic field. The other meaning had nothing to do with the semantic meaning: it suggested that borderline was characterized by certain temperamental and cognitive features that, in themselves, defined the disorder: impulsivity, "splitting" (the "black and white" picture of the world and others), fear of abandonment, imagined or real, etc. The very dissonance between the two conceptualizations of borderline allowed for the freedom of interpretation, which made borderline a promising land for research. Consistent with difficulties in understanding and interpreting the very concept of borderline, cleavages also emerged in the therapeutic prognosis and assessment of the suitability of borderline for various types of treatment. While some (most) psychotherapists consider borderline patients extremely difficult to deal with, partly because they tend to turn on the therapist after his or her initial idealization (the very dynamics of splitting) and blame them for all of their ills, others argue that borderline is almost naturally cured with age and that as people get on with their lives, they tend to place their borderline traits increasingly under control. However, the discourse, until the second decade of the 21st century, remained focused on the individual features of borderline, not on the social conditions that give rise to this diagnosis. Rather than venturing into the culture to understand why we were seeing an increasing number of apparently borderline individuals and how their borderline dynamics were nourished by a fundamentally borderline society, once the obsession with borderline reached its peak, it almost suddenly transformed into another obsession, another Cluster B personality disorder: the Narcissistic Personality Disorder (NPD). Today, NPD and narcissism as a type of personality organization, whether formally diagnosed or not, command the large majority of psychotherapy podcasts and public discussions and seem to steer clinical practice in a direction where it is now very difficult to disregard the cultural influences on narcissistic personal phenomenology.

To me, these two obsessions are essentially the same: apart from the fact that NPD and BPD share many of the same clinical criteria and dynamic features, they are both products of an era of social transformation that involved involves rather than strictly clinical criteria as dominant tools to access the personality degeneration exhibited in those two disorders.

Both disorders, as the dominating diagnosis overall on the psychiatric landscape in the West today, reflect a situation in mental health that philotherapy addresses with its own tools and through its own interpretative lenses. The primary value consideration for philotherapy in terms of both disorders is the issue of denial of responsibility, with all of the moral and structural consequences for clinical practice, the future of the affected individuals, and the society and social groups where these individuals live. It is a denial of responsibility, inherent in the idea that someone can be "impulsive" and "insensitive to the needs of others", "grandiose", and "self-centered", with a sense of overwhelming entitlement. Yet, one might be narcissistic in ways that do not make them psychotic and still qualify them for some kind of moral excuse or a sense of diminished responsibility, which is the aspect of narcissism that generates the most destructive social consequences. This gives additional relevance to Lacanian interpretations whereby the Cluster B disorders (borderline, narcissistic, histrionic, and antisocial disorder) are, in fact, derivatives of latent schizophrenia and ought to be treated as non-manifest psychoses. The problem is that if the Cluster B disorders (in particular BPD and NPD as by far the most prevalent) are treated as psychoses, then this involves a diminution of personal responsibility. However, it also involves a certain setting apart of such persons from a range of social interactions. For example, if BPD and NPD were treated as psychoses, in child custody proceedings, persons with such disorders would likely be considered unfit for full child custody; they would not be able to work in sensitive services such as the police, the military and in an array of medical fields (arguably, including psychiatry). This, then, would require formal assessment tools to be introduced for the special types of social transactions where BPD and NPD individuals would need to be filtered out. As a result, large parts of the Western populations would be excluded from those types of transactions, leading to political and value system ramifications for the entire society. The reason, obviously, is that the prevalence of BPD and NPD is associated with the social transformation itself, where the values involved in BPD and NPD phenomenology are being gradually and quickly built into the very fabric of everyday society.

The taking of oursselves seriously, which is the main reason we are so often precluded from attaining what could be described as a "good life", is closely associated with both the borderline and narcissistic features of our society and the concomitant inability to exercise, recognize, and requires responsibility by any of the individuals who partake in such value systems where borderline and narcissistic phenomenology is prevalent. The inherent responsibility obscured by the narcissist culture – where individual extravagance and self-absorption are seen as the sovereign rights of an individual and the prerogative of a tolerant society – becomes clear when one starts in the Aristotelian way: from the individual and the particular, towards the general, namely by a discussion of how narcissism obscures responsibility on an individual,

clinical level, and then by proceeding towards drawing more general conclusions of why the way in which we take ourselves so seriously is so problematic from a philotherapeutic point of view.

THE NARCISSISTIC PHENOMENOLOGY OF DENYING RESPONSIBILITY AND "TAKING ONESELF SERIOUSLY"

Narcissism is a type of personality organization that, whether clinically diagnosed as Narcissistic Personality Disorder (NPD) or not, presents arguably the greatest challenge to the ethics of psychotherapy by conflating a number of views of what it means to be fully responsible. Thus, although narcissists are not presently excused from criminal responsibility on account of reduced accountability for their actions, narcissism remains one of the most pervasive issues of moral responsibility in the philosophy of psychiatry and psychotherapy. While narcissists appear to fully satisfy the cognitive and volitional criteria for criminal responsibility initially formulated as M'Naghten Rules, which have since become the bedrock of the conceptualizations of responsibility in most modern legal systems, they fail to satisfy the finer-grained criteria of value sensibility, such as that proposed by Philip Pettit. Narcissism, while threatening to become "the new normal" in the modern world due to the pace with which it is spreading through the Western culture, makes it more difficult for agents to adequately choose values and thus appears as a potential basis for granting moral excuses to the narcissist. However, it does so only deceitfully. In fact, the very sensibility that the narcissist personality develops, one that makes it more difficult for them to make proper moral choices, is subject to a particular responsibility of the narcissist, seen specifically as the *responsibility to change*. Such a context of an action-based rather than agent-based system renders a philosophical view on the narcissist's responsibility fairly rigid: narcissism as a personality organization not only fails to offer moral excuses – it is in itself a ground for ascriptions of moral responsibility.

Narcissistic organization of personality is generally described as one characterized by an overwhelming concern and preoccupation with self and a corresponding deficiency in responding to the needs and interests of others. Psychotherapeutic characterizations of narcissism focus on the narcissist's inability to develop empathy and a range of social emotions for others, such as loyalty, solidarity, and love (Crowe et al., 2019; Ebstein et al., 2010; Miller et al., 2021). A number of increasingly narrow analytic axes have been introduced to classify the symptoms of narcissism, starting from a fairly broad division of narcissistic personalities into the grandiose and vulnerable types and progressing to the three-pronged division of symptoms into narcissistic extraversion, antagonism, and neuroticism, to finally include an additional two diagnostic criteria: distrustful self-reliance and attention-seeking

(Crow et al., 2019). The social toxicity of narcissism is exhibited in the narcissist's inability to contribute to the quality of sociality in their group due to their exclusive focus on obtaining the so-called narcissistic supply rather than being able to develop a genuine interest and care for others. This incapacitates the narcissist from engaging in genuine friendly and loving relationships and positions them as psychological predators in any group they find themselves in.

On a social philosophical level, the most impactful and interesting aspects of narcissism are not necessarily those developed for the purposes of precise diagnostics (mentioned above). Instead, they are the more general dynamics of narcissism that are closely associated with, and arise from, the mentioned symptoms constituting its diagnostic criteria. I will focus here on the two most general symptoms and their social impact on both the narcissist and those around them. From there, I will proceed to discuss how the dynamics of narcissistic personality organization fares in the legal and moral contexts of *responsibility* as a philosophical theme.

To make the conceptual issues perfectly clear, the subject of discussion here is narcissism as a type of personality organization regardless of whether or not it has been diagnosed as Narcissistic Personality Disorder. Namely, the current diagnostic protocols in psychiatry—in order for a personality disorder to be diagnosed—require a pattern of impediment to social or personal functioning (Akhtar & Thomson, 1982). In practice, this translates into a subjective experience of psychic pain and social failure, which means that, to be diagnosed, a narcissistic person would need to show up for a diagnostic interview with a complaint. As most narcissists do not perceive their toxicity to others as internally painful (on account of their lack of capacity for empathy), and many are socially successful because of the skills associated with attracting the attention of others and society, narcissists rarely experience discomfort associated with their personality organization, and thus rarely seek counseling or diagnosis. Those who do, receive the diagnosis of NPD, but arguably these individuals are the least toxic of all, because they are equipped with a degree of self-awareness that causes them a sense of "something being wrong" with them. Thus, I do not make any assumptions about the presence or absence of a diagnosis of NPD and discuss both the diagnosed and undiagnosed cases under the same general heading of narcissism as a type of personality.

Without delving into the various subtypes and classifications of narcissism, the two most general features of narcissistic personality involve their exclusive preoccupation with themselves, specifically with obtaining "validation" for their shaken internal sense of self-worth, and their associated treatment of their entire social world as a potential source of "narcissistic supply", where the specific relationships are supplied to cater to the validation hunger of the narcissist. It is these two facets of narcissism that pose issues of responsibility.

THE DEVELOPMENT OF AN EGO IDEAL AND THE NEED FOR VALIDATION

A Freudian account of narcissism interprets it in development terms: There is a stage in personal development where the child will naturally exhibit narcissistic traits, focusing on their own needs more or less exclusively, with the corresponding deficiency in the ability to show empathy and other moral emotions directed at others. In the course of normal personal development, the child grows out of the narcissistic phase and learns to project their libido, or "life force", onto others, thus creating powerful interpersonal bonds and integrating themselves into the social fabric of their community. In pathological cases, the libido can remain entrapped within the person, resulting in an inability to foster productive social bonds, or it can pervert in dynamics so that it becomes projected outside the person, towards the others, but it then moves in a circular trajectory back to the person so that any relationship with others, in fact, serves only to confirm the subject's love and appreciation of themselves, not of the relevant others. The latter is the classic psychoanalytic explanation of narcissism and at the same time, an introduction to the concept of narcissistic supply in psychiatry.[2]

According to Freud, pathological narcissism is made possible by the mechanism of "introjection", where the person builds an "ego ideal", namely a picture of themselves that is equipped with the attributes one desires and usually derives from important others in their lives, such as parents, and solidifies this picture within their psyche. Thus, rather than psychologically benefitting from projecting desire to others, one loves one's own ego ideal and secures, within one's person, all of the emotional and psychological benefits that a healthy person derives from loving relationships with others (Freud, 1924, 1957, 2004).

To solidify the ego ideal, the person must have external validation from others that the attributes of the ideal are indeed real: this means that others must *react* to the person's self-image in ways that the person can interpret as a confirmation of the value, or

[2] I refer to Freud's understanding of narcissism here because it serves as the intellectual foundation for most later thinking about narcissism as a social and personality issue. In particular, Freud's views have been explicitly incorporated into modern neo-Lacanian views about narcissism, personality disorders, and moral discourse, which perhaps most directly address the issues at the heart of this paper. A common objection here might be why not base the view of narcissism on alternative, neurobiological views of narcissism. However, it is perhaps insufficiently known that Freud's views were explicitly informed by neurobiological perspectives on both narcissism and other phenomena that he discusses. In fact, the largely generalist view that Freudian psychoanalysis is somehow detached from the neurobiological perspectives on personality development neglects the fact that Freud, as a neurologist, systematically worked on integrating neurobiology with his psychoanalytic views and has consequently produced *The Project for a Scientific Psychology* (Freud, 1895). While a review of neurobiological findings and neuroscientist's views that reflect Freud's principles would go beyond the scope and content of this paper, it is sufficient to consider some of the most controversial modern neuroscientists, such as Joanna Moncrieff, to see just how much of Freud's social argument about the personality and personality disorders resonates with modern biological psychiatry and neuroscientific research (Moncrieff, 2017).

importance, of the ego ideal. This reaction by society, and especially by people close to the narcissist, is what constitutes "narcissistic supply". Without this type of supply, the narcissistic personality decompensates because their internal sense of low self-worth is unbearable, and narcissistic supply as a form of external validation of their projected greater value as a person is the only strategy that keeps the pain of low self-esteem at bay. The narcissistic person is thus prepared to go to extraordinary lengths to obtain a narcissistic supply, including the use of strategies such as "love bombing" or offering extremely positive initial attention to those they wish to attract as potential sources of supply. Thus, the narcissist will show an extremely charming face at the beginning of a romantic courtship; they will offer expensive or extremely original gifts to the object of their interest, take their prospective partner for extravagant vacations, and exhibit exceptional sensitivity to the needs of the "loved" one. The love bombing phase is often so extreme that the person who is love bombed has difficulty getting used that it is over, once the narcissistic abuse sets in later in the relationship, and thus, many victims of narcissistic abuse suffer for a long time, all the while hoping for a return of the love bombing part of the relationship (Howard, 2019, 2022). The typical phases of narcissistic abuse, which is geared toward obtaining the narcissistic supply of validation, following the love bombing, include devaluation (showing the other person that the narcissist, in fact, does not value them as they might have thought based on the previous, love bombing phase of the relationship), followed by discarding (actual abandonment of the partner, or, in some cases, causing the partner to leave the narcissist by inflicting on them pain that is beyond what the partner is willing to bear). In most cases, however, the cycle of abuse will repeat itself, with the additional element called "hoovering", where after the discarding has occurred, the narcissist will "vacuum" the victim back into the relationship by repeating the love bombing phase, only to follow with a further devaluation and, ultimately discarding (Green & Charles, 2019).

A surface view of the cycle of narcissistic abuse suggests an immediate question: if the narcissist is after validation in order to feed the internal ego ideal, then surely, after the love bombing phase of initiating the relationship, such validation is forthcoming from a happy partner, and there appears to exist no need to destroy the seemingly ideal situation and cause trouble by devaluing and discarding the partner.

The narcissist feeds their ego ideal by investing considerable energy in maintaining exploitative relationships with others, which will provide "strokes" to validate the projection of high self-worth.[3] As the ego ideal is positioned inside the narcissist's

[3] A stroke is a concept from transactional analysis, a useful theoretical context based on phenomenology that is easily applicable to an interpretation of narcissism. In TA, a "stroke" is an affirmation that contributes to a positive self-evaluation or personal resilience in the face of adversity that the person faces with. We receive strokes through praise, through physical strokes as expressions of affection by others, through official and institutional appraisals, etc., and we keep them in mental storage to draw on in times of crisis of self-esteem or of strength to address life's difficulties (Steiner, 2003).

psyche, the love bombing is inauthentic in the sense that the narcissist does not wish to make the partner happy: they invest a large amount of their own energy to attract the partner, but the partner's happiness arising from the narcissist's love bombing is not adequate validation, for at least two reasons. First, the economy of gain and loss is disturbed for the narcissist because they invest considerable energy in the relationship, and this, in fact, might mean, in their interpretation, that they are unworthy of being praised and validated unless they do something nice for the other person. Secondly, the narcissist needs validation that is not deserved through their investment of libido and social capital in other people: they need validation that resembles adoration and is forthcoming even when the narcissist does nothing to please others. Only in this way will the narcissist feel that the ego ideal is so valuable that others react to it regardless of what the narcissist does or fails to do for them.

The perspective of self-absorption and the constant quest to avoid narcissistic injury (a situation where external experiences, primarily the other people's reactions to the narcissist, reflect a limited valuation of the narcissist's personality, and thus, confirm the narcissist own initial self-doubt) cause the narcissist to resort to the cycle of abuse, where the initial investment of energy to attract other people must turn into devaluation. Only once the other person is devalued and starts to suffer, expecting the narcissist to return to the love bombing phase, will the narcissist's validation commence: the other person has no reason to stay with the narcissist because the narcissist abuses them. However, the person stays; ergo, the narcissist's ego is so valuable that the other person cannot do without the narcissist. In most cases, this dynamic escalates to the point where the narcissist senses that the increased deprivation of affection that they inflict on their partner is pushing the partner away and will eventually cause them to leave the narcissist. At that point, to prevent the other person's leaving, the narcissist will discard their partner first, usually by leaving them without an explanation or opportunity for psychological "closure". In many cases, the narcissists complete the discarding process after they have already found another partner first, and this allows them both to bridge the gap between the two relationships and the discomfort of a romantic break-up and, at the same time, to additionally injure the current partner by letting them know that there has been someone else in their lives for a while before the actual break up with the current partner (Brunell & Campbell, 2011). The same dynamics apply in most of the other types of relationships the narcissist enters, where validation is the key driver for the relationship. In contrast, the expectations of the other party are elicited through a strategy of manipulation, only to fail in the end and to be used to extract additional validation through the (typically adverse) reaction by the manipulated party once the narcissistic discard has already taken place.

STATUS AS A GUARANTEE OF NARCISSISTIC SUPPLY

The cycle of narcissistic abuse that serves as a vehicle of narcissistic validation of the ego ideal, by its very structure, has limited potential: eventually, all relationships the narcissist enters into will break down because the narcissist needs to devalue and eventually discard other people in order to feed the internal projection of value that is not supported by the narcissist's own internal psychological resources.[4] However, this temporariness of a source of validation, which the narcissist is aware of, threatens the stability of the projected self-image with which the narcissist is, in their own particular way, in love. Thus, the narcissist must ensure the availability of a more or less stable narcissistic supply of the sources of validation. Typically, they do so by developing particular social skills that make them very popular. Narcissists are generally skilled in attracting attention in society, which is why they are often professionally and socially successful in the modern "economy of attention". For them, attracting attention is a precondition for being able to extract validation, and they use attention-grabbing skills and strategies to generate a stable narcissistic supply of admirers, romantic partners, friends, and colleagues, through a variety of pathways which they might take to achieve that supply (Grapsas et al., 2019).

The actual dynamics of obtaining narcissistic supply by the narcissist include two general strategies: admiration seeking and rivalry. In the competitive society of today, both strategies conduce to socially acceptable self-promotion, enabling the narcissist to establish a status (Grapsas et al., 2019), which in the hierarchically structured society is a guarantee of a stable supply of sources of validation. The status entails entitlement and entitlement normatively extracts validation from those who accept the same social values. Narcissists are thus often individuals with relatively high social status who exhibit a low level of tolerance when their entitlement to "respect" by others is not met adequately. The culture of status and reputation, based on the market model of interactions (social transactions are more efficient if they are based on social capital and do not need to be guaranteed by separate procedures, and reputation and status are guarantees of that social capital), has the capacity to render status-seeking narcissism a "new normal". This makes dealing with narcissistic pathology even more unlikely once the narcissist secures a stable narcissistic supply by attaining social status. The higher the status a narcissist is able to achieve within the social hierarchy (of competence, power, or some other type of recognition), the more "normalized" the narcissist's internal dynamics become and the more contagious they are for others because of the structural influence of status throughout hierarchical societies. Johan Galtung calls this phenomenon of spreading values from those with status to those

[4] There are various explanations of the etiology of narcissism and the concomitant lack of the narcissist's internal psychological resources to support a proper ego, most of which focus on family upbringing (Horton, 2011).

seeking status "penetration" of value systems and considers it a form of structural or cultural violence (Galtung, 1990, 2004, 2009).

DOES NARCISSISM CHALLENGE RESPONSIBILITY?

Criminal responsibility (culpability)

The narcissistic organization of personality represents a disturbance in the socially desirable, normal functioning of libido, which projects outside the person towards other people and generates a genuine interpersonal attachment that is the foundation of various types of social, including emotional, bonds between healthy individuals. However, the particular narcissistic type of disturbance of what would be considered a normal structure of interpersonal dynamics does not satisfy the traditional conditions for reduced criminal responsibility. Thus, individuals who are either diagnosed or described as narcissists in criminal proceedings are typically not excused from criminal culpability and punishment. This is because they satisfy both the cognitive criterion of criminal responsibility – namely, that they knew that what they were doing was illegal" – and the volitional criterion, that "they could have acted otherwise". These two types of criteria, which have since been built into the criminal codes across the Western world, originated in 19th-century England in the 1843 murder trial of one Daniel M'Naghten, who for the first time was found to have been "so deranged that he did not know what he was doing and was not able to help it", and was therefore acquitted (Andoh, 1993).

The M'Naghten Rules stipulate that the perpetrator of a crime must be aware of the nature of their actions from a legal point of view and have the basic capacity to decide to commit the crime or refrain from committing it. If the perpetrator fails either of the two psychological tests, this automatically provides grounds for granting them reduced responsibility or for fully acquitting them.

There has been a long and agonizing debate in forensic psychiatry and the philosophy of punishment about whether persons with personality disorders ("psychopaths", as they were once called), including narcissists, ought to be held fully accountable for their actions. This arises from the fact that their internal dynamics are obviously different from those of healthy individuals, making it more difficult for them to choose to treat others as individuals deserving of dignity and rights (Fatic, 1997; Fox et al., 2013).[5] The prevailing view has been that narcissists, like psychopaths, are fully

[5] There are differences in the psychiatric descriptions of "psychopathy" and NPD; however, for the purposes of responsibility, they can be treated as members of the same cluster of disorders with basically the same characteristics with regard to culpability, especially given that psychopathy, even when it is seen as distinct from NPD, usually contains a "layer" or "overlay" of NPD on top of another personality disorder. My understanding of the now outdated concept of "psychopathy" is that it was most properly applied to what are now the infamous "Cluster

aware of the status of their actions from the society's point of view, and are capable of choosing their actions, despite their internal inclination to manipulate, coerce, co-opt, and ultimately exploit others and the various social arrangements for their own benefit. The latter is deductible from the very dynamics of narcissistic abuse, where the narcissist is able to display "love bombing" behavior, which is generally socially desirable, in the "baiting" phase of attracting their social pray before moving on to devaluation and ultimately to a narcissistic discard. When this dynamic is generalized, it becomes clear that narcissists do not succumb to a compulsion to make decisions that are wrong in various ways but that they deliberately choose to do so in order to strategically obtain a supply of narcissistic validation. Their narcissistic personality organization provides them with a *motive* to commit criminal wrongdoing (when their wrongdoings are criminal) but not with an *excuse* for doing so.

Moral/value responsibility

The issue of *moral* responsibility in narcissists (and, by extension, psychopaths) might be considered more nuanced than that of culpability. Without going through the entire history of the ethics of responsibility – an impossible task here, of course – I will focus on a modern account of moral responsibility that emphasizes values and, in my opinion, effectively summarizes much of what we have come to know, through the history of ethics, about what individual responsibility practically comes down to.

In his 2007 paper on the concept of responsibility, Philip Pettit (2007, p. 173) starts from the obvious premise that "(h)olding responsible (…) has an implication that, if what was done is something bad, then the agent is a candidate for blame; if what was done is something good, then the agent is a candidate for approval and praise". According to Pettit, in order to qualify "for fitness to be held responsible" in the mentioned sense, one must satisfy three key criteria, all of which are based on values and the ability to understand, choose and accept certain values. They include:

i. Value relevance, namely a situation where an autonomous moral agent faces a relevant value choice,

ii. Value judgement, where the agent has the capacity to understand the meaning and status of their choices and has access to information necessary to ascertain the value significance of each choice, and

iii. Value sensitivity, namely the fact that the agent is able to exercise control of their choices based on the appraisal of their relative value (Pettit, 2007, p. 175).

B Personality Disorders" in the Diagnostic and Statistical Manual of Mental Disorders IV (DSM IV), and they include NPD as one of the four mutually related "moral" personality disorders (Charland, 2006). In addition, there is growing neurobiological evidence of neurological similarities between narcissism and psychopathy, which additionally blur the putative distinction (Krusemark, 2011).

The criteria (ii) and (iii) obviously crudely correspond to the M'Naghten Rules: the agent's ability to understand the significance of their actions and their ability to become informed about the nature of the choice they are about to make corresponds to the cognitive part of the Rules, whereas one's ability to maintain control of their actions translates into the volitional part of M'Naghten Rules. The narcissist satisfies these two criteria, so we are essentially left with Pettit's criterion (i), value relevance, in order to see whether the narcissist, unlike in cases of culpability, might escape at least a degree of ordinary moral responsibility that agents face for their choices.

Value relevance, according to Pettit, involves a moral drama, where the person must be able to understand the moral tension produced by a particular dilemma or decision-making situation. In other words, it is largely a matter of moral sensibility, which a person must have developed in themselves in order to be able to even perceive and adequately appraise the moral relevance of a particular decision one is to make. This can be easily illustrated by pointing to an ordinary discrimination we all make between morally challenging choices, as opposed to those we consider morally uncontroversial. Choosing the color of a cigarette lighter is a morally non-challenging choice, while choosing whether to give money to a beggar or not is a morally relevant choice. Picking a destination for holidays is morally irrelevant; however deciding whether to reward a poor but underperforming student with a higher grade necessary for enrolling in the next year of university is morally significant. In many cases, we do not appear to have any difficulty discriminating between the routine choices we make that are not morally challenging, and those that require moral deliberation. However, in not so few cases, things get more complicated, as the borderline between the morally relevant and the morally indifferent becomes blurred.

It may seem that choosing a set of shoes is morally irrelevant; however, for an informed modern citizen, it is not irrelevant whether the shoes were produced in a country where child labor in shoe factories is a norm or where the production process causes major environmental pollution to the detriment of the very existence of organic communities. To make this choice, one needs considerably more information than the shoes' size, look, and price. An informed, responsible decision might require days of research into the producer of the shoes, the location of the factory, and its reputation. Thus, what, until very recently, appeared as an obviously morally irrelevant decision may now be one laden with moral and social controversy.

Consider the use of language, where conveying information about the death of a close one to their relatives, or informing a patient about the diagnosis of an incurable illness, while falling within one's normal perimeter of truthful (and thus, on some level at least, also moral) action, may be subject to a range of ethical nuances: depending on the amount of the information revealed and the manner of the use of language, the news might inflict significant amounts of stress and pain on the recipient. Clearly,

legally speaking, a military officer informing the family of a soldier's death or a doctor telling the patient that they have cancer are entitled to be direct and fully truthful; should they convey the information in the most insensitive and painful way, as long as it is the truth, they cannot be held legally responsible. However, the moral dimension of the same act is more demanding: by the manner of conveying the news, one reflects one's moral sensibility, one's ability to empathize with those stricken by the loss of a relative or of their own health: one can act in a praiseworthy or blameworthy way in this situation, depending on the way one uses language. One's ability to convey information in a morally sensitive way will depend on one's moral emotions, and they will have been developed as a result of one's moral self-care and education.

In more nuanced cases such as the above one, narcissists tend to fare very badly for all of the reasons described as constituting the very narcissistic pathology. They are focused on themselves, have no authentic emotions for others, and are almost incapable of feeling any empathy. Their attention is attached firmly to the outcomes of their relationships with others for themselves, without taking into account the desires, interests, and experiences of others in their impact on others' lives, independently of the narcissist. Thus, the narcissist will most likely be genuinely disinterested in the environmental impact of their choices (unless it is some kind of major and immediate impact that affects the narcissist themselves) or in the way one's language offends or hurts others, if the narcissist does not in some way depend on the relevant others, or expects something from them. Narcissists are notorious for not taking care of the way they use words and for being insensitive and hurtful in their communication with those they consider less powerful or influential than the narcissists themselves (Adams et al., 2014). Thus, the narcissist will tend to fail the first value test proposed by Pettit, namely being able to recognize the moral relevance of many decision-making situations. After all, this is the most obvious and common complaint levied against narcissists in everyday life, namely that they are "insensitive" to the needs and feelings of others when they do not impact the narcissist's own interests and well-being. This would appear to suggest that the narcissist qualifies for a reduced moral responsibility for value-laden decisions. However, my argument to the contrary is based on the nature of moral sensibility in the context of the moral duty of self-care and self-change.

THE DUTY OF SELF-CHANGE

There is a story in Christian ethics that focuses on our responsibility to develop particular moral sensibilities in order to merit redemption. According to the story, encapsulated in the Christian legacy, attributed to a vision by Venerable Theodora of Constantinople, upon a person's death, their soul leaves the body and, on its ascent, passes through several groups of demons ("aerial toll houses"), where each group tests

the soul for remaining sinful inclinations: greed, gluttony, adultery, arrogance, etc. Should the soul fail any of the tests, the corresponding group of demons will snatch it away and drag it into Hell, preventing its further ascent into Heaven.

For several reasons, this metaphorical story is interesting, both ethically and soteriologically. First, it describes a situation after the person's death, which, traditionally in Christianity, marks the end of a person's effort in this life and, assuming that the person has acted in sufficiently virtuous ways, ought to guarantee redemption of the soul. Thus, it would appear odd that the soul continues to be tested for its choices after death: according to the story, while ascending towards Heaven, the soul actively decides whether to respond to temptation with various sins, offered at the specific "aerial toll houses" by the groups of demons, and, if it has not cleansed itself of the inclinations, or sensibility, to respond to sinful experiences, it is drawn by the sin and loses the chance to redeem itself. The concept is similar to the view by Emanuel Swedenborg, who, when interpreting redemption, argues that "God does not condemn anyone to Hell"; rather, everyone goes where the inclinations of their soul lead them (Frothingham, 1882).

The second curiosity about this story is its suggestion that in order to achieve sufficient virtue, it is not enough to act right (thus passing the ethical evaluations of our actual choices). Instead, the requirement is that one works on oneself by undergoing a discipline and moral training in order to attain a personal change — a change in sensibility that will cause the person to no longer wish to engage in moral wrongdoing, or otherwise ethically suspect choices: this is what is tested by the "toll houses" described in the story. This is a key concept in the ethics of personal change, originating in ancient Greek ethics, e.g., in Epicurean ethics, which involved the cultivation of sensibilities of the soul (Fatic & Dentsoras, 2014). The same principle of the duty to self-change marked the very beginning of modern psychotherapy in the affective psychopathology of Philipe Pinnel, the founder of the modern psychotherapeutic clinic, who regarded all psychotherapy as "moral re-education". Pinel insists that the moral failures inherent in disturbances such as what we call today "personality disorders", in fact, arise from failing to observe the duty to self-change and to cultivate one's own sensibility. This is a type of psychotherapeutic virtue ethic that Pinel saw as being at the very methodological core of psychiatry and psychotherapy (Charland, 2010; Woods & Carlson, 1961).

The concept of moral education, initially championed by Pinel along the historical legacy of various ancient, Christian, and other sources on the moral duty of self-care and change in living "the good life", attaining religious virtue, or later in the related ethics for psychiatry and psychotherapy, is reflected in Charland's important argument that the "Cluster B" personality disorders, including NPD, and thus also narcissism as a type of personality organization, are in fact moral, and not strictly

medical qualifications. Charland points out that almost all of the diagnostic criteria for Cluster B disorders, elaborated in the DSM IV, are, in fact, moral and not clinical failures (Charland, 2006). Thus, the psychotherapeutic treatment for such disorders would naturally be expected to focus on a moral re-education along Pinel's affective psychopathology: the principle that brings psychotherapy into the aegis of philosophy and that is gaining increasing prominence through the modern development of philosophical counseling, which addresses philosophically the specifically moral and existential themes in appropriate cases of psychopathology (Raabe, 2014).

Given that social structure (our relationships with others) constitutes a dynamic action-system, in the philosophy of psychiatry and psychotherapy, the traditional ethical difference between failing to do something good and actively doing something morally bad is diminished. The context of psychotherapy as an action-system consists of legitimate expectations that the choices one makes are aligned with appropriate social values. This includes the person's possession of a requisite virtue and sensibility to fulfill legitimate expectations. There is thus a moral duty involved in self-care and self-change to the extent that they are required in order to facilitate the person's actual fulfillment of legitimate moral expectations in society, and this includes the development of a required degree of moral emotions as dynamic drivers of moral action, such as empathy, loyalty, solidarity, etc. As I have pointed out before, narcissism is a personality structure that satisfies Pettit's value criteria (ii) and (iii) for a full moral responsibility, namely the narcissist is able to understand what is expected of them, that this expectation is legitimate and the narcissist has control of their choices and actions. In light of the legitimate expectations within the social action-system that is captured by psychotherapy, it seems reasonable to derive from the above that the narcissist has a moral duty to develop the appropriate sensibility through moral discipline and self-education so that they can actually fulfill the legitimate moral expectations.

More recently, John Turri presented arguments for an "exculpation account" of moral blamelessness based on the idea that the existence of a legitimate excuse arising from an inability to perform an action that is the subject of moral duty, renders the agent blameless, even though one has a moral obligation, and is aware of that obligation (Turri, 2022). Turri's argument in favor of the exculpation account is consistent with the second M'Naghten criterion of criminal responsibility (which at the same time is a criterion of moral responsibility), namely the agent's ability "to have acted otherwise". The same argument is also consistent with Pettit's third criterion for moral blameworthiness, namely the ability to exercise "control". However, the narcissistic personality, as it is clinically described in the DSM classification, clearly retains significant control of their choices, which means that their pathology does not arise from an inability to choose, but from an inability to accord sufficient weight to values that would motivate them to choose morally correctly; thus the narcissist chooses

morally wrongly (when they do so) not because they are unable to act otherwise, but rather because they are strongly disinclined, while able, to act morallz correctly. This lack of motivation is associated with values, not with psychological capacities.

In a social action system, the moral duty to meet legitimate expectations involves the duty to develop a capacity to do so, where this is within the individual's power: a duty of self-care requires the person to regularly exercise. If the person is too obese to exercise, this then requires a duty to lose weight in order to be able to exercise and thus prevent damage to their health and avoid becoming a burden on others. The fact that one cannot exercise because one is too overweight does not excuse one from the duty to care for one's health: to the contrary, this imposes a further moral duty to lose weight in the interest of health. Far more radically, if limited capacities for empathy or the drama with moral dilemmas impact the welfare of others rather than merely the individual, as in the case of narcissism, the duty to change is even more stern and radical. The lack of moral sensitivity to what one knows is one's moral obligation, which one is able to fulfill because one has control over one's actions — far from excusing one from moral responsibility — in fact increases one's responsibility to develop such a sensibility and, to the extent that one could have worked on self-change, makes one blameworthy for the lack of moral training and moral emotions.

The context of psychiatry and psychotherapy further increases this duty. While the obese person can neglect their health all by themselves, without actively relating to others, the narcissist neglects their moral and personal well-being exclusively by consistently abusing others through the described mechanisms of narcissistic validation and treating others as narcissistic supply. The exclusively social substance of the narcissist dynamics maximizes the narcissist's moral duty of self-care and self-change, correspondingly increasing the narcissist's moral responsibility for failing Pettit's test (i) while satisfying the tests (ii) and (iii), where the latter qualify the narcissist to work on satisfying test (i). Hence, it is reasonable to conclude that failing Pettit's test of value sensibility does not, in fact, diminish the narcissist's moral responsibility: to the contrary, the action-system that defines the narcissist personality within the context of psychiatry and psychotherapy increases the narcissist's moral responsibility. This makes the conclusion with regard to the narcissist's moral responsibility for their choices identical to the accepted practice about the narcissist's legal responsibility, namely that narcissists are fully legally and equally fully morally responsible for their actions.

A focus on psychotherapy as a moral re-education obviously opens up a question of how such a prerogative could be abused, and what consequences this very possibility of abuse produces for the concept off moral re-education. My response to this potential critique is, I feel, quite simple. Any kind of psychotherapy and any psychiatric and psychological establishment can and has been extensively abused in the not-so-recent past. The list of such abuses is so long and so alarming that it actually gives rise to

questions as to whether psychiatry, in particular, and psychotherapy in the broader sense, should really have any coercive instruments at their disposal in the first place. During practically all authoritarian political traditions, psychiatry (and psychotherapy, to the extent that it was conducted in state institutions) was systematically abused and treated as a form of psychological policing, where numerous people with dissenting values or opinions were literally committed to psychiatric hospitals as a form of detention. Psychiatric hospitals were treated as informal prisons, and not only at the beginning of psychiatry, at the time of "asylums", but as recently as a few decades ago in Eastern Europe. One can only surmise what happens today in the psychiatric institutions in China or Russia, in North Korea, or Belarus.

A more modern form of abuse of psychotherapy and psychiatry is that associated with their judicial use: the high-profile controversy in Europe over child custody proceedings after divorce or in situations where children are seized from parents for various reasons, branching off into the issues concerning adoption, especially foreign adoptions, focuses largely on the role of psychiatrists and psychologists. Abuses in this realm are horrendous and have been attributed both to ill intent and the low level of training and professional selection, especially among social workers (Lytle-Vieira, 1987). The consequences of such abuses and mistakes are widespread and existentially extremely serious.

For the above reasons, it seems that it is impossible to convincingly rule out the possibility of abuse of any kind of psychotherapeutic methodology, view, or intervention, especially when it is connected with psychiatry, the state institutions, and the possibility of coercion, however remote it might be. What psychotherapy is actually doing is constantly re-educating the clients in line with the social expectations that determine our very view of normalcy (Fatic, 2024). This process is so much more dangerous if it is unconscious. Making the process conscious, deliberate, and strategically clearly focused reduces the likelihood and practical possibilities of abuse in relation to traditional views of psychotherapy rather than vice versa.

HOW A NARCISSISTIC CULTURE HAMPERS PHILOSOPHICAL TRANSCENDENCE

Assuming an overarching view that transcendence is the general feature of any kind of critical thought on the immediate reality of life experience, the removal of hampering of transcendence from one's, or a society's, perspective on life might be construed as a source of existential pathology. A particular and related aspect of transcendence that is made impossible by the prevailing narcissistic culture that philotherapy takes on as a source of individual and collective pathology is the ability to exercise reading and writing, not just as instrumental to obtaining practically useful knowledge, but also

as worthwhile because they lead to the attainment of intrinsically valuable states of mind (Currie, 1991, p. 338). The assumption of psychological realism about states of mind (states of mind are real on a par with the "objective" — unbearable — reality) is a logical presupposition of the philotherapeutic and any psychotherapeutic methodology and way of thinking (Pettit, 1991, p. 589). Psychological realism is what makes the very idea of philosophical or psychological intervention to improve one's experience of life intelligible.

It seems to me that this type of transcendence is associated with fact-value dualism, which suggests that values should not be inferred from facts. The factual statement that a person has responded by depression to an unpalatable experience in an important relationship with significant others by no means justifies the inference of a value judgment that the person ought to have responded by depression or that, in the future, the person should develop depression as a reaction to an unpalatable experience. This principle is known as a "fact-value dualism". However, fact-value dualism does not imply the opposite, value-fact dualism (Mautner, 1995). If values cannot be inferred from facts, perhaps facts can, under certain conditions, be reliably inferred from values, and this is especially the case with mental states when they are seen realistically in the above-described sense. Contrary to a value-fact dualism, the value statement that a person ought to be resilient in the face of adversity might lead to a factual situation where the person could be so resilient, especially if the first normative idea is the concept of therapy. At a minimum, in the therapeutic discourse, there is really no place for value-fact dualism, namely the assumption that a statement of value does not allow the inference of a statement of fact. Much psychotherapy is directed exactly at allowing values and norms to produce the desired factual results, although the concept of "inference" in therapy is different from logical inference. On the other hand, the opposite, fact-value dualism (a statement of fact as a premise does not allow the inference of a statement of value), might hold, depending on the therapeutic doctrine at hand.[6] Specifically in psychotherapy, the ought-is progression is the very logical heart of self-change and of social change more generally. Thus, both psychological realism and a value-fact continuum must hold.

Realism is a part of the logic of therapy because one seeks such transcendent states of mind, such as those facilitated by humor, where the potentially unbearable raw life

[6] In psychoanalytic discourse, however, neither does fact-value dualism obtain, because of the assumption by psychoanalysis that we are not "masters in our house" and that, analytically speaking, the facts of our decisions and choices speak about our values in ways often consciously inaccessible to us. Even though it is consciously unacceptable, even inconceivable, for me to assume that some of my choices might point to certain values that, to my conscious mind, are abhorrent and forbidden, psychoanalytically speaking, this not only may be the case but is, in fact, usually the case. This militates against the fact-value dualism, as well. That is why I say that, at a minimum, psychotherapy does not recognize value-fact dualism, while it might tolerate fact-value dualism. At a maximum, in psychoanalysis, neither of the dualisms is supported, while the psychological realism of mental states takes a radical form.

experience will be given more palatable meaning and function. Within that realism, working to the best of one's abilities to bring about optimistic outcomes for oneself and others, despite the overall pessimistic view of life as fundamentally tragic, is part of the value-fact continuum, rather than duality.

There is a sense in which narcissistic culture warps psychological realism: for the narcissist, the only fully "real" mental states are their own, while those of others are seen as merely instrumental, as semi-chimeras, something not to pay attention to, as fleeting phenomena unworthy of the narcissist's attention. This type of thinking is fundamentally anti-philosophical because it undermines the very conditions for meaningful dialogue and critical thinking. The inability to step outside one's deliberately set cognitive boundaries and transcend one's situational cognition and emotions as an attribute of the healthy, philosophically capable human psyche in narcissistic cultures goes hand in hand with the ontological denial of the full reality and relevance of the mental states of others. There is no more deeply anti-philosophical culture and social practice than that, along with at least a tacit psychological antirealism that goes along with narcissistic cultures.

Philotherapy addresses both these issues on a level of value. While one could argue that the narcissist recognizes the reality of the mental states of others, but simply does not care (and indeed, this is part of the phenomenology of narcissism), I am not so sure that recognition of the reality of objects or psychological processes is merely a cognitive act: does one really recognize another's dignity if one treats another with contempt? Perhaps it could be argued that one does, however, one does not care and thus deliberately denigrates another's dignity. To me, this seems highly improbable. We are always governed by values: our very identity is predicated upon a conception of virtue that we more or less share with our society (or our relevant group, even if it is a deviant group), and it is psychologically very different from recognizing a value that one can easily relate to and at the same time completely heinously threaten that value in others, without at the same time at least partially denying the reality of their humanity and their human suffering as a result of our actions. After all, that is why dehumanization, treating another human being as an object while abstracting their specific human qualities and sensibilities, is considered a psychological part of most crimes. I will refrain here from using the standard and hugely overexploited example of the Nazis; consider murders and kidnappings, where the same mechanism is at play. For example, there is a difference between terrorist kidnappings for political reasons, such as those happening in Latin America, where left-wing guerillas often abduct Western executives, journalists, or tourists and hold them prisoner in remote jungle locations until they can extract ransom that they will use to procure weapons and advance their political or military goals. These are situations where the primary attention of the kidnappers is not focused on the victim but on the larger political goals, and that is why there is probably less dehumanization

of the actual abductees. As a result, the so-called "Helsinki syndrome" ensues, where the victims, the abducted persons, once they are released after spending months with their captors, tend to defend their captors and justify their actions by reference to their inability to articulate their political agenda institutionally. The identification with the aggressor is predicated upon the actual human contact with the aggressor, who does not fully dehumanize the victim. The captors do not mistreat the prisoners because they have nothing personally against the prisoners and expect them to be released. Their goal is to extract the ransom, not to hurt the abductees (though occasionally they do hurt, or kill them, when things go very wrong). The kidnappers and the kidnapped talk, know each other's names, witness various everyday situations within the life of a renegade military group, and the abductees start to understand the other side of the crime: the position of the perpetrators. Once released, they often advocate for more lenient penalties for their captors, if they are apprehended, and sometimes they speak for their political cause publicly.

However, at a different level, strictly criminal, psychopathic kidnappings by serial killers never yield such sympathy from the abductees if they are released: typically, they do not want to hear of their captor, who dehumanized them and treated them as "meat" to be butchered, or as a means to the satisfaction of their sadistic drives.

The whole difference between the two cases, which, in the practical sense of the actual execution of a kidnapping, might be very similar, is that in the former case, the captors do not significantly dehumanize their victims. In contrast, in the latter case, the dehumanization is overwhelming and precedes the even graver crimes, such as the infliction of grievous bodily injuries or murder. The former type of kidnappers do not intend to murder their captives; this is not the logic of their operation (though, as I said, sometimes this happens when things get out of hand), and thus they do not need to dehumanize them. In the latter case, the intent is to harm the victim, and the victim is thus typically stripped of their human status and qualities for the darkened mind of the killer to be able to proceed with the murder. Even a psychopathic killer needs to dehumanize their victim before killing them, because recognizing the victim's human dignity and sensibility would be an impediment to the crime, as it would relate the victim to the perpetrator herself.

The same mechanism, though less radical, operates on the level of narcissistic motivation and the intricacies of a narcissistic culture: without the ability to move from one's initial vantage point on reality and transcend one's particular circumstances, desires, and needs, one dehumanizes others as means for obtaining the narcissistic supply. This cognitive rigidity of a narcissistic culture applies equally to institutions: some governments, agencies, and even companies are so narcissistically fixated in their epistemic positions on reality that they rigidly require the citizens, or their employers in the case of companies, to conform to rules and strategies that do not

really relate to the identity of most of those coerced into submission. Such is the onset of institutional or corporate tyranny.

Philotherapy treats these ills in the individual and collective experience by exploring how our consciousness works and whether we can establish better control and exert discipline over our mind. Related to the argument in the previous paragraphs that not recognizing others is a precondition for harming them because the recognition of the value of others is a natural psychological break on our acting destructively towards them is the argument that being "unconscious" is a precondition for acting self-destructively. The key is in understanding how being "unconscious" operated: this does not require someone to be fully unaware of one's true motives and goals, even though one might "consciously" be trying. Being unconscious is not the same as not having direct access to the ocean of one's individual and society's collective subconsciousness, as psychoanalysts argued. There are much more practical and mundane meanings of being unconscious, which have devastating effects on personal success and satisfaction, the most important of which is simply not paying attention: "There is a sense in which a person can be said to be unconscious of a sensation when he pays no heed to it. A walker engaged in a heated dispute may be unconscious, in this sense, of the sensations in his blistered heel (…)" (Ryle, 1986, p. 151). Our consciousness depends on the way we handle our attention, how we direct it, and how we disperse it. A large part of the technology to control human behavior, including that of malevolent governance, is by directing people's attention. The role of attention in attaining personal success and satisfaction can hardly be overemphasized. All the philotherapeutic techniques, and here I subsume all of the psychotherapy under philotherapy as a generic, over-arching philosophical home for all schools of psychotherapy, in fact, "trade in" attention: they work along specific theoretical and methodological roads to gather and master attention. Part of the problem is that we are not masters in our own house in most of our life situations. When we feel that we lose control of even the basic tenets of our life (our bodies, our important relationships, our jobs, and our life and limb), we also tend to lose control of our attention, despite the fact that attention is the only tool left when all else is taken from us that might help us get back in the driver's seat of our life. Generally, people show up for philotherapy when they are thrown out of their driver's seat in life, and, again, very crudely speaking, it is the task of philotherapy to help them master their attention so that they can get back behind the steering wheel. The metaphor does not purport to suggest that even when we are behind the "steering wheel", we have full control, but rather that we have a semblance of a sense of control that allows us to project our will on our life: the will does not usually become manifested in the way we would like it to be, i.e., ideally, but it helps us maintain our energy and motivation and to experience positive emotions while trying to grapple with the forces that truly have control.

The nature of a culture that determines our values, and thus indirectly our motives for any kind of participation in the social structure (the network of social relationships we are immersed in) is thus as much the subject of philotherapy within the context of working with each individual person, as is the exploration and interpretation of individual experience. In each case, it is the transcendence of the immediate, the raw experience, or "the unbearable Real", in Lacan's terms, that characterizes all of the specifically philosophical aspects of any philotherapeutic intervention, methodology, or perspective as much as it characterizes the very concept of normalcy and psychological well-being as elements of a philosophically good life.

Finally, a question of whether philotherapy, sketched here, is a utopian version of philosophically informed psychotherapy or a realistic methodological proposal for a shift in psychotherapeutic thinking and methodology. One specific way in which philotherapy has been developed within psychotherapy is the emergence of Modal Integrative Psychotherapy, which this author, with his colleagues, has been developing within the Institute for Practical Humanities for over a decade now. Modal Integrative Psychotherapy, which is a psychotherapeutic modality based on a shift in the underlying logic of psychotherapeutic thinking and intervention away from the uncritical reliance on propositional logic, binary logic, and towards modal logic, is an example of how the described philotherapeutic principles can revolutionize psychotherapeutic interventions. There are numerous consequences of this approach for psychotherapeutic practice, perhaps the most obvious of which is the need first to undermine or shake the existing modal or possible worlds that determine what is possible and what is not, and what is true or untrue, before facilitating a shift of modal worlds, or a change of the sets of circumstances that make what used to be impossible — possible, and vice versa. Traditionally, psychotherapy shies away from such interventions, assuming that the external world and the circumstances where one's internal experience unfolds are not the primary object of psychotherapy, hence focusing on subjective interpretations and the person's ability to metabolize the world. Modal Integrative Psychotherapy suggests a form of psychological activism where problems that might truly be insoluble in the current modal world might well become soluble in another modal world. However, a shift between the modal worlds requires interventions in external circumstances, as well as in internal decision-making. One way in which modern philotherapy, implicitly relying on such assumptions of Modal Integrative Psychotherapy, has started to take root is through the reviving of ancient "fraternities" or schools of thought, such as the Epicurean and especially the Stoic clubs, whose initially shy, but increasingly open spreading in various parts of the world witnesses the need to generate new social contexts, new organic communities, based on philosophical principles, where the values, virtues, and identities of their members would be developed according to commonly shared philosophical perspectives.

While to say that the introduction of philosophy as a beacon of psychotherapy overall may not be such a revolutionary proposal because philosophy is already, though often unwittingly, at the very core of most psychotherapeutic schools and methodologies, its conscious positioning as the guiding paradigm of where psychotherapy, and indeed socialization, strive in society and the psychotherapeutic realm makes a considerable difference.

Conducting psychotherapy in a value-charged way without specifically addressing the value foundations of such psychotherapy is a different approach from one where psychotherapy is laid out as the healing methodology based on a particular, elaborate philosophy of life. The latter is perhaps the most general proposition of philotherapy.

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Filozofija kao terapija u kulturi poremećaja ličnosti

SAŽETAK

Suvremeni razvoj filozofske prakse, kao i psihoterapije, uključuje razmatranja teorijskih osnova psihoterapije, s jedne strane, i praktične, terapijske primjene filozofije, s druge strane. Navedene debate dovele su do različitih, novih konceptualizacija obiju disciplina. Jedna takva konceptualizacija, za koju se autor u ovom tekstu zalaže, jest da se cjelokupna psihoterapija može shvatiti kao suštinski filozofska po prirodi, dok je filozofska praksa u cjelini, a posebno filoterapija kao njen savjetodavni dio, zapravo integrativna disciplina koja objedinjuje niz različitih bioetičkih dimenzija kako filozofije, tako i psihoterapije. Tekst razmatra načine na koje pojam psihičke dobrobiti, s jedne strane, i tradicionalni filozofski koncept dobrog života, s druge, odražavaju dvije strane iste normativne strukture „normalnosti" ili „dobrobiti" koji fundiraju dramu individualnog razvoja i promjenu kulture. Navedena dinamika posebno se jasno vidi u modernoj kulturni narcističkih vrijednosti koja vodi do niza pitanja o tome može li se i dalje patologizirati narcizam, do koje mjere i na kojim osnovama je to moguće te odnosi li se isto i na niz drugih vrijednosno opterećenih poremećaja ličnosti.

Ključne riječi: filoterapija, psihoterapija, narcizam, odgovornost, ličnost.

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How European Countries Bordering the Mediterranean Have Affected Bioethics, with Special Emphasis on Croatia, Greece, Italy, and Spain[1]

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SUMMARY

One of the promising ways of constructing bioethics outside the global mainstream – characterized by a perspective narrowed down to issues related to medical ethics and research – is undoubtedly the Mediterranean bioethics, based on the rich intellectual heritage of the basin between European, Asian, and African continents. This bioethics, addressing the entire bios and thus far closer to the original ideas of Fritz Jahr and Van Rensselaer Potter, has particularly been nourished in Spain, Italy, Croatia, and Greece, producing an extensive corpus of publications.

Following an international project devoted to investigating those cultural traditions and their bioethical roots, the present paper offers a tentative overview of the most influential individuals and their ideas and the most active institutions in the area.

Keywords: Mediterranean Bioethics, European Bioethics, History of Bioethics, Fritz Jahr, Van Rensselaer Potter, Culture, Tradition.

INTRODUCTORY NOTE

The Mediterranean is a world in itself; it combines the influences of three ancient and huge religions, at least twenty countries with some fifteen nations, and an even greater number of cultures. Such a variety also has to be reflected in its bioethics. Indeed, the way bioethics has been imported and/or developed in various Mediterranean countries has been quite different. Judging from the vividness of the publishing activities, some of those countries are more proactive than others. Following an international project, we decided to review four of them – Spain, Italy, Croatia, and Greece.

A lot has been written about the Mediterranean, whether we are discussing its historical, cultural, political, or geographical heritage. Many studies have shown similarities between the populations surrounding the Mediterranean Sea rather than between those with whom they share a geo-political area. The Mediterranean connects three different continents: Africa, Asia, and Europe, and therefore, also different religions and cultures. Among these diversities, there are numerous moral differences, which can cause difficulties in behavior and action (Caenazzo & Borovečki, 2022; Mallia, 2012). Ethical dilemmas and questions about life and death, or health and disease, as well as some ecological questions, seek answers in a discipline that will create concrete answers in the theoretical, practical, and behavioral sense of a compact space with broad worldviews such as the Mediterranean area (Matulić, 2007). We can consider that region the birthplace of some of the most significant civilizations and doctrines in history. Virtue Ethics, as developed by Aristotle, and Medical Ethics, as established by Hippocrates, both originated in the tradition of the Mediterranean, particularly in Greece.

On the other hand, in Spain, at the intersection of the medico-philosophical dilemmas, Diego Gracia Guillén came up with the concept of Mediterranean bioethics, creating a bridge between classical and modern ethical traditions: extracting virtue ethics from history and oblivion (Southern European) and rescuing the ethics of principles and duties (Anglo-American) from mere formalism and proceduralism. Actually, he was one of the first to criticize the Anglo-American approach to bioethics, narrowed down to medical practice and biomedical issues (Gracia, 2001). Today, with the discovery of Fritz Jahr's work, we know for sure that bioethics is much wider (Rinčić et al., 2021).

Mediterranean bioethics found its way in Italy as well. Namely, Salvatore Privitera accepted Gracia's basic ideas with the need to sensitize individual cultures in an intercultural and interreligious dialogue that will find a common language in solving (bio)ethical dilemmas in the Mediterranean (Privitera, 1994). This specific approach should respect the ethical and legal aspects in the diversity of historical, philosophical, social, cultural, and medical traditions and all moral dilemmas in the field of life sciences and health care, fostering a dialogue of valuable aspects of life, health, and nature at a level that defines the Mediterranean area (Matulić, 2007).

Mediterranean bioethics encompasses many life factors that can create unique bioethical challenges in this region. This contextual approach enables a deeper understanding of global bioethical issues, which take different forms and solutions within the Mediterranean context. It emphasizes the importance of respecting cultural differences while simultaneously recognizing and supporting shared moral values (Mallia, 2012).

SPAIN

According to the proposal of F. Abel and N. Terribas (2010), the development of bioethics in Spain can be divided into three periods.

The first period (1976–1985) is dominated by Abel's Borja Institute of Bioethics activity in Barcelona. Francesc Abel i Fabre (1933–2011), Jesuit by education, gynecologist-obstetrician, and philosopher-sociologist (demographer), was a doctoral student at the Kennedy Institute of Ethics in the early 1970s. Returning to Catalonia in 1976, he founded the first bioethical institute in Europe, which was taken over by the lawyer Núrriji Terribas in 1999.[2]

Since its establishment, the Borja has considered bioethics exclusively within an anthropocentric medical and legal perspective, resulting in a rich list of publications.

[2] Under her leadership, the Institute will become part of the *Ramon Llull University* in 2000.

Borja's "disadvantage" is the absence of a biocentrism perspective, evident in Abel's definition of bioethics:

> Bioethics is the interdisciplinary/transdisciplinary study of ethical decision-making in the process of solving problems arising from different ethical systems due to the progress of medicine and biology that occur in the micro-social and macro-social, microeconomic and macroeconomic environment and their effects on society and its value system, both in the present and in the future. (Abel I Fabre, 2007, pp. 5-6).

There were some significant changes in the second period (1985–2000): new centers were founded, the first explicitly bioethical journals (as many as four) were launched, and a different perspective from Abel's emerged. An example is Diego Miguel Gracia Guillén (b. 1941) from Complutense University. The first teacher of Gracia was José Ortega y Gasset (1883–1955), who worked on the metaphysics of William James (1842–1910) and the phenomenology of Edmund Husserl (1859–1938), as well as the tradition of neo-Kantians and Jesuits. Ortega y Gasset was, in the true sense, a "philosopher of life" and an existentialist, striving for the absolute truth as the sum of the perspectives of all individual lives while experiencing life as a drama of the interrelationship between the self and the environment.

Ortega y Gasset largely influenced the philosopher Xavier Zubiri (1898–1983) and Pedro Laín Entralgo (1908–2001), who was called the "last humanist" in Spain. Although he never used the term "bioethics", he dealt with medical ethics and anthropology (as well as literature, culture, history of medicine,[3] the university, contemporary Spain, and many other topics), writing about the virtue of friendship (sp. *amistad*), which Gracia, together with compassion, would later emphasize as the dominant value of Mediterranean bioethics (Spinsanti, 1995). Gracia is gradually abandoning the ratio-vitalism of Ortega y Gasset (sp. *razòn vital*), the perfection of reason and the completeness of his perspectives, and the enlightened Christianocentrism of Zubiri and Laín Entralgo, asserting himself as the first secular Spanish bioethicist. His students would summarize the "rebellion" in the direction of a Europeanization of bioethics in six detected conflicts of traditions: 1) European rationalism, idealism, systematism, and deduction vs. Anglo-American empiricism, emotivism, and pragmatism; 2) virtues (Europe) vs. law (Anglo-America); 3) stoicism (Mediterranean), absence of private and "self" vs. utilitarianism (Anglo-America); 4) the authority of the state (changes come "from above"), which in southern Europe is more important than civil initiatives; 5) justice (Europe, but also South America, where the distribution of goods and other socioeconomic issues are the most problematic) vs. autonomy; and 6) the influence of Catholicism on life debates (e.g.,

[3] Apart from Complutense (Laín Entralgo and Gracia), Spanish historians of medicine were not interested in bioethics at the time.

abortion) is far greater in Europe than in the Anglo-American tradition (Sanchez-Gonzalez et al., 2014).

Besides Abel and Gracia, one of the pioneers of bioethics is Javier Gafo (1936–2001), a Jesuit and probably the most significant bioethics publicist in Spain. He dealt exclusively with topics such as cloning, abortion, or artificial insemination, and for most of his life, he was active at the Comillas Pontifical University in Madrid.

Various bioethical activities and approaches continued in the third period (after 2000). The politician and surgeon Marcelo Palacios Alonso (b. 1934) founded the International Society of Bioethics (SIBI) in 1997, and in 2000, he organized the "First World Conference on Bioethics" in Gijón. Although he turned to Potter's global bioethics initiative, became a member of Potter's "network", encouraged the adoption of the Bioethics Declaration, proposed a law, and initiated naming a street in Gijón as »Professor Potter, the father of bioethics« (*Calle del Profesor Potter, Padre de la Bioética*), he remained mainly focused on biomedical topics.

A group of bioethicists also works at the Brothers Hospitallers of Saint John of God (they have been publishing the journal *Labor hospitalaria* since 1948); however, they mainly deal with palliative care. At the private University of Navarre, the bioethics school was founded by Gonzalo Herranz Rodríguez (1931–2021), a physician closely associated with the Catholic Church and Opus Dei, and the founder of the Spanish Association of Bioethics and Medical Ethics (AEBI). Nevertheless, his conservative traditionalist views did not prevent him from becoming interested in Fritz Jahr's ideas towards the end of his life (Rinčić & Muzur, 2012; Rinčić & Muzur, 2019a).

In Spain, several other individuals developed a more modern and original approach. Among others, we should highlight Ramón Maria Nogués Carulla (born in Barcelona in 1937), Catalan biologist and emeritus of the Autonomous University of Barcelona (Department of Animal Biology, Plant Biology, and Ecology), who accepted the ideas of "wider" bioethics. Nogués has been primarily focused on neuroscience, but, as of 2003, he has been advocating the so-called "extended bioethics" (sp. *bioética ampliada*) by including the problems of animals, environment, climate, and water. J. M. Gómez-Heras, a theologist-philosopher educated partly at Complutense University and from 1995 to 2003 in Salamanca, held hospital courses on (medical) bioethics. After 2000, he began to publish on environmental ethics (García Gómez-Heras, 1997/2001). In 1990, he published the article "Ecology and Utopia" (*Ecología y utopía, hacia una ética del trato del hombre con la naturaleza*), in which he began using the term "bioethics" (previously, he was alternating between the terms "environmental ethics", "ecoethics," etc.). Gómez-Heras has admitted that "his approach deliberately

does not follow U.S. bioethics, but relies on three sectors of European philosophy – hermeneutics, philosophy of value, and ecology"[4].

Although he has stated that he is familiar with the ideas of the American pioneers of bioethics, he prefers to refer to European thinkers such as Kant, Darwin, Hans Jonas, or Ernst Ulrich Michael von Weizsäcker (b. 1939), an environmentalist, politician, and co-chairman of the Club of Rome (2012–2018), known for forecasts that the 21st century would be the century of the environment.

It is typical for Spanish bioethics that even when we observe elements of biocentricity (Gómez-Heras or Nogués), they mainly deal with animals or ecology, but not plants, that is, life in all its forms. Some authors have been influenced by Potter (Palacios), but the influence of Fritz Jahr's work remained quite absent. We attribute the introduction of Jahr to literature in Spain to the Colombian (admittedly, Spanish doctoral student) Ricardo Andrés Roa-Castellanos, who, in March 2011, participated in the first international conference on Jahr in Rijeka, Croatia. He later co-authored, along with Emanuele Valenti from The Institute of Clinical Ethics Francisco Vallés (Madrid), a chapter on Jahr in the textbook "Illustrated History of Bioethics" (Roa-Castellanos, Valenti & Márque Mendoza, 2015). In 2018, the Catalan physician Andreu Segura Benedicto was the first to use Fritz Jahr's name in the title of an article (Segura Benedicto, 2018). In 2016, however, the Barcelona-based philosopher and lawyer Manuel Jesús López Baroni problematized Fritz Jahr's ideas within a broader historical and epistemological context in his book (López Baroni, 2016).

The desire to move away from Anglo-Saxon pragmatism and empiricism in Spain led to the support of P. Kemp and J. Dahl Rendtorff's attempts to Europeanize (American) principles (principles published by the Borja Institute), which later helped to articulate the specifics and potentials of "Latin" or Mediterranean bioethics: the significant role of character (honor, fame, nobility, sincerity, compassion, etc.); the role of trust in family and friends; less significance attributed to the question of who decides on the received information (therefore, entrenchment of paternalism); greater trust in doctors (proven by fewer complaints against doctors); centuries-old stoicism (based on ancient Greek and Christian traditions) – choosing happiness as a life goal (therefore, greater attachment to other people than to the material environment), anti-utilitarianism (contempt for practical solutions and applications), exaltation of life in accordance with nature and virtues, mistrust of the individual and private, tendency to meditate on life and death; greater importance attributed to professional norms than human rights (while the interest in social justice, as well as the late and imposed legislative recognition of patients' rights, is explained by the long history of dictatorships denying the individual in favor of the social) (Sánchez González, 2015).

[4] E-mail correspondence from June 28, 2021.

ITALY

There are two narratives about the beginning of bioethics in Italy by scholars who belong to the Catholic front and those who belong to the secular front. On the side of Catholics, in line with the thesis according to which a "movement" animated by the reflections of Catholic and Protestant moralist theologians would have paved the way for bioethics in North America, Giovanni Russo has affirmed that, also in Italy, the Magisterium of the Church and the work of Catholic centers have paved the way for bioethics. There would, therefore, be a "prehistory of bioethics", which dates back to the 1950s and the pronouncements of Pius XII on issues regarding the beginning and end of life.

The narrative that we find in Maurizio Mori's texts is of a different narrative. The beginning of bioethics is indeed marked by a phase that can be defined as movementist, or as Mori defines it, as a nascent or totipotent phase, as embryonic life, but as the sign of a break with traditional ethics, in particular, the value of human life. It was a fluid phase from the early 1970s to 1989, with many conferences and debates, but without official positions, schools, and models of bioethics (Mori, 1993).

In the diverse story scholars have given us of its early stages, Italian bioethics is marked by a characteristic dialectic: the confrontation/clash between Catholics and laypeople (Fornero, 2009; Fornero & Mori, 2012). The contrast between the different conceptions of human life has been at the heart of the Italian bioethical debate from the outset.

Indeed, there have been voices outside the choir, as well as outside the opposition, already since the first embryonic phase, such as the voice of Menico Torchio. He was probably the first in Europe (after Jahr) to use the term "bioethics" in the title of his article, *Rapporti uomo-Natura secondo le principali metafisiche orientali, loro implicazioni bioetiche ed ecologiche*, published in June 1972 (Torchio, 1972). There are various similarities between Torchio and Jahr[5] (Cf. Jahr, 1929; Jahr, 1934; Rinčić & Muzur, 2012; Torchio, 1984a), even though Jahr is never mentioned in Torchio's

[5] Firstly, Torchio's article was published in the journal *Natura – rivista di scienze naturali* (just as in Jahr's time it was *Kosmos – Handweiser für Naturfreunde und Zentralblatt für das naturwissenschaftliche Bildungs- und Sammelwesen*); secondly, the title of the article is similar to the subtitle of Jahr's article (*Bio-Ethik: eine Umschau über die ethischen Beziehungen des Menschen zu Tier und Pflanze)*; thirdly, in his article, Torchio advocates the recipes of Eastern metaphysics, and Jahr introduces examples of correct behavior toward the living world, the philosophy of Buddhism, yoga, and sankhya; fourth, in several places, Torchio mentions the understanding of ethics as a "force that resists the egoistic instinct", and Jahr devoted another article to the "contrast and union" of egoistic and altruistic principles; fifth, Torchio uses the term "bioethical imperatives", and, in several places, mentions the formulation from the Padma-Purana: "Do not do to others what you would not like to do to yourself". These similarities should be added to Torchio's later approach to Jahr in the early 1980s when he advocates "the need to expand our ethical obligations and embrace the most developed groups of animals, not only in the physical but also in the psychobiological sense".

texts, nor is there any evidence that he was aware of him. For Potter, however, we have been told that Torchio received his book "Bioethics: Bridge to the Future" as a gift in 1972 from the director of his institute, C. F. Sacchi (Russo, 1995, p. 45). It is interesting to note that Torchio's article *Lo stato di allarme* recalls, both in its title and content, themes of Potter's text, using, among other things, the same metaphor of humanity as a "cancer of the whole biosphere" used by Potter. In the text "Bioethics: A Bridge to Survival", published in *Natura* (Torchio, 1974), Potter is mentioned together with other authors such as Aldo Leopold and Albert Schweitzer (Torchio, 1982; 1984b). In one paper, Torchio (1995), as a final message, highlights his contribution to "naturalistic (and ecological) bioethics" (it. *bioetica naturalistica ed ecologica*), at least as dignified as "bioethics of creation" (it. *bioetica procreatica*), which is "trendy, maybe even too big" today, but unfortunately does not offer further elaboration. However, perhaps even more than Potter's voice, Torchio's remains isolated and surpassed by another way of approaching bioethics (Muzur & Rinčić, 2022).

Since the 1990s, we have had a more structured, institutional phase of bioethics in Italy. The Italian Committee for Bioethics (ICB) was established by a decree signed by the President of the Council of Ministers, with the task of expressing opinions, preparing legislative acts, and addressing the ethical and legal problems that may arise as a result of the progress in scientific research and technological applications on life. The first President and founder was Adriano Bompiani, who, due to his subsequent, constant commitment to the work of the ICB, is considered the main witness of its mission[6].

The institutionalization of bioethics is also reflected in its presence in university teaching. The first university lecture on bioethics was introduced in the 1983/84 academic year at the Catholic University of Rome and held by Professor Elio Sgreccia[7].

However, the soul of Italian bioethics is to be found above all in the activities of the various Centers that have sprung up since mid-1985, with the purpose of organizing activities in the fields of research, training, information, and documentation. These activities are associated with names such as Center, Laboratory, Project, or Institute. For uniformity purposes, we will use the term "Centers" in line with Viafora's (1993) approach. Clinical bioethics is clearly prevalent, especially in many of the prominent Catholic and lay Bioethics Centers.

However, the trend towards a bioethics that is attentive to other species and the environment, which proceeds in the direction first indicated by Fritz Jahr and later

[6] A sentence by Bompiani is still on the NBC website to describe its mission (https://bioetica.governo.it/en/).

[7] Sgreccia insists on the "principles of personalist bioethics": the fundamental value of life, the totality or therapeutic principle, freedom and responsibility, and sociability and subsidiarity.

by Van Potter, is present in some centers, such as the Bioethics Center of Genoa (*Centro di Bioetica di Genova*), the Italian Institute of Bioethics (*Istituto Italiano di Bioetica*), and the Italian Society of Bioethics (*Società Italiana di Bioetica*). An opening in that direction is also present in the *S*icilian Institute of Bioethics (*Istituto Siciliano di Bioetica*) and the Bioethics Laboratory of Messina (*Laboratorio di Bioetica di Messina*).

Among the centers of Catholic inspiration, the Institute of Bioethics (*Istituto di Bioetica*) at the Catholic University of Rome plays an important role[8]. The vision of bioethics that inspires the activities of the Institute is ontologically founded personalism of Thomist inspiration. This perspective is applied to biomedical but also social issues, as is evident in the text by Elio Sgreccia, "Manual of Bioethics", which has become a point of reference for Catholic-inspired bioethics (Sgreccia, 1988/2012). The Institute conducts multiple training activities, including the first specialization course in Bioethics (1989-90) and the first doctoral program in Bioethics (1991/92). The journal *Medicina e Morale* and the editorial series of *Scienza, medicina, etica* edited by Vita e Pensiero are connected to the Institute. The activity of the Institute continues today in the Section of the Department of Safety and Bioethics of the Catholic University of Rome, Bioethics and Medical Humanities (*Bioetica e Medical Humanities*), directed by Antonio G. Spagnolo. The section carries out research activities both on the classical issues of bioethics and emerging ones, extending its interest from clinical ethics issues to those concerning the area of biotechnology, the environment, and biolaw.

The Bioethics Center (*Centro di Bioetica*), which has been active at the Catholic University of Milan since 2007 (director Adriano Pessina), is also derived from the first Roman Bioethics Center. Starting in 2018, the Milanese Center has unified with the University Center for Life, based in Rome, merging into a single structure called the University Center for Bioethics and Life Sciences *(Centro di Ateneo di Bioetica e Scienze della Vita)*, directed by Massimo Antonelli. In the new center, we notice a solid openness to the issues of social bioethics, in particular to disability, and the impact of new information technologies, robotics, and artificial intelligence.

Another important center of Catholic inspiration is located in Milan: The School of Medicine and Medical Humanities (*Scuola di Medicina e Medical Humanities*) of San Raffaele Hospital, founded in 1982 on the initiative of Don Luigi Verzé. It is one of the first Italian centers of research and training in the philosophy of medicine, ethics of medicine, bioethics, and medical humanities. Its vision of bioethics is inspired by personalist anthropology open to a pluralist dialogue with other visions. The School conducts multiple training activities, including the European Day of Bioethics. An

[8] Established in 1985 as a Center of Bioethics, it became an Institute in 1992 under the direction of Elio Sgreccia.

Italian Society for Bioethics and Ethics Committees was set up at San Raffaele to coordinate the activities of Ethics Committees in Italy. The journals *Sanare Infirmos* and *Kos* and the editorial series of *Medicina e Scienze umane* edited by *Europea Scienze Umane Editrice* are connected to the School. From 1998 to 1999, only activities in the bioethical field were carried out by department scholars at an individual level.

Towards the end of the 1980s, in 1988, in Padua, as part of the research and training work of the Lanza Foundation, the Ethics and Medicine Project (*Progetto di Etica e Medicina*) was set in motion, with Paolo Benciolini in charge and Corrado Viafora as coordinator. The Project is committed to two objectives: the recognition of the orientations of contemporary bioethics, which has led to international meetings and study days on bioethics in Italy, and the activation of a Bioethics Laboratory for permanent training. The materials produced are collected in the *Quaderni di Etica e Medicina* series, edited by Gregoriana Editrice.

A vision of medical bioethics clearly prevails in all the Catholic-inspired Centers indicated up to now. The same view also prevails in a secular-inspired center that rises within *Politeia*, a non-profit association founded in 1983, intending to promote reflection on ethics and public choices. Politeia's research programs are characterized by interdisciplinarity and adherence to methodological individualism and the theories of rational action. In 1985, the "Bioethics Section" (*Sezione di Bioetica*) was born, and Maurizio Mori has been its manager from the beginning to today. It was one of the first Italian research centers in this sector.

Since 2014, the University of Milan has been the headquarters of the Center, with Emilio D'Orazio as the director of the Study Center. Among *Politeia's* publications, we wish to underscore *Il Manifesto di Bioetica laica*, published in *Notizie di Politeia* in 1996, for its impact on the Italian bioethical debate (D'Orazio & Mori, 1996).

Still, in its secular sphere, the Bioethics Consultation (*Consulta di Bioetica)* was founded in 1989 by the neurologist Renato Boeri. The Bioethics Consultation is a non-partisan association, not linked to any religious confession, which promotes the development of a secular debate on the ethical problems of medicine and the biological sciences from a pluralist perspective. Among its activities is the promotion, since 1990, of the Charter of Self-determination or "Biocard". Since 1993, the Bioethics Consultation has promoted the journal *Bioethics* as its official periodical.

The orientation toward medical bioethics is prevalent in both of these reference centers of secular bioethics, and it is centered on the questions of the beginning and end of life and the principle of autonomy.

However, there are also bioethics centers in Italy, both of secular and Catholic inspiration, which are more open to other areas of bioethics, such as animal, environmental, and social bioethics.

The Bioethics Center of Genoa (*Centro di Bioetica di Genova*) was founded in 1984 on the initiative of university professors from different research areas. Among the directors and the principal representatives, we find Luisella Battaglia[9]. The Center has a secular orientation and pursues a vision of bioethics that does not limit attention to human life but includes everything that is living and, by extension, also the environment.

The Italian Institute of Bioethics (*Istituto Italiano di Bioetica*), founded in Genoa in 1993 by Luisella Battaglia with the intention from the beginning to spread throughout Italy, shares the same vision of the Bioethics Center. Currently, the Institute is present in various Italian regions: Liguria, Campania, Sicily, Marche, Puglia, Emilia Romagna, Trentino Alto Adige, and Tuscany.

Attentive to the public ethics dimension of bioethics, the Institute has been carrying the organization of the School's Bioethics Days, dedicated to the training of young generations, in particular since 2001 under the patronage of the Italian Committee of Bioethics, and, since 2017, the Festival of Bioethics organized by the Ligurian Section with the patronage of the Italian Committee of Bioethics and aimed at activating the public debate on the main bioethical issues.

Even the Italian Society of Bioethics *(Società Italiana di Bioetica)*, founded in 1987 at the Chair of Bioethics of the University of Florence by Brunetto Chiarelli, has a vision of bioethics that goes beyond the medical field and is clearly centered on global bioethics. Close to Potter[10] (Muzur & Rinčić, 2014, p. 49), but not entirely coincident with Potter's bioethics, this bioethics is conceived as a biological and naturalistic science with ecological relevance with the aim of survival.

Chiarelli edited the journal *Problemi di Bioetica* (1988–1991), from 1992 with the new name Global Bioethics, and in 1993 published the book *Bioethica Globale*, "which all testifies to the naturalistic and the anthropological distinction of bioethics

[9] Luisella Battaglia did not know about Fritz Jahr until recently. However, he certainly caught her attention in the segment on spreading "imperatives" to plants (Luisella Battaglia, verbal communication, June 2017).

[10] We find traces of a relationship of great mutual respect between Chiarelli and Potter. In one of his letters, V. R. Potter complains that between 1970 and 1990, no one would recognize and follow him, so in 1988, "only one person in the whole world" noticed the book on global bioethics – Brunetto Chiarelli. In October 2000, Chiarelli animates Potter's associates to support Potter's candidacy for the Kyoto Prize and then, in March 2001, also launched an international campaign to try to make Potter a candidate for the Nobel Prize. Unfortunately, both initiatives were unsuccessful. In November 1991, Potter came to Chiarelli's conference in Trento, the last one he physically attended.

towards moral philosophy, medical deontology, and environmental ethics" (Chiarelli, 2000, p. 358).

An openness to animal and environmental bioethics themes can also be found in two Catholic-inspired centers. The first is the Sicilian Institute of Bioethics *(Istituto Siciliano di Bioetica)*, founded in 1991 by Father Salvatore Privitera as an Institute of the Sicilian Theological Faculty. In 1998, it acquired its own autonomy, constituting itself as an association with two offices, Palermo and Acireale. The Institute's purpose is characterized by its vocation for "Mediterranean bioethics"[11] (Cf. Privitera, 1996, p. 14), which, returning Sicily its vocation as a meeting point between different peoples and cultures, positions the Institute as a place of dialogue between Bioethics Centers and mediation between European and Mediterranean cultures. Without moving away from the fundamental positions of the Church, Privitera nevertheless carried forward an idea of Mediterranean bioethics attentive to promoting a higher quality of life. With his collaborator and successor, Salvino Leone, Privitera edited the journal *Bioetica e Cultura* (since 1992) and numerous other publications (among them the "Dictionary of Bioethics", first edition in 1994, new edition in 2004), and, in 1995, he moved the Institute headquarters from the Faculty of Theology of the University of Palermo to Acireale (where a branch has been operating since January 1992).

The "Salvatore Privitera" Institute of Bioethics *(Istituto di Bioetica »Salvatore Privitera«)*, founded in Palermo in 2007, a few years after the death of Father Privitera (Director Salvino Leone), is a direct subsidiary of the first, founded by Privitera. It maintains the same aims, as is also shown by the close similarity of the logo. The Institute publishes the journal "Bioethos" and is the owner of the publishing house *Il Platano di Ippocrate*.

Another clearly Catholic-inspired center, also active in Sicily and open to animal and environmental bioethics issues, was founded in 1993 in Messina: The Laboratory of Bioethics *(Laboratorio di Bioetica)*. The Laboratory was set up as an internal research center of the Bioethics Committee of the Messina Catholic Doctors Association (Director Giovanni Pinizzotto), the committee responsible for the initiative of the Italian translation of Potter's book "Bioethics. Bridge to the Future*"* (Potter, 2000). Later becoming an independent body, the Laboratory is based at the Theological Institute of St. Thomas of the Salesian Pontifical University. Its director has been from the beginning to today Giovanni Russo[12], with the collaboration of Marianna Gensabella. The Bioethical vision underlying the Laboratory's activities is based on the centrality of the human person, respect for human

[11] Privitera mentioned that the idea of Mediterranean bioethics was launched with the first issue of the journal *Bioetica e Cultura*, i.e., the first „Mediterranean meeting on bioethics" in 1992.

[12] Giovanni Russo defended his thesis on the history of bioethics in Italy, becoming a professor at the Messina branch of the Salesian Pontifical University.

rights, and a Potterian, "global" perspective of bioethics. The Laboratory has given rise to the Higher School of Specialization in Bioethics and Sexology, in which two Masters in Bioethics and Sexology were born. Among the publications of the School of Bioethics and Sexology, the "Encyclopedia of Bioethics and Sexology", edited by Giovanni Russo in 2004 and updated and expanded in 2018, holds a prominent place.

Also worth mentioning are two centers, no longer active, that focused their activities on social issues of particular relevance, addressing them from a bioethical perspective. The first was the International Family Studies Center *(Centro Internazionale di Studi sulla Famiglia)*, founded by the Paulines. The second was the Bioethics Center-Gramsci Institute *(Centro di Bioetica dell'Istituto Gramsci)*, established in 1988 within the Section of Theories and Methods of Science and the Section Philosophy of the Gramsci Foundation.

Lastly, we would like to mention the Inter-University Center for Bioethics Research (CIRB) (*Centro Interuniversitario di Ricerca Bioetica*), established in 1996 and involving several universities in Campania. The Center deals with ethical, psycho-sociological, and economic-legal issues connected with the development of biological and medical-surgical sciences and techniques concerning human beings, employing an interdisciplinary approach while also considering environmental protection. The current director is Andrea Patroni Griffi.

Finally, two other recently established University Centers deserve to be mentioned. The first is the University Center of Bioethics (UCB) (*Centro Universitario di Studi Bioetici*), an interdepartmental research center at the University of Parma (Director Antonio D'Aloja). Established in June 2016 on the Department of Law, Political, and International Studies initiative, the Center's mission is to promote interdisciplinary comparisons on advances in medicine and scientific research in various fields, ranging from health care to biotechnology, environmental policy, and sustainability.

The second is the University Center for Bioethics Studies (CE.S.B.) (*Centro Universitario di Studi di Bioetica*), established in 2019 at the University of Messina (President Marianna Gensabella, Director Stefano Agosta). The Center aims to promote research, training, critical discussion, and dissemination in the field of bioethics. The vision of bioethics that underlies the activities ranges from clinical bioethics to animal and environmental bioethics, also paying attention to the interrelationships of bioethics with related interdisciplinary areas such as biopolitics, biolaw, bioeconomy, and bioinformatics.

In conclusion, with this brief overview of the activities of the Bioethics Centers in Italy, we can observe that even if the orientation towards medical bioethics appears prevalent, especially in the initial phase, there is also a broader, global vision of bioethics. A broader vision of bioethics, aimed at the care of every living being and the ecosystem in its entirety, allows for a greater space for dialogue and comparison between different ethical orientations but, at the same time, burdens bioethics with

further challenges. The challenge of global bioethics is the new, difficult perspective towards which Italian bioethics, with its centers, is taking its first steps today.

CROATIA[13]

The Catholic Church was among the first to embrace Potter's "invention" of bioethics (even if we discount the role of the Church in establishing the Kennedy Institute, the National Catholic Bioethics Center was established in Philadelphia as early as 1972), seeing in bioethics a new way of promoting old Church teachings. The Church simply could not allow the major issues of its doctrines to be discussed without its involvement[14] (Aramini, 2009; Meilaender, 2005) but also saw an interesting opportunity to enter a debate that had previously been reserved only for medical ethicists (i.e., physicians) (Pozaić, 1987). It is, therefore, unsurprising that in Croatia as well, the Jesuit Valentin Pozaić was the first to use the term "bioethics" in the spring of 1985 (Pozaić, 1985a; 1985b).[15] A year later, Pozaić founded the Center for Bioethics at the Philosophical-Theological Institute of the Society of Jesus in Zagreb[16]. The main idea of Pozaić's initiative was that medical ethics no longer manages to cover all the issues related to health, disease, and death. As an answer, a new interdisciplinary profession has emerged: "bioethics".

Independent of theologians, another line of bioethics development in Croatia has been established by lawyers. By entering this field, due to his interest in human rights, Nenad Hlača from the Faculty of Law in Rijeka started publishing on bioethical topics as early as 1990 (Hlača, 1990a; 1990b; 1993). In the same year, the Hastings Center of New York organized the second "East-West Bioethics Conference"[17] in Dubrovnik. The first was held in Pécs in Hungary in 1989 (Donnelley, 1990; Hlača, 1998). Nikola Visković, a Professor at the Faculty of Law in Split, expressed an interest in bioethics and biolaw (Visković, 1995). However, starting from his interest in animal law and ethics, in which he is a pioneer in Croatia, he developed the concept of cultural zoology, first introduced in the voluminous feuilleton "Animal and Man" (Cro. *Životinja i čovjek*) (1990–1991) published in the *Slobodna Dalmacija* newspaper. This served as the basis for the book of the same title (Visković, 1996).

[13] Some of the ideas formulated in the following section have been exploited in Rinčić & Muzur, 2011.

[14] The Christian vision of bioethics is dominant in numerous publications.

[15] For a more complete bibliography of V. Pozaić, see: Šestak, 2005. Although Pozaić published two articles on similar topics as early as December 1984, he did not explicitly mention bioethics in them (Pozaić, 1984a, 4; 1984b, 4).

[16] The Center for Bioethics – Institute of Philosophy and Theology of the Society of Jesus (http://www.bioetika.ftidi.hr/bioetika.htm).

[17] Hlača claims that this was the first mention of "bioethics" in Croatian academic circles; however, as we know, this is not accurate.

He also developed a similar concept of cultural botany, synthesized in the book "Tree and Man" (Cro. *Stablo i čovjek)* (Visković, 2001). Both concepts make the all-encompassing case of human relationship towards animals and plants, showing the various ways in which human culture depends on non-human living beings, but also making an implicit claim that ethical and legal protection of non-human living beings cannot be comprehensive without (what will later in Croatia develop as a pluri-perspective) reflection of this complex relationship (Gući, 2021).

In Zagreb, the bioethical-legal perspective has been broadened by Ksenija Turković, an expert in criminal law and a victimologist known for her studies of euthanasia (Turković, 2006; Turković, Roksandić Vidlička & Maršavelski, 2010), and whose work has been continued by her students Sunčana Roksandić-Vidlička and others.

In about 1995, the bioethical debate was joined by philosophers from Rijeka. Elvio Baccarini has published on euthanasia, abortion, organ transplantation, cloning, etc. (Baccarini, 1998a; 1998b; 1998c; 1998d; 1999; 2000; 2002; 2006; 2008; Czerny Urban & Baccarini, 2010) Snježana Prijić-Samaržija mostly on abortion (Prijić, 1995; Prijić-Samaržija, 1997; 1999a; 1999b; 2000; 2002; 2004; 2008; 2011), Neven Petrović translated Peter Singer's book "Animal Liberation*"* (1998),[18] etc. Baccarini also published the book *Bioetica: Analisi filosofiche liberali* (Bioethics: A Liberal Philosophical Analysis) and, together with S. Prijić-Samaržija, "Practical Ethics: Essays in a Liberal Approach to Certain Problems of Practical Ethics" (*Praktična etika: ogledi iz liberalnoga pristupa nekim problemima praktične etike*).

In the former Yugoslavia, after the establishment of the first (hospital) ethical committees in the 1970s (Borovečki, Mustajbegović & Vrhovac, 2010), the pioneers of medical ethics and human rights were Pavel Gregorić and Slobodan Lang, when a center for medical ethics[19] was established at the "Andrija Štampar" School of Public Health, as well as an annual workshop at the Inter-University Centre in Dubrovnik (Ten Have, Borovečki & Orešković 2005). At approximately the same time, the then Head of the Institute for Forensic Medicine at the Faculty of Medicine in Rijeka, Branko Volarić (1927–1982), started to prepare a course in medical ethics in collaboration with Ivan Šegota, the then Head of the Department of Social Sciences at the same faculty. However, due to Volarić's death, this idea would come to life in Rijeka only a decade later.

Ivan Šegota was a journalist with a typical journalist's instinct for the new (Muzur, 2012; Rinčić, 2009). A high-level politician of the Yugoslav communist era, he taught Marxism and the theory and practice of socialist self-management at the

[18] Peter Singer's "Practical Ethics" was translated into Croatian five years later by Tomislav Bracanović and published by *KruZak*.

[19] Yugoslav Centre for Medical Ethics and Quality of Life (established in 1982).

Faculty of Medicine in Rijeka from 1976. He traveled to Washington, where he discovered bioethics at the Kennedy Institute of Ethics at Georgetown University; he then returned to Rijeka and introduced courses on medical ethics at the Faculty of Medicine ("The Hippocratic Oath Today"). The term "bioethics" was first used in the title of a course in 1993/1994 ("An Introduction to Bioethics", an elective course offered in the first year of Medicine) (Šegota, 2005; 2008). In the following years, other Croatian universities have followed Rijeka's path (Gosić, 2000).

Ivan Šegota was co-founder, the first president (2000–2004),[20] and later honorary president of the Croatian Bioethical Society. He also co-founded the International Society for Clinical Bioethics (2003) and the Croatian Society for Clinical Bioethics (2005).

Influenced by the Catholic Church, the Zagreb Faculty of Medicine introduced a medical ethics course in 1995/1996 (Zurak, 2010). This more conservative approach was led by the neurologist Niko Zurak, editor of the university textbook Medical Ethics (*Medicinska etika*) (Zurak, 2007), who for a long time resisted the term "bioethics" (Matulić, 2005, p. 176).

Ana Borovečki from the "Andrija Štampar" School of Public Health in Zagreb might be considered a follower of Slobodan Lang and Niko Zurak. Borovečki has taken over part of the medical ethics lectures at the Faculty of Medicine in Zagreb and published several manuals (Borovečki & Sass, 2008; Borovečki & Mustajbegović, 2010; Borovečki & Lang, 2010; Borovečki, 2003). Like Stella Fatović-Ferenčić, Ana Borovečki was also a student of Biserka Belicza (1942–2005), a historian of medicine and ethicist. These three scholars brought the "Zurak line" and its influence to the Faculty of Medicine at Josip Juraj Strossmayer University in Osijek.

The first major bioethics symposia in Croatia took place in the late 1990s: "Bioethics – Ethical Challenges of Science and Society" – Department of Sociology at the Faculty of Humanities and Social Sciences of the University of Zagreb, October 1997 (Cifrić, 1998), "7th Days of Frane Petrić" – Croatian Philosophical Society, Cres, August/September 1998 (Čović, 2000), "Bioethics in Theory and Practice" – Croatian Medical Association et al., Zagreb, December 1998 (Kurjak & Silobrčić, 2001), "Informed Consent in European Reality" – Croatian Academy of Sciences and Arts, Zagreb, February 1999, and "Bioethical Aspects of Genetic Engineering" – Croatian Peasant Party, Zagreb, April 1999. At the beginning of the new millennium, annual conferences (mostly with international participation) were established in Rijeka ("Rijeka Days of Bioethics") in 2000 and on the island of Lošinj ("Lošinj

[20] Later presidents were Nikola Skledar (2004-2008), Ante Čović (2008-2012), Amir Muzur (2012-2016), and Hrvoje Jurić (since 2016).

Days of Bioethics")[21] in 2002[22]. Conferences in other locations have been held only occasionally[23].

The founder of the Lošinj Days of Bioethics, an event that has become the leading bioethical conference in Croatia, is Ante Čović. By insisting on abandoning the "new medical ethics", Čović systematically promoted "integrative bioethics" as a discipline that starts with open dialogue from various scientific and non-scientific perspectives ("pluri-perspectivism") and results in an integrated platform of "orientation knowledge"[24]. Integrative bioethics, as an original intellectual contribution to the content and methodology of bioethics, opened the door for Čović's group to new collaborations: first with Thomas Sören Hoffmann from Bonn and later with Walter Schweidler from Bochum/Eichstätt. A joint project resulted in a series of summer schools and conferences.

Čović invited scholars from almost all the countries of South-East Europe (Slovenia, Bosnia and Herzegovina, Serbia, Macedonia, Bulgaria, and Albania) to join the project of establishing a joint master's program in integrative bioethics. In 2006, he founded the Referral Centre for Bioethics in South-East Europe. In 2011, Čović obtained approval for a project from the University of Zagreb aimed at establishing a centre of excellence and a doctoral program in integrative bioethics, and the actual Scientific Centre of Excellence for Integrative Bioethics was established by a decision of the Minister of Science, Education, and Sports in November 2014. It is possible that one day, the major contribution of Ante Čović, besides conceiving and promoting integrative bioethics, will be seen in his systematic mentoring and education of young scholars, students, and doctoral candidates who have spread bioethical ideas to other academic institutions and public forums, and in their publishing activities (e.g., Ivana Zagorac, Marija Selak, and others).

Hrvoje Jurić, the first associate and student of Ante Čović, provided a significant theoretical basis for integrative bioethics by revisiting V. R. Potter's ideas and finding that there were precursor values in them. Jurić also contributed significantly to the popularization of bioethics by organizing public colloquia.

In the autumn of 2008, at a time when the Rijeka Department of Social Sciences had achieved wide recognition by taking on the organization of the 9th World Congress

[21] Several recent conferences have also included thematic round table discussions and student sections.

[22] The establishment of the "Lošinj Days of Bioethics" conference was preceded by the symposium entitled "Bioethics and Science in the New Epoch", which was held in September 2001 in Mali Lošinj as part of the "10th Frane Petrić Days" conference. This conference is remembered for the video message by V. R. Potter. For more details on the importance of the conference, see Zagorac & Jurić (2008).

[23] For example, the Scientific and expert meeting with international participants "Neuroethics: Between Bioethics and Neuroscience", Karlovac, June 9, 2017.

[24] For a more precise definition, see Čović (2007) and Jurić (2007).

of Bioethics (3–8 September 2008, Rijeka/Opatija), Ivan Šegota retired and was succeeded by Amir Muzur as the Head of the Department. After 14 years under Muzur's leadership, the Department (now renamed the Department of Social Sciences and Medical Humanities) has developed a closer collaboration with Čović's group and has oriented itself more towards the study of the life and work of Fritz Jahr. In May 2010, the first issue of the *Jahr* journal appeared. The "Fritz Jahr and European Roots of Bioethics: Establishing an International Scholars' Network (*EuroBioNethics*)" project, supported by the Croatian Science Foundation (February-July 2011), made it possible for leading scientists in the field of European bioethics from Europe, the USA, and South America to meet in Rijeka (in March 2011) and participate at a conference on the new momentum in the development of bioethics in general. The proceedings of the conference were published in the *Jahr* journal, and later (in April 2012), together with the articles of other invited authors, in the book "Fritz Jahr and the Foundations of Global Bioethics: The Future of Integrative Bioethics", which was edited by Amir Muzur and Hans-Martin Sass and published by Lit Verlag of Münster. The project also resulted in a series of invitations for Iva Rinčić and Amir Muzur to give lectures at universities and conferences in the region (Rijeka, Mali Lošinj, Zagreb, Banja Luka, Travnik, Belgrade, Novi Sad, Ohrid), and the organization of a special section on Fritz Jahr and the "new bioethics" as part of the 8th International Conference on Clinical Ethics and Consultations (São Paolo, Brazil, May 2012). Muzur and Rinčić were also invited to hold a lecture at a conference dedicated to Fritz Jahr, which took place on 28 and 29 November 2012 in Halle and was organized by the German-Polish Science Foundation (Muzur & Rinčić, 2014). Another result of the *EuroBioNethics* project was the signing and publication of the "Rijeka Declaration on the Future of Bioethics" in several magazines and websites in Croatia, India (Byk et al., 2011), Venezuela (Roa-Castellanos et al., 2011), and Argentina (Lima, 2011). The declaration stipulates the most important values of the discipline and promotes Jahr's legacy.

From 2014 to 2017, the Department implemented another project of the Croatian Science Foundation: "European Bioethics in Action – EuroBioAct". This resulted in a list of about a hundred "bioethical standards" aimed at optimizing the relationship of people towards their own health, plants, and animals, which was harmonized with stakeholders from three local self-government units in the Northern Adriatic: Bakar, Kršan, and Mali Lošinj (Miloš & Doričić, 2017). The last active project, entitled "EuroBioMed: From the diversity of traditions to a common Euro-Mediterranean bioethical platform – constructing a tool for dialogue and action" (2021-2024), aims to explore the similarities and differences among the major cultures of the European Mediterranean and shape a platform that would open up new possibilities in that region for bioethical reflection and action concerning the protection of human health and the environment as well as the relations towards the animals and plants.

With regard to the general course of the development of bioethics in Croatia, in the way that it has been presented in this chapter, one can notice a striking diversity and productivity within a relatively small geographical area. The reason for this diversity remains rather unclear. It might be that, typically for Eastern European "transition" countries (that live in a "post-communist chaos", Čović, 2006), many intellectuals have searched for a new niche within social sciences and humanities after the fall of state-subsidized Marxism (Kukoč, 2007; Marinčić & Čović, 2012). Another reason could be the fact that bioethics, unlike other disciplines, has proven to be open to individuals of different professional and intellectual backgrounds and experiences. However, these reasons do not explain why bioethics has developed far more slowly in other countries in the region (Slovenia, Bosnia and Herzegovina, Serbia, Macedonia, Bulgaria, and Albania), where it has been limited to only a group or two of researchers. It is, therefore, far more probable that the old truth "a person makes a project" has once again proven to be true. The fascinating level of activities in Croatian bioethics might be ascribed primarily to the enthusiasm of two people: Ivan Šegota and Ante Čović. Their energy, which has dominated Croatian bioethics for two consecutive periods, has sparked innovative intellectual processes and attracted both academic and non-academic groups from Croatia and all over South-East Europe to bioethics (Rinčić & Muzur, 2011).

A CRITICAL INTERMEZZO: SPAIN-ITALY-CROATIA

There are many common bioethical initiatives that continue to mark the bioethics of the 20th and 21st centuries in Croatia, Italy, and Spain. First of all, these nations are dominated by the Catholic tradition, which influences their ideas even when it comes to thinkers of different worldviews and origins. Secondly, these three nations – judging by the bioethical literature, as well as others – are extremely inclined to dialogue and writing about history (their own, and to some extent others). In Spain, there are several versions of the history of bioethics – primarily domestic and Latin American[25], as well as in Italy, with recapitulations after twenty or twenty-five years (Galletti, 2009; Russo, 1995; 1997; Viafora, 1990). In Croatia, there is one doctoral thesis (Jeličić, 2016) and several articles with the ambition of synthesis (Gosić, 1999; 2009; Kantar & Svržnjak, 2007; Rinčić & Muzur, 2011; Tomašević, 2013; Valković, 1997; Zagorac & Jurić, 2008). Admittedly, in contrast to Spain and Croatia, where explicitly bioethical journals are rarer, such journals are noticeably more common in Italy. It is no wonder that, in coexistence with Georgetown bioethics, precisely in

[25] Although interesting, these histories are not always reliable: one of them "found" a photograph of Fritz Jahr, gave him the title of "university professor", and renamed the newer authors as "Veacht" (instead of *Veach*) or "Hengelhardt" (instead of *Engelhardt*) (Cf. Roa-Castellanos et al., 2015).

the climate of the northwestern quadrant of the Mediterranean, its incompleteness or inadequacy was first and most clearly detected, as well as that its autochthonous versions began to be articulated there: in Madrid and Sicily, the idea of Mediterranean bioethics, and in Croatia the integrative and renewed Jahr's and Potter's bioethics.

Certainly, there are some key differences in the background of these variations. Thus, Salvatore Privitera sees the typicality of "his" Mediterranean bioethics not only in:

> The existence in that region of some health problems such as, for example, thalassemia, but in the *Mediterranean* solution of these problems, that is, in the common finding of solutions to our problems within the framework of cultural, ideological and religious conditions that are present in that area. (Privitera, 1996, p. 16)

The Maltese George Grima, following the thinking of D. Callahan, advocates the necessity of forming cultural bioethics as opposed to normative ones, emphasizing, for example, the concepts of honor, hospitality, or relationship to the environment (Agnoletti, 2014), which play significant roles in Mediterranean culture (Grima, 1996).

GREECE

Unlike what happens in other countries, in Greece, we can distinguish three phases of Bioethics: the Classical period, the Byzantine-Christian period, and the contemporary era. As Eleni Kalokairinou has pointed out, Bioethics not in the strict sense as the ethical study of medical developments and technologies, but in some wider sense as the ethics and deontology of medicine, first appeared in classical antiquity (Kalokairinou, 2012). Moreover, as she has further claimed, in antiquity, the origins of Bioethics and Medical ethics have to be sought in the origins of medicine. In other words, together with the origins of medicine, one can trace the beginnings of Bioethics in whatever form, whether religious or philosophical-ethical. As she has brought out, medicine is an old hypothesis. In Greece, it appears in two forms. First, there were physicians-healers who did not have any formal medical knowledge but moved from town to town and offered their services to those who needed them. Among them were the soothsayers and augurs who could tell from the weather forecast, the flight of the birds, and the entrails of animals that were sacrificed to gods, which practice in general, and not medical practice in particular, had to be applied for the cure of the disease or the catharsis of the plague that had befallen the town (Kalokairinou, 2022).

Bioethics normally flourishes in places and countries where medicine first appeared and developed. We realise, therefore, that, in Classical Greece, we have, first of all, the appearance of practical medicine, which has been very much influenced by religion.

It is hence understood why the first phase of medical ethics and bioethics received an equally religious character. We can, therefore, argue that the first phase of bioethics in classical antiquity was mainly religious.

The first phase of deontology and medical ethics lasts roughly from the 8th to the 7th centuries B.C. At the beginning of the 6th century B.C., we have the appearance of the first philosophers, the pre-socratic philosophers, and, at the same time, of rational medicine. During this period, philosophy and medicine were related since the first philosophers, the pre-socratics, were physicians at the same time. This is why philosophers, historians of medicine, and philologists raise the sensible question of whether philosophy came from medicine or medicine from philosophy. Hippocrates was the most famous physician of antiquity for a number of reasons. He, first of all, distinguished medicine from philosophy. As he pointed out, medicine does need to justify its first principles as philosophy does. He claimed that while philosophy is interested in studying human nature, medicine is interested in studying this particular human nature. However, Hippocrates also introduced medical ethics and deontology as forerunners of bioethics in antiquity. Without exaggeration, if Fritz Jahr was the first European bioethicist, then Hippocrates was the medical ethicist (in modern terms, bioethicist) of antiquity. Among the sixty treatises he wrote, it would be an omission not to mention the deontological treatises he composed: The Oath, the Physician, Law, Decorum, Precepts on Ancient Medicine (Hippocrates/transl. Jones, 1984).

During the Byzantine period (330-1453), the Perception of medicine and the development of medical ethics were decisively influenced by Christian teaching. By moving the capital from Rome to New Rome, which later took his name (Constantinople), Constantine the Great marked the beginning of the Byzantine Empire, which he linked to the Church and the Christian faith. Thus, the understanding of medical ethics during this period essentially coincides with the approach of the Eastern Fathers of the Church.

Medical science is basically understood during this period as a gift from God due to the weakness of human nature and is often presented by the Church Fathers as a pattern for the healing of the soul: as a man takes care of his health, in the same way, he should care for his ethical and spiritual life. Furthermore, as he tolerates and endures surgeries or medication when they are considered necessary for his therapy, he should also accept the spiritual treatment that is necessary for his spiritual health. The correlation between medical treatment and spiritual life is actually very common in the patristic tradition. The references to medical practices, treatment difficulties, physical pain, and the agony of the patients and their relatives about the outcome of the disease are numerous and serve a dual purpose: on the one hand, to support

spiritually the patients in order to help them face the disease with confidence in God and generally in a way that accords to Christian ethics and, on the other hand, to make good use of the experience they gained through this challenge in order to teach them about the spiritual cure of the soul's own passions and the acquisition of spiritual health.

Patients are called not to underestimate the initial symptoms of a disease and are encouraged to seek treatment on time, as it becomes more difficult to handle when the disease is spread. Just as the fever does not initially afflict the patient but may become extremely threatening if left untreated, so too can the various passions of the soul develop slowly and appear to be harmless initially but become threatening to the spiritual life.

Doctors are called to treat patients with a sense of responsibility and to do whatever is necessary for their cure. At that time, it was common medical practice not to reveal to the patients the true condition of their health in order not to become disappointed and collapse psychologically or even for them to accept the necessary treatment more easily. And, while Christian Ethics does not accept using illegitimate means for good purposes, this medical practice has been nevertheless evaluated positively by the Church Fathers. John Chrysostom accepts this kind of deceit, observing that doctors not only rely on their scientific knowledge but, due to the unwilling attitude of some patients that may be aggravated by the suffering they endure, the former are occasionally obliged to use deception as a means to convince the latter to accept the necessary treatment (Chrysostom, n.d.). Origenes has also the same opinion and compares the attitude of the doctor to his patient with the attitude of a father toward his child (Origenes, n.d).

Finally, the relatives are called to show their affection to the patient and support them in any necessary way. The Church Fathers acknowledge this to be a daunting task since many patients express complaints to the people who take care of them, attributing to them responsibilities and a number of problems they create with their behaviour. The relatives are praiseworthy as they do not get upset with the patient and keep taking care of him with patience and love.

The above-mentioned has made it clear that, in the orthodox tradition, human weakness before pain and disease is considered natural and understandable and that the value of medicine is appreciated as a gift from God. Precisely because medicine is fully accepted, it is projected as an exemplary model for the cultivation of the faithful's spiritual health as well. The patristic views regarding the intimate relationship between doctor and patient are not an attempt to formulate a Christian approach to medical ethics; they accept the model of paternalistic medicine that has been dominant since the time of Hippocrates, in which decision-making is primarily the responsibility of the physician, who is called upon to do

what is necessary for the well-being of the patient. This model is actually familiar with the theological perspective since God Himself is understood and called Father, and all people are his children. Furthermore, clergymen are spiritual fathers who advise and guide the faithful spiritually. However, the Church Fathers' advice is addressed not only to doctors, who have a dominant role in the paternalistic model, but to patients and relatives as well. This occurs because all of them are called upon to show their faith in God and care for their suffering fellow man (Vantsos, 2019, p. 275).

Caring for the sick was not only a matter of prayer but also of taking action to help those in need. After the end of the persecutions and the establishment of the Byzantine Empire, the Church's work was supported by the state and was further developed. Many Church Fathers could be named here, whose life and activities bear witness to Christian philanthropy, each in his own way. Special mention here is awarded to Basil the Great, who, in his service as bishop, was able to pursue new paths in the organisation of Christian philanthropy. His deeds serve as an example and inspiration for philanthropic facilities, even in later times. As the Bishop of Caesarea, he financed a monastery complex in the diocese with diverse philanthropic facilities known as »Basilias«. The complex consisted of houses for the poor, hostels for travellers, which could also accommodate pack animals and escorts, and hospitals for the care of the sick with proper doctors and attendants, as well as wards for lepers (Basil the Great, n.d.). Basil the Great saw the complex as a place of active charity and believed that the rejection of God's will and the absence of love generates suffering, which is healed through the practice of the love of fellow man (Constantelos, 1991). John Chrysostom also founded several hospitals in Constantinople at the end of the fourth and the beginning of the fifth century. Christian institutions like these provided the initial impulse for the state to create hospices in cooperation with the Church and to expand these institutions into hospitals (el. νοσοκομεία) (Vantsos & Kiroudi, 2007). According to available sources, in the fifth century, more than a hundred hospitals worked in the major cities and the Empire's capital (Józsa, 2011). This cooperation between the Church and the state can be clearly demonstrated in the example of the Pantocrator Monastery in Constantinople (Kofinas, 2003).

In the modern period, some important observations can be made concerning the development of Bioethics in contemporary Greece. First of all, three kinds of thinkers-scientists who have engaged with Bioethics can be distinguished: theologians, legal scientists, and philosophers. We can easily detect the Christian religion's influence on contemporary medicine and bioethics, as this has continued since the Byzantine-Christian era. One of the figures who first engaged with contemporary Bioethics in Greece was Georgios Manzaridis, Professor of Christian Ethics at the Aristotle University of Thessaloniki (now retired). In his writings, he took a critical approach to contemporary Bioethics, characterizing it as the ethics of globalization since bioethics seems to be a continuously changing ethics without

any solid principles. He argued for principled Bioethics and presented orthodox Bioethics based on Christian anthropology and the dignity of the human person.

One of his students is Miltiadis Vantsos, also a professor at the Faculty of Theology of the Aristotle University of Thessaloniki, who has followed him, among other things, in his teachings in Bioethics and has greatly contributed to this field with his many activities. Among his publications are the following books: "Ethical Considerations of Abortion" (in Greek) from 2009, "The Sanctity of Human Life. Presentation and Evaluation of the Teaching of the Roman Catholic Church on Bioethics from the Point of View of Orthodox Ethics" (in Greek) from 2010, "Thessaloniki" from 2010, and "The Scientifically Feasible and the Ethically Right. Views of Orthodox Bioethics" (in Greek) from 2016.

At the same time, the Orthodox Church of Greece, through its own Bioethics Committee, has been promoting the public dialogue by ensuring medical information, introducing the spiritual aspect of bioethical problems, and influencing the state when passing laws within the interest circle of the Church (Hatzinikolaou, 2011).

This coincided with the activities of legal scientists, who showed an early interest in bioethics issues. Mrs Ismini Kriari, Professor of Constitutional Law and ex-Rector of the Panteion University of Athens (recently ret.), participated in European conferences as early as the 1990s and expressed an intense interest in the problems of Bioethics and Medical Technologies. In this respect, some of her noteworthy publications include: "Biomedical Developments and Constitutional Law: Constitutional Issues Regarding the Methods of Assisted Reproduction and the Applications of Genetics", published in 1994 (in Greek), and "Genetic Technology and Fundamental Rights", published in 1999 (in Greek).

At the same time, philosophers and, in particular, ethicicts started getting interested in Bioethics. Among the more prominent Kantian authors is certainly Stavroula Tsinorema, a philosopher from the University of Crete, who mainly deals with the methodological and epistemological aspects of bioethics.

Eleni Kalokairinou, a bioethicist who previously worked at the University of Cyprus in Cyprus and then at the Aristotle University of Thessaloniki (now retired), is one of the few to promote bioethics different from Georgetown. She participated in the first international conference on Fritz Jahr and European bioethics in Rijeka in 2011 and then made contributions to two Lit editions about Jahr (she translated Jahr's article from 1926 into Greek, as well as the Rijeka Declaration on the Future of Bioethics). In addition, she has numerous publications covering a wide range of topics in bioethics. Among her publications are the following books: "A Critical Examination of Stoic Moral Philosophy" (2008), "Introduction to Bioethics. Historical and Systematic Approaches" (in Greek) from 2014, and "The Embryo, the Gestational Mother and the Limits of Reproductive Autonomy" (in Greek) from 2019.

Another prominent Greek philosopher bioethicist is Evangelos D. Protopapadakis, a philosopher from the National and Kapodistrian University of Athens and a member of the Hellenic National Commission for Bioethics and Technoethics, who discusses bioethical issues mainly from the Kantian perspective. Since, in his view, Kantian ethics is more suitable for discussing how the key bioethical principles could be implemented with regard to issues such as cloning by questioning the alleged infringement of a clone's right to uniqueness (Protopapadakis, 2013), doping in sports, deciding on the moral justification of medical enhancement (Protopapadakis, 2020), moral enhancement, discussing the existence of a duty to enhance our species (Protopapadakis, 2017), the use of wearables in children (Panayiotou & Protopapadakis, 2022), and procreative beneficence (Savulescu & Protopapadakis, 2019). He also participated in a conference on bioethics in 2019 in Mali Lošinj and Osijek.

FROM RESEARCH LIMITATION TO PROGRESSION, DISCUSSION, AND CONCLUSION

The identification of "Mediterranean" with "Latin" seeks a foothold in the Greek-Latin-Judeo-Christian philosophical and cultural matrix that was not so much affected by the influence of the Enlightenment. In his doctoral thesis, José Mazuelos Pérez (b. 1960, physician and theologian, bishop of Jerez de la Frontera) tried to analyze the bioethical concepts of D. Gracia and H. T. Engelhardt (as two authors who advocate lay bioethics based on Georgetown principles, but aware of the necessity of their upgrading) and find the arguments in support of Mediterranean bioethics. In the conclusions of this confrontation, one of the main differences between the "Mediterranean man" according to the (Anglo-Saxon) pragmatist, rootedness in history, and the search for truth was highlighted:

> Mediterranean man is a man of history, he has roots in history, he knows how to see history/story behind him. Today, in actuality, it is important to engage in pragmatic reflection; history says nothing or has been overcome since, according to the pragmatic idea, truth changes over time.

Among the other assumed characteristics of Mediterranean bioethics, Mazuelos Pérez mentioned the connection of ethics with metaphysics (with the consequent belief that there are universal/absolute moral obligations that are not affected by customs, such as respect for life as the highest personal value), the emphasized social dimension of man (including the common good, solidarity, family, etc.), etc. Although Mazuelos Pérez's analysis is interesting in many ways and emphasizes the necessity of a lay approach, the conclusions openly resist pluralism by "pulling" toward the typically Catholic value of the sanctity of life. Unlike the Spanish bioethical scene, which, as we have seen, is stretched in a narrower range from the Catholic-Georgetown to the liberal-Catholic position, a greater variety of bioethical

approaches and perspectives can be found in Italy and Croatia, thus guaranteeing a better opportunity for a future formation of (wider) Mediterranean bioethics (Rinčić & Muzur, 2019b; Muzur & Rinčić, 2019b).

It is important not to ignore other countries and cultures surrounding the Mediterranean. Mallia (2012) argues that omitting any Mediterranean nation when discussing bioethics is politically incorrect, noting that Mediterranean bioethics often skews Eurocentric, primarily focusing on the northern and central regions. The essence of Mediterranean bioethics lies in addressing complex issues at the intersection of religious, cultural, and traditional moral frameworks, where perspectives on topics like the interpretation of Deity, the beginning and end of life, abortion, and many other (bio)ethical topics may vary significantly (Mallia, 2012).

While emphasizing the need to harmonize Mediterranean cultures and traditions, this article specifically focuses on four European countries regarded as significant within this discourse. Of course, this is not a deviation from Mallia's idea because we have written about "neglected" countries elsewhere. However, each of those four has made notable contributions to the development of broader, non-mainstream bioethics in other countries of the Mediterranean. Greece, recognized as the birthplace of medical ethics, has the oldest tradition, with an intriguing relationship between Orthodox religious ethics and lay bioethics. Croatia, in partnership with Germany, has promoted integrative bioethics rooted in Fritz Jahr's ideas, leading to the establishment of a scientific journal with a distinct European bioethics orientation. Italy, characterized by a dynamic blend of Catholic and lay bioethical approaches, contributed to the formation of Mediterranean bioethics through its prolific publishing traditions. Meanwhile, Spain has focused more on institutional contributions, fostering an expanded understanding of bioethics that integrates medical ethics with ecoethical considerations.

We believe the bioethical approaches from these countries have had, or will have, an influence on the exploration of ethical dilemmas at the crossroads of diverse cultures and religions in regions such as North Africa, other parts of Southern Europe, Southeastern Europe, and even Asian countries along the Mediterranean Sea. Research on these topics reveals a strong but not rigid link to Anglo-American pragmatism, while some centers and bioethicists are actively pursuing an approach based on expanding the understanding of bioethics and diversity. This emerging perspective draws on Mediterranean intellectual heritage and its distinct set of values (Doričić et al., 2023; Mallia, 2012).

Even if all over the Mediterranean, there are individual thinkers and authors supporting the view of bioethics as a discipline devoted to ethical relations, including all forms and sorts of life – primarily in Greece, but also in Turkey or Morocco – it seems that the most vivid bioethical diversity can currently be traced in three Mediterranean countries: Spain, Italy, and Croatia. Why is this the case? Why do only a few countries and a few scholars

dare to »deviate« from the (medical) bioethics mainstream? In some countries, the Church is too powerful to allow the emergence of different perspectives; in others, the attachment to Western (Anglo-American and French mainly) influences has prevailed. UNESCO also contributed to the narrowing down of bioethics, investing a lot of effort into the spread of the doctrine of the "Bioethics Core Curriculum" and Oviedo Declaration. The trend of the mainstream might never be "overturned"; however, the encouraging voices of environmental ethics (recently backed up even by the Catholic Church) and the discovery of Fritz Jahr's work suggest there might be a future for the original Jahr and/or Potter bioethics, unbounded and responding better to current global challenges.

Certainly, if he had lived longer, Privitera would have done a lot more to realize his vision of Mediterranean bioethics: he announced the founding of the Mediterranean Society for Bioethics and, with his own hands, cleared the land at the foothill of Etna, which he wanted to turn into an agro-tourism property that would "feed" the Institute for Sicilian bioethics (Vecchio, 2014, p. 13).[26]

A person accustomed and opened to such frequent coincidences in the history of bioethics cannot recall Jahr's and Torchio's retirement and withdrawal into isolation, Leopold's, Næss's, and Potter's forest huts, as well as the Šegota's idea of the "ozone research center" on Alan (located on the Velebit mountain). Privitera's bioethics, as in many other cases, adopted an interesting pluri-perspective approach to questions concerning life, but thematically, it remained entrapped by biomedical anthropocentrism ("The sanctity of life", "Meaning of death", "Quality of life", etc.) despite Privitera's emphasis (Privitera, 1993) that "bioethics cannot be interested only in medical problems: it must be interested in all other problems related to human and non-human life". Unlike M. Torchio, who expanded bioethics to environmental problems, S. Privitera confronted imams, Catholic priests, and rabbis with predominantly biomedical topics (Rinčić & Muzur, 2019b; Muzur & Rinčić, 2019b). Despite this, an optimist could conclude that MacIntyre, Gracia, and Privitera planted an intriguing premonition about the uniqueness of the northwestern Mediterranean, which, perhaps – in the hands of more persistent and focused cultivators – will blossom into a resilient (ever)green bioethics ripe for wider universalization.

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[26] Among the other unrealized ideas of Salvatore Privitera, it should be noted that he considered the idea of founding a bioethics institute in Latin America, more precisely in Brazil (cf.: Vigo, 2014).

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Kako su europske zemlje koje graniče s Mediteranom utjecale na bioetiku; s posebnim naglaskom na Hrvatsku, Grčku, Italiju i Španjolsku

SAŽETAK

Jedan od obećavajućih načina konstruiranja bioetike izvan globalnog *mainstreama* – karakteriziranog perspektivom suženom na pitanja vezana uz medicinsku etiku i istraživanje – nedvojbeno je mediteranska bioetika, utemeljena na bogatom intelektualnom nasljeđu bazena između europskog, azijskog i afričkog kontinenta. Ta se bioetika, koja se bavi cijelim biosom i time daleko bliža izvornim idejama Fritza Jahra i Van Rensselaera Pottera, posebno njegovala u Španjolskoj, Italiji, Hrvatskoj i Grčkoj, proizvevši opsežan korpus publikacija. Nakon međunarodnog projekta posvećenog istraživanju tih kulturnih tradicija i njihovih bioetičkih korijena, ovaj rad nudi okvirni pregled najutjecajnijih pojedinaca i njihovih ideja te najaktivnijih institucija na tom području.

Ključne riječi: mediteranska bioetika, europska bioetika, povijest bioetike, Fritz Jahr, Van Rensselaer Potter, kultura, tradicija.

Tomislav Nedić, Ivan Cerovac

Kant, (Bio)Ethics and Morality: Current Concerns and Upcoming Guidelines

It is by no means an insignificant fact that the development of biomedicine, technology, and the emergence of ecological and socio-political instabilities leads to the re-evaluation of numerous principles and concepts previously considered cornerstones of knowledge and thought. Bioethics, as an interdisciplinary science (as defined by e.g., *Höffe, Lexikon der Ethik, 1997*), has been neither devoid of ambivalence nor polyvalence in its approaches, methodology, and conclusions from its inception. It constantly re-examines the foundations and concepts of its own existence, which hold exceptional importance in affirming *life* as a fundamental value embedded in the very name of bioethics.

Although the emergence of bioethics is associated with a later period of civilization, the moral philosophy of Immanuel Kant (1724–1804), despite not explicitly mentioning it, shares numerous points of intersection with bioethics. Following the universality of moral principles, Kant's philosophy provides fundamental ethical guidelines for decision-making in bioethics (particularly biomedical ethics), respecting the dignity and non-instrumentalization of the persons as *noumenon*, active beings and authors of choices and actions (*Korsgaard, Creating the Kingdom of Ends, 1996*), while preserving their moral and legal rights, which inherently entail duties. Furthermore, Kant's thought significantly influences the methodological positioning of bioethics (*Eterović, Kant and Bioethics, 2017*), offering it a stable theoretical and conceptual foundation.

However, the evaluation of Kant's philosophy in general and its significance in the context of addressing various contemporary issues is often built on flawed premises. By employing Kantian perspectives, certain proponents of bioethical thought, more out of ignorance of Kant's work, may assume that Kant cannot offer anything illuminating or that his philosophy fails to reflect even the contours of what is "right"

or what should be "right". Nonetheless, a philosopher's achievement should be valued based on how much his ideas inspire others to think and open up questions and problems that demand our full attention, without requiring us to ultimately agree with his views. If we approach Kant from this perspective and are unafraid to re-evaluate his normative theory and ethics in the context of contemporary bioethical issues—issues that were not relevant during Kant's lifetime—there is no doubt that Kant holds a front-row seat on the bioethical stage. Central bioethical concepts like autonomy, beneficence, dignity, personhood, agency, and rights can hardly be examined without reference to Kant's moral, legal, and political philosophy. In this context, the value of the papers presented in this issue lies in the fact that they are not merely exhibitions of conclusions that serve as apologetics for Kant's legacy or that strictly adhere to his views in the context of contemporary (bio)ethical debates. Alongside papers that directly reflect Kant's contributions to understanding key bioethical principles, some articles explore Kantian thought by interpreting it more in the spirit of his philosophy and the context of today's bioethical challenges. Through a somewhat broader and purposeful interpretation, these papers offer Kant's notable contribution to ethics and bioethics, using, also, the perspectives emanating from Kant's political and legal thought.

It is worth mentioning that half of the works in this thematic issue are the result of the international conference "*The Contribution of Immanuel Kant in the Historical Development and the Identity of (Bio)Medical Sciences*", held during the *26th Rijeka Days of Bioethics.* The conference was organized by the Faculty of Medicine at the University of Rijeka (Department of Social Sciences and Medical Humanities), the Faculty of Health Studies at the University of Rijeka, the Faculty of Humanities and Social Sciences at the University of Rijeka, the Center of Excellence for Integrative Bioethics, and the Croatian Bioethics Society.

One of the fundamental challenges of contemporary bioethical discourse in the field of biomedicine concerns the difficulties of distributive justice. How can we fairly allocate a limited amount of resources to those who need them at a given moment? Samuel J. Kerstein, a plenary speaker at the said conference, in his paper "*Kantian Dignity and the Allocation of Scarce, Life-Saving Resources*", examines how we ought to allocate scarce, life-saving resources such as ventilators or intensive care beds. Using two Kantian accounts of respect for the dignity of persons—one based on an orthodox Kantian interpretation of the Formula of Humanity and the other an unorthodox reconstruction of part of this formula—Kerstein reflects on a contemporary triage scheme developed during the COVID-19 pandemic, the Pittsburgh Framework. He attempts to demonstrate how Kantian reasoning can provide valuable guidance for making difficult decisions regarding the allocation of scarce medical resources.

The discussion on distributive justice in healthcare continues with Lovro Grgić's paper "*Kant and the Right to Healthcare – The Welfare State from a Libertarian Perspective*". The author argues that Kant's approach to healthcare policy aligns with aspects of liberal political thought while avoiding both libertarian and socialist extremes. He suggests that the modern welfare state can be, at least in part, justified by Kantian principles, particularly when healthcare policies are designed to protect individual freedom. With this in mind, the paper discusses voucher-based healthcare systems as an instrument that both ensures fundamental rights and enhances personal freedom within a framework of equal legal protections.

In certain discussions, Kant's contribution to bioethical thought is insufficient if limited solely to his moral philosophy without incorporating other perspectives of his thought, especially his political and legal philosophy or, for instance, his philosophy of nature. With the advancement of modern biotechnologies, strictly literal and restrictive interpretations of Kant's writings are no longer tenable without re-examining them in the broader context of Kant's deontology.

Exploring Kant's theory of ownership and property rights, as well as his concept of personhood and thinghood within deontological ethics, Tomislav Nedić, in his paper "*Exploring Kant's Perspective on (Self-)Ownership and Property Rights in Human Body Parts: A Discussion on the Boundaries Between Personhood and Thinghood*", argues that certain biomedical achievements, such as organ transplantation, necessitate a re-evaluation of Kant's statements regarding the categorical impossibility of disposing of body parts. The categorization of organs as things with restricted tradeability and the possibility of certain and limited property uses, such as donation, form the foundation of contemporary transplantation medicine.

Similarly, through the re-evaluation of Kantian reasoning but in the spirit of Kant's philosophy, Samuel Kahn, in his paper "*Kantian Trolleyology*", seeks to untangle Judith Jarvis Thomson's famous trolley problem. Using and re-evaluating the Kantian approaches of six philosophers, Kahn aims to reconcile Kant's moral framework with the ethical issues raised by the trolley problem. He argues that acknowledging systemic issues is essential for developing a stronger Kantian solution to the trolley problem—one that stays true to Kantian principles while addressing the complexities of moral decision-making in such scenarios.

Applying a Kantian framework to (bio)ethical reasoning, Marcus Knaup, in his work "*Kant and His Significance for Current Bioethical Issues*", utilizes some of Kant's ideas for modern bioethics, showing how they align with contemporary challenges and help develop answers to new types of questions. Guided by the Kantian notion that dignity belongs exclusively to human beings, Knaup problematizes the concept of dignity within the framework of contemporary biomedical research, particularly the

creation of hybrids and chimeras, or the project of creating human-animal mixtures. Knaup's paper perfectly illustrates that biomedical ethics, often closely tied to the concept of bioethics, inherently raises questions emanating from environmental and animal ethics, which are inseparably connected to biomedical ethics (see: *Kuhse, Singer, A Companion to Bioethics, 2009*). This ultimately suggests bioethics as a biocentric discipline not exclusively oriented toward human beings.

In a similar manner, in their paper "Fake News, Digital Technologies and the Erosion of Individual Autonomy in Light of Kantian Ethics", Ivan Cerovac and Helena Drmić apply a Kantian (though not strictly Kant's) notion of autonomy to evaluate the impact of digital technologies powered by AI algorithms. They analyze how algorithm-driven recommender systems, micro-targeting, and large language models pollute the contemporary epistemic environment by spreading disinformation, enabling manipulation, and undermining individuals' confidence in their ability to recognize the truth, thereby hindering them from exercising their autonomy. The authors also explore potential regulatory frameworks that could mitigate these risks and safeguard individual autonomy in the digital age.

As technological development drives significant and structural changes in various medical, social, economic, and political practices, the interdisciplinary field of bioethics faces new and complex challenges. Kant's moral, political, and legal thought continues to play a significant role in shaping these discussions, shedding light on intricate ethical dilemmas even centuries after his death. Kant-inspired approaches to distributive justice in healthcare, organ transplantation, digital technologies, and principle-based practical decision-making, along with his enduring ideas of freedom, autonomy, and dignity—many of which are discussed in this issue—testify to the ongoing relevance of his philosophy in navigating the evolving ethical landscape. While this special issue does not resolve any of these contemporary and multifaceted debates, it encourages scholars to reinterpret and reexamine these challenges through a Kantian lens, demonstrating that his thought remains a cornerstone for many bioethical discussions.

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Kantian Dignity and the Allocation of Scarce, Life-Saving Resources

SUMMARY

This article explores how we ought, morally speaking, to allocate scarce, life-saving resources such as ventilators or intensive care beds. When there are not enough resources to distribute to all who want and need them, who should receive them? Through an examination of several cases, the article probes the implications regarding this question of two Kantian accounts of respect for the dignity of persons, one an orthodox Kantian account based on an interpretation of the Formula of Humanity and the other an unorthodox reconstruction of part of this formula. The article also investigates the implications of a contemporary triage scheme developed during the COVID-19 pandemic, the Pittsburgh Framework. Each of these three bases for scarce resource distribution has some plausible and implausible results regarding cases that involve patients of various ages, future lifespans (if given the resource), and socioeconomic status (disadvantage). While the article does not intend to vindicate or condemn any one method of distribution, it does aim to illustrate that Kantian thinking can play a salutary role in making hard decisions about scarce medical resource allocation.

Keywords: triage, Kant, dignity, COVID-19, equity, respect for persons, scarce resource allocation.

INTRODUCTION

The COVID-19 pandemic brought to the fore ethical issues concerning the distribution of scarce, life-saving resources. Shortages of ventilators and intensive care beds, for example, forced hospitals and governments to tackle the question: Who, morally speaking, ought to receive life-extending interventions when there are not enough to go around? This article focuses on Kantian responses and compares them to answers offered by allocation guidance designed by physicians during the

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pandemic. Through an examination of several cases, the article tries to illustrate implications, plausible and implausible, of an orthodox Kantian account of respect for the dignity of persons, an unorthodox Kantian account of such respect, and a triage scheme developed by the University of Pittsburgh School of Medicine. The article aims to show that Kantian thinking brings a distinctive perspective to debate on the vexing question of who, in the context of a public health emergency, should receive life-extending medical assistance when not everyone can.

Here is how the paper unfolds[1]. Section 1 very briefly sketches an orthodox Kantian view of what it means to respect the worth or, equivalently, dignity of persons. This account has implausible implications in some cases of allocation of scarce, life-saving resources, as Section 1 tries to show. Section 2 presents an unorthodox Kantian account regarding what it means to respect the dignity of persons and tries to illustrate that its implications are sometimes more plausible than those of the orthodox account. Section 3 summarizes a leading U.S. scheme for the allocation of scarce critical care resources during a public health emergency, the "Pittsburgh Framework". Section 4 explores the three accounts' implications in three different cases, exposing possible strengths and weaknesses in each as a basis for scarce resource allocation. Two of the cases involve patients who come from highly disadvantaged communities, raising the question of whether equity or justice requires that they receive higher priority than others to receive a life-saving resource.

To my knowledge, no principles in normative ethics, including Kantian ones, escape having implications that are intuitively unwelcome to some people in particular cases of scarce resource allocation. For example, the unorthodox Kantian account of respecting the dignity of persons developed in Section 2 implies that individuals who are severely demented likely fall below the threshold of personhood. As a result, it would likely fail to respect the dignity of persons to use a scarce resource to save five such individuals rather than one person (assuming the impossibility of saving both the five and the one). Some would find this result hard to accept. In a similar vein, no schemas designed expressly for medical triage are free from generating implausible results. The article does not intend to argue or suggest that a normative principle or even an allocation scheme be dismissed as overall unacceptable based on the shortcomings identified here. The article's aims are more modest: to reveal implications of three distinct ways of deciding who gets a scarce resource and to illustrate that Kantian principles can have a salutary role to play in such decisions.

We will, in short order, apply Kantian moral principles and a contemporary triage framework to several cases. Before proceeding, it is important to specify some

[1] Some material in this paper, especially in Sections 1 and 2, stems from work I have published elsewhere (see Kerstein, 2013, 2017, 2019).

background assumptions. Readers of this article are, in effect, invited to assess the plausibility of the implications in particular cases of Orthodox Kantianism, Unorthodox Kantianism, and the Pittsburgh Framework. Part of that assessment will involve readers comparing their judgments to the implications of the moral principles and triage framework. In each case, an allocator's task is to distribute a life-saving resource between different persons. Each person needs and wants to get the resource. But, since the resource is scarce, it cannot be made available to all. In helping these persons (or a subset of them), allocators are not discharging an imperfect duty of beneficence. Each person has a claim on the resource, at least in the sense that it would be wrong for allocators to refrain from giving it to them on morally arbitrary grounds (e.g., because they do not like the person) or on grounds inappropriate to the context (e.g., because the person is not an allocator's close friend). No person in our cases is morally responsible for their need of the resource in any way that would affect their claim on it. If an individual gets the scarce resource, they will survive and maintain their personhood. In assessing the plausibility of implications the moral principles and the triage framework have in particular cases, readers are asked to abstract from institutional, legal, or governmental considerations. For example, they are requested not to judge an implication as unwelcome solely because it would violate some hospital policy or national regulation.

In discussing cases, I will sometimes offer my own view on common reactions to them. For example, I will contend that according to the judgment of many of us (i.e., those who have reflected on these matters), it would be morally permissible to give life-saving treatment to a 13-year-old who, with it, would live many decades rather than a 60-year-old who, with the treatment, would live a few years. My assessments are based on extensive discussions of these matters with students and professional colleagues. Readers are, of course, free to reject them. For what it is worth, however, the assessments gain some support from empirical investigation of lay-person judgments. For example, a recent review of research spanning five continents found that for the general public during the COVID-19 pandemic, patient age appeared to be a major allocation criterion, with priority given to the younger (Dowling, 2022).

SECTION 1: ORTHODOX KANTIANISM

Kant's Formula of Humanity commands, "So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means" (Kant, 2012 [1785], p. 428). To "use" persons as ends, or ends in themselves, is, it seems, to treat persons as having dignity. Some scholars have interpreted the Formula of Humanity to amount (roughly) to the command "So act that you always treat persons as having dignity", or to the command "So act that

you always respect persons' dignity" (Wood, 1999). That is not the only plausible interpretation of the Formula of Humanity, of course (Sensen, 2011).

What I call "Orthodox Kantianism" embraces the idea that the Formula of Humanity amounts to a categorical command to always respect the dignity of persons (Hill, 1992; Velleman, 1999; Wood, 1999)[2]. According to Orthodox Kantianism, if an action fails to respect the dignity of persons, then it is morally wrong. To be a person is to have a rational nature or, equivalently, humanity or the capacity of rational choice; it is to have a set of capacities. Among them are the capacity to set and rationally pursue ends by conforming one's conduct to rational rules (e.g., hypothetical imperatives) and the capacity to act from duty—roughly to act in accordance with moral imperatives purely out of respect for these imperatives[3]. To affirm that persons have dignity is to affirm that they have unconditional, incomparable worth. Persons and persons alone have such worth. To say that a person's worth is unconditional is to say that the person has intrinsic value—a positive value in any context in which they exist. Moreover, this worth depends not at all on the person's health, happiness, well-being, intelligence, beauty, achievement, or even conformity to the moral law. A person's worth is incomparable in that it is beyond price; not even all of the wealth in Silicon Valley amounts to the value of a single person. Moreover, if a being has incomparable worth, then one set of such beings has no more or less worth than any other set of such beings. It would not be legitimate to judge that five persons, for example, have more worth than one.

Let us now turn to our first case, which we label "Different Age/Different Lifespan". We have one indivisible life-saving treatment (e.g., a ventilator) and two patients. One is 13 years old, and the other is 60 years old. The patient who does not get the treatment will die. If the younger person gets the treatment, she will live for many decades; if the older person gets it, she will die of natural causes in a few years.

According to the considered judgment of many (though not all) of us, it would be morally permissible to give the treatment to the 13-year-old straightaway, that is, without any intervening procedure designed to ensure fairness, such as a lottery. Orthodox Kantianism is at odds with this considered judgment. Without pretense to exhaustiveness, here is an explanation of why.

[2] In labelling this interpretation of the Formula of Humanity "Orthodox Kantianism," I do not intend to suggest that the interpretation captures the richness or detail of Kant's conception of the supreme principle of morality in its various formulas.

[3] There is disagreement among interpreters of Kant regarding the scope of his notion of persons, for example, whether it incorporates fetuses or individuals in a persistent vegetative state. See, for example, Kain (2009) and Sussman (2001).

Suppose we give the intervention straightaway to the 13-year-old on the grounds that we thereby maximize person years, that is, the net number of years of life as a person yielded by our treatment allocation. In treating the 13-year-old, we would be gaining decades more person years, of course. However, this basis for treating the 13-year-old would fail to respect the incomparable value of persons. Saving the younger straightaway would imply that the younger has more value than the older. But if they both have incomparable worth, the younger cannot legitimately be said to have more worth than the older.

Alternatively, suppose we give the intervention straightaway to the 13-year-old on the grounds that the 60-year-old has already had a full human life, that is, her "fair innings." Doing this would suggest that an instance of rational nature that has endured sufficiently long (making for a full human existence) has less value than an instance that has been around for a shorter time. This suggestion contradicts the notion that the value of humanity is unconditional: whether a life has been long enough to constitute a full human life does not affect this value. Moreover, again, the value of rational nature is incomparable: the value of a full rational existence cannot legitimately be judged to be lower than that of a less full life as a person.

SECTION 2: UNORTHODOX KANTIANISM

Orthodox Kantianism has implausible implications in the Different Age/Different Lifespan Case, or so many of us believe. Of course, if Kant or contemporary Kantians had sound arguments for the validity of the Formula of Humanity, interpreted in terms of Orthodox Kantianism, then reason would compel us to abandon our considered judgments regarding the case. But I doubt whether they have such arguments. Against the background of that doubt, I have developed an unorthodox reconstruction of aspects of Kant's Formula of Humanity (Kerstein, 2013). The account aims to capture some of Kant's insights into the special status of persons, but to avoid problematic implications of Orthodox Kantianism in the realms, for example, of self-defense and heroic self-sacrifice, as well as that of the allocation of scarce, life-saving resources (Kerstein, 2013). This section sketches an abridged version of this account: a version that differs from the original in some ways that I will not specify here. Since the unorthodox account is one of respect for the dignity of persons, let us call it RDP:

The dignity of persons is a special status that they possess by virtue of having the capacities constitutive of personhood. This status is such that:

1. A person ought not to use another merely as a means. This first aspect of persons' special status is lexically prior to the following aspect:

2. If a person treats another in some way, then she ought to treat him as having unconditional, preeminent value.

An agent's treatment of a person respects the dignity of that person only if it accords with the special status just described.

Clarification of RDP is in order, beginning with a few initial points. First, RDP does not offer jointly necessary and sufficient conditions for honoring persons' dignity. It sheds light on some, but not all, ways that we can fail to honor others' dignity. Second, RDP does not specify a categorical imperative to refrain from all conduct that would fail to respect someone's dignity. Failing to respect someone's dignity is wrong pro tanto, according to RDP, but it might not be wrong, all things considered. Third, we need not concern ourselves here with RDP's first plank, namely the prohibition of treating others merely as means. We are, of course, concerned with the allocation of scarce, life-saving resources. One might think that the prohibition would come into relevance in that we could count as using merely as means those to whom we deny the resource. However, as I explain elsewhere, in the cases we consider denying someone a resource does not involve using him or treating him as a means and so does not involve using him or treating him merely as a means (Kerstein, 2013, p. 159)[4].

RDP incorporates a Kantian notion of a person. According to RDP's conception, a being is a person only if it has the capacities to: set and pursue ends; strive for coherence among its ends; be self-aware; conform its actions to practical rules that specify means to ends; and act in accordance with moral imperatives, even when it believes that it would gain more satisfaction by acting contrary to them. Moreover, to count as a person, a being must not only possess, but have *exercised* the capacity Kant himself seems to associate most directly with humanity: the capacity to set and pursue ends. If a being fulfills all the conditions mentioned above, then it is a person. The account incorporates a broad interpretation of what it means to possess a capacity. According to the account, for example, a typical toddler has the capacity to act in accordance with moral imperatives given that, if her development proceeds as expected, she will be able to do so. But a being who, practically speaking, cannot and will not be able to exercise one or more of the capacities is not a person. A human being who has died or is alive but whose cerebrum can no longer function is not a person in the sense of the term employed here since he can, practically speaking, no longer exercise the capacities. I will not try here to answer the question

[4] It is worth noting that RDP incorporates a moral constraint: in effect, it prohibits treating others merely as means in cases where doing so is necessary to bring about the best results overall. RDP is thus not a consequentialist principle.

of precisely when, in the course of its development, a typical human being becomes a person. If human embryos and first- or second-trimester fetuses do not engage in goal-directed activity, then they are not persons. If infants do engage in such activity, as appears to be the case (Woodward, 2014), then they presumably are persons. Finally, personhood is meant to be a threshold concept here. If one has the features constitutive of it, one has personhood, no matter how well- or ill-developed those features may be.

According to RDP's second plank, if a person treats another in some way, then she ought to treat him as having unconditional, preeminent value. RDP embraces the same notion of unconditional value as that embedded in Orthodox Kantianism. To say that an unconditionally valuable being of a particular kind has preeminent value is to say that no amount of anything that is not a being of that kind can have a value equal to or greater than the value of a being of that kind. For example, if persons have unconditional, preeminent worth and cats do not have the capacities constitutive of personhood, then no number of cats has a value equal to or greater than that of a single person. It is important to underscore the following: treating persons as having unconditional, preeminent value does not commit one to treating them as having a value closed to all aggregation. It would not necessarily violate RDP, for example, to save twenty people rather than one person on the grounds that twenty have more worth than one. But doing this would not be consistent with Orthodox Kantianism.

If we treat a person in some way, then, according to RDP, we ought to treat him as having unconditional, preeminent worth. Our treatment ought to reflect the notion that the person has such worth. If the treatment also reflects the idea that the person has or lacks (or promotes or hinders) any conditional value, it must be consistent with what the treatment would be if it did not reflect the latter (Kerstein, 2017).

Let me illustrate this last point. Suppose for a moment that all living species have unconditional, preeminent worth. (This is not a Kantian view, of course.) Our job is to preserve species, but we can prevent only one of two different plant species from going extinct. We would not honor the worth of each species if we chose to save straightaway one rather than the other on the sole basis that one of the species but not the other can be used to make blue pigment. The capacity to serve as an ingredient in blue pigment is a conditional value. If no one wants or needs the pigment, then this capacity lacks value. Moreover, preserving the species with this capacity straightaway, allowing the other to go extinct, is not consistent with what our treatment of the two species would be in the absence of one having this capacity. In that scenario, we would presumably give each species an equal chance for preservation.

Let us now apply RDP to the Different Age/Different Lifespan case in which we must choose between treating a 13-year-old who will live for many decades if he

receives the intervention and a 60-year-old who, if he receives it, would live for just a few years more. Unlike Orthodox Kantianism, RDP is free of the implication that it would fail to respect the dignity of persons to give the treatment to the 13-year-old straightaway.

Here is why. Acting with respect for the special value of beings can and often does involve trying to preserve those beings as best we can. Think of a painting that has exceptional worth as a work of art. At least one clear way of respecting its worth would be to protect the painting from destruction by insects or excessive heat. Indeed, one way to respect its worth would be to try to preserve the painting for a longer rather than a short time. Or consider Wollemi pines. The fossil record indicates that these trees were around at the time of the dinosaurs. Believed to be extinct, a grove of them was discovered in Australia in the mid-1990s. One way to respect these trees is surely to try to keep them in existence. It is no surprise that the Australian government has developed a "Wollemi Pine Recovery Plan," which "identifies the future actions to be taken to ensure the long-term viability in nature of the Wollemi Pine" (Department of Environment and Conservation (NSW), 2006, p. i).

Returning to our case, in Kantian thinking, the special value of persons differs from that of great paintings or rare trees. It would, of course, be unKantian to embrace the idea that such beings have unconditional, preeminent worth. Nevertheless, one way to respect the worth of persons is roughly akin to the way we have specified of respecting the worth of other beings of special value. It is, other things being equal, to preserve them, to keep them in existence for more time rather than less. In this tragic case, furthering the goal of preservation would amount to saving the 13-year-old. In doing this, we would *not* be committing ourselves to the view that the 60-year-old's intrinsic value has diminished, say, because of poor health. It is just that we happen to have the capacity to preserve the 13-year-old for longer than the 60-year-old. Compare a roughly analogous case involving great artworks. Suppose that we could preserve one for many decades, but the other for only a few years. If we preserve the former, we would not thereby commit ourselves to the view that the latter has forfeited some of its aesthetic value. But we would be implying that the potential for greater endurance does give the former more value in some sense. In Different Age/Different Lifespan, we cannot preserve both persons. However, we can maximize our overall preservation of the years an individual lives as a person (i.e., person years) by saving the 13-year-old straightaway. Doing this would clash with the orthodox Kantian view that persons have incomparable worth. As noted in Section 2, in saving the 13-year-old, we would be implying that, in some way, she is more valuable than the 60-year-old. However, saving her would be in accordance with the notion, embedded in RDP, that persons have preeminent worth, that is, roughly, worth greater than that of any non-person.

A few clarificatory points are in order. It might be that it is just as important to the 60-year-old that he get the treatment as it is to the 13-year-old that she get it. But RDP does not entail that, in this case, respecting the dignity of persons demands that we balance what is important to persons, say, by giving each an equal chance. RDP allows us (roughly speaking) to try to preserve as far as possible the worth in persons. And this can be done by saving the life of the person who will live longer. But note: RDP does not rule out as disrespectful treating persons as having unconditional, incomparable worth. After all, one way to treat persons as having unconditional, preeminent worth is to treat them as having unconditional, incomparable worth. Treating someone as having unconditional, incomparable worth always involves treating her as having unconditional, preeminent worth; for, in effect, incomparable worth is a kind of, but not the only kind of, preeminent worth. Therefore, RDP does not rule out the legitimacy in this case of conducting a lottery and giving the 13-year-old and the 60-year-old equal chances to survive[5]. Nevertheless, the implications of RDP differ significantly from those of Orthodox Kantianism. Unlike RDP, Orthodox Kantianism implies that it would fail to respect the dignity of persons and thus be morally impermissible to save the 13-year-old straightaway.

SECTION 3: THE PITTSBURGH FRAMEWORK

Ethical issues concerning the allocation of scarce, life-saving resources became particularly salient during the COVID-19 pandemic. At various times and places during it, shortages of critical care beds and/or ventilators occurred. Physicians at the University of Pittsburgh School of Medicine developed a framework to guide triage decisions, specifically during the pandemic, when demand for critical care resources (e.g., ventilators) exceeds supply (White, 2021). The Pittsburgh Framework, as we will refer to it, aims "To ensure that no one is denied care based on stereotypes, assessments of quality of life, or judgments about a person's "worth" based on the presence or absence of disabilities or other factors" (p. 2). According to the framework, long-term life-expectancy does not factor into the priority for resources (e.g., ventilators). The framework aims to avoid "disadvantaging individuals with life-shortening disabilities and those whose life expectancy is lessened due to unfair distribution of the social determinants of health" (p. 3). An example of a social determinant of health is whether someone has access to good and affordable medical care.

[5] Someone who embraced RDP and, in addition, stipulated that treating an individual as having preeminent worth amounts to treating them as having incomparable worth would presumably conclude that it would be pro tanto wrong *not* to conduct such a lottery. But making this stipulation would yield a principle that suffers from the sort of seriously implausible implications which, I argue, plague Orthodox Kantianism (Kerstein, 2013). Suppose, for example, that only one of two sets of persons can be saved: a set of 50,000 or a set of 5. The principle in question would imply that it would violate the dignity of persons if, on the grounds that many people have more worth than a few, one straightaway saved the 50,000.

Before presenting details of the Pittsburgh Framework, it makes sense to consider some of the conditions in the United States before it was formulated. Early in the pandemic, the mortality among U.S. minority populations was dramatically higher than it was for Whites. For example, during the spring of 2020, the COVID-19 mortality rate for Black Americans was over twice as high as that for Whites (Centers for Disease Control and Prevention, 2024). One basis for the disparity in mortality rate might be preexisting poorer health among Blacks than Whites (e.g., conditions such as diabetes and kidney disease) as a result in part, for example, of dangerous environmental conditions or lack of routine healthcare (Baid, 2023). Later in the pandemic, COVID-19 mortality rates for Blacks and Whites were on a par (Centers for Disease Control and Prevention, 2024).

Figure 1 below is the Pittsburgh Framework's allocation scheme (White, 2021, p. 9). It will be helpful to highlight some of its main features. When resources (e.g., ventilators) are scarce, that is, there are not enough to accommodate everyone who might benefit from receiving them, the Framework prioritizes individuals with lower point totals, that is, lower "triage scores". Suppose, for example, two people want and need a ventilator to survive, but only one is available. If one patient has a score of 3 points and the other a score of 5 points, the ventilator would go to the patient with 3 points.

One of the main principles the Framework employs is promoting "population health outcomes." The Framework presumably promotes these outcomes by having expert physicians evaluate patients' prognosis for survival along two dimensions. The first is the prognosis for hospital survival, that is, living through their current hospital stay. Patients who are, according to Laboratory-based Acute Physiology Scores version 2 (LAPS2) or some other scoring rubric, at the highest risk of death receive 4 points, while those at lowest risk receive 1 point. The other dimension is prognosis for near-term survival, as judged by clinicians. Patients expected to die within 1 year (e.g., from cancer) receive 4 points; patients expected to live longer than 1 year receive 0 points.

The other main principle the Framework uses is that of promoting "justice/equity." According to the Framework, justice or equity requires that some priority in receiving a scarce medical resource go to "frontline essential workers," including custodians, bus drivers, and nurses, who do things crucial to the societal response to the emergency and whose work puts them at greater risk of infection (White, 2021, p. 4). Frontline essential workers' priority amounts to their score being reduced by 1 point. For example, if a frontline pulmonologist hospitalized with COVID-19 has a total score of 1 point without considering her status as such a worker, then she would end up with a score of 0 points.

Table 1. Principles for allocating critical care/ventilators during a pvublic health emergency

Principle	Criterion	Point System			
		+1	+2	+3	+4
PROMOTE POPULATION HEALTH OUTCOMES	Prognosis for hospital survival (LAPS2 or other severity of illness score)	**Quartile 1** (i.e., risk of death <25%) lowest risk of death	**Quartile 2** (i.e., risk of death 25-49%)	**Quartile 3** (i.e., risk of death 50-75%)	**Quartile 4** (i.e., risk of death > 75%) highest risk of death
	Prognosis for near-term survival (individualized clinical judgment)				**Death expected within 1 year from end stage condition**
PROMOTE JUSTICE/ EQUITY	Priority to frontline essential workers	**Subtract** one point from triage priority score if the patient is an essential worker in a high-risk occupation.			
	Correction to lessen disadvantage from structural inequities	**Subtract** one point from triage priority score if the patient resides in a highly disadvantaged community (i.e., ADI score= 8,9, or 10).			
	Priority to those who've had the least chance to live through life's stages	**Tiebreaker:** In the event that two patients have identical triage priority scores, give priority to the younger patient when a significant age difference exists.			
	Equal chances	**Second tiebreaker:** In the event that two patients have identical triage priority scores and are of similar ages, use random selection to determine who receives the resource.			

Note. Reprinted from White (2021, p. 9).

The Framework also requires "correction to lessen disadvantage from structural inequities" (White, 2021, p. 9). At issue is a disadvantage in terms of health—a disadvantage that, according to the authors of the Framework, gives certain patients higher triage scores (and thus lower likelihood of, say, getting a scarce ventilator). This health disadvantage stems from factors such as less access to health care, fewer job opportunities, lower income, worse housing, and racial discrimination (p. 4). According to the Framework, 1 point is subtracted from a patient's total triage score if the patient resides in a highly disadvantaged community. The Framework suggests determining whether the patient lives in such a community by consulting the Area Deprivation Index (ADI) (Center for Health Disparities Research, 2022). The ADI measures neighborhoods' socioeconomic conditions regarding income, education, employment, and housing quality. The higher a neighborhood's ADI score on a scale from 1 to 10, the more disadvantaged it is. According to the Framework, a point should be subtracted from a patient's score to lessen disadvantage from structural inequities only if the area the patient resides in has an ADI score of 8 or above.

Finally, the Framework provides two tiebreakers to decide between patients who have the same triage scores. The first tiebreaker specifies that priority should go to the younger patient "when a significant age difference exists" (White, 2021, p. 9). For example, if a 45-year-old and an 85-year-old are vying for a ventilator and have the same score, it will go

to the 45-year-old. If patients have the same scores and there is no significant age difference between them, then the second tiebreaker gets implemented. If, for example, two 25-year-olds both have 2 points, the Framework implies that a lottery be held in which each would get a 50% chance of receiving the scarce resource.

SECTION 4: MORE CASES, MORE CHALLENGES

Let us now examine the implications of Orthodox Kantianism, RDP, and the Pittsburgh Framework in some further scarce-resource allocation cases. In the Same Age/Short Lifespan case, Edward and Fran, both 70 years old, are vying for a single available ventilator. Both have a greater than 75% chance of not surviving hospitalization. If Edward gets through his hospital stay, he is expected to live 10 more years in decent health. If Fran gets through, she is expected to die from an end-stage condition (e.g., a brain tumor) within 1 year. Neither Edward nor Fran is an essential worker, and neither resides in a highly disadvantaged community.

Orthodox Kantianism implies that it would be morally wrong to give the ventilator straightaway to Edward. Doing so would fail to respect Fran's dignity as a person. It would amount to treating her as having less worth than Edward. According to Orthodox Kantianism, whether Fran or Edward gets the treatment should presumably be determined in a lottery in which each has an equal chance.

In contrast to Orthodox Kantianism, RDP does not imply that it would be wrong to give the ventilator straightaway to Edward. RDP is compatible with the view that in this difficult case, a way to treat persons as having unconditional, preeminent worth is to preserve as many person years as possible. And doing that would amount to saving Edward straightaway.

It is easy to see that the Pittsburgh Framework would give the ventilator straightway to Edward. Edward would receive 4 points based on his prognosis for hospital survival, and Fran would get 8 points based on her prognosis for hospital survival and for near-term survival. Since a lower point total prevails, the treatment would go to Edward.

Considered judgments differ regarding scarce, potentially life-saving resource allocations. But I and, I suspect, many others find the verdict of Orthodox Kantianism in this case hard to accept. One reason, which the authors of the Pittsburgh Framework would presumably endorse, is that the verdict is indicative of a failure of Orthodox Kantianism to sufficiently promote population health outcomes, one of which is extending the length of life. Another, related reason why, I venture, is that Orthodox Kantianism does not allow us to act in a way that would honor or respect

the worth inherent in a person, namely to try to keep the person in existence for a longer rather than for a shorter time.

Let us now turn to another case. In Same Age/ Different Lifespan/ Different Community, both Abby and Bethany need a ventilator to make it through a viral illness. Both are 7 years old. Only one ventilator is available. Both Abby and Bethany are in the lowest quartile of risk in terms of prognosis of hospital survival. Bethany, but not Abby, lives in a highly disadvantaged community, one that has an ADI score of 8. If Abby survives this incident, her expected lifespan is 80 years, and if Bethany survives, hers is 60 years, because of a preexisting condition (e.g., Type 2 diabetes).

The dictates of Orthodox Kantianism and of the Pittsburgh Framework are not hard to discern in the Same Age/ Different Lifespan/ Different Community. Since Abby and Bethany's worth as persons is unaffected by how long they are expected to live if given access to a ventilator and by whether they come from a disadvantaged community, Orthodox Kantianism would presumably propose deciding between them through a lottery with equal chances for each. The Pittsburgh Framework would give 1 point overall to Abby, on the grounds of her being in the lowest quartile of risk of not surviving hospitalization. To Bethany, it would give 0 points. Though Bethany would get 1 point for being at the same risk of dying in the hospital as Abby, this point would be subtracted because of her community's ADI score. According to the Pittsburgh Framework, Bethany would get the ventilator straightaway.

The implications of RDP regarding the Same Age/ Different Lifespan/ Different Community case require more work to discern. Does giving the ventilator straightaway to Bethany fail to respect the dignity of persons, according to RDP? One might think that the following reply is in order: According to RDP, we must treat both Abby and Bethany as having unconditional, preeminent worth. Other things being equal, doing that would entail giving them equal chances to get the treatment. But in this case, things are not equal. There is a tie-breaker at work. By saving Bethany but not Abby we can correct the likelihood that Bethany has been subject to an unmerited health disadvantage[6]. Using this tie-breaker, thereby saving Bethany straightaway, is consistent with RDP, concludes the reply.

This reply does not work. Saving Bethany straightaway fails to respect the dignity of persons and so is pro tanto morally impermissible according to RDP. The value of correcting for the likelihood that someone has been subject to an unmerited health disadvantage is conditional. There are contexts in which it is not good, in Kantian terms. Suppose, quite reasonably, that Abby bears no responsibility for

[6] Merited health disadvantages would, intuitively speaking, include ones individuals brought on themselves by freely choosing to assume enormous health risks. Health disadvantages suffered by American stuntman Evel Knievel from his attempt to jump via motorcycle over the Snake River Canyon were presumably merited.

Bethany living in a highly disadvantaged community, let alone for any unmerited health disadvantage Bethany suffers. In this specification of the case, the correction in question is not good.

Why not? Without acceptable reason from the standpoint of RDP, it denies Abby any chance at a ventilator and thereby treats her as having less worth than Bethany. It is not the case that, as a result of neighborhood-related advantages/disadvantages, Abby's intrinsic worth decreases or Bethany's increases[7]. Now, as argued in Section 2, in the tragic contexts we are considering, it would be consistent with RDP to treat one individual as having less worth than another if, upon receiving a scarce resource, this individual would have a significantly shorter existence as a person than the other would have upon receiving it. Yet, in this case, Abby would live a lot longer than Bethany. Correcting for the likelihood that Bethany has been subject to an unmerited health disadvantage would result in Abby and Bethany's total combined lifespan (and corresponding person-years) being around 74 rather than around 94 years. As noted, treating persons as having unconditional, incomparable, as opposed to preeminent, worth is consistent with RDP. Saving Bethany straightaway does not do this, of course. Therefore, in the Same Age/ Different Lifespan/ Different Community case, specified such that Abby bears no responsibility for Bethany's disadvantage, there are grounds for concluding that saving Bethany straightaway would not be good. It thus follows that correcting for unmerited health disadvantage is merely conditionally valuable.

Since the value of correcting for the likelihood that someone has been subject to an unmerited health disadvantage is conditional, Abby's treatment in our case must be consistent with what it would be if it did not further this conditional value. But in the absence of the aim of furthering this conditional value, Abby would, according to RDP, at the least receive a 50% chance of having her life prolonged. Her treatment, as prescribed by the Pittsburgh Framework, would thus fail to respect her worth as a person, according to RDP.

It is consistent with RDP in the Same Age/ Different Lifespan/ Different Community either to save Abby straightaway or to give Abby and Bethany equal chances. But RDP condemns it as disrespectful of the dignity of persons to save Bethany straightaway, as the Pittsburgh Framework requires. The implications of RDP here strike many of us as plausible.

However, a different case might put more pressure on RDP. In Different Lifespan through Injustice, we need to choose between giving life-saving anti-viral treatment

[7] Here, someone might reply: 'so much the worse for RDP'; for Abby's worth does diminish. But that reply strikes me as very implausible. Abby is 7 years old and, as specified, bears no responsibility for Bethany living in a disadvantaged community. So why would her worth go down?

to either 60-year-old Cindy or 60-year-old Danny. If treated, Cindy would live for 10 years. Cindy, who has spent her whole life in a disadvantaged community, developed diabetes at 50. If treated, Danny, who has never resided in such a community and who has until now had excellent health, would live for 20 years. Danny bears some responsibility for Cindy's truncated lifespan. To further his land speculation scheme, he has intentionally blocked the establishment of health clinics in Cindy's neighborhood. Had such clinics been in operation, Cindy's diabetes would have been treated sooner, resulting in better health for her. Both Cindy and Danny have the same, relatively good, prognosis for hospital and near-term survival should they get treatment.

It is evident, I hope, that the Pittsburgh Framework would prescribe that Cindy get the treatment straightaway. Moreover, Orthodox Kantianism would imply that it would be wrong for either Cindy or Danny to receive the treatment straightaway; it would presumably demand that each get an equal chance to receive the scarce resource.

What would RDP imply in this case? It would not run afoul of RDP to give Cindy and Danny equal chances. As noted above, one way to treat persons as having unconditional, preeminent value is to treat them as having unconditional, incomparable value. And doing the latter might involve conducting a fair lottery to decide who gets the treatment.

However, it would also not fail to respect the dignity of persons, according to RDP, to give Danny the treatment straightaway. In our cases, RDP implies that we, scarce resource allocators, must treat persons as having unconditional, preeminent worth. One way to do that is to maximize the preservation of person years. According to RDP (as well as to Orthodox Kantianism), a person's worth diminishes not at all even if he has done bad things such as, for his own profit, contributing to the diminishment of another's lifespan. And a person's worth increases not at all due to having been the victim of bad actions. One way to treat personhood as having unconditional preeminent worth in Different Lifespan through Injustice is to save Danny straightaway. Doing that preserves the most person years. So RDP does not generate the conclusion that giving Danny the treatment straightaway is wrong, even pro tanto. Some will surely find this to be a strike against RDP. The idea that persons ought to be treated as having unconditional worth has weighty implications. It might be easy to embrace the notion that someone's worth as a person does not vary according to her looks or accomplishments; it seems harder to accede to the idea that this worth diminishes not a whit even if she acts wrongly and harms others. Of course, RDP does not purport to be a complete account of respect for the dignity of persons. It identifies some conditions under which actions fail to treat persons

as having dignity; it leaves open the possibility that actions might not fulfill any of these conditions, yet in some way fail to treat persons as having dignity and so be pro tanto wrong.

RDP does imply that it would fail to respect the dignity of persons to give the treatment straightaway to Cindy. Danny is, in part, at fault for the shorter lifespan Cindy can expect if she gets through the viral illness. But this fact neither increases her worth as a person nor decreases his. Despite that, one might be tempted to contend that RDP would not condemn as disrespectful giving the treatment straightaway to Cindy. It would not condemn this because, as a result of Danny's misdeeds, doing so would give him his just desert, and doing that is itself unconditionally and preeminently valuable. For the sake of argument, let us suppose that in saving Cindy straightaway, we would be giving Danny what he deserves. Still, RDP would condemn this action as disrespectful of the worth of persons and thus pro tanto wrong. For inherent to RDP is the view not only that persons are preeminently valuable, but also that they are the only beings that are. Recall that to say that an unconditionally valuable being of a particular kind has preeminent value is to say that no amount of anything that is not a being of that kind can have a value equal to or greater than the value of a being of that kind. To say that persons have preeminent value is thus to imply that no amount of anything that is not a person, including no amount of someone getting what he deserves, can have a value equal to or greater than that of a person. There does not seem to be a way for a defender of RDP to avoid the conclusion that it would be disrespectful of the dignity of persons and thus pro tanto wrong to give the treatment to Cindy straightaway. But since it does not set out an absolute constraint, RDP does leave open the possibility that giving it to her is not wrong, all things considered.

CONCLUSION

We have examined Orthodox Kantianism, Unorthodox Kantianism (RDP), and a contemporary triage schema as bases for the allocation of scarce, life-saving resources in a variety of specific cases. Considered judgments differ, of course, but each of these bases seems to have some plausible and some implausible implications, as Table 2 illustrates.

Table 2. Implications of different perspectives on the allocation of scarce resources

Some Implications			
	Orthodox Kantianism (based on interpretation of Formula of Humanity)	**Unorthodox Kantianism (RDP)**	**Pittsburgh Framework**
Different Age/ Different Lifespan 13-year-old vs. 60-year-old, if treated, younger would live decades, older 3 years	Give 50% chance for 13-year-old and for 60-year-old	Designates as failure to respect dignity neither treating 13-year-old straightaway nor giving 50% chance for each	Treat 13-year-old straightaway, based on tiebreaker of priority to younger[8]
Same Age/Short Lifespan both age 70, if treated Edward 10 more years, Fran less than 1 more year	Give 50% chance for Edward and for Fran	Designates as failure to respect dignity neither treating Edward straightaway nor giving 50% chance for each	Treat Edward straightaway
Same Age/ Different Lifespan/ Disadvantaged Community both age 7, if treated, Abby 80 more years, Bethany 60 more, Bethany from disadvantaged community	Give 50% chance for Abby and for Bethany	Designates as failure to respect dignity neither treating Abby straightaway nor giving 50% chance for each, pro tanto wrong to treat Bethany straightaway	Treat Bethany straightaway
Different Lifespan through Injustice both age 60, if treated, Cindy 10 more years, Danny 20 more, Danny partly responsible for Cindy's lower expected lifespan if treated, Cindy from disadvantaged community	Give 50% chance for Cindy and for Danny	Designates as failure to respect dignity neither treating Danny straightaway nor giving 50% chance for each, pro tanto wrong to treat Cindy straightaway	Treat Cindy straightaway

[8] We are assuming that both individuals have the same prognosis, if treated, for surviving their hospital stay and that neither are essential workers or reside in a disadvantaged community.

For example, as just noted, some will surely balk at the implication of RDP that it would be wrong pro tanto in Different Lifespan through Injustice to treat Cindy straightaway. Some will also be very uncomfortable with the implications of Orthodox Kantianism in Different Age/Different Lifespan. Recall that in this case, the initial one we examined, we must choose between treating a 13-year-old expected to go on living for decades and treating a 60-year-old expected to die of natural causes in a few years. Many of us believe that contrary to Orthodox Kantianism, it should at least be an option, morally speaking, to give the treatment straightaway to the 13-year-old. I suspect that those with Kantian leanings will object strongly to the Pittsburgh Framework's verdict in the Same Age/ Different Lifespan/ Disadvantaged Community case involving two 7-year-olds. Recall that one of them, from a disadvantaged community, would live 60 years if treated while the other, not from such a community, would live 80. The Pittsburgh Framework's implication that the child who would, if treated, live much longer should receive no chance at the treatment is difficult for us to embrace.

The article has not aimed to settle the question of which (if any) of the three bases it discusses for scarce resource allocation ought to be employed. It has illustrated the implications of two Kantian accounts of respect for the dignity of persons and one contemporary triage schema regarding a range of cases. It is evident, I hope, that the contemporary triage schema generates results every bit as controversial as those of the Kantian accounts. If judged in terms of the intuitive plausibility of its implications, Kantian thinking should have a place in the debate regarding how, ethically speaking, we ought to distribute scarce resources in public health emergencies.

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Kantovsko dostojanstvo i raspodjela oskudnih resursa koji spašavaju život

SAŽETAK

Rad istražuje kako bismo s gledišta morala trebali raspodijeliti oskudne resurse koji spašavaju živote, kao što su respiratori ili kreveti za intenzivnu njegu. Kad nema dovoljno resursa za raspodjelu svima koji ih žele i trebaju, tko bi ih trebao dobiti? Pregledom nekoliko slučajeva rad ispituje implikacije u vezi s ovim pitanjem dvaju kantovskih prikaza poštovanja dostojanstva osoba, jednog ortodoksnog kantovskog prikaza temeljenog na tumačenju Formule čovječnosti, a drugog neortodoksne rekonstrukcije dijela ove formule. Rad također istražuje implikacije suvremene trijažne sheme razvijene tijekom pandemije COVID-19 (engl. Pittsburgh Framework). Svako od ova tri uporišta za raspodjelu oskudnih resursa ima neke vjerodostojne i neuvjerljive rezultate vezano za slučajeve koji uključuju pacijente različite dobi, budućeg životnog vijeka (ako im se dodijele resursi) i socioekonomskog statusa (nedostatak). Iako rad nema namjeru opravdati ili osuditi bilo koju od metoda distribucije, cilj mu je ilustrirati da kantovska misao može imati značajnu ulogu u donošenju teških odluka o raspodjeli oskudnih medicinskih resursa.

Ključne riječi: trijaža, Kant, dostojanstvo, COVID-19, pravednost, poštovanje osoba, raspodjela oskudnih resursa.

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Exploring Kant's Perspective on (Self-) Ownership and Property Rights in Human Body Parts: A Discussion on the Boundaries between Personhood and Thinghood

(Hic est locus) ubi mors gaudet succurrere vitae.
(This is the place) where death delights in helping life.
- Inscription in the classroom for the dissection of the human body, University of Padua, Italy

SUMMARY

The paper questions the normative framework of the designation of body parts as things in civil law doctrine and the possibility of legal disposal of body parts in the context of Kant's moral philosophy. Kant derives the formation of private legal (subjective) rights from the preliminary separation of things and persons and the second formulation of the categorical imperative. In discussing the concept of private law and property rights that are possible only concerning the human-thing relationship, Kant consequently talks about issues of self-ownership and property rights to one's body and its parts. Although he explicitly wrote about the impossibility of self-ownership of the body and, in principle, the impossibility of disposing of its parts, it must be remembered that Kant could not foresee all the possible achievements, perspectives, and trials of modern transplant medicine. In the paper, Kant's basic bioethical and private law concepts (primarily ownership and property rights) are placed in the context

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of (legal) disposal of body parts. In any exposition and discussion of the Kantian-based opinion on dispositions of body parts, we should not necessarily and exclusively be guided by Kant's explicit writings on actual legal dispositions of body parts. We should consider the broader framework of Kant's deontological ethics and Kant's understanding of persons and things. Such an interpretation can lead to the conclusion that there are no obstacles to basing property rights in body parts but limited property rights, with the classification of body parts as things restricted in legal circulation, which is the opinion that prevails in certain statutory private law provisions and writings of civil law doctrine.

Keywords: Kant, body parts, person, thing, transplantation, organs, property rights, ownership, private law.

PRELIMINARY CONSIDERATIONS – KANT'S RELEVANCE TO HUMAN BODY PARTS ISSUES

Although the procedure of transplanting body parts is often reduced to the achievements of medical technique and medical skill, the same issue brings numerous social and humanistic implications that manifest in various ethical, moral, and legal matters. One entity (cell, tissue, or organ) has the power to continue another's life, but care must be taken not to endanger the life of the person from whom the body part was taken. Taking and transplanting body parts contains a preliminary that questions the ontology of the human being and whether it is just a collection of tissues, cells, organs, or something more. Establishing the boundaries between moral and legal personhood and subjecthood and moral and legal thinghood and objecthood affects private law and numerous legal affairs that concern the human body partially or as a whole. One of the most important is certainly the legal transaction of donating body parts, which represents the basis of the system of taking and transplanting body parts and based on which every successful or unsuccessful organ transplant is done. However, the challenges of the concept of distributive justice and the lack of organs and other parts of the body for transplantation increasingly lead to the actualization of a phenomenon that, according to certain authors, could establish a balance in the circulation of organs and enable a sufficient number of organs for all those who need them. The legal transaction of buying and selling organs is proposed as a legally and ethically-normatively based solution to the growing shortage of organs and other body parts, and it stems precisely from the potential unlimited property rights to body parts. Due to the rapid development of medical technology, property rights in parts of the human body bring many interesting questions. Is an organ/tissue/cell a thing or part of a (legal and moral) personhood? If we designate them as things, can we consider them objects of property rights and legally dispose of them without limitation? What are the moral and ethical consequences of unlimited legal disposal of body parts?

Kant's (moral and legal) philosophy outlined the contours and fundamental determinants of bioethics and (bio)medical law. The separation of persons and things that Kant explicitly writes about is of great importance not only for the foundation of moral philosophy and the categorical imperative but also for the system of private legal (subjective) rights and the concept of private law. Although, at the time, the organ transplant procedure was not a well-founded medical achievement, Kant, as one of the few philosophical thinkers, explicitly wrote about property rights in human body parts. Kant's moral philosophy precisely *a priori* questions the boundaries between human being and legal personhood and subjecthood, as well as the boundaries of legal thinghood and the right of (self-)ownership. In the context of the question of whether the organ market should be legalized and the unlimited legal disposal of human body parts, the Kantian-based answer should perhaps not be too questionable. However, the various possibilities of medical technique could lead Kant himself to reconsider the morality of certain issues, not only of the potential buying and selling of organs but also of the critical determinants of transplantation medicine, such as the undirected transplantation of organs from a living donor. Kant's separation of persons and things, non-treatment of the person as a means but exclusively as an end, the concept of private law and property, and explicit writings on the disposal of body parts can provide key insights for contemporary private law and bioethics and their integration around this issue.

The development of a Kantian-based view of the disposition of parts of the human body is carried out in the form of four fundamental phases. In the first, the moral-philosophical one, the treatment of Kant's understanding and criteria for the separation of persons and things is presented as a preliminary to deriving the second formulation of the categorical imperative. The second phase, the (private)legal-philosophical one, refers to the formation of private legal/subjective rights, for this elaboration of which property rights and contract rights are fundamental, within the framework of which Kant clearly states that property rights are possible only in relation to things. In contrast, regarding private law, relationships between persons are only possible through contracts. In the third stage, the integration of these two perspectives in the context of the disposal of human body parts (especially buying and selling) is brought, with an explicit reference not only to Kant's opinion on the disposal of body parts but also to the opinions and elaborations of influential legal and moral philosophers and property theorists. The last, fourth phase, offers a comparison of all legal-philosophical and moral-philosophical thinking with current statutory private law provisions on the status of parts of the human body, as well as opinions on the criteria for designating body parts as things (restricted in circulation) emanating from (civil) legal doctrine.

The paper does not intend to question or provide a different theoretical framework for the Kantian concepts of autonomy, dignity, categorical imperative, ownership, and property rights. The concepts mentioned above are placed in the context of body parts and legal disposition. The compilation method, along with stating the explicit opinions about Kant and body parts of numerous authors from the fields of legal and moral philosophy, bioethics and property theory, tries to emphasize the plurality of the views and difficulties in finding Kantian-categorical guidelines for the intersectional action of transplant medicine and private law. It is stated that it is impossible to give an unequivocal answer as to whether the establishment of property rights and disposal of body parts is based on Kantian principles. A consistent interpretation of Kant and his writings can lead to the conclusion that no type of disposal of body parts is morally based and that even certain acts of donation, such as taking and donating organs from a living donor, do not even come into consideration. If the Kantian-moral-intelligible concept of a person is considered, perhaps taking organs from a deceased donor could also be questionable. However, whether certain dispositions are Kantian-deontologically conditioned depends on the part of the body involved, the legal transaction, and the specific situation. Although Kant's explicit writings on the disposal of body parts should be considered, in each specific case, it is necessary to take a broader deontological picture and consider the duty to follow the moral law. Kant's writings were written in a period of complete underdevelopment of transplant medicine, and that is precisely why Kant's thought should be interpreted concerning a broader view of deontological ethics. The writings of certain bioethicists and property theorists and the writings of the (civil) legal doctrine discuss the categorization of body parts as things, but things restricted in legal circulation, with the application of precisely defined restrictions when disposing of them, enabling only certain property rights (primarily the (restricted) right of ownership), but prohibiting their purchase and sale and allowing only the act of donation (from both a living and a deceased donor).

THE FIRST STAGE – KANT'S SEPARATION OF THINGS AND PERSONS AND THE DERIVATION OF THE (SECOND FORMULATION OF THE) CATEGORICAL IMPERATIVE

Issues that are in any ethical and legal way connected with the parts of the human body presuppose an elaboration related to the formation of person and thing. In the ethical sense, it is important because it precedes the derivation of the categorical imperative. In the legal sense, it is necessary to discern the limits of human legal personhood/subjecthood and to what extent these limits are transferred to the human body. The latter mainly refers to the vital question of what the human body is and

to what extent it is in the category of person and legal subjecthood, and where the above ends, that is, at what point the human body and its parts enter the category of things and legal objecthood.

Kant's moral and legal philosophy presupposes the separation and differentiation of persons from things, establishing clear criteria for which entity can be considered a person and a subject and which entity is a thing and an object, which must also be applied to parts of the human body. The above is very important to be able to formulate the categorical imperative, establishing the contours of moral agency towards persons, as well as the possibility of action towards things. Differentiation between persons and things is also essential in forming private legal rights, especially property rights, which, according to Kant, derive from (the second formulation of) the categorical imperative because only things can be owned, not persons. Because persons cannot be owned, it is necessary to investigate to what extent moral and legal personhood extends to the human body and its parts. Kant's division into things and persons is the first division of that kind in moral and legal philosophy, based on criteria that look for the characteristics of a person in mind, will, and freedom.

> The beings whose existence rests not on our will but on nature nevertheless have, if they are beings without reason, only a relative worth as means, and are called things; rational beings, by contrast, are called persons, because their nature already marks them out as ends in themselves, i.e., as something that may not be used merely as means, hence to that extent limits all arbitrary choice61 (and is an object of respect). (Kant, 2002, p. 46, 4:428).

A person is distinguished by all the mentioned criteria, which makes him a moral and legal entity that is distinguished by the ability to reason and make legally and morally binding decisions.

> A *person* is a subject whose actions can be *imputed* to him. *Moral* personality is therefore nothing other than the freedom of a rational being under moral laws (whereas psychological personality is merely the capacity for being conscious of one's identity in different conditions of one's existence). From this it follows that a person is subject to no other laws than those he gives to himself (either alone or at least along with others). (Kant, 1991, p. 50, Ak 223).

Any being that is not countable, that is not characterized by the ability to reason and make decisions, that does not contain the characteristics of mind, freedom, and will, cannot be called a person but is called a thing.

> A *thing* is that to which nothing can be imputed. Any object of free choice which itself lacks freedom is therefore called a thing (*res corporalis*). (Kant, 1991, p. 50, Ak 223).

Kant's moral, internal law establishes the foundations for the formation of duty (Greek Δέον, τὸ, = duty) in the form of following a categorical imperative that should be distinguished from the hypothetical one. The hypothetical imperative represents "the practical necessity of a possible action as a means to attain something else which one wills (or which it is possible that one might will)" (Kant, 2002, p. 31, 4:414). Such an imperative is often present in various forms of efforts to justify commercialization and the establishment of a free and legal organ market. On the other hand, the categorical imperative represents action "objectively necessary for itself" [1],, without relation to any other purpose" (Kant, 2002, p. 31, 4:414), which reflects the intrinsic[2] nature of deontology. As the origin of deontology, duty is determined by Kant as "the necessity of an action from respect for the law" (Kant, 2002, p. 16, 4:401). It is an indispensable foundation and precondition for the categorical imperative - the individual's autonomy and the assumption of absolute freedom. According to Kant, autonomy represents "the ground of the dignity of the human and of every rational nature" (Kant, 2002, p. 54, 4:436), and the autonomy of the will "is the property of the will through which it is a law to itself (independently of all properties of the objects of volition)" (Kant, 2002, p.58, 4:441). According to Kant, autonomy (opposed to heteronomy[3]) is the precondition of any moral action because a person who does not have it cannot make valid moral decisions, nor can he follow his own moral law.

THE SECOND STAGE – KANT'S DERIVATION OF PROPERTY AND PROPERTY RIGHTS OVER BODY PARTS

Although the first formulation of the categorical imperative[4] could unquestionably apply to the issue of property rights and the sale of human body parts, Kant's performance of the second formulation of the categorical imperative based on the differentiation of persons from things is of crucial importance in any discussion of the morality of property rights and the sale of human body parts.

[1] If imperative „is represented as good in itself, hence necessary, as the principle of the will," then it is called categorical (Kant, 2002, p. 31, 4:414).

[2] This intrinsicality manifests in the duty to follow one's moral principle without any external influences. The categorical imperative dictates what you must do, regardless of your goal (Guyer, 2006., p. 184).

[3] „If the will seeks that which should determine it anywhere else than in the suitability of its maxims for its own universal legislation, hence if it, insofar as it advances beyond itself, seeks the law in the constitution of any of its objects, then heteronomy always comes out of this" (Kant, 2002, p. 58, 4:441).

[4] "Act only following that maxim through which you can at the same time will that it become a universal law" and "act as if the maxim of your action were to become through your will a universal law of nature" (Kant, 2002, p. 37, 38, 4:421). On the entire explanation of the categorical imperative and the foundation and formulation of the moral law in Eterović (2017).

> Act so that you use humanity, as much in your own person as in the person of every other, always at the same time as end and never merely as means! (Kant, p. 47, 4:429).

The second formulation of the categorical imperative establishes the foundations of moral behaviour towards others and oneself. It is used in numerous scientific texts, which will be used and cited independently and as a sufficient source when discussing the morality of property rights and disposal of parts of one's own or another's body. Nevertheless, the categorical imperative is the foundation of Kant's formation of the philosophy of private law, more precisely, property and property rights, which represent the basis of every private law order. This is precisely why the discussion of Kant's view of the issue of property rights over parts of the human body must not be limited to the moral dimension of the categorical imperative but also to the (private) legal dimension that includes the essential question - what can be the object of ownership in the first place?

Kant, differentiating persons from things, concludes that private subjective rights derive from the second formulation of the categorical imperative because only things can be owned by someone. In contrast, relations with other persons are possible through contracts and status. According to Kant, the derivation of private legal rights, including property rights, derives from an ethical perspective that affirms the ethical foundation of private law because all private legal rights are based on the categorical imperative.[5] Kant categorizes private legal rights concerning three main categories[6] of the external object of "my choice": "substance, causality and community between myself and external objects in accordance with laws of freedom." (Kant, 1991, p. 69, 70, Ak 247): "a (corporeal) thing external to me" (according to the form of acquisition it refers to property rights), "another's choice to *perform* a specific deed" (according to the form of acquisition it refers to contractual (obligatory) rights) and to "another's status in relation to me" (which according to the form of acquisition refers to rights to persons akin to rights to things (Kant, 1991, p. 69, 70, Ak 247).

Regarding property rights, within which property is possible only over things and over what is external, Kant finally establishes the critical concept of property rights, which is the right of ownership. Limitation of ownership is opposed to the will. Therefore, the right of ownership is defined as a property right that fully empowers its holder to manage his property according to his will.

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[5] In a similar vein, compare: Kurk (2019, p. 38, 39)

[6] It is important to emphasize that this is about acquired derivative rights. However, for acquired rights to be acquired at all, they are preceded by two preliminaries: 0-1) Innate right of humanity - an original right that arises from the freedom of man and coexists with the freedom of others and which belongs to every man based on his humanity - my inner and yours; 0-2) Legal postulate of the practical mind - establishing and distinguishing the external mine and the external yours (Ripstein, 2009).

> An external object that in terms of its substance belongs to someone is his property (dominium), in which all rights in this thing inhere (as accidents of a substance) and which the owner (dominus) can, accordingly, dispose of as he pleases (ius disponendi de re sua). But from this, it follows that an object of this sort can be only a corporeal thing (to which one has no obligation). (Kant, 1991, p. 90, Ak 270).

If, as autonomous beings, we were prevented from using and possessing external objects of our own choice, we would limit our own freedom (Byrd & Hruschka, 2006). Under permissive law[7], we have the authority to use and own external objects as we choose, provided that this does not infringe on the freedom of others (Byrd & Hruschka, 2006). However, in the definition of property rights, Kant further emphasizes the aspect of the (impossibility) of ownership over oneself, which refers to our body and its parts.

> So, a man can be his own master (sui iuris) but cannot be the owner of himself (sui dominus) (cannot dispose of himself as he pleases) — still less can he dispose of other men as he pleases – since he is accountable to the humanity in his own person. (Kant, 1991, p. 90, Ak 270).

From everything elaborated so far, it is evident that any being who can be considered a person cannot dispose of his own body or the body of another person in the form of property rights, as well as any other property right, because otherwise, he offends humanity both in his own and in another person taking it as a means, not as an end. However, what is further raised as a rather crucial question relates in general to the boundaries of personhood concerning human physicality. Suppose the personhood is attached to the (human) body itself in its own integrity. In that case, there are not too many doubts about how to apply the second formulation of the categorical imperative. But greater doubts arise at the moment when a part of the body separates from its own body matrix and thus becomes a separate entity. Kant himself explicitly wrote about such a situation. Here, of course, it is necessary to indicate that medical achievements in the form of transplanting body parts were reduced to a minimum during Kant's lifetime, considering that the first organ transplant procedures were performed only at the end of the 19th century. Kant takes the example of extracting and buying and selling human teeth, building also on the immorality of prostitution.

> Hence, a man cannot dispose over himself; he is not entitled to sell a tooth, or any of his members. But now, if a person allows himself to be used, for profit, as an object to satisfy the sexual impulse of another, if he makes himself the object of another's desire, then he is disposing over himself, as if over a thing, and thereby makes himself into a

[7] However, Tierney (2001) believes that Kant's understanding of the permissive law in the *Metaphysics of Morals* is not coherent precisely in the context of property rights and that, in this case, when interpreting this kind of Kant's presentation of the permissive law, it is necessary to take into account the wider historical context of Kant's complete creativity.

> thing by which the other satisfies his appetite, just as his hunger is satisfied on a roast of pork. Now, since the other's impulse is directed to sex and not to humanity, it is obvious that the person is in part surrendering his humanity, and is thereby at risk in regard to the ends of morality. (Kant, 1997, p. 157).

In the first sentence, in which he talks about the tooth, Kant actually says enough to conclude what his position is, in principle, on buying and selling body parts, which he further emphasizes and elaborates on.

> Humanity in his own person (homo noumenon) can so far restrict the right to make use of his body, that all use of it as a thing is forbidden to him. He is indeed the proprietarius of it, i.e., he governs and rules over it, but as over a person, i.e., insofar as he would dispose over it as a thing, the phenomenon appears restrained by the noumenon. He is therefore not the dominus of his body, since he may not treat it as res sua, or as the dominatio servi might do. He may therefore mutilate neither himself nor others, and may make no eunuchs… Or if someone were to sell his sound teeth as a replacement for the decayed dentition of somebody else. Thus, suicide violates the law of the noumenon, and respect for the latter. II. In regard to causality, or the personal capacity and power of a man to bring about effects. He cannot, to that extent, dispose unreservedly over his freedom, i.e., he can indeed make a definite use of his powers for others, and he can authorize the other to demand them from him in a purposive way, e.g., the manual worker; but he is forbidden by the right of humanity to make every use whatever of his powers, and to grant the other an unlimited disposition over them. (Kant, 1997, pp. 341–342).

Nevertheless, in the period of his creativity, Kant could not foresee the development of medical technology and the creation of transplant medicine in which buying and selling, at least in the vast majority of countries, does not exist (it is even expressly prohibited and is established as a principle in some countries[8]). Donations exist exclusively for the purpose of saving another person's life. Difficulties arise precisely because of the large shortage of organs, the disadvantages of distributive justice, and the impossibility of all sick people being able to get an organ for transplantation. The important question is whether we should establish organ donation (especially after death) as a legal obligation, and whether the unlimited disposal of human body parts is justified if the ultimate goal is to save endangered lives.

However, in the example of the amputated leg, it seems that arguments (altruistic in nature) about sacrificing the body to save a person's life can also be found in Kant's thought (*Cf.* Dickenson, 2019).

[8] This is also the case in Croatian transplant medical law. According to Art. 8 of the Act on Transplantation of Human Organs for the Purpose of Treatment (Official Gazette, No. 144/12) and Art. 7 of the Act on the Use of Tissues and Cells (Official Gazette, No. 144/12): "It is forbidden to give or receive any kind of financial compensation or another financial benefit for the taken organs (tissues and cells)".

> Thus, a man can have his foot amputated, for example, insofar as it impedes him in life. So to preserve our person, we have disposition over our body; but the man who takes his own life is not thereby preserving his person; for if he disposes over his person, but not over his condition, he robs himself of that very thing itself. This is contrary to the supreme self-regarding duty, for the condition of all other duties is thereby abolished. It transcends all limits on the use of free choice, for the latter is only possible insofar as the subject exists. (Kant, 1991, p. 219, Ak 423).

Likewise, Kant's example of the (sale) of hair as a part of the body, the separation of which does not affect physical integrity and health, is one of those examples that raises an additional controversy in any Kantian-deontological elaboration of the purchase and sale of body parts. Additionally, for specific authors, it is one of the arguments that the act of donation from a living donor, and even the purchase and sale of some parts of the body, those whose separation does not affect the fertility of the person's health, could be ethically based.

> To deprive oneself of an integral part or organ (to maim oneself)—for example, to give away or sell a tooth to be transplanted into another's mouth, or to have oneself castrated in order to get an easier livelihood as a singer, and so forth—are ways of partially murdering oneself. But to have a dead or diseased organ amputated when it endangers one's life, or to have something cut off that is a part but not an organ[9] of the body, for example, one's hair, cannot be counted as a crime against one's own person—although cutting one's hair in order to sell it is not altogether free from blame. (Kant, 1991, p. 217, Ak 423).[10]

One of the fundamental questions in this regard is what makes a person a person in the first place. Is personhood reduced exclusively to the body, or is it, especially in the Kantian view, connected with the mind, freedom, and free will? If the latter is true, then a part of the body (for example, hair or even a kidney), significantly if it does not disturb the integrity and health of the individual, cannot be associated with

[9] When he talks about sacrifice, Kant states that everything that is not an organ can be sacrificed to save the life of (another) person, which is somewhat inconsistent concerning the leg itself, which represents a set of organs, as well as to the previous part of the sentence where he says that "(deceased) organ" can be "amputated".

[10] However, in the last sentence of Kant's quote, it is pretty challenging to make a definite Kantian opinion about the purchase and sale of organs, so Dickenson states, „he (Kant) seems to make exceptions for separable and non-vital elements such as hair. But he is un-easy even about that, because I am not entitled to use my body merely as a tool" (Dickenson, 2019).

the status[11] of a person[12]. On this track, further, especially legal, analysis will show how parts of the body can be considered things with the fundamental question of limits and motivations for their disposal and the possibility of absolute ownership and other property rights in general.

THE SUM OF THE FIRST AND THE SECOND STAGE – MORALITY OF PROPERTY RIGHTS AND (NON-) DISPOSAL OF BODY PARTS

Organ donation and the duty to donate organs

When discussing the duty of donating[13] organs in general, the question arises as to whether donating organs is considered a moral duty. This aspect was discussed not only by philosophers and theoreticians of deontological ethics, but also by protagonists of moral-theological thought. Aramini, thus, on the deontological trail, emphasizes that donating organs can be considered a moral duty (but not a legal one) and that donating organs after death is certainly mandatory, while, concerning donating organs during a lifetime, one should be quite careful and carefully focused on the integrity of the donor (Aramini, 2009, p. 264). Specifically, when it comes to donation after death, Aramini points out that our reason should direct us to understand that after death, we no longer need organs nor bodily integrity (Aramini, 2009, p. 264).[14] Immediately after death, our body, including the organs, begins to break down and organically decay. However, we should rejoice in the fact that one of our organs can avoid the possibility of organic decay and continue to live, making it

[11] Chadwick thus emphasizes the questionability of the boundaries of personality and the human being, along with the essential question of to what extent bodily continuity is necessary for personal identity. The most credible version of bodily continuity is primarily related to the brain's work. If it is related exclusively to the brain and the work of the brain, then we can accept the loss of a body part without thinking that we have sacrificed something crucial for our personal identity. But if we were to believe that we have duties to our body as exclusively a body, then the question of proper treatment of a separate part of the body might be a real cause for concern. See: Chadwick, 1989.

[12] Even from a legal theoretical point of view, we could not classify body parts in the personhood category. If, for example, Kurki's gradation of legal personhood is observed as 1) purely passive legal personhood, 2) dependent legal personhood, 3) independent legal personhood, and 4) purely onerous personhood, it is clear that the status of body parts could be not be tied to any of the listed degrees. More about the gradation of legal personhood in Kurki (2019, p. 151).

[13] At this stage, it should be taken into account that gifts and sales are by their own (legal) nature contracts and that they are subject to the provisions of positive (private/civil) law legislation, which will be discussed later.

[14] The foundations of this elaboration are not only in Kant's deontological framework but also rely on Aristotle's understanding of human wholeness (integrity). However, difficulties arise with the Aristotelian understanding of things, because the organ ceases to be the same the moment it is separated from the body. The issue of identity manifests itself in the question of whether the transplanted organ is the same as the donor's? This question of identity comes to the fore, especially in the process of xenotransplantation. See more in Munzer (1993). About personhood in the xenotransplantation process in Pietrzykowski (2018).

possible to extend life, and in general to give life to another person (Aramini, 2009, p. 264). This also applies to our decision after death, as well as to the decision of our family, who may also make such a decision. Alpinar-Şencan (2016) is guided by a similar way of thinking, stating that after death, the moral capacity of a person as a being ends and that, in that case, there is no fear of violating the categorical imperative to treat a person as a means. Similar to Aramini's moral-theological conception of personhood, Altman (2011, p. 110) argues that the body has no value in itself but is morally relevant because it is central to our existence as moral agents.

Speaking about the duty to donate organs during the life of the donor, Aramini believes that such acts, such as donating bone marrow and double organs, belong to exceptional situations and do not represent a moral obligation but a "heroic" act (Aramini, 2009, p. 265). At the same time, the donor puts his physical and mental integrity at risk, and no one has the right to destroy another's integrity or commit acts that would not leave him at peace (Aramini, 2009, p. 265), which, one can say, is a Kantian-based opinion. In this way, Aramini (2009) clearly and precisely explains the reasons why, from a moral point of view, every individual should be an organ donor after death. Answering the question of whether we have a duty to donate organs is extremely demanding. Aramini (2009) rightly distinguishes between the legal and moral aspects of this issue. In a moral sense, it is justified to consider that organ donation after death is an obligation that should be fulfilled (Nedić, 2023). However, from a legal point of view, it is quite difficult to force a person to any activity related to his body and bodily integrity, even after death, because each individual decides to donate organs after death during his lifetime. Any legal coercion that would make donation mandatory (which would then no longer be a donation) would violate the basic principles of medical ethics and law, as well as the right to self-determination and autonomy of decisions related to one's own body. It is really questionable whether the state can impose the legal obligation to donate organs after death through certain public policy and legal measures. Such a system currently does not exist in the world, and in addition to the aforementioned principles of medical law and ethics, it is against the basic principles of private law.

From the Kantian-deontological point of view, the medically justified taking of organs from a deceased person does not offend his integrity because the person's personality is lost with death, especially in the legal sense.[15] Moral-ethical doubts

[15] Being a person means having dignity that is threatened by the moment of buying and selling body parts from a living person. However, it is also violated in the situation when the purchase and sale takes place by taking body parts from a deceased person. Personality and dignity, in a moral sense, do not end with the death of a person, nor is their existence conditioned by temporal causality. Speaking of the "Ideal Acquisition of an External Object of Choice", Kant writes about immortal merit and the right to a good reputation after one's death. It is ideal based on the idea of a pure mind, not on temporal causality: "Someone who, a hundred years from now, falsely repeats something evil about me injures me right now; for in a relation purely of rights, which is entirely intellectual,

can be sought in the case of living donors, where one must take into account the very intentions of the person[16] and the psycho-social-health condition of the person before and after transplantation, as well as in the case of altruistic, undirected donors, the so-called Samaritans (Petrini, 2018).[17]

Organ donation from a living donor should not represent a duty or a particular type of moral-legal obligation, but an exceptional, altruistic act. If there is a need for such cases, care should be taken to donate those organs that do not violate the physical, psychological, and spiritual integrity of the person. This opinion is shared by certain Croatian doctors in their scientific works, such as Medved and Batinica (2004), who advocate the point of view that living (relative) donors can donate regenerative organs and tissues: blood and bone marrow, but also organs without which they can live with equal quality: kidney, a liver segment, a lung segment, a part of the pancreas, and a part of the small intestine. This is an approach from an ethical and legal point of view because there is no violation of the integrity of the donor, which is important to point out, and which is the essentiality of certain private law provisions on the impossibility of absolute disposal of body parts.[18] However, undirected, Samaritan organ donation is a phenomenon that raises various ethical questions. Petrini emphasizes the three most common ones, which above all relate to the risk for the donor, concern about the psychological sensitivity of the "Samaritan", and the exact meaning of the word donation because, in this context, it

abstraction is made from any physical conditions (of time), and whoever robs me of my honour (a slanderer) is just as punishable as if he had done it during my lifetime" (Kant, 1991, p. 112, Ak 296); Taking organs from a deceased person for the purpose of transplantation does not offend a person's dignity because their body is not marked by a price, but is reflected in the value of life and the preciousness that a part of the body has for the continuation of another person's life. And in that situation, every explanation team must take care of the dignity of the person. According to Art. 9 of the Act on Transplantation of Human Organs for the Purpose of Treatment and Art. 5 of the Law on the Use of Human Tissues and Cells, the dignity of the person is stated as a fundamental principle: "When taking organs from a deceased person, it is necessary to act with due respect for the personal dignity of the deceased person and his family". Price (2000, p. 34) states that "the dignity of the human body is inseparable from the dignity of the person". Although he does not explicitly mention Kant, he states, "This nexus survives death" because "the body symbolizes the person who once lived".

16 A situation is not excluded in which a person is, only apparently and fictitiously, a (living) organ donor. Still, he is a seller of organs because he has secretly agreed on this with the recipient, that is, the buyer of that same organ. Such contracts, at least according to the Croatian Act on Civil Obligations (Official Gazette, no. 35/05, 41/08, 125/11, 78/15, 29/18, 126/21, 114/22, 156/22, 155/23), are null and void because they are against compulsory regulations and the morals of society.

17 In the Republic of Croatia, this type of donation requires an a priori decision and the approval of professional bodies, as stipulated in Article 11. According to the Act on the Transplantation of Human Organs for the Purpose of Treatment, "receiving an organ from a living donor for the purpose of transplantation to a recipient is decided by the expert team of the transplant centre and the ethical committee of the transplant centre where the transplant will be performed" (paragraph 1). The decision of the expert team of the transplant centre and the ethical committee of the transplant centre is not required only in the situation when it is about taking an organ "from a living relative donor of the first line of blood kinship." See chapter 5.8 on the conceptual private law problems of the term "first line of blood kinship": "'First line of blood kinship' as an illegally established term in Croatian legislation – application of the maxim *summum ius summa iniuria* and teleological interpretation of law" (Nedić, 2023).

18 For example, the Italian Civil Code. See *infra.*

can also mean physical mutilation of the donor (Petrini, 2011), especially if it leaves certain psycho-social consequences on him. If the explanation does not represent a medical danger for the donor (on which the medical profession has the last word), who has the altruistic intention, then such a way could not offend the settings of the categorical imperative. However, further questionability is determined by the situation when a person receives a certain amount of material profit for a given organ. At that moment, he/she is no longer a giver, but a seller, where the questioning of the violation of the categorical imperative is directly invoked.

Property rights, *emptio venditio* and human body parts as an ethical issue

The issue of (im-)morality of buying and selling body parts in contemporary bioethics, legal philosophy, and property theory

According to Aramini, the buying and selling of organs violates two fundamental principles that are set as primary in the issue of taking body parts. The first is the principle of autonomy, according to which the human body, following Kant's footsteps, must be understood as non-disposable property, even though each of us can control our own body (*Cf.* Aramini, 2009, p. 264, 265). The second is the principle of the defence of physical life, according to which, a person, following the second formulation of the categorical imperative, is always an end in himself and cannot be a means (*Cf.* Aramini, 2009, p. 264, 265). The donor and recipient should be considered ends in themselves, never means for each other (*Cf.* Aramini, 2009, p. 264, 265).[19] However, a different view may emerge from the perspective of a person for whom material means are essential for basic existential needs. Such a person may decide to sacrifice his own kidney to meet basic existential needs with the obtained material and financial resources (Nedić, 2023).

In the context of autonomy, Altman (2011, p. 109) states that according to Kant, freedom is not so simple and unequivocal; our autonomy is stronger when our choices are limited in the right ways. To be autonomous, we must act correctly, guided by reason rather than our own inclinations (Altman, 2011, p. 109). Aramini (*Cf.* 2009) bases his claim on autonomy precisely on Kant's idea of autonomy, which is significantly different from the various claims that a person can do whatever he wants as long as it only affects him. Regarding the defence of corporeal life, Aramini also bases his principle on Kant's postulate that we should not use persons as means to our own ends (*Cf.* Aramini, 2009, p. 110). The categorical imperative imposes the conclusion that buying and selling organs is an act that cannot be considered

[19] As a strong proponent of the legal organ market, Taylor (2005a, 2005b) considers that it may be questionable whether the commercialization of organs is genuinely an immoral act, especially concerning the principle of individual autonomy.

morally correct because it violates the physical and psychological integrity of a person, following Aramini's thinking. [20] Because, deontologically speaking, acting out of duty means acting with an internal rational compulsion, motivated solely by the thought of following a moral law, as well as the fact that a person is taken as an end, never as a means. In this regard, and according to Kerstein (2013, p. 181), the buying and selling of organs in the world of political-economic and distributive-economic injustice cannot be called justified, especially considering the fact that most of such organs will arrive from poor countries. Certain property theorists, such as Radin, in addition to stressing the problem of economic inequality that ultimately conditions the (illegal) purchase and sale of organs, advocates, admittedly, the categorization of certain parts of the body as things (the so-called concept of incomplete commodification), but their purchase and sale should take place within a strictly limited regulatory framework, precisely because of the importance of "nonmarket value to personhood" (Radin, 1996).

Other theorists of property have a similar point of view. Munzer (2000, p. 42) states that persons do not have ownership of their own bodies but have limited property rights over their own bodies. Munzer (2000, p. 42) understands persons in a non-dualistic sense as unique-complex beings, but in which, integratively, physical and mental[21] predicates prevail. Extreme views should be rejected because it is pointless to say that *no* body right is a property right, just as it is meaningless to say that *all* body rights are property rights (Munzer, 2000, p. 45). *Some* body rights are property rights because body rights can be divided into *body property rights* and *body personal rights* (Munzer, 2000, p. 47, 48).[22] In the context of Kant, Munzer (1993) states that

[20] "...no one has the power to destroy another's integrity or to commit acts that would not leave him alone..." (Aramini, 2009, p. 265). This deontological approach is present in civil/private law in the so-called "usurious contracts". Thus, according to Art. 329 of the (Croatian) Civil Obligations Act "is a void contract by which someone, taking advantage of the state of emergency or the difficult financial condition of another, his insufficient experience, recklessness or dependence, contracts for himself or for a third party a benefit that is disproportionate to what he is to the other gave or did, or undertook to give or do." The difficulty is reflected in the economic and material condition of the person forced to enter such an unfavourable contract. This would mean that this kind of deontological approach is the basis of mandatory law, which would mean that, even if the trade in organs were allowed, a situation where someone takes advantage of the (material) need and difficulty of another to buy a specific organ or body part from them, is against the legal provisions of mandatory law and such an act *eo ipso* leads to nullity.

[21] The mental aspect is crucial in the formation of personality, which is exactly why Munzer states that the human corpse is not a person, but that it is only the dead body of a former person. Munzer, 2000, p. 42

[22] This Munzer's distinction is very important. Self-ownership can be completely misunderstood as a concept that refers to our complete ownership of ourselves. Penner calls the above, precisely in the context of self-ownership, "fetishization of property" because property, understood as a *bundle of rights,* is misused for numerous inapplicable social constructs. Thus, for example, we could wrongly conclude and say that autonomy stems from our ownership of ourselves, so it can imply complete freedom of disposal of all our actions, for example, the desire for euthanasia because we are the ones who decide what and how to do with our own body. The latter thinking is entirely wrong, and the issue of ownership of body parts should be reduced to the question of which body rights are *property rights* and which are *personal rights* (Penner, 2009).

at least three non-consequentialist arguments can be found in Kant against property rights in body parts. He believes that even two of them, the argument for human freedom and the arguments of humanity and dignity, are quite problematic and even useless (Munzer, 1993). However, the argument for self-respect, understood as a state or feeling of intrinsic moral worth arising from acting on principles rationally derived from the moral law, has considerable force and excludes *some* dispositions of body parts (Munzer, 1993). However, Munzer (1993) states that all three arguments cannot wholly exclude (all) property rights in body parts because it is precisely in the context of the self-respect argument that examples could be found where certain disposals of body parts can be marked as morally permissible[23] as well as morally impermissible (for example, buying and selling reproductive cells). Although Munzer (2000, p. 42) tries to perceive a person in a non-Cartesian way as an integrative set of mental and physical, using the corpse example, he, however, probably unintentionally, does distinguish the body from the mental element: "A corpse is not peculiarly inert person; it is not a person at all; it is only the dead body of a former person".

Precisely in a dualistic direction, it can be argued that there are those body rights which are exclusively property rights (the body element) and which are personal rights (the mental element). The concept of a person is reflected in moral agency, in the elements of mind, will, and freedom, which cannot be the subject of property rights at all.[24] Although Kant himself tries the same, to understand the person as an integrative unity by forbidding any part of the person to be considered a thing for sale, such an attempt is not coherent in relation to his preliminary definition of persons and things. Namely, in Kant's footsteps, a separated organ cannot be considered a person. If persons are entities characterized by mind, freedom, and will, then a separate organ can only be considered a thing. Property rights are possible if body parts can be considered things. However, a further question arises: to what extent are property rights possible, and how far do the possibilities of disposing of body parts reach? This is precisely why Munzer claims that *some* body rights are property rights. Quigley (2019, p. 299) states that transferability (as one of the main features of property rights) and income rights are analytically separable. By this alone, we can accept that people have ownership rights to their biomaterials but are not allowed to receive income to respect themselves (Quigley, 2019, p. 299).

[23] In addition to the example of a kidney donor, Munzer gives an interesting example here of a cornea seller who sells his own cornea so that he can pay for his health insurance to cover a kidney transplant operation, given the chronic failure of his two kidneys. Such action is, from a Kantian point of view, morally permissible because Kant's examples of prohibited sales do not include situations in which the proceeds are used to save someone's life (Kant's example of the amputated leg) (Munzer, 1993).

[24] An opposite approach of owning agency and personality is present in Locke's thought. See infra footnote no. 25.

However, it is necessary to highlight inevitable disagreements with this attitude. In his reply to Munzer, Gerrand (1999) emphasizes that Kant's position is clear: no buying and selling of body parts is morally based under any conditions because the same act offends the personhood of a specific person. Alpınar-Şencan (2016), on the other hand, emphasizes that in Kant, there is no valid argument for prohibiting the buying and selling body parts and synchronously advocating for the donation and transplantation of organs from a living donor. Donating, buying, and selling are not separable and differentiated in any way in Kant's writings. Each disposition and commodification transform a part of the body, which carries dignity, into a thing (Alpınar-Şencan, 2016). He adds that followers of Kant should agree that there is no difference between donating and selling by a living donor/seller in the Kantian framework (Alpınar-Şencan, 2016). Therefore, greater emphasis should be placed on organ donation from a deceased donor, more specifically on the opt-out system, considering that in Kant's framework, there is no moral delict in taking organs from a deceased person (Alpınar-Şencan, 2016). However, Alpınar-Şencan excludes a complete and much broader deontological framework, as well as Kant's examples of the amputated leg and the cut hair, which, although not fully crystallized by Kant himself, must not be ignored.

In addition to various antinomies in Kant's understanding of the (im-)morality of property rights and the disposal of body parts[25], it is also necessary to emphasize that the analytical imperfection of property rights in the Hohfeld-Honore[26] analysis and the excessive discretion in the understanding of the ontology of property and the

[25] This is precisely why specific medical law and property theoreticians believe that the justification for the disposal of some parts of the body should not be sought in Kant's concept of property but in Locke's concept, which is based on the so-called labour theory. Locke states that the work of man's body and hands are rightfully his and that work is undoubtedly the property of him who works. When he says that man possesses his own person, Locke means the person as an agent endowed with reason and free will, thus strictly separating person and body. According to the labour property theory, people cannot have ownership of themselves because „for men being all the workmanship of one omnipotent and infinitely wise Maker; all the servants of one sovereign Master, sent into the world by his order, and about his business; they are his property, whose workmanship they are." Therefore, man cannot have ownership of his own body, but he does have ownership of his own personality, activity, or work, more specifically, his own agency. (Self)ownership of (one's) body can also be considered when we have invested a certain amount of labour in something. Thus, in legal transactions, organs are treated as things and products owned by healthcare institutions precisely because certain healthcare institutions have invested significant previous actions so that the organ or any other part of the body (for example, blood) could be validly released into legal circulation and thus be available for donating to a specific recipient who needs it. Although Locke's labour theory, the separation of a person's mind and body, and, consequently, the conclusion that processed parts of the body in which certain labour has been invested can be the object of property rights, it is necessary to point out that the mental element could not be considered the property of a person. In the modern concept of property rights, they are possible only on things. Any violation of the mental part of a person is derived from personality rights, exactly as Munzer emphasizes, strictly separating body property rights and body personal rights. See in: Locke, 2003, p. 102 (II, 2, 6); p. 111 and 112 (II, 5, 27); p. 119 (II, 5, 44); on arguments about the Lockean way of thinking about property rights in body parts in: Dickenson, 2019; Waldron, 1988, p. 177–181; on Locke's arguments on property rights in reproductive cells see footnote no. 28.

[26] About the mentioned in: Penner, 2020.

possibility of disposing of body parts have led certain theorists and medical lawyers (e.g. Herring, 2014) to believe that the disposal of body parts should not be reduced to property-regime regulation and general provisions of property law but should enjoy a particular statutory legal determination and arrangement that will explicitly determine which disposal actions are legally permitted.[27]

If saving one life endangers another to the full extent and plurality of the threat itself, then the above cannot be marked as an ethically and morally valid solution. In this respect, the possibilities of property rights in body parts should be limited. Paying donors represents a forced, coerced, and accelerated system of solving the issue of organ shortage, where one human life is saved, and possibly endangers another, and in which people serve as means. Even though there are conflicting opinions (see: Fabre, 2006), Aramini (2009, p. 266) and Berlinguer and Garrafa (1996) believe that selling parts of one's own body cannot be morally acceptable and that buying and selling organs should not be allowed. The main reasons are related to the fact that buying and selling organs (as well as other parts of the body) cannot solve the problem of organ shortage, but, to a certain extent, it can even worsen it. Wall (2015, p. 219) emphasizes that when establishing property rights (over parts of the body), one must consider the dignity and respect for the human being, its integrity, and the physical subjecthood of each of us. In terms of the autonomy of each individual, from a Kantian point of view, there must be moral, as well as legal, restrictions on what a person can do with his own body, and the state should structure our choices to discourage morally unacceptable actions (Altman, 2011, p. 110).

The (im)morality of buying and selling other parts of the human body – the problem of reproductive cells

The discussion about buying and selling body parts is not reserved for organs and tissues only. Donating and buying and selling reproductive cells is undoubtedly one of the most controversial topics within this issue. However, the analysis showed that it can also be quite contentious in the Kantian framework. One of the biggest arguments, apart from the violation of humanity and dignity, both when donating and when buying and selling organs by a living donor/seller, is the possible violation of a person's physical and psychological integrity. The mentioned element is one of the main criteria when taking an organ from a living donor, and it is the non-deterioration of his previous health condition. However, what about the situation when giving or buying does not disturb the health of the giver/seller at all? How to morally evaluate the buying and selling of reproductive cells?

[27] However, the main problem of the above is reflected precisely in the *a priori* nature of such a question, which is of a moral-ethical nature and which preliminarily requires a thorough ethical-moral elaboration to be part of the statutory-legal sphere.

Precisely on this topic, even certain theorists, who state that the property rights over *some* parts of the body are in Kantian-ethical frameworks (e.g., Munzer, 1993), clearly indicate that the buying and selling of gametes is completely non-Kantian based. In Kant's view, no argument can be found that would in any way justify the act of buying and selling reproductive cells. One of the strongest arguments of those who state that it is Kantian to talk about some property rights in body parts was Kant's example with the amputated leg, noting that it is moral to sacrifice a body part to save a person's life. However, this argument is inapplicable to reproductive cells. A person whose body part has its price, who agrees to be part of the reproductive cell seller's catalogue and whose body part is instrumentally used to create a new person, in the Kantian view, insults his dignity and self-respect and uses himself as a tool. So far, none of the arguments support the Kantian justification for buying and selling gametes.[28]

Apart from the example of the amputated leg, some might also use Kant's example of selling hair. Even though Kant's point of view here is quite uncertain and questionable, what would it mean if the sale of hair "is not altogether free from blame"? The sale of hair is not comparable to the example of gametes. Concerning hair, the sale of reproductive cells in its foundations contains a somewhat controversial ethical and moral context that encompasses numerous problems of surrogacy. Suppose person X sells his reproductive cells that person Y will ultimately use to obtain offspring. In that case, X becomes a parent without any responsibility[29], with the widespread occurrence that the offspring does not even know that person X is his parent. Unlike

[28] If one wants to look for a philosophical argument in the buying and selling of gametes, then Locke's concept of ownership and property rights is a much more grateful address, although Locke's conception of property does not offer a valid argument for absolutely all dispositions of gametes. Locke's labour theory of property justifies property as a product of labour. We can only have property rights over those entities that have emerged as a product of our work. What is a product of work not belonging to God as (our) creator? Dickenson thus cites an interesting court case of a man who suffered from leukaemia and whose spleen samples were taken for therapeutic purposes during a splenectomy. His active immune cells were used for further production of immortal cell lines, and he was asked to come to the hospital several times to donate cells. Considering that the donor soon discovered that the market value of such cells was about 3 million dollars, he decided to file a lawsuit against the health institution, which the court ultimately did not accept. Dickenson states that the donor does not have property rights in the said cells and, therefore, does not benefit from the said property rights precisely because they did not arise as a product of his work. It was given to him in the form of him as a person, and persons belong exclusively to the "Creator". The mentioned health institution can only acquire property rights of these cells because they have invested considerable effort (work) for his immune cells to reach the mentioned therapeutic properties. A similar position was taken by the Supreme Court of the Republic of Croatia in the case Rev 804/2021-6, dated November 28, 2023 (see *infra*). Characterizing body parts as products is essential because many preliminary actions need to be done to release them into (legal) circulation. See: John Moore, Plaintiff and Appellant, v. The Regents of the University of California et al., Defendants and Respondents, 51 Cal. 3d 120; 271 Cal. Rptr. 146; 793 P.2d 479; Dickenson, 2019.

[29] Here, it could be said that being a parent is not at all relevant to the discussion within the framework of Kant's deontology, however, even an isolated view of the act of selling reproductive cells would hardly find a deontologically conditioned justification for such an act.

hair, the sale of reproductive cells can have numerous further implications, the ethical and moral nature of which is not Kantian-based.

THE THIRD STAGE – REGULATION OF PROPERTY RIGHTS IN BODY PARTS IN PRIVATE LAW LEGISLATION

Regulation of the status of body parts in statutory private law regulations

In certain legal systems, special regulations completely or partially limit ownership and other property rights over the human body. Thus, in the countries of the common law system, the so-called *no property rule*[30] applies, according to which the human body and its parts cannot be considered objects of ownership and other property rights[31], so the body and its parts cannot be disposed of by will, regardless of the testamentary freedom and autonomy of the testator (Hardcastle, 2007; Mimnagh, 2017). However, according to some authors, a system that completely prohibits access to the market, i.e., the buying and selling of parts of the human body, is outside the legal principles of compulsory and property law, where such restrictions do not exist (Dunham, 2008). This very fact can be confusing when it comes to the property rights in the body and its parts because it would mean that if someone is the absolute owner of his body, organs, tissues, and cells, he can absolutely dispose of them, and buy them or sell them. However, in the vast majority of countries, this act is prohibited. The aforementioned prohibition can be prescribed either by transplantation medical legal regulations (such as the Croatian regulation in the aforementioned Article 8.1 of the Act on the Transplantation of Human Organs for the Purpose of Treatment and Article 7.1 of the Act on the Use of Human Tissues and Cells) or else within the framework of civil legislation. Although there are not many countries whose civil codes even mention the disposition of body parts, the Italian Civil Code (Regio Decreto 16 marzo 1942, n. 262, ult. D.Lgs. 10 ottobre 2022, n. 149.) in Art. 5. states that "acts of disposing of one's own body are prohibited if they cause a permanent reduction of bodily integrity or if they are otherwise contrary to the law, public order, or morality."

[30] Namely, common law legal systems during the 17th century gave birth to the rule that there can be no property concerning the human body ("*no property in the human body*"). The rule initially comes from Coke's Institutes of the Laws of England from 1664, where it is prescribed that "the burial of the deceased... is no one's property" (lat. *nullius in bonis*) and that it falls under the church's jurisdiction. However, the Anglo-Saxon courts have since made exceptions to the so-called non-ownership rule (e.g., Bazley v Wesley Monash IVF Pty Ltd [2010] QSC 118), which has brought further uncertainty to the resolution of the question. Wall emphasizes that the result of all this is that the legal status of parts of the human body is still undefined and unclear; Wall, 2015; Nedić, 2023.

[31] Although specific authors write about the "unfounded origin" of the so-called no property rule and its unsustainability (Quigley, 2018, p. 56).

Human beings cannot be considered things but persons with a certain moral and legal status. In a certain way, the human body can be viewed through the glasses of objecthood as a collection of its parts (organs, tissues, and cells). However, the personhood of human beings, especially viewed from the Kantian approach, is primarily reflected in the mental and spiritual-mind dimension. A separate part of the body, by itself, has no personhood significance. With regard to the mentioned provision of the Italian civil legislation, it should be pointed out that the disposal of body parts does not refer exclusively to the contract of sale. It, especially in the practice of those countries that prohibit the purchase and sale of organs, relates to something else and is the basis of every transplantation system. It is the donation contract. If we were to observe body parts exclusively in the context of legal and moral subjecthood and personhood, as observed by Kant himself, then donating organs, especially from a legal point of view, would not be possible. Moreover, in order for a person to be able to donate something at all (even an organ or any other part of the body), it must first be assumed that the same person has certain ownership rights over that object. As previously stated, the establishment of property rights in human body parts should not be disputed, as much as the extent to which these property rights should be applied.

Although the legal status of parts of the human body is not recognized in many countries' statutory civil law provisions, the opinion on this was given by legal doctrine as a source of law in the continental legal system. Thus, in the writings of German (Finkenauer, 2020, p. 29, 30; Neuner, 2023, p. 305, 306), Austrian (Koziol, Bydlinski, Bollenberger, 2010, p. 267; § 285, 2), and Croatian (Klasiček, Nedić, 2023; Vedriš, Klarić, 2013, p. 72, 73) civil law doctrine, the so-called criterion of separability, whereby a part of the body, while an integral part of one human person, is viewed as part of the legal subjecthood of that same person. At the moment when the organ is separated from the body, and as long as it is in that state, it is considered a thing limited in legal circulation, which can be disposed of in the form of a donation, but by no means bought and sold. When a part of the body is transplanted into the body of another human person, it becomes part of the subjecthood of the person into whose body it is transplanted. This kind of legal regulation and thinking about the status of parts of the human body enables a legitimate system of taking, allocating, donating, and transplanting organs, but not buying and selling.

However, the consequence of treating body parts as things and enabling the existence of the transplantation system also has certain consequences for other branches of civil law, such as tort law. According to Directive 85/374/EEC and the European model of liability for a defective product, any movable item is to be considered a product, regardless of whether it is industrially processed or not, without the possibility of privileging any product (Klarić, Baretić & Nikšić, 2022, pp. 180–181; Pichler &

Nedić, 2023). This leads to the conclusion that according to the European system of responsibility, blood products, organs, and all other body parts should be considered products.[32] Liability for a defective product belongs to the category of objective liability for damage, where the fault of the harming party is not sought but only objectively fulfilled criteria, which for medical and health workers can represent a much stricter approach.[33]

CONCLUSION - ALTERNATIVES TO BUYING AND SELLING ORGANS AND KANT'S INFLUENCE IN ESTABLISHING FUNDAMENTAL GUIDELINES IN THE INTERACTION OF BIOETHICS AND PRIVATE LAW

A literal and consistent interpretation of Kant's opinion on the disposal of body parts can lead to the conclusion that absolutely no form of disposal of one's own body is morally based. According to specific interpretations, this could include the buying and selling of organs and any organ donation, especially if it is a donation from a living donor.[34] A consistent interpretation of Kant could lead to moral questions in various transplantation procedures in modern biomedicine. However, this is precisely why we have ethics. Deontological ethics, as Kant's most significant legacy, should aim not at a literal understanding of what Kant wrote about (especially in the

[32] The opinion above was also adopted by the Court of Justice of the European Union in the judgment of May 10, 2001, Henning Veedfald v Århus Amtskommune, C-203/99, ECLI:EU:C:2001:258.

[33] In the case of the Supreme Court of the Republic of Croatia, Rev 804/2021-6, dated November 28, 2023, a man received a blood transfusion during maxillofacial surgery. The operation was successful. However, during the transfusion, the man became infected with hepatitis C. The plaintiff claimed that the defendant is the Croatian Institute of Transfusion Medicine. The Institute, as the person responsible, announced that they had performed all the tests required by law and that the virus had not been detected in blood doses. For the first time in the history of Croatian medical tort law, the Supreme Court determined that body parts are things, that is, if they are treated and put into legal circulation – products. The Supreme Court states that "human blood and human organs are certainly not and cannot be considered things while they are in the human body, but the question arises whether blood, as well as human organs, tissues, and other reproductive material, can be considered things after they are separated from the human body. This court considers that blood and blood products collected from donors and processed in special health institutions established for this purpose represent an independent thing that can be considered a product by Art's provisions. 2. Paragraph 2 of the Ownership and Other Property Rights Act ("Official Gazette", No. 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/ 06, 141/06, 146/08, 38/09, 153/09, 143/12, 152/14, 81/15 and 94/17). Therefore, by separating from the human body, blood and human organs, tissues, and reproductive material become things and can have all the elements of a product, i.e., a defective product with a defect for which damages are liable according to objective criteria." The above shows that the responsible person is liable according to objective criteria for damage (defective product liability) where no fault is claimed. The Supreme Court sent the case back to the court of first instance for a decision, with the mandatory application of objective responsibility, which means that the Institute can potentially be held responsible, although they took all the legally prescribed conditions for blood testing, and the virus was not found during the same tests. The aforementioned judgment shows the consequence of treating body parts as things/products, which obviously not only has an impact on property law but is also very applicable to tort law.

[34] It is still necessary to emphasize that Kant's label of immorality when disposing of body parts primarily refers to the purchase and sale concerning which a person receives a particular material (financial) benefit.

context of those phenomena that were not present in Kant's period, such as the case of organ transplantation), but at the adaptation of Kantian-based ethical thinking to the contemporary challenges of society and, in this case, biomedicine. Deontological ethics and the citations of various Kantians and deontological ethicists in the text tell us exactly how the legal buying and selling of organs cannot be considered a solution to the significant shortage of organs because the unrightfulness of such an act is reflected in the violation of the dignity of a human being and the use of a person as a means. This is precisely why organ donation is the basis of any transplantation system, especially by deceased donors, while in many legal systems, it is forbidden to receive financial benefits for donated organs and tissues.

Using the compilation method and the great plurality of opinions, the possibility of reaching for Kantian perspectives in any arrangement of body parts is somewhat ungrateful. Not only with regard to the plurality of the Kantian understanding of the disposition of body parts but also with regard to the numerous needs of modern transplant medicine and the fact that organ donation is one of the fundamental legal tasks and legal dispositions of body parts that save human lives. Especially if one takes the "extreme" Kantian approach that forbids any disposal of body parts. In Kant's view, certain authors still advocate a modified form of disposal of body parts, considering that only certain disposals of body parts are morally impermissible in Kant's moral-ethical framework. Such an approach is applicable; more precisely, it finds its place in the contemporary achievements of transplantation medicine and in private law. This does not affect the establishment of property rights in the parts of the body that may exist, but the range of legal disposal arising from them should be limited.

In the context of donation by a deceased donor, one of the solutions to the great shortage of organs could be an opt-out (presumed) system of organ donation. In this system, the body parts of a deceased person are taken only if the person did not expressly object to organ donation during life in the manner prescribed by law. Most EU countries' legislative regulations on organ transplantation accept this model (e.g., Italy, France, Spain, Belgium, Netherlands, Poland, Austria, Switzerland, Sweden, Norway, Croatia, Slovenia). A person who, during his lifetime, was expressly opposed to organ donation after death is entered into a special register of non-donors. The mentioned system greatly increases the number of possible organ donors. It is precisely because of this fact that the mentioned system is the most represented, and many countries in which the opt-in system is present have transitioned to the opt-out system of organ transplantation. However, it is necessary to respect the patient's autonomy in implementing the opt-out system.

When disposing of body parts by a living donor, the analysis of various legal and professional-ethical regulations, as well as the writings of certain legal and moral philosophers on the disposal of body parts, show that two essential criteria should be taken into account, the basis of which is precisely Kant's categorical imperative. Those two criteria represent a generalization of the ethically acceptable disposal of body parts. If they are met, the disposal of body parts by a living donor can be labelled as morally and ethically based. The first criterion is reflected in the fact that everything that does not offend the psychophysical integrity of a person is ethically acceptable. However, buying and selling reproductive cells may not be dangerous for the donor's health. But, different medical possibilities, such as synthetic biology and choosing potential parents from a catalogue in surrogacy and various modifications of surrogacy, lead to different deviations of morals and ethics (see, e.g. Dickenson, 2017). This is precisely why the second criterion is reflected in the foundation that everything that is not the buying and selling of body parts is ethically and deontologically acceptable.[35] However, the latter criterion will certainly experience certain re-examinations in parallel with the development of medical techniques and the disposal of bio-materials, and it should be left open to various polemics. In the writings of Kant, only (altruistic) dispositions are allowed in which a part of the body is sacrificed for the salvation of another person (in Kant's example of an amputated leg), not the buying and selling of body parts because even the sale of hair, the separation of which does not harm the integrity of the person, is "not free from blame".

Considering all the above, the designation of organs as things in the civil law doctrine does not represent a moral obstacle. However, such a label should not be objectionable in Kant's framework. As an entity, the organ does not correspond to Kant's view and definition of a person. The designation of organs as things is necessary for the legitimate legal circulation of organs, precisely in the context of organ donation. The morality and justification of such a label should be sought in the further conceptualization within which organs are considered things but things restricted in circulation/use. This means that their legal disposition is limited, primarily about the sale of organs, which is illegal. This is precisely why the prohibition of receiving financial benefits is stated as one of the fundamental principles of organ transplantation in the Croatian transplantation legislation.[36]

It should also be emphasized that the problems with the disposal of body parts could not be the same in European and American economic-health-capitalist frameworks.

[35] If, within this criterion, we take the example of gametes, when donating them, any potential "designing" of children is avoided because when donating, only that donor is available, not many different sellers of gametes.

[36] Art. 8 of the Act on Transplantation of Human Organs for the Purpose of Treatment (Official Gazette, No. 144/12) and Art. 7 of the Act on the Use of Tissues and Cells (Official Gazette, No. 144/12).

The American health insurance system and the opt-in system of donating body parts can significantly challenge the Kantian-based moral-ethical framework for disposing of body parts and very often come close to the contours of consequentialism/utilitarianism, unlike the European one, which within the opt-out system (which is broadly accepted in most member states) and health insurance, provides much more effective protection and a more considerable amount of available body parts. This is precisely why the issue of property rights and absolute disposal of body parts is much more relevant in the American health framework than in the European one. Specific hypothetical examples from Anglo-Saxon moral and legal philosophers and property theorists are often inapplicable in European health settings.

Considering Kant's definition of person and thing, there is no obstacle in designating body parts as things and basing (limited) property rights in body parts. The disposal of body parts and the range of ownership rights may be questionable. Organ donation, which is the basis of any transplantation system, assumes that the person who donates has certain property rights in human body parts. Statutory prohibition of the purchase and sale of body parts and enabling exclusively donation in order to save another person's life (Kant's example of an amputated leg), especially in European private law frameworks, follows the contours of Kant's deontological ethics.

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Izučavajući Kantovu perspektivu o (samo)vlasništvu i stvarnim pravima nad dijelovima ljudskog tijela: rasprava o granicama između osoba i stvari

SAŽETAK

U radu se propituje normativni okvir designacije dijelova tijela kao stvari u građanskopravnoj doktrini, kao i mogućnosti pravnog raspolaganja dijelovima tijela u kontekstu Kantove moralne filozofije. Formiranje privatnih (subjektivnih) prava Kant izvodi iz preliminarne razdvojbe stvari i osoba te druge formulacije kategoričkog imperativa. U razložbi koncepta privatnog prava, i stvarnih prava koja su moguća samo u odnosu na relaciju čovjek-stvar, Kant posljedično progovara i o pitanjima samovlasništva te stvarnim pravima nad vlastitim tijelom i njegovim dijelovima. Premda je izričito pisao o nemogućnosti samovlasništva na

tijelu i, načelnoj, nemogućnosti raspolaganja njegovim dijelovima, potrebno je imati na umu da Kant onomad nije mogao predvidjeti sva moguća dostignuća, perspektive i iskušenja suvremene transplantacijske medicine. U radu se temeljni Kantovi bioetički i privatnopravni koncepti (prije svega koncept vlasništva i stvarnih prava) stavljaju u kontekst (pravnog) raspolaganja dijelovima tijela. U bilo kojoj izložbi i razložbi kantijanski utemeljenog mišljenja o raspolaganjima dijelovima tijela ne bismo se nužno i isključivo trebali voditi izričitim Kantovim pisanjima o stvarnim pravnim i raspolaganjima dijelovima tijela, već bismo u obzir trebali uzeti interpretativni širi okvir Kantove deontološke etike i Kantovo poimanje osobe i stvari. Takvo tumačenje može dovesti do zaključka kako nema prepreka da se na dijelovima tijela zasnivaju stvarna prava, ali da se radi o ograničenim stvarnim pravima, uz klasifikaciju dijelova tijela kao stvari ograničenih u prometu, što je mišljenje koje prevladava u određenim statutornim privatnopravnim odredbama i pisanjima građanskopravne doktrine.

Ključne riječi: Kant, dijelovi tijela, osoba, stvar, presađivanje, organi, stvarna prava, vlasništvo, privatno pravo.

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Lažne vijesti, digitalne tehnologije i erozija realizacije individualne autonomije u svjetlu Kantove etike[1]

SAŽETAK

Digitalne tehnologije radikalno mijenjaju epistemičko okruženje u kojem se građani nalaze. Oblikujući kako građani prikupljaju informacije, kako komuniciraju ili kako donose odluke, digitalne tehnologije formiraju nove epistemičke prakse koje otvaraju prostor za neke stare, kao i za nove oblike manipulacije. Rad započinje analizom Kantova pojma autonomije volje te pokazuje kako i u kojim slučajevima ova autonomija može biti ugrožena. Nastavlja pružajući uvide kako digitalne tehnologije mogu ugroziti autonomiju građana te analizira sposobnost algoritama umjetne inteligencije da kroz mikrociljanje i sustave preporuka šire lažne vijesti i političku propagandu. Nadalje, rad razmatra štetan utjecaj ovih tehnologija na epistemičke prakse građana, naglašavajući tendenciju algoritama umjetne inteligencije da dovode do stvaranja epistemičkih balona ili do pretjeranog oslanjanja na velike jezične modele, pri čemu dolazi do slabljenja individualne sposobnosti prosuđivanja. Završno se razmatraju neki modeli regulacije ovih tehnologija te se ističe Kantovsko uporište za opravdanje takvih praksi.

Ključne riječi: sustavi preporuka, mikrociljanje, veliki jezični modeli, lažne vijesti, epistemički baloni, heteronomija volje.

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UVOD

Digitalne tehnologije imaju snažan utjecaj na epistemičko okruženje u kojem se građani nalaze. One velikim dijelom određuju kako građani primaju nove informacije, kako međusobno komuniciraju, kako formiraju svoja vjerovanja i kako sudjeluju u političkom odlučivanju. Bilo da je riječ o praćenju vijesti o politici, kulturi ili sportu, o razgovoru s prijateljima ili kolegama na radnom mjestu, o provođenju slobodnog vremena kroz slušanje glazbe ili gledanje serija putem *streaming* servisa, ili pak o prikupljanju znanstvene literature ili istraživanju tema koje ih zanimaju, građani se danas više nego ikad ranije oslanjaju na digitalne tehnologije pogonjene algoritmima umjetne inteligencije. Sve češće i intenzivnije oslanjanje na ove tehnologije mijenja epistemičke prakse građana, a novi načini stvaranja i prenošenja informacija omogućuju napredne oblike manipulacije narušavajući tako slobodu građana i njihovu sposobnost da opravdano prosuđuju o brojnim moralno i politički relevantnim pitanjima.

Za potrebe ovog rada fokus se stavlja na digitalne tehnologije pogonjene algoritmima umjetne inteligencije i strojnog učenja koje se koriste u oblikovanju društvene interakcije putem interneta. Strojno učenje je metoda analize podataka koja omogućava obradu golemih količina informacija te uočavanje pravilnosti i obrazaca unutar podataka bez značajnijeg navođenja od strane ljudi. Ova metoda koristi se u provođenju niza digitalnih radnji, poput pretraživanja sadržaja na internetu, stvaranja preporuka na osnovi ranijih upita, profiliranja korisnika s ciljem stvaranja plana personaliziranog oglašavanja, prepoznavanja sadržaja teksta, fotografija te videosnimki i audiosnimki, kao i za stvaranje novih sadržaja.

Autonomija se u ovom radu razmatra kao sposobnost pojedinaca da kreiraju vlastita vjerovanja te donose vlastite odluke bez prisile ili manipulacijskog utjecaja od strane drugih aktera i vanjskih pritisaka, ali i bez unutarnjih ograničenja ili pristranosti, kao što su ovisnosti ili afektivna i snažna emocionalna stanja. Polazeći od Kantove moralne filozofije, rad autonomiju shvaća kao sposobnost racionalnih subjekata da stvaraju i slijede moralne zakone koje mogu sami sebi postaviti korištenjem svojih moralnih moći (racionalnost i razložnost), a bez prekomjernih ometajućih utjecaja vanjskih čimbenika kao što su želje, emocije, politički autoriteti i drugi oblici društvenih pritisaka. Rad se fokusira na utjecaj vanjskih čimbenika koji mogu ugroziti primjenu autonomije pojedinca te razmatra mogu li se digitalne tehnologije pogonjene algoritmima umjetne inteligencije smatrati štetnim utjecajem koji ugrožava primjenu individualne autonomije.

Štetan utjecaj digitalnih tehnologija pogonjenih algoritmima umjetne inteligencije na sposobnosti građana da formiraju opravdana vjerovanja već je neko vrijeme u fokusu rasprava unutar političke filozofije (Allcott i Gentzkow, 2017; Coeckelbergh,

2023; Hao, 2019). Budući da suvremena liberalna i demokratska društva svim građanima daju (barem u formalnoj političkoj sferi) jednaku mogućnost utjecanja na konačne ishode političkih procesa, epistemička kvaliteta demokratskih procedura u značajnoj će mjeri ovisiti i o sposobnostima građana koji u tim procedurama odlučivanja sudjeluju (Cerovac, 2022; Mill, 1977). Međutim, budući da sposobnosti građana i njihova mogućnost da ih ispravno koriste ovise o epistemičkom okruženju unutar kojeg djeluju, a to je okruženje podložno utjecaju ekonomske i društvene moći (primjerice, kroz financiranje političkih kampanja, plaćene oglase u medijima, financiranje *think tankova* koji istražuju i zagovaraju neke političke ideje), kvalitetu demokratskih procedura moguće je ugroziti kroz manipuliranje građanskim promišljanjem, formuliranjem političkih stavova i preferencija te samim glasanjem (Cerovac, 2023; Christiano, 2010). Politički filozofi se tako bave proučavanjem utjecaja digitalnih tehnologija na prosuđivanje pojedinaca prvenstveno kroz mogućnosti manipulacije koje te tehnologije pružaju te kroz analizu štetnih utjecaja manipulacije na kvalitetu procedura donošenja odluka.

Djelovanje digitalnih tehnologija na spoznajne procese građana također je već neko vrijeme u fokusu socijalne epistemologije. Promjene koje je prošireno korištenje ovih tehnologija uvelo u načine kako se građani informiraju i međusobno komuniciraju potiču razvoj štetnih epistemičkih pojava i okruženja kao što su komore jeke i epistemički baloni (Kiri Gunn, 2021; Nguyen; 2020; Sunstein, 2009) te facilitiraju širenje dezinformacija i lažnih vijesti (Consentino 2020, Rhodes 2022). Dosadašnja rasprava, međutim, u značajnoj mjeri zanemaruje analizirati kako digitalne tehnologije utječu na autonomiju pojedinaca i na njihovu sposobnost da donose odluke na temelju točnih i provjerenih informacija te ne budu žrtve manipulacije[2].

Socijalni se epistemolozi tako usmjeruju na štetan utjecaj manipulacije u procesu kolektivne potrage za istinitim (ili barem opravdanim) vjerovanjima, dok se politički filozofi fokusiraju na štetan utjecaj manipulacije na kvalitetu demokratskih odluka. U oba se slučaja zanemaruju moralni aspekti manipulacije i njezino potkopavanje digniteta drugih osoba. Uz to, budući da ne postoji uspostavljeni evaluativni okvir za procjenjivanje učinaka koje digitalne tehnologije imaju na autonomiju pojedinaca, nedostaju i obuhvatni prijedlozi zakonske regulative te javnih politika i mjera kojima bi se uklonile potencijalne štetne posljedice koje digitalne tehnologije pogonjene umjetnom inteligencijom imaju na prosuđivanje pojedinaca.

[2] Iako je ova rasprava relativno zapostavljena, postoji nekoliko primjera radova koji zahvaćaju odnos digitalnih tehnologija i autonomije pojedinaca. Primjerice, Moles (2007) u svojoj doktorskoj disertaciji analizira mentalnu kontaminaciju i proučava kako dezinformacije oblikuju stavove i odluke pojedinaca koji su im izloženi. Sahebi i Formosa (2022) fokusiraju se isključivo na društvene mreže i proučavaju njihov ograničavajući utjecaj na autonomiju pojedinaca, dok Cerovac i Drmić (2023) raspravljaju o lažnim vijestima i njihovom štetnom utjecaju na građansku sposobnost praktičnog rasuđivanja.

Glavna je teza ovog rada da digitalne tehnologije ugrožavaju primjenu individualne autonomije kroz potkopavanje epistemičkih sposobnosti građana te na taj način sprečavaju ili otežavaju moralno odlučivanje, budući da je sloboda preduvjet za moralnu odgovornost. Njegov inovativni doprinos obuhvaća promjenu fokusa dosadašnje filozofske rasprave o utjecaju umjetne inteligencije. Umjesto naglašavanja pitanja vezanih uz demokraciju ili kolektivno traženje za istinom, rad propituje mogu li građani uopće djelovati moralno ako žive i djeluju u narušenom epistemičkom okruženju.

Rad je podijeljen u tri dijela. U prvom se ukratko razmatra Kantovo shvaćanje autonomije te se proučava na koji način manipulacija predstavlja napad na negativnu slobodu građana, na primjenu individualne autonomije te kršenje digniteta osobe kojom se manipulira. U drugom se dijelu obrazlaže kako digitalne tehnologije pogonjene algoritmima umjetne inteligencije mogu imati manipulativni učinak te ozbiljno ugroziti primjenu autonomije pojedinaca. Štoviše, pokazat će se da ove tehnologije mogu izmijeniti i unakaziti epistemičko okruženje u kojem se građani nalaze do te razine da oni više nisu u mogućnosti razlikovati istine od laži u digitalnom okruženju, što može dovesti do njihove pasivizacije i odustajanja od pokušaja da se spozna i razumije svijet koji ih okružuje. U trećem se dijelu analiziraju neki oblici regulacije digitalnih tehnologija te se razmatra opravdanost i učinkovitost njihove primjene.

AUTONOMIJA U KANTOVOJ MORALNOJ FILOZOFIJI

Kant na autonomiju pojedinaca ne gleda kao na njihovu sposobnost da budu samodostatni i da žive neovisno o drugima. Isto tako, o autonomiji govori općenitije i apstraktnije nego što se taj pojam upotrebljava u suvremenim bioetičkim raspravama[3] o pitanjima pobačaja, eutanazije ili o specifičnim pravima građana u liberalnim društvima[4]. Autonomija volje za Kanta predstavlja nužan preduvjet rasprave o moralu – moralne obaveze i dužnosti nas obvezuju samo ukoliko smo racionalni subjekti čija volja može biti autonomna (Kant, 2002, str. 440-443). Sama sloboda volje može se razumjeti kao sloboda shvaćena na negativni i na pozitivni način. Negativna sloboda označava odsustvo prisile ili vanjskih utjecaja koji oblikuju proces rasuđivanja kod pojedinca. Ukoliko osoba promišlja i odlučuje u strahu od kazne, društvenih normi ili političkog autoriteta, vodeći se svojim emocijama ili željama, ili u epistemičkim uvjetima u kojima se njezinim vjerovanjima o svijetu sustavno manipulira, utoliko osoba neće imati slobodu volje u negativnom smislu (Kant, 2002, str. 445). Pozitivna

[3] Kao primjer vidi Baccarini i Prijić-Samaržija (2007).

[4] Detaljniju raspravu o tome što Kant ne smatra autonomijom volje vidi u Hill (1989).

sloboda označava slobodu osobe da sama sebi postavlja zakone, da bude zakonodavac u kraljevstvu ciljeva. Osoba slobodno djeluje prema moralnim zakonima koje si je sama postavila, odnosno prema univerzalnim moralnim zakonima do kojih je sama došla upotrebom svog uma (Kant, 2002, str. 440, vidi još Reath, 2006 i Hill, 2013).

Iako se suvremene rasprave unutar moralne i političke filozofije puno više bave slobodom shvaćenom u pozitivnom smislu i povezuju je s autonomijom, ovaj se rad usmjerava na negativno shvaćenu slobodu te na utjecaj koji vanjski čimbenici mogu imati na moralno djelovanje pojedinca. Naime, uz shvaćanje autonomije kao primarno pozitivne slobode, Kant jasno upućuje da ne smijemo zanemariti negativnu slobodu. Kada si postavljamo moralno i praktično pitanje „Što trebam činiti?“, moramo imati koncepciju nas samih kao bića slobodnih u negativnom smislu, čije djelovanje nije ograničeno emocijama, autoritetima ili drugim vanjskim čimbenicima (Piper, 2024). Bez negativne slobode ne možemo se smatrati autonomnim moralnim subjektima (Kant, 2002, str. 446-447, vidi i Hill, 2013, str. 17). Ovakvo Kantovo shvaćanje autonomije (utemeljeno na interpretaciji koju daje Thomas Hill[5]) daje prostora za tumačenje autonomije ne samo kao interne sposobnosti ili potencijala, već i kao preduvjeta za primjenu moralnih zakona. To tumačenje, koje ostaje u Kantovu duhu, usmjerava pažnju i prema uvjetima primjene i ostvarenja autonomije. Fokus se tako stavlja na heteronomne čimbenike koji ugrožavaju negativnu slobodu, a koji u vrijeme suvremenih digitalnih tehnologija postaju sve izraženiji, utjecajniji i teže uočljivi.

Realizacija autonomije osobe može biti ugrožena ili otežana na više načina. Ako osoba djeluje u skladu s praktičnim umom, ali je na samu radnju motivira neka želja ili sklonost, osoba ne djeluje autonomno (iako ima sposobnost ili potencijal da svojoj volji propiše zakone koji mogu važiti za svako drugo umno biće), već heteronomno, budući da ne djeluje iz poštovanja prema moralnom zakonu, već samo u skladu s njim. Primjerice, ako osoba pomaže drugima jer se čineći to osjeća dobro, njezina će volja biti heteronomna iako se sama radnja može činiti moralnom i pohvalnom. Isto vrijedi i za slučajeve u kojima osoba djeluje slijedeći vanjski autoritet – čak i ako na ovaj način djeluje u skladu s moralnim zakonima, osoba ne prakticira autonomiju, budući da je ne motivira moralni zakon do kojeg je došla upotrebom praktičnog uma. Djelovanje iz navike motivirano prihvaćenim društvenim normama, čak i kada je u skladu s moralnim dužnostima, također neće zadovoljiti uvjet autonomnog djelovanja, budući da nije motivirano racionalnim promišljanjem o moralnim

[5] „Volja osobe s autonomijom volje je slobodna u negativnom smislu. To jest, riječ je o vrsti kauzalnosti koja može biti aktivna, neovisno o vanjskim uzrocima koji je određuju. Drugim riječima, zamišljamo osobu s negativno slobodnom voljom kao osobu sposobnu djelovati i uzrokovati događaje bez da su njezini izbori uzročno određeni prethodnim fizičkim ili psihološkim silama“ (Hill, 2013, str. 18).

zakonima, a isto neće postići ni djelovanje iz prudencijalnog rasuđivanja (u formi hipotetičkog imperativa), kada osoba djeluje u skladu s moralnim dužnostima, ali s instrumentalnom nakanom ostvarivanja nekog osobnog cilja. Završno, Kant (2002, str. 445) ističe da ni osoba čijim se promišljanjem manipulira kroz laži i obmane neće moći realizirati autonomiju volje. Ako osoba motivirana moralnim dužnostima donira novac terorističkoj organizaciji koja je uspije zavarati i lažno se prikazati kao dobrotvorna humanitarna organizacija, osoba će naizgled djelovati iz dužnosti, no zapravo neće biti slobodna u negativnom smislu. Naime, Kant eksplicitno naglašava kako, da bi autonomno prosuđivala, osoba ne smije biti žrtva obmane ili manipulacije (Kant, 2002, vidi i O'Neill, 2014).

Primjena (sposobnosti) moralne autonomije utemeljena je u sposobnosti osobe da djeluje iz moralnih zakona koje si sama može postaviti. Međutim, osoba koja je obmanuta lažnim vijestima i drugim oblicima dezinformacija, kao i osoba koja se nalazi u epistemičkom okruženju u kojem ne može razlikovati istine od laži, više ne može djelovati prema praktičnom umu, budući da djeluje prema razlozima koji nisu njezini vlastiti, već su joj nametnuti izvana. Odluke koje osoba donosi prestaju biti rezultat njezine racionalne volje i postaju rezultat vanjskih utjecaja. Kognitivna neovisnost zbog toga predstavlja bitan preduvjet realizacije autonomije volje (Zinkin, 2024).

Manipulacija koja ugrožava primjenu autonomije volje može se manifestirati na više načina. Izlaganje osobe lažima u koje će ona povjerovati jedan je od očitih primjera. Međutim, manipulacija ne mora nužno uključivati laganje – namjerno izazivanje snažnih emotivnih i afektivnih stanja u kojima osoba neće moći primjereno rasuđivati, kao i pružanje istinitih statističkih podataka s ciljem iskorištavanja pristranosti i predrasuda koje osoba ima, mogu biti učinkoviti oblici manipulacije (Coeckelbergh, 2022; Frierson, 2005). U drugom dijelu rada pokazat će se kako su digitalne tehnologije pogonjene algoritmima umjetne inteligencije izuzetno učinkovite u facilitiranju svih navedenih oblika manipulacije. Ipak, prije toga je potrebno zahvatiti zašto je manipulacija unutar okvira Kantove moralne filozofije toliko problematična.

Manipulativan utjecaj na rasuđivanje neke osobe, smatra Kant, vrijeđa istovremeno i negativnu slobodu i dostojanstvo te osobe. Manipulirajući rasuđivanjem neke osobe, čak i ako to činimo s dobrim namjerama i s ciljem da tu osobu zaštitimo, tretiramo je poput djeteta, a ne poput odrasle osobe te joj ne pridajemo poštovanje koje zaslužuje[6] (Quong, 2010). Manipulacija tako, poput laganja ili vršenja prisile,

[6] Zanimljiva rasprava vezana uz ove oblike manipulacije razvila se među teorijama javnog opravdanja unutar političke filozofije. Rawlsova koncepcija javnog opravdanja (koja se oslanja i nadahnuće crpi iz Kantove moralne filozofije) tako polazi od ideje kako građani ne smiju kao javne razloge nuditi one u koje sami ne vjeruju, ali s kojima se drugi slažu. Takvo se sudjelovanje u javnoj raspravi smatra manipulativnim i neprihvatljivim, budući da se druge građane nastoji uvjeriti u prihvaćanje neke političke odluke razlozima u koje sami ne vjerujemo. Ovakav

oduzima autonomiju žrtvi (Korsgaard, 2007; Sunstein, 2022) te je „čini podložnom volji drugih" (Margalit, 2016, str. 104). Budući da dostojanstvo proizlazi iz ljudske racionalne prirode (Kant, 2002, 2015; vidi i Eterović, 2017), a manipulirajući drugima negiramo upravo tu vrijednu (racionalnu) ljudskost u njima, manipulativnim ponašanjem ih prestajemo tretirati kao autonomne moralne subjekte i svodimo ih na puke objekte, sredstva koja služe za postizanje naših ciljeva. Čak i kad su naše namjerne dobre a ciljevi plemeniti, ovo nezaobilazno negira moralni status drugih i potkopava njihovo dostojanstvo kao ljudskih bića.

Iako nam Kantova moralna filozofija nije nužna za opisivanje i objašnjenje etičkih problema vezanih uz manipulaciju, budući da je to moguće postići i kroz druge pristupe, poput onih utemeljenih na blagostanju (Mill, 2020; vidi i Baron, 2016), ona nam omogućuje razumijevanje nekih aspekata moralne pogrešnosti manipulacije koje drugi pristupi ne pokrivaju. Uz to, pokazuje da manipulacija može imati i dalekosežne implikacije na naše moralno okruženje, budući da moralnu odgovornost mogu snositi samo slobodni moralni subjekti (Kant, 2002; vidi i Hill, 2013), pa se tako u okolnostima raširene i sustavne manipulacije facilitirane digitalnim tehnologijama pogonjenim algoritmima umjetne inteligencije dovodi u pitanje održivost moralnog sustava u suvremenim tehnološkim društvima. Ipak, da bi se argumentirano izložila opasnost koju negativnoj slobodi pojedinaca i primjeni individualne autonomije predstavljaju algoritmi umjetne inteligencije, potrebno je sagledati na koje načine oni mogu manipulirati ljudskim prosuđivanjem i razmotriti razlikuje li se ta manipulacija u značajnoj mjeri od tradicionalnih oblika propagande koji se koriste stoljećima.

DIGITALNE TEHNOLOGIJE KAO PRIJETNJA INDIVIDUALNOJ AUTONOMIJI

Epistemičko okruženje u kojem se osoba nalazi ima značajan utjecaj na njezino prosuđivanje i može facilitirati heteronomiju (umjesto autonomije) volje. Naime, iako moralna načela proizlaze iz praktičnog uma i ne ovise o specifičnim informacijama o svijetu, njihova primjena će uvelike ovisiti o informacijama kojima pojedinac raspolaže. Uz to, čak i promišljanje o moralnim načelima može biti otežano ako se osoba nalazi u dugotrajnom i sustavno manipulativnom epistemičkom okruženju. Primjerice, kako bi se među građanima opravdao neljudski tretman uspostavljen brojnim antisemitskim politikama, nacisti su 1930-ih i 1940-ih trebali razviti i proširiti niz pseudoznanstvenih teorija koje su imale za cilj dokazati (na empirijski

način uvjeravanja tako počinje sličiti ponašanju roditelja koji pokušava nagovoriti dijete da ranije otiđe spavati uvjeravajući ga kako Djed Božićnjak nagrađuje poslušnu djecu (Rawls, 2005, vidi i Quong, 2010).

način, od mjerenja lubanja i rasne biologije preko genetike i ideja o rasnoj čistoći do pseudoznanstvenih teorija o židovskoj psihologiji) da Židovi nisu ljudi na isti način na koji su to Nijemci (Ferretti, 2018). Ove deskriptivne teorije koje se bave empirijskim podacima su, u kombinaciji s propagandom i rasnom ideologijom utkanom u razne grane povijesti, antropologije, filozofije, umjetnosti i obrazovanja, svakako ugrozile primjenu autonomiju volje građana i otežale im ili onemogućile da ispravno primjenjuju moralna načela. Iako su društveni i politički uvjeti u suvremenim zapadnim demokracijama značajno drukčiji, razvoj digitalnih tehnologija i primjena algoritama umjetne inteligencije u stvaranju i diseminaciji informacija može na sličan način dovesti do heteronomije volje građana. Ovaj se dio rada bavi analizom digitalnih tehnologija i algoritama koji značajno utječu na epistemičko okruženje u kojem se građani nalaze (ili će se nalaziti) u 21. stoljeću te razmatra četiri oblika utjecaja.

(i) Lažne vijesti i dezinformacije u digitalnom prostoru

Lažne vijesti predstavljaju netočne ili obmanjujuće informacije koje su namjerno kreirane da nalikuju na tradicionalne medijske izvještaje (Allcott i Gentzkow, 2017; McIntyre, 2018). Da bi informacija bila označena kao lažna vijest, mora zadovoljiti četiri kriterija. Prvo, informacija mora biti netočna ili pouzdano dovesti slušatelja do netočnog zaključka (Gelfert, 2021; Rini, 2017). Drugo, ona mora biti stvorena s namjerom obmanjivanja. Treće, lažne vijesti moraju oponašati format tradicionalnog izvještaja kako bi stekle vjerodostojnost. Četvrto, informacije svojim sadržajem i formatom moraju imati potencijal za široku distribuciju, obično putem društvenih mreža, što se postiže senzacionalizmom i emocionalnim nabojem (Zimdars i McLeod, 2020). Brojna istraživanja potvrđuju opasnosti koje lažne vijesti mogu imati na osobne živote građana (Cerovac i Drmić, 2023; Rapp, 2016), kao i na kvalitetu demokratskih procesa (McKay i Tenove, 2021).

Nove tehnologije pogonjene algoritmima umjetne inteligencije pospješile su doseg i brzinu širenja dezinformacija u digitalnom prostoru. Društvene mreže omogućavaju milijunima korisnika da dijele informacije i vijesti, kao i dezinformacije i lažne vijesti, koje se zbog senzacionalističkog formata i emocionalnog naboja šire izrazito brzo i oblikuju rasuđivanje velikog broja građana kojima su društvene mreže glavni izvor informacija (Kiri Gunn, 2021). Uz to, ako neka osoba pokaže interes ili uđe u interakciju s lažnim vijestima, sustavi koji korisnicima preporučuju sadržaj na osnovi njihovih ranijih upita težit će nastaviti voditi osobu do novih, tematski povezanih lažnih vijesti koje će potvrditi predrasude ili pogrešna nagađanja od kojih je osoba izvorno krenula (Zhang i sur., 2021). Poznat primjer ovakve epistemičke ovisnosti o obmanjujućim izvorima informacija vezuje se uz teoriju zavjere poznatu

kao Pizzagate, u kojoj je oko 10 % registriranih glasača u SAD-u vjerovalo kako je predsjednička kandidatkinja Hillary Clinton uključena u pedofilski lanac koji sjedište ima u manjem restoranu u Washingtonu (Zimdars i McLeod, 2020). Ipak, utjecaj na brzinu i doseg širenja lažnih vijesti samo je jedan od zabrinjavajućih učinaka digitalnih tehnologija.

S razvojem naprednijih algoritama i velikih jezičnih modela, ove tehnologije sada mogu facilitirati i kreiranje lažnih vijesti, od izrade obmanjujućih mrežnih stranica u svega nekoliko sekundi (ili tisuća takvih stranica u danu) do manipuliranja internetskim tražilicama kako bi novokreirani sadržaj dobio prioritet u prikazivanju korisnicima (Endert, 2024; Spitale i sur., 2023). Mogućnost manipuliranja fotografijama i videozapisima dosegla je do sada neviđene razine, tako da i korisnici s malo tehničkog znanja mogu kreirati izrazito uvjerljive materijale koje gotovo svi građani (osim onih koji nisu posebno trenirani za to) ne mogu prepoznati kao fabricirani sadržaj. Poznat je slučaj izmijenjene i manipulirajuće snimke koja prikazuje Nancy Pelosi, članicu Zastupničkog doma Kongresa SAD-a, kako pijano tetura i govori pred medijima (Hameleers i sur., 2024), a koju je svojevremeno putem društvenih mreža (iako je bilo riječ o izmijenjenom i manipulirajućem videu) podijelio tadašnji američki predsjednik. Ovakav je sadržaj uz pomoć umjetne inteligencije danas veoma lako kreirati i proširiti društvenim mrežama, lažnim mrežnim stranicama koje imitiraju format tradicionalnih medija, kao i putem poruka u velikim grupama i kanalima platformi za komunikaciju (npr. Telegram) (La Morgia i sur., 2021). Uz to, napredak u razvoju umjetne inteligencije omogućuje stvaranje sve razvijenijih botova, automatiziranih programa koji mogu obavljati brojne zadaće na internetu, koji lažno nastupaju kao drugi korisnici (ljudi) te šire dezinformacije, utječu na javno mnijenje, manipuliraju algoritmima u društvenim mrežama te stvaraju iluziju potpore nekom kandidatu ili privatnom poduzeću, nekom proizvodu ili javnoj politici (Ferrara, 2020).

Štetan utjecaj lažnih vijesti na prosuđivanje pojedinaca prisutan je čak i kada je sama informacija ispravno i na vrijeme prepoznata kao neistinita. Naime, čak i ako građani ne vjeruju dezinformacijama koje susreću preko medija, društvenih mreža i općenito u javnoj sferi, sama činjenica da su se s njima susretali (a zahvaljujući algoritmima umjetne inteligencije, to susretanje može biti učestalo i sustavno) naštetit će njihovu rasuđivanju (Ecker i sur., 2022; Menczer i Hills, 2020). Primjerice, pojedinci koji su se susretali s lažnim vijestima oko opasnosti cijepljenja i koji su ispravno prepoznali te dezinformacije kao lažne i dalje će biti manje skloni cijepljenju nego skupina koja nije bila izložena lažnim vijestima. Autonomija pojedinaca je tako dovedena u pitanje, budući da postoji izvanjski manipulativni učinak koji usmjerava njihovo rasuđivanje i njihovu primjenu moralnih načela.

Utjecaj digitalnih dezinformacija na autonomiju pojedinaca razoran je, budući da potkopava njihovu sposobnost donošenja informiranih odluka i otvara vrata novim oblicima manipulacije. Građani se danas sve više oslanjaju na digitalne tehnologije za informiranje o događajima u svijetu, osobito na one koje nisu moderirane i nemaju strogu (ili ikakvu) uređivačku politiku. Primjerice, istraživanja provedena 2024. godine u SAD-u pokazuju da čak 54 % građana koristi društvene mreže za informiranje o događanjima u državi i svijetu, a 18 % ističe kako su im društvene mreže preferirani izvor vijesti (PEW Research Center, 2024). Opravdano je očekivati kako će taj trend nastaviti rasti i u budućnosti, kao što će rasti i sposobnosti algoritama umjetne inteligencije da kreiraju obmanjujuće i manipulirajuće sadržaje čiju pravu prirodu korisnici neće moći prepoznati. U takvom će epistemičkom okruženju građani ili vjerovati u neke od izvora vijesti, izlažući se tako u većoj ili manjoj mjeri mogućnostima manipulacije, ili će početi osjećati „epistemički sram" (Coeckelbergh, 2024, str. 1343) te se moralno i politički pasivizirati, budući da će biti svjesni kako više ne mogu razlikovati istinu od laži. Naposlijetku, kako prosuđivati i primjenjivati moralne zakone ako ne znamo što je stvarnost a što je obmana? Ova neizbježna sumnja u vlastite epistemičke sposobnosti, suprotna Kantovom (2010) pozivu „Sapere aude!" (često prevođenom kao „Usudi se koristiti vlastiti um!"), predstavlja negaciju vlastite autonomije i slobode mišljenja. Naime, sposobnosti digitalnih tehnologija da stvaraju, oblikuju i šire lažne informacije, uključujući i sposobnosti da kroz botove „glume" druge ljude u digitalnom svijetu, mogu toliko kontaminirati epistemički prostor u kojem se krećemo da epistemičke sposobnosti građana više neće biti adekvatne za odgovorno snalaženje u ovakvim okolnostima.

(ii) Epistemički baloni

Suvremena politička i socijalna epistemologija sve veću pozornost usmjeravaju na epistemičke mreže kroz koje se informacije šire unutar zajednice. Struktura ovih mreža utječe na vrstu informacija koje se šire, na brzinu širenja, na gubitke u preciznosti i točnosti sadržaja koji se događaju kada se informacija širi, kao i na utjecaj koji sama informacija ima na prosuđivanje pojedinca koji je dio neke epistemičke mreže (Singer i sur., 2021). Epistemički baloni i komore jeke dva su ključna koncepta za razumijevanje ove rasprave. Epistemički baloni predstavljaju zatvorena epistemička okruženja u kojima su pojedinci izloženi relativno uskom rasponu gledišta, najčešće zato što se različite perspektive ignoriraju ili isključuju. Nove informacije teško ulaze u balon, a neke informacije iz njega teško izlaze. Epistemički baloni često vode do političke polarizacije i drugih štetnih pojava, no njihov nastanak uglavnom nije rezultat svjesnog i namjernog djelovanja pojedinaca, već do njega dolazi kroz selektivno izlaganje informacijama. Komore jeke na sličan način ograničavaju pristup novih informacija i perspektiva, no za razliku od epistemičkih balona one nastaju

svjesno i s namjerom, primjerice kroz dogovorenu cenzuru unutar neke grupe (ili epistemičke mreže) kojom se uklanjaju ili destimuliraju različita razmišljanja ili kritičko propitivanje postojećeg konsenzusa (Kiri Gunn, 2021; Nguyen, 2020). U oba slučaja rezultat je nepovoljno epistemičko okruženje koje negativno utječe na prosuđivanje pojedinaca koji čine dio takve epistemičke mreže. Ono pojedincima otežava pristup novim informacijama, dovodi do potvrđivanja postojećih pristranosti i predrasuda, potiče političku polarizaciju te smanjuje sposobnosti kritičkog promišljanja, što građane čini još podložnijima manipulaciji, budući da ne dolaze do novih izvora informacija (Pollock, 2024).

Komore jeke nisu u fokusu ovog rada, budući da se one, iako epistemički štetne, kreiraju svjesno i namjerno te pojedinci u njih ulaze (ili ih kreiraju) svjesni cenzure i znajući kakva pravila rasprave odlikuju takve epistemičke mreže. Značajno su nam zanimljiviji epistemički baloni, budući da se u njihovu slučaju selektivno izlaganje informacijama događa nenamjerno i nesvjesno, bez puno znanja pojedinca o ograničavajućim učincima balona u kojem se nalazi (Pariser, 2011). Budući da se danas u zapadnom svijetu većina građana informira putem interneta, bilo da je riječ o čitanju članaka na portalima, praćenju društvenih mreža ili YouTube kanala i podcasta (PEW Research Center, 2024), značajan faktor u selektivnom izlaganju informacijama predstavljaju algoritmi umjetne inteligencije koji, kroz mehanizme preporuka, određuju koje će informacije, kada i u kojoj mjeri biti ponuđene krajnjem korisniku. Riječ je o individualiziranom pristupu (koji je moguć baš zbog algoritama umjetne inteligencije koji obrađuju goleme količine podataka, uključujući i podatke o korisniku i njegovoj povijesti na internetu), a koji služi kako bi zadržao ili povećao interes korisnika za ponuđene sadržaje te pojačao interakciju koju korisnik ima s njima.

Ključni problem kod algoritamski kreiranih epistemičkih mjehura je da oni predstavljaju epistemičko okruženje koje može bitno utjecati na prosuđivanje pojedinca, a samo nije pod kontrolom tog istog pojedinca (Coeckelbergh, 2023). Koristeći tražilice kao što su Google, Bing ili Yahoo, gledajući videomaterijale ili pretežući podcaste putem YouTube kanala ili provodeći vrijeme na društvenim mrežama mi se neizbježno krećemo unutar određenog epistemičkog okruženja (u ovom slučaju, okruženja koje ima format epistemičkog mjehura) koje nismo sami kreirali i na koje ne možemo utjecati, a koje pak značajno utječe na naše prosuđivanje i formiranje vjerovanja. Iako se danas, barem u liberalnim demokracijama[7], ovi algoritmi koriste prvenstveno za maksimizaciju profita tvrtki koje su ih dizajnirale, oni mogu kroz plaćeno oglašavanje lako biti iskorišteni kako bi utjecali na promišljanje pojedinaca

[7] Direktnija upotreba algoritama umjetne inteligencije koji upravljaju rezultatima internetskog pretraživanja može se naći u brojnim neliberalnim državama svijeta. Primjerice, Kina je poznata po manipuliranju tražilicama kako bi širila političku propagandu i kontrolirala epistemičko okruženje svojih građana (Zhang, 2020).

i postigli neki politički, društveni ili ekonomski cilj za koji se zalažu oglašivači (Tufekci, 2014). Na ovaj su način građani izloženi kontinuiranoj manipulaciji, kreću se kroz epistemičko okruženje koje ne mogu kontrolirati te je njihova autonomija volje ozbiljno narušena.

(iii) Mikrociljanje i sustavi preporuka

Algoritmi umjetne inteligencije koji stoje iza mehanizama preporuka te tako omogućuju stvaranje epistemičkih balona facilitiraju još jedan oblik problematične diseminacije informacija. Riječ je o korištenju algoritama za analizu i kreiranje pomno osmišljenih i prilagođenih vijesti i oglasa usmjerenih prema manjim grupama ljudi s obzirom na njihove demografske osobine, političke ili tržišne preferencije i interese te ponašanja na internetu. Ove metode (poznate kao mikrociljanje) značajno su uspješnije od standardnih oglasa distribuiranih kroz tradicionalne medije te omogućavaju iskorištavanje raznih pristranosti kod korisnika kako bi im poruke koje se putem oglasa šalju zvučale što uvjerljivije (Barbu, 2014). Mikrociljanje se tipično koristi kako bi oglasi za različite proizvode i usluge došli upravo do onih korisnika za koje se procjenjuje da će biti najviše zainteresirani za ponuđene stvari. Analizirajući velike količine podataka, uključujući osobne podatke o korisnicima i njihovo ponašanje na internetu, moguće je precizno usmjeriti plaćeni oglas ili pak prilagoditi rezultate tražilica.

Tehnološki napredak te prikupljanje i akumuliranje sve veće količine podataka o korisnicima omogućava nove i još sofisticiranije modele mikrociljanja koji se sve više koriste u političke svrhe. Djelujući kao „manipulacijski stroj" (Simchon i sur., 2024) algoritmi mikrociljanja omogućuju povezivanje različitih informacija o korisnicima kako bi stvorili što učinkovitije oglase, prilagođavajući ne samo sadržaj oglasa već i njegov jezik i stil izražavanja, vrijeme pojavljivanja i grafički dizajn prema analiziranim preferencijama korisnika. Njihov utjecaj je osobito izražen kod političkog oglašavanja gdje se mikrociljanje koristi u političkim kampanjama, procesima javnog zagovaranja i nastojanjima utjecanja na javno mnijenje oko nekih politički relevantnih tema (Witzleb i Paterson, 2021, vidi i Cerovac, 2023). Poznati primjer upotrebe mikrociljanja kako bi se utjecalo na izborne procese i manipuliralo rasuđivanjem građana predstavlja kontroverza vezana uz konzultantsku tvrtku Cambridge Analytica koja je preko društvene mreže Facebook došla do osobnih podataka oko 87 milijuna korisnika (od kojih golema većina nije bila svjesna da tvrtka raspolaže njihovim podacima), te je koristeći prikupljene podatke i algoritme mikrociljanja utjecala na izborne procese poput Američkih predsjedničkih izbora 2016. godine i Referenduma o Brexitu (Kang i Frenkel, 2018; Webb i sur., 2021).

Mikrociljanje pogonjeno algoritmima umjetne inteligencije predstavlja učinkovit alat za utjecanje na promišljanje pojedinaca (Bonicalzi i sur., 2023). Koristeći se različitim strategijama, uključujući eksploataciju strahova ili predrasuda korisnika, pojedince se navodi na prosuđivanje utemeljeno na emocijama (a ne na praktičnom umu) te se otežava kritičko promišljanje kroz preopterećivanje kognitivnih sposobnosti korisnika oglasima istog tipa, a sve s ciljem stvaranja epistemičkog mjehura koji će pojedinca izolirati od drugih izvora informacija. Budući da je cijeli proces usmjeren na manipulaciju rasuđivanjem pojedinaca, korištenje algoritama umjetne inteligencije kako bi se kroz mikrociljanje distribuiralo plaćene oglase predstavlja jasan slučaj napada na autonomiju volje pojedinca.

(iv) Veliki jezični modeli

Sve češća upotreba velikih jezičnih modela pogonjenih algoritmima umjetne inteligencije može predstavljati još jedan oblik ugroze negativne slobode pojedinaca. Prošlogodišnja istraživanja pokazuju kako 89 % učenika i studenata u SAD-u koristi ChatGPT za obavljanje školskih i fakultetskih obaveza, a 53 % ga koristi za pisanje domaćih i seminarskih radova (Yu, 2023). Uz to, sve veći broj ljudi koristi velike jezične modele za prikupljanje informacija vezanih uz zdravlje, financije ili politiku. Iako sposobnost ovih algoritama da u vrlo kratkom vremenu analiziraju i ususstave velike količine podataka može biti izrazito korisna u rješavanju zadataka, ističu se (barem) dva ključna problema.

Prvo, ovi modeli su trenirani na velikim količinama podataka, no krajnji korisnici nisu upoznati s izvorima informacija iz kojih veliki jezični modeli izvlače informacije. Sadržaj koji kreiraju ovi modeli tako može isključiti neke važne perspektive ili par promovirati neke postojeće pristranosti (ovisno o podacima na kojima je model treniran). Primjerice, uočeno je kako je ChatGPT sustavno pristran prema liberalnim svjetonazorima te gaji predrasude prema konzervativcima (McGee, 2023). Osim toga, budući da modeli uče iz postojećih materijala, koji su i sami često pristrani i oblikovani društvenim uvjetima i epistemičkim okolnostima u kojima su nastali, rezultati mogu perpetuirati ili pojačavati epistemičke nepravde u društvu nepravedno marginalizirajući perspektive i stavove potlačenih društvenih skupina (Kay i sur., 2024, vidi također Samaržija i Cerovac, 2021).

Drugo, oslanjanje na velike jezične modele za rješavanje zadataka uvelike smanjuje kritički odnos prema primljenim informacijama. Korisnici prebacuju velik dio kognitivnog posla i racionalnog promišljanja na algoritme umjetne inteligencije, što pak kod korisnika (a pogotovo kod djece) dovodi do gubitka nekih važnih vještina vezanih uz razumijevanje konteksta rasprave, inovativno razmišljanje, pa čak i interpersonalnu komunikaciju (Kasneci i sur., 2023). U velikom broju slučajeva

(preko 70 %) korisnici velikih jezičnih modela kao što je ChatGPT uopće ne provjeravaju i ne sumnjaju u rezultate koje im model daje (Xu, Feng i Chen, 2023).

Oba problema upućuju na ugrožavanje negativne slobode pojedinca. U prvom slučaju oslanjanje na velike jezične modele čini pojedince podložnima manipulaciji kroz često pristrane algoritme koji analiziraju velike količine podataka i korisnicima pružaju konačne (a često pristrane) informacije. U drugom slučaju, riječ je o gubitku vještina kritičkog mišljenja u kojem se korisnici u prevelikoj mjeri i bez zadrški oslanjaju na umjetnu inteligenciju. Više nije problem usude li se pojedinci koristiti vlastite moći rasuđivanja, već imaju li motivaciju upustiti se u kritičko promišljanje kada im veliki jezični model nudi jednostavne i uvjerljive odgovore (koji su često prilagođeni da odgovaraju interesima, ali i pristranostima samih korisnika). Sve veće oslanjanje na velike jezične modele, pogotovo kod djece koja još nisu usvojila vještine kritičkog promišljanja, upućuje na opasnost koju ove digitalne tehnologije predstavljaju negativnoj slobodi pojedinaca.

Gubitak neovisnosti u mišljenju, suđenju i djelovanju svakako predstavlja potencijalni društveni problem koji može naštetiti kvaliteti političkih odluka (Cerovac, 2020; Coeckelbergh, 2023), no ostaje pitanje tko je kriv za ovaj gubitak. Prema strogom čitanju Kanta, krivnja leži na samim pojedincima koji se oslanjaju na digitalne tehnologije, bilo da je riječ o informiranju kroz društvene mreže i internetske tražilice ili korištenju velikih jezičnih modela za rješavanje praktičnih problema. Ipak, za potrebe ovog rada fokus neće biti na strogom čitanju Kanta, već na Kantom inspiriranom čitanju koje polazi od pretpostavke kako je nepoželjno (i, ako želimo funkcionirati u suvremenom svijetu, postaje gotovo nemoguće) odustati od upotrebe digitalnih tehnologija kako bismo očuvali vlastitu samostalnost u promišljanju, suđenju i djelovanju. Odbacivanje produkata tehnološkog razvoja na sličan način kao što su to radili ludisti početkom 19. stoljeća ne samo da onemogućava funkcioniranje u suvremenom svijetu, nego i uskraćuje pristup pozitivnim učincima koje digitalne tehnologije mogu imati na naše moralne i epistemičke prakse. Iako nije nemoguće potpuno odustati od oslanjanja na digitalne tehnologije pogonjene algoritmima umjetne inteligencije, pristup ovog rada ne poziva na vraćanje u prošlo stanje u kojem smo se manje oslanjali na tehnologiju, već zagovara pristup usmjeren na promišljanje o umjerenoj i mudroj regulaciji ovih tehnologija kako bi se umanjio negativni učinak koji imaju na negativnu slobodu pojedinaca.

REGULACIJA DIGITALNIH TEHNOLOGIJA KAO POKUŠAJ OČUVANJA NEGATIVNE SLOBODE GRAĐANA?

Dosadašnja je analiza pokazala da digitalne tehnologije pogonjene algoritmima umjetne inteligencije mogu doprinijeti ugrožavanju negativne slobode, koja je važna primjenu moralne autonomije građana na konkretna moralna pitanja. Osim što se često koriste za manipulaciju rasuđivanja građana i za kontroliranje javnog mnijenja kroz neke već poznate mehanizme (distribucija lažnih vijesti, političko oglašavanje i mikrociljanje), ove tehnologije oblikuju epistemičko okruženje u kojem je, čak i u slučajevima kada nema internacionalne manipulacije inicirane od strane drugih ljudi, sve teže služiti se vlastitim umom (korištenje velikih jezičnih modela, sustavi preporuka i povezani epistemički baloni). Preostaje vidjeti slijedi li, prema jednom od čitanja Kantove misli (utemeljenom na interpretaciji Thomasa Hilla), iz ove ugroze i dužnost da se uspostavit regulacija digitalnih tehnologija koja će zaštititi ili čak promicati autonomiju pojedinaca.

Iako Kant ne govori izravno o dužnostima za stvaranje sigurnog i poticajnog epistemičkog okruženja, zahvaća brojne povezane teme iz kojih se može izvesti i njegova podrška regulaciji alata i tehnologija koje ugrožavaju autonomiju volje. Pišući o autonomiji, Kant smatra kako pojedinac ima dužnosti prema sebi i dužnosti prema drugima. U prvom slučaju, dužnost je čuvati vlastitu autonomiju kroz unaprjeđivanje vlastitih racionalnih sposobnosti te izbjegavanje epistemičkih okruženja koja će dovesti do samonametnutog neznanja[8]. U drugom slučaju, dužnost je ne ograničavati ili ugrožavati autonomiju volje drugih, što će uključivati i zabranu manipuliranja drugima te ograničavanje upotrebe alata, tehnologija ili procedura koje će druge ostaviti u neznanju ili će štetno djelovati na njihove epistemičke prakse i sposobnost da slobodno koriste vlastiti um (Kant, 2002, vidi i Hill, 1992). Na ovo upućuju i brojni suvremeni interpreti Kantove misli kada pišu kako su „najviše dužnosti ljudskih bića osigurati da drugi ljudi prakticiraju neometanu autonomiju volje te da dobivaju poštovanje koje njihovo dostojanstvo zaslužuje, kao i brinuti za blagostanje drugih i tretirati ih s poštovanjem“ (Faroso, 2019, str. 81)[9]. Na sličan se način može interpretirati i Kantov poznati poziv ljudima da se usude koristiti vlastitim umom (Kant, 2010): uz jasnu osobnu primjenu ovog poziva, Kant govori i o njegovoj društvenoj primjeni. U tom slučaju, poziv traži osiguravanje društvenih

[8] Ova dužnost proizlazi iz naše dužnosti poštovanja dostojanstva u nama samima i u svakog drugoj osobi.

[9] Slično zagovara i Hill koji piše kako „opseg naših izbora može biti nelegalno ograničen na više načina – kroz fizičku silu, prijetnje i prisilu, prevare i manipulaciju, kao i kroz opresivne ideologije koje oštećuju našu sposobnost da racionalnu samo-vladavinu“. Uzevši ovo u obzir, Hill nastavlja kako „imamo snažne razloge (kao racionalni moralni zakonodavci) uspostaviti i održavati principe koji brane pravo svake osobe da vlada svojim vlastitim životom unutar određenih granica“, što će pak tražiti da „suzbijemo nelegitimna ograničavanja opsega naših izbora“ (Hill, 2013, str. 29).

uvjeta za slobodno korištenje ljudskim umom u javnom diskursu (Cronin, 2003). Drugim riječima, traži se osiguravanje društvenih preduvjeta za stvaranje epistemičkog okruženja koje će osiguravati primjenu autonomije volje građana[10].

Dužnost za stvaranje takvog epistemičkog okruženja dijelom leži na samim pojedincima, ali u velikoj mjeri i na vladama i javnim institucijama, kojima je dužnost stvoriti uvjete u kojima njihovi građani mogu slobodno i autonomno koristiti vlastiti um (Kant, 2017). Ova dužnost bi, do određene razine, obuhvaćala i sprečavanje manipulacije kroz lažne vijesti, dezinformacije i mikrociljanje, kao i sprečavanje drugih oblika heteronomije volje koji proizlaze iz korištenja velikih jezičnih modela, izloženosti sustavima preporuka i boravka unutar epistemičkih balona. Naime, iako bi se Kant složio kako pojedinci imaju moralno pravo da ne budu žrtve manipulacije, značajno je teže postaviti istu tvrdnju u kontekstu legalnog prava (zbog problema definiranja manipulacije, kao i zbog opasnosti cenzure). Zbog toga kantovski pristup ne zagovara zabranjivanje manipulacije općenito, već se iz njegove interpretacije može zagovarati samo regulaciju određenih praksi koje se mogu karakterizirati kao manipulativne. Naime, „u svojim najgorim oblicima manipulacija predstavlja oblik krađe, a zakon treba zabranjivati krađu, kako god da se odvijala" (Sunstein, 2022, str. 1960). Bilo kakav konkretan prijedlog takve regulacije značajno bi prelazio okvire ovog rada, tako da je cilj ovog dijela samo bio pokazati da unutar Kantove filozofije postoje dobri temelji za promišljanje o regulaciji digitalnih tehnologija.

Sprječavanje štetnog utjecaja koji digitalne tehnologije pogonjene algoritmima umjetne inteligencije imaju na primjenu autonomiju građana može se sagledati unutar rasprave o sprečavanju širenja lažnih vijesti i dezinformacija na internetu. Ova rasprava obuhvaća različite metode, od edukacije građana preko odgovornosti tehnoloških kompanija do pravne regulacije (Gelfert, 2021, vidi također Cerovac i Drmić, 2023). Međutim, rasprava o lažnim vijestima samo djelomično zahvaća probleme koji se vezuju uz mikrociljanje i političko oglašavanje ili uz velike jezične modele. U ovim je slučajevima ključno razumjeti kako utjecaj koji ove tehnologije vrše na rasuđivanje pojedinaca uvelike ovisi o količini informacija o korisnicima kojima algoritmi raspolažu. Ključ učinkovitosti tvrtke Cambridge Analytica u političkom oglašavanju i utjecanju na rezultate izbora nije bio u kvaliteti samog programskog koda, već u količini informacija o korisnicima koje je ova tvrtka uspjela nelegalno

[10] Thomas Hill ističe kako imamo razloge „ne samo štititi, razvijati i prakticirati naše vlastite sposobnosti za racionalnu autonomiju unutar granica koje primjereno poštuju druge, već i razvijati i podupirati društvene institucije i odnose koji promiču ovu vrijednost za sve, na primjer, kroz škole, organizacije građana, standarde etičkog novinarstva, reformu zatvora i slično". Nadodaje kako „imamo razloga brinuti o mogućnostima i resursima svake osobe da živi efektivno u kontroli nad svojim vlastitim životom, no možemo promicati tu vrijednost samo pod principima koji su pravični prema svima te poštuju moralna ograničenja oko dozvoljenih sredstava" (Hill, 2013, str. 28).

prikupiti. Prema tome, značajan napredak u uklanjanju štetnog utjecaja koji algoritmi umjetne inteligencije imaju na autonomiju pojedinaca može se postići reguliranjem vrste i tipa informacija koje kompanije mogu prikupljati o svojim korisnicima, kao i reguliranjem njihove politike upravljanja tim podacima (Zarsky, 2019) i razinom personalizacije sadržaja kroz sustave preporuka koje digitalne platforme koriste (Susser i sur., 2019).

Dok filozofska literatura nudi neke generalne smjernice za društveno-političko nastojanje zaštite autonomije pojedinaca, za izradu konkretnih rješenja potreban je obuhvatan interdisciplinarni pristup. Filozofska rasprava o autonomiji volje, uključujući i Kantov pristup koji nam ne objašnjava samo kada je prakticiranje autonomije ugroženo, već nam daje i čvrsto utemeljenje njezinog značaja, svakako predstavlja bitan element takvog (sve nužnijeg) interdisciplinarnog pristupa.

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Fake News, Digital Technologies, and the Erosion of the Realisation of Individual Autonomy in Light of Kantian Ethics

SUMMARY

Digital technologies have been radically transforming the epistemic environment of citizens. By creating the way citizens collect information, communicate, or make decisions, digital technologies form new epistemic practices, which provide space for some old as well as new forms of manipulation. This paper begins with an analysis of Kant's conception of the autonomy of the will and shows how and in what cases this autonomy can be threatened. The paper continues by providing insights into how digital technologies can threaten the autonomy of citizens. It analyses the ability of AI algorithms to spread fake news and political propaganda through microtargeting and recommender systems. Furthermore, the paper considers the harmful influence of these technologies on the epistemic practices of citizens, emphasising the AI algorithm's tendency to create epistemic bubbles or overreliance on large language models, thereby weakening individual's judgement ability. Finally, some regulation models of these technologies are considered, and the Kantian stronghold to justify such practices is highlighted.

Keywords: recommender systems, microtargeting, large language models, fake news, epistemic bubbles, heteronomy of will.

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Samuel Kahn*

Kantian Trolleyology

SUMMARY

This article examines six contemporary Kantian approaches to Judith Jarvis Thomson's famous trolley problem, a thought experiment that continues to challenge philosophers and non-philosophers alike. The approaches analyzed include those of Paul Guyer, Pauline Kleingeld, Samuel Kerstein, Elke Elisabeth Schmidt, James Edwin Mahon, and Allen Wood. All of these philosophers attempt to reconcile Kant's moral framework on the one side with the ethical issues raised by the trolley problem on the other. However, this article highlights and elaborates on significant challenges to each philosopher's approach, pointing to potential flaws and inconsistencies. In engaging critically with these varied Kantian approaches, the article not only highlights their limitations, but also revisits Thomson's original framing of the problem in order to assess the latter's enduring significance and to delve into some of the systemic issues inherent in trolleyology. It is argued that recognizing these systemic issues is crucial for advancing a more robust Kantian solution to the trolley problem, one that remains faithful to Kantian principles while nonetheless addressing the complexities of moral decision-making in such situations.

Keywords: trolleyology, Kantian trolleyology, Kant's ethics, Kantian ethics, Thomson, duties.

SECTION 1. THOMSON'S TROLLEY

Thomson's original trolley problem is deceptively simple. Consider the following three thought experiments:

> **Trolley**. A trolley is hurtling down a track, and if it continues, it will run over five people who are on the track and have no means of escape. The trolley cannot be stopped, but you could throw a switch that would cause the trolley to change onto an alternate track. If the trolley changes onto the alternate track, it will run over one person who is on that track and has no means of escape. The question is: Should/may you throw the switch? (Kahn, 2023, pp. 487–488)[1].

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[1] Thomson's original articulations of the trolley problem are to be found in her 1976 and 1985. For context, see (Kahn, 2023, nn. 1–3) and (Mahon, 2021, pp. 156–162, and esp. 156n8).

> **Fat Man**. A trolley is hurtling down a track, and if it continues, it will run over five people who are on the track and have no means of escape. You are on a bridge that goes over the track, and there is a fat man standing next to you. By shoving the man, you could cause him to fall down onto the track. He would die in the process, but his body would prevent the train from running over the five. The question is: Should/may you shove the fat man? (Kahn, 2023, pp. 487–488).

> **Loop**. A trolley is hurtling down a track, and if it continues, it will run over five people who are on the track and have no means of escape. The trolley cannot be stopped, but you could throw a switch that would cause the trolley to change onto an alternate track. The alternate track curves back around to the five. But if the trolley changes onto the alternate track, it will run over one person who is on that track and has no means of escape, and the person's body will prevent the track from completing the loop and running over the five. The question is: Should/may you throw the switch? (Kahn, 2023, pp. 487–488).

According to Thomson, Loop is variant of Trolley, and in both cases, it is intuitively permissible to save the five. But, in Fat Man, it is intuitively impermissible to save the five. The challenge is to come up with a principle that can explain all three of these cases (without being falsified by any other).

Kantian ethics enters the picture because one of Kant's principles famously tells us never to use humanity merely as a means. This prohibition, sometimes known as the Kantian prohibition, seems promising if we confine our attention to Trolley and Fat Man: the person on the alternate track in Trolley is not used as a mere means to save the five, whereas the fat man in Fat Man is.

But, according to Thomson, if we now expand our scope to Loop, we encounter a hitch. This is because "there is no plausible account of what is involved in, or what is necessary for, the application of the notions "treating a person as a means only," or "using one to save five," under which [the agent in Fat Man] would be doing this whereas the agent in this [Loop] variant of [Trolley] would not be" (Thomson, 1985, p. 1403). Thomson concludes that "these notions [of treating persons as means or using one to save five] cannot do the work being required of them here" (Thomson, 1985, p. 1403). Thus, according to Thomson – and her argument "is widely considered convincing" (Kleingeld, 2020b, p. 204)[2] – the Kantian prohibition founders on Loop.

[2] I should note that I am not able to find any evidence to corroborate this assertion of Kleingeld's. In the cross-section of the massive trolleyology literature with which I am familiar, Thomson's argument against the Kantian prohibition seems more widely to be ignored than endorsed, and Kantians seem to pick it up only in order to explain where it goes wrong.

SECTION 2. GUYER'S APPLICATION OF KANT BY THE NUMBERS

Guyer maintains that the Kantian prohibition, interpreted correctly, can be used to solve the trolley problem. His argument has two steps.

First, Guyer argues for a novel interpretation of the Kantian prohibition. Guyer points out that, according to Kant's *Lectures on Ethics*, it might have been permissible for the Roman leader Cato to commit suicide if his goal was to encourage the Romans to defend their freedom more vigorously (Guyer, 2006, p. 197). On the basis of this, Guyer suggests that "the (freely chosen) destruction of one free being in order to save many more free beings may be permissible, or even mandatory, because making humanity in both our own person and that of all others an end and never merely a means might well require preserving as many instances of humanity as possible" (Guyer, 2006, p. 197). That is, Guyer advocates interpreting the Kantian prohibition as having a quantitative aspect. According to Guyer, a prohibition on using people as mere means requires saving the greatest number of people, even when that, in turn, requires sacrificing some for the purpose.

Second, Guyer applies this interpretation to a variation of Trolley, arguing that "it is not merely permissible but even obligatory for you to throw the switch so that only one person is killed by the train" (Guyer, 2006, p. 198). Guyer reasons that the Kantian prohibition requires us to save the five by sacrificing the one, as per Thomson's intuition. Although Guyer does not consider Loop, his reasoning can be generalized to apply to it as well. Thus, Guyer's application of Kant-by-the-numbers serves to explain Thomson's intuition that it is permissible, or perhaps even obligatory, to save the five in Trolley and Loop.

However, there are at least three problems with Guyer's approach.

The first problem is historical. Kant's lecture notes are not a good source for substantive interpretation of his thought. For one thing, these notes were not written by Kant. They were written by his students, and they were written in prose form after, not during, the lectures. That is, in addition to being removed from the source, these notes are extrapolated. For another thing, it is difficult to know when a lecturer is saying something that they sincerely, reflectively, and consistently endorse, rather than trying out a new idea or blundering through a muddled one. So, in general, any interpretation of Kant that is based primarily on these lecture notes is highly speculative.

The second problem is exegetical. Guyer's interpretation of the Cato example is underdetermined. An alternate interpretation of the passage is that suicide is permissible in this instance because to continue living would make Cato complicit

in the violation of the Kantian prohibition[3]. The notes equally can be interpreted as suggesting that suicide was permissible for Cato because, if he continued to live, then he would be captured and tortured and, thence, used as an example (as a mere means) to compel the Romans to submit (27: 370). Thus, although the student notes can be interpreted as Guyer advocates, they also can be interpreted otherwise.

The third problem is philosophical. If Guyer's reasoning is accepted, then, all else being equal, it is permissible, and perhaps even obligatory, to save the five in Fat Man. That is, if the Kantian prohibition permits us, and perhaps even obliges us, always to preserve as many instances of humanity as possible, then, all else being equal, the Kantian prohibition permits us, and perhaps even obliges us, to push the fat man off the bridge and into the path of the trolley, using him as a mere means to save the five. This is contrary to Thomson's intuition. So, Guyer's interpretation of the Kantian prohibition fails to explain the trolley problem with which we began.

Now, Guyer might maintain that all else is not equal in Fat Man. That is, Guyer might argue that, on his interpretation of the Kantian prohibition, we are required to preserve as many instances of humanity as possible only if doing so does not require us to use anybody as a mere means. Thus, Guyer might reason that, because we are using the fat man as a mere means in Fat Man, his interpretation does not imply that we are permitted to save the five in this case—in fact, quite the alternative. On these grounds, Guyer might conclude that he has solved the trolley problem after all.

However, this line of reasoning does not work. Recall that, in Loop, saving the five also seems to require using the one as a mere means. That is precisely why Thomson originally argued that the Kantian prohibition founders on the trolley problem. This puts Guyer in a bind. It looks like he cannot explain Fat Man without giving up on Loop, and vice versa, exactly as Thomson contends. If we want a solution to the trolley problem, we must look elsewhere.

[3] Mahon also objects to Guyer's interpretation of the text. However, Mahon's objection is different from mine:

> Kant nowhere permits an exception to the perfect duty not to commit suicide. The casuistical questions concerning suicide in *The Metaphysics of Morals*, as well as in his lectures on ethics, are about whether certain acts are acts of suicide, and not whether acts of suicide are permissible (Mahon, 2021, p. 181).

According to Mahon, Kant thinks that the prohibition on suicide is exceptionless, and texts that suggest otherwise actually should be interpreted as questioning whether a given action is an instance of suicide, not whether a given action is an instance of permissible suicide.

I disagree with Mahon. But, I should note that this is a verbal dispute. Nothing substantive stands or falls on whether we understand the case of Cato as a permissible instance of non-suicidal killing oneself, or as a permissible instance of suicide: Guyer's interpretation can weather Mahon's objection.

SECTION 3. KLEINGELD'S COMPROMISE SOLUTION

Kleingeld advocates an alternate solution to the trolley problem. Her solution has three steps.

First, Kleingeld advocates interpreting the Kantian prohibition in terms of agents' practical reasoning: "An agent uses another person as a means if and only if she wants to reach a certain end, believes that she can reach or further this end mediately, by using another person as a means, and uses the person for the sake of reaching or furthering her end" (Kleingeld, 2020b, p. 212). This is sometimes referred to as an agent-centered rather than a patient-centered approach (Kahn, 2024a, section 1). The idea is that, although there might be an external description of an agent's actions according to which she is using someone as a mere means, she does not count as violating the Kantian prohibition unless this description matches her intentions in some way. For example, Cha might sit down on Bart when she needs a rest, using Bart as a conveniently placed seat. But, if this is because Bart is lying in a sleeping bag and looks (to Cha's myopic eyes) like a log, then Cha is not violating the Kantian prohibition, at least as Kleingeld advocates interpreting it (Kleingeld, 2020a, pp. 399-400).

Second, Kleingeld argues that the Kantian prohibition should be interpreted in terms of consent (Kleingeld, 2020a; 2020b). More specifically, according to Kleingeld, whether an agent uses another as a mere means depends on whether her use of the other is contingent on the other's actual consent. For example, suppose that Cha knows that it is Bart, rather than a log, lying in front of her. If Cha asks Bart for his permission to sit down before doing so, and if he consents (or if, at any rate, she thinks that he consents), then Cha is using Bart as a means, but she is not using Bart as a mere means on Kleingeld's account. If, by way of contrast, Cha could not care less whether Bart consents, then her post-perambulatory perch is, in fact, a violation of the Kantian prohibition (even if Bart chips in to say that he is OK with it).

Third, Kleingeld applies her agent-centered, consent-based interpretation of the Kantian prohibition to the trolley problem. Kleingeld argues that in Trolley, an agent who saves the five is not using the one as a means, and, *a fortiori*, such an agent is not using the one as a mere means (Kleingeld, 2020b, p. 215). So, if it is impermissible to save the five in Trolley, Kleingeld argues, this will not be on account of the Kantian prohibition[4]. In Fat Man, by way of contrast, Kleingeld maintains that an agent who pushes the fat man "necessarily uses him merely as a means" (Kleingeld, 2020b,

[4] Kleingeld is circumspect in her conclusion because, as she points out, the Kantian prohibition is a proper part of the Categorical Imperative, and, considered in full, the Categorical Imperative might make saving the five in Trolley impermissible, even if the Kantian prohibition does not (Kleingeld, 2020b, p. 226).

p. 217). This, according to Kleingeld, is because, in Fat Man, the trolley can be stopped *only* by using the fat man merely as a means, whence it may be concluded that any agent who stops the trolley must be doing so (Kleingeld, 2020b, p. 218). Turning, finally, to Loop, Kleingeld maintains that "we can ascribe different lines of practical reasoning to the agent, such that the agent does or does not use the heavy workman merely as a means" (Kleingeld, 2020b, p. 218). Kleingeld argues that Loop is structurally similar both to Trolley and to Fat Man. Thus, it is possible to imagine an agent in Loop violating the Kantian prohibition by acting on the same maxim as an agent in Fat Man (namely: "I will save more rather than fewer human lives, even if this involves my using others as means to this end without their actual consent") (Kleingeld, 2020b, pp. 218-219). However, it also is possible to imagine an agent in Loop acting in accordance with the Kantian prohibition by adopting the same maxim as an agent in Trolley (namely: "I will save more rather than fewer human lives, provided I do not use anyone as a means to this end without their actual consent") (Kleingeld, 2020b, pp. 219-220). In this way, Kleingeld argues that the Kantian prohibition is consistent with saving the five in Trolley and in Loop, but it is inconsistent with saving the five in Fat Man and in Loop. This, of course, is revisionary: in the original trolley problem, saving the five in Loop is permissible; Thomson does not consider that Loop might allow for alternate construals. But, Kleingeld maintains that this revisionary aspect of her account is one of its strengths, because it enables her to explain "why the [Loop] scenario has generated such radically different moral assessments in the literature" (Kleingeld, 2020b, p. 222).

However, there are at least two problems with Kleingeld's account.

The first problem is exegetical. In the *Metaphysics of Morals*, which contains Kant's most extended and detailed taxonomy of duties (with corresponding derivations), Kant makes repeated use of the Kantian prohibition. Therefore, if consent-based interpretations of the Kantian prohibition were correct, one would expect to find this reflected in the *Metaphysics of Morals*—an expectation that is dashed upon inspection of the text. This militates against Kleingeld's consent-based interpretation of the Kantian prohibition[5].

The second problem is philosophical. Kleingeld's claim that an agent in Loop can save the five without using the one as a mere means is, as she herself admits, based on "what we stipulate" (Kleingeld, 2020b, p. 220). But, stipulation is not open to Kleingeld at this juncture of the dialectic. As we have seen, Thomson argues, quite convincingly by Kleingeld's own admission, that an agent is using the one as a mere means to save the five in Fat Man if but only if she is doing so in Loop. So, merely

[5] Kleingeld's consent-based interpretation has come under heavy fire in the secondary literature (Seymour Fahmy, 2021, pp. 5–6 and 2023; Kahn, 2024a).

stipulating that an agent can save the five without using the one as a mere means in Loop—stipulating that it is open to the agent to adopt the maxim "[to save the five] provided I do not use anyone as a means to this end without their actual consent" - is question-begging[6].

Now, Kleingeld might reply that I am being uncharitable. For one thing, what she intends to stipulate is not the question-begging claim that the agent in Loop is able to adopt a maxim not to use the one as a mere means. Rather, Kleingeld is stipulating the details of the case such that it is rational for an agent in Loop to believe and desire in such a way as to make this maxim psychologically within reach. For another thing, Kleingeld might point out that the maxim in question is not about the unanalyzed notion of using someone as a mere means; rather, it is about the conjunction of (1) using someone as a means without (2) making this use contingent on their consent. Thus, even if Kleingeld were merely stipulating that such a maxim is rationally available to an agent in Loop, this stipulation would not be question-begging because this conjunctive maxim is not the same as the one that Thomson rules out.

However, this reply does not help. Kleingeld's rationale for asserting that any agent in Fat Man who saves the five violates the Kantian prohibition applies also to any agent in Loop who saves the five. To see why this is so, we must note two things. First, Kleingeld asserts that, in all three cases, Trolley, Fat Man, and Loop, the agents do not get the actual consent of the one. Thus, on Kleingeld's interpretation of the Kantian prohibition, if the agents in any of Trolley, Fat Man, or Loop use the one as a means to save the five, then the agents use the one as a mere means to save the five. This is precisely why Kleingeld concludes that "[t]he crucial question in each of the three trolley scenarios, therefore, is whether the agent *uses* the one man as a *means*" (Kleingeld, 2020b, p. 215). Second, as seen above, the agent in Trolley, on Kleingeld's account, does not violate the Kantian prohibition because she is not using the one for anything. But, according to Kleingeld, the agent in Fat Man does violate the Kantian prohibition because "the action of pushing the heavy man off the bridge (given the details of the case) necessarily involves the agent's using him merely as a means" (Kleingeld, 2020b, p. 225). And the problem, which is hopefully now clear, is that this explanation of Fat Man can be picked up and applied to Loop: exactly as in Fat Man, there is no way for the agent in Loop to save the five without killing the one as a means to stop the trolley, whence it might be concluded that it is impossible for an agent in Loop to save the five without violating the Kantian prohibition. Kleingeld's attempt to introduce a morally relevant distinction between Fat Man and Loop does not withstand critical scrutiny; if we are going to save the Kantian prohibition from the trolley problem, this switch is not the one to pull.

[6] Versions of this objection may be found in (Kahn, 2023, section 2) and (Schmidt, 2022, pp. 205–206).

SECTION 4. KERSTEIN'S REVISIONARY APPROACH

Kerstein takes a more revisionary approach than Guyer or Kleingeld.

Kerstein advances three alternate interpretations of the Kantian prohibition. Two of the interpretations are consent-based; the third is about whether the patient of an action can contain, in herself, the end of that action. The details of these interpretations are unimportant for present purposes. What is important is that all three are agent-centered. The way that this manifests is that the operative questions for Kerstein are, first, whether, in Trolley or in Loop, an agent who proposes to save the five is using the one to that end and, if so, then, second, whether, in Trolley or in Loop, an agent who proposes to save the five reasonably can believe either (first interpretation) that the one can stop them by dissenting to their action, or (second interpretation) that the one would consent to their action, or (third interpretation) that the one can share their end (Kerstein, 2013, pp. 123-124).

Kerstein, like Kleingeld, maintains that, in Trolley, an agent who proposes to save the five "would not be *using* the person or persons [they] do not save" and, *a fortiori*, such an agent is not using anyone as a mere means (Kerstein, 2013, p. 123). Thus, Kerstein concludes that, in Trolley, the Kantian prohibition has "no implications" (Kerstein, 2013, p. 122)[7].

However, Kerstein maintains that things are otherwise in Loop, and this is where the revisionary nature of his account enters in. In Loop, according to Kerstein, an agent who proposes to save the five would be using the one. Moreover, because it is not reasonable for such an agent to believe any of the three things set out above, Kerstein argues that, in Loop, saving the five violates the Kantian prohibition on all of the three alternate interpretations he offers (Kerstein, 2013, p. 124). In the face of Thomson's intuition that it is permissible to save the five in Loop if, but only if, it is permissible to save the five in Trolley, Kerstein maintains otherwise, asserting that "the moral distinction between the two cases...is the fact that in Loop...you treat the one person merely as a means, but in Trolley you do no such thing" (Kerstein, 2013, p. 124).

However, in parallel with Kleingeld's account, there are at least two problems with Kerstein's account.

The first problem is exegetical. The objection made above against Kleingeld's consent-based account applies equally to Kerstein's two consent-based accounts, and it now can be extended to cover Kerstein's end-sharing account: just as we do not

[7] Like Kleingeld, Kerstein leaves open the possibility that saving the five might be impermissible for reasons other than the Kantian prohibition (see note 4, and the sentence to which it is appended, above).

find consent playing a major role in the *Metaphysics of Morals*, so we do not find end-sharing playing a major role in the *Metaphysics of Morals*, exactly the opposite of what we would expect if Kerstein's third interpretation was correct. So, all three of Kerstein's interpretations of the Kantian prohibition appear to be on shaky exegetical ground.

The second problem is philosophical. Thomson admits that, in Loop, saving the five involves using the one as a mere means and, thus, that saving the five in Loop runs afoul of the Kantian prohibition. Indeed, as seen in section 1 of this paper, the point of the trolley problem is precisely to explain why it is permissible to save the five in Loop despite the fact that doing so violates the Kantian prohibition. So, as Kleingeld points out, Kerstein's line of reasoning "is unlikely to satisfy those who, like Thomson herself in her 1985 paper and again in her most recent discussion of the issue (2016, pp. 128–132), are wondering just *how* the addition of a bit of track [in Loop] causes such a massive moral difference" (Kleingeld, 2020, p. 210)[8].

SECTION 5. MAHON'S AND SCHMIDT'S KANTIAN RIGORISM

Mahon and Schmidt independently advocate an even more revisionary position than Kerstein's: they argue that Kantian ethics, correctly interpreted, implies that it is impermissible to save the five in all of the trolley cases.

Schmidt's main argument for this position builds on the thesis that trolley cases should be interpreted as a conflict between a narrow duty not to kill the one and a wide duty to save the five (Schmidt, 2022, section 3). Because, according to Schmidt, narrow duties always trump wide ones on Kant's account, a duty not to kill the one trumps a duty to save the five and, therefore, it is impermissible to save the five in all of the trolley cases. Schmidt appeals to Kant's notorious murderer at the door case in order to defend her interpretation (Schmidt, 2022, pp. 209-210). As Schmidt reads this case, it involves the conflict of the narrow duty not to lie and the wide duty to save a life; the narrow duty not to lie always trumps the wide duty to save a life in

[8] It is no help to Kerstein that, in her 2008, Thomson contends that her original intuition was mistaken and that it is never permissible to turn the trolley: the shift from Thomson's early work to her late work is in whether she thinks an agent may sacrifice the one to save the five; Thomson remains committed throughout to the biconditional that it is permissible to sacrifice the one to save the five in Trolley if, but only if, it is permissible to do so in Loop. Thus, regardless of whether Kerstein takes on the early or the late version of the trolley problem, his attempt to introduce a morally relevant distinction between Trolley and Loop faces an uphill battle, at least against Thomson. This is not to say that Kerstein cannot emerge victorious from such a battle. But, it is to say that, if he is engaging in trolleyology, he at least must enter this battle.

Kantian ethics; and, just so, the narrow duty not to kill also always trumps the wide duty to save a life[9].

Mahon independently makes the same argument:

> This case, therefore, involves a conflict between a negative (perfect) legal duty not to kill one innocent person (not to commit murder), and a positive imperfect ethical duty to save five innocent people from being killed (or to not let five people die). According to Kant's moral theory, the negative (perfect) legal duty is more stringent than the positive imperfect ethical duty; or rather, there is no conflict, since imperfect duties have perfect duties 'built in' them as exceptions (Mahon, 2021, p. 183)[10].

However, Mahon supplements this argument with another. Considering the case from the perspective of rights, Mahon argues that to kill the one would involve an infringement of the right to life, whereas to let the five die would not:

> The case, therefore, involves throwing a railroad switch and diverting a runaway train to a sidetrack, so that it kills just one person, which infringes a right of that one person, and not throwing the railroad switch, and allowing the runaway train to continue on its track and kill five people, which infringes the right of no-one. It is clear that Kant would not uphold infringing a right of someone and doing someone a wrong. Hence, throwing a railroad switch and diverting a runaway train to a sidetrack so that it kills just one person is prohibited by Kant's moral theory if the case is considered in terms of rights (Mahon, 2021, pp. 185–186).

Thus, on Mahon's account of Kant, there are two reasons to think that saving the five is impermissible in all of the trolley cases: (1) saving the five would violate a narrow duty in favor of a wide one, even though narrow duties always trump wide ones, and (2) saving the five would involve a rights violation, and rights violations trump imperfect duties.

This, of course, puts both Schmidt and Mahon at odds with Thomson's intuitions in the trolley problem. But, Schmidt and Mahon handle these intuitions very differently (despite the similarities in their interpretations of Kantian ethics).

Schmidt, at one point in her article, suggests that the clash between intuitions and Kantian ethics is simply so much the worse for the latter: "Even if we might not like this result from a systematic, non-Kantian ethical point of view, it is the result Kantian ethics leads to" (Schmidt, 2022, p. 198). This seems to point toward the

[9] The inference in this sentence, from the duty not to lie to the duty not to kill, is complicated: as Schmidt points out, Kant is in favor of capital punishment, and Kant also thinks that killing in cases of necessity is unpunishable (Schmidt, 2022, pp. 210–211). However, these complications do not concern us here.

[10] Mahon also, like Schmidt, appeals to Kant's murderer at the door to defend this argument (Mahon, 2021, pp. 183–184).

rejection of Kantian ethics. However, in her conclusion, Schmidt is less conciliatory toward these conflicting intuitions:

> [A]lthough intuitions cannot (and should not) be banned completely from practical philosophy, we should not rely on them blindly. Rather, we should be ready to dismiss some of them, and this is exactly what a Kantian analysis of the trolley problem brings home (Schmidt, 2022, p. 218).

Thus, Schmidt's considered position is that we should be open to dismissing our intuitions about trolley problems if they disagree with Kantian ethics.

Mahon takes a different approach. Whereas Schmidt is skeptical of the use of intuitions in practical philosophy, Mahon is not—or, at least, he does not express any such skepticism in his discussion of the trolley problem. Instead, Mahon relies on the fact that, in subsequent work, Thomson rejects her original trolley problem intuitions, arguing, instead, that it is never permissible to save the five in the trolley cases (Thomson, 2008). In explaining Thomson's later intuitions from a Kantian perspective, Mahon takes his work to be done, notwithstanding her earlier intuitions.

The main problem for both Schmidt's and Mahon's arguments, however, is that neither of them deals with the Kantian prohibition directly. Regardless of whether we take Thomson's early intuitions or her late intuitions as the benchmark, and, in fact, regardless of whether we reject the use of intuitions in practical philosophy altogether, the point of the trolley problem, at least as originally formulated and at least for Kantian ethics, is to examine how the Kantian prohibition handles these cases. So, in explaining how the narrow/wide duty distinction handles the trolley problem, and in explaining how a rights-based approach handles the trolley problem, Schmidt and Mahon have jointly, if independently, gotten onto the wrong track, even if their approaches can be given a Kantian pedigree: they have, in effect, sacrificed the Kantian prohibition on the altar of Kantian ethics, even though the latter was never brought into question (except through the Kantian prohibition).

Now, Schmidt and Mahon might maintain that I am being unfair. They might contend that both the narrow/wide duty distinction and Kantian rights are derivable from the Categorical Imperative in general and from the Kantian prohibition in particular. Thus, they might argue that, if there is a solution to the trolley problem that appeals to the narrow/wide duty distinction or to rights violations, and if the narrow/wide duty distinction and Kantian rights are derivable from the Kantian prohibition, then this solution can be reframed in terms of the Kantian prohibition directly. On these grounds, they might conclude that my objection only scratches the surface of their approaches; once we dig deeper, we can see that there is a ready reply.

However, this reply does not withstand critical scrutiny. The problem is that it is far from clear that the narrow/wide duty distinction and Kantian rights, when derived from the Categorical Imperative, work in the way that Schmidt and Mahon need them to. To see this, we can look at Schmidt's and Mahon's actual attempts to ground their approaches on the Categorical Imperative.

Mahon models the derivation of the narrow duty not to kill on Kant's derivation of the narrow duty not to commit suicide in the *Groundwork to a Metaphysics of Morals* (GMS, AA 04: 421-422). Mahon reasons that suicide violates the Kantian prohibition because it involves using one's own person as a mere means toward avoiding an intolerable condition. Thus, Mahon argues, correlatively, murder violates the Kantian prohibition because it involves elevating the maintenance of a tolerable condition over the victim's humanity:

> The ethical argument against murder would be that the surgeon, in cutting up the healthy person and distributing his organs (without his consent) to those who will die without them, is elevating maintaining lives in which people are in at least a tolerable condition above the humanity of the person who is killed to ensure this end (Mahon, 2021, p. 182).

However, this does not work. On the one side, the surgeon in Mahon's case would be committing murder even if the beneficiaries of his action would not be in a tolerable condition after receiving the planned transplants; and on the other side, an agent in the trolley cases need not sacrifice the one in order to maintain the five in a tolerable condition—it could be viewed simply by the numbers, as per Guyer's interpretation, as a sacrifice of one life for five, rather than in terms of life as opposed to pleasure. Following these two points to their respective logical conclusions, we may see that, on the one side, Mahon fails to provide a sustainable derivation of the duty not to murder, and, on the other, the derivation he provides fails to explain why, on his account, it is impermissible to save the five in the trolley cases.

Schmidt is no better off. Schmidt concedes that "*no one* is used as a mere means in the original trolley case, regardless of whether the switch is flipped or not" (Schmidt, 2022, p. 212). In other words, in Trolley, neither letting the five die, nor saving the five and killing the one, violates the Kantian prohibition. Accordingly, in order to hold on to her thesis that Kantian ethics implies that it is impermissible to save the five and kill the one in Trolley, Schmidt appeals to the full Formula of Humanity, the formulation of the Categorical Imperative from which the Kantian prohibition is taken: "So act that you use humanity, whether in your own person or the person of any other, always at the same time as an end, never merely as a means" (GMS, AA 04: 429, emphasis omitted). With this in hand, Schmidt argues as follows:

> [I]t is not only not permissible to use someone as a means, but it is also not permissible to carry out actions that do not do justice to a person's unconditional worth, that is, to his or her dignity. In this (second) sense, someone is also used as a mere means when he is not treated with the appropriate respect he deserves...Flipping the switch, however, means violating the duty to respect the dignity of the one, for not to kill is a narrow duty (Schmidt, 2022, pp. 212–213).

However, there are three distinct problems here. First, Schmidt mistakenly assimilates the failure to use someone at the same time as an end with using someone as a mere means. But, Kant does not think that these are the same, and, in the *Metaphysics of Morals*, he even gives an example of how an agent can fail to use someone at the same time as an end without using that person as a mere means (namely: by adopting a maxim of indifference toward that person) (MS, AA 06: 395). So, Schmidt's assimilation of the failure to use someone at the same time as an end with using someone merely as a means is exegetically flawed[11].

Second, Schmidt's claim that, in Trolley, saving the five does not violate the Kantian prohibition even though it involves killing the one is fatal to her overall position. As Kant explains his taxonomy, narrow duties, like the duty against suicide and the duty against lying promises, flow from the Kantian prohibition, whereas wide duties, like the duty of self-improvement and the duty of benevolence, flow from the requirement to use others always at the same time as ends. Thus, if flipping the switch to save the five in Trolley does not violate the Kantian prohibition, as Schmidt claims, then her attempt to interpret the trolley problem as involving a conflict of a narrow duty with a wide one is sunk.

Third, Schmidt's claim, in the final sentence of the block quotation above, that flipping the switch violates the narrow duty not to kill and *therefore* violates the Categorical Imperative, is question-begging in this context.[12] The explanation at this point of the argument needs to go precisely in the other direction: Schmidt needs

[11] This point, about the distinction between using someone as a mere means and failing to use someone at the same time as an end, is discussed in greater depth in Kahn (2024a, n8).

[12] Similarly, in her discussion of the universalizability formulations of the Categorical Imperative, Schmidt argues as follows:

> There appears to be a contradiction between killing and the general prohibition of killing innocent persons as described above (which would be circular)... As we worked out above, to kill innocent persons is forbidden, according to Kant; but that is one thing to say. Another thing to say would be to point to a specific contradiction, where this contradiction is supposed to be the reason for the prohibition in the first place (Schmidt, 2022, p. 212).

Schmidt admits in this passage that (1) to make a bald appeal to the duty not to kill innocent persons is fallacious (it "would be circular"), and (2) she is unable to "point to a specific contradiction" that can show how this duty can be derived from the universalizability formulations. On the basis of this, Schmidt tries to distance herself from the universalizability formulations, asserting that they are "burdened with difficulties" (Schmidt, 2022, p. 212). But this distancing, coupled with the fact that Schmidt is forced to do the same with the Kantian prohibition, undermines the Kantian pedigree she claims for her approach.

to explain how her discussion of the narrow duty not to kill can be traced back to the Kantian prohibition, not the other way around, and, in fact, if the two points I already have made are correct, then this is precisely what she cannot do, for she already has admitted that the duty not to kill the one in the trolley cases cannot be derived from the Kantian prohibition.

I want to make one last point about Mahone and Schmidt. One of the hallmarks of trolleyology is that, every time a principle is proposed to explain a set of cases, a variant case is proposed that runs this principle to the ground (Friedman, 2002). Unfortunately, that approach threatens to apply here as well. Suppose we modify all three of the original trolley cases in the following way: the five who are on the track have been put there by you and, in fact, you also set the runaway trolley in motion—and now you are faced with the same choices as in the original cases, whether to divert the trolley onto the track with the one, or whether to shove the fat man off the bridge. Call this the trolley-problem-2.0. We might want to recalibrate our intuitions before trying to find a principle to explain trolley-problem-2.0. But, even if we do so, it seems unlikely that the approaches offered by Mahone and Schmidt will shed much light on the results[13].

SECTION 6. WOOD'S REJECTION OF TROLLEYOLOGY

The revisionary nature of these approaches peaks in Wood, who rejects trolleyology almost wholesale.[14]

Many of Wood's criticisms of trolleyology are independent of Kantian ethics. For example, consider the following representative passage:

> "[T]rolley problems" often abstract artificially from the fact that it would surely be illegal for a mere bystander to touch the switches on a trolley. Or alternatively, they stipulate matters that would in any real situation be quite uncertain, such as whether farther down the track on which you see one person standing, there might be a dozen others just out of sight...Even if there is consensus about a given problem, it is seldom clear what moral beliefs the consensus response might be registering, especially where the examples involve artificial assumptions and abstract from facts about what we would and would not know in real life. If this is unclear, we should not

[13] In fairness to Schmidt, her primary goal is not to engage in trolleyology; rather, she engages with the trolley problem as a means, in order to advance toward questions about the ethics of autonomous driving (Schmidt, 2022, p. 192).

[14] The one concession Wood makes to trolleyology is that, on account of human vulnerability and wickedness, it is likely that there are always going to be situations in which we must make "stark trade-offs between the deepest interests of different people and groups" in the way that trolley problems depict (Wood, 2011, p. 91). I owe this reference to Kleingeld (2020b, 205n3).

> regard responses to these examples as credible data for moral epistemology (Wood, 2008, p. 50)[15].

In this excerpt, Wood objects to trolley problems on the grounds that they artificially abstract from relevant information and artificially stipulate away uncertainty.

However, these objections do not have to do with Kantian ethics *per se*, nor does Wood present them otherwise. Indeed, such complaints have been taken up by nonKantians, such as Fried, who shares Wood's negative assessment of trolleyology:

> Allen Wood devotes a substantial portion of his commentary in *On What Matters* to decrying the outsized role of trolley problems in nonconsequentialist philosophical argument. I share many of his objections, including to the fantastical nature of the dilemmas trolley problems pose; the absence of contextual information that in real life changes the moral complexion of tragic choices; and the unrealistic stipulation that the outcomes of all available choices are known with certainty ex ante (Fried, 2012, p. 509)[16].

> Of the various moral principles that have emerged from the now four-decades-long preoccupation with trolley problems, none can handle the problem of garden-variety risk. As a result, trolleyology is at best engaged in what amounts to a moral sideshow. (Fried, 2012, p. 506).

It is also notable that some of these objections might be raised against Kant himself. For instance, Kant's murderer at the door example is arguably as cartoonish as the trolley problem—as Wood is well aware, having done so much exegetical work to explain how the artificiality of this example obscures the ethical issues with which Kant was grappling (Wood, 2008, chapter 14).

Precisely because these objections are not distinctively Kantian, they fall outside the purview of the current investigation.[17] However, Wood does raise an objection to trolleyology that is, if not uniquely Kantian, at least one that probably would be associated mainly with Kantian ethics.[18]

According to Wood, trolleyology is based on a view of ethics and moral epistemology that "grounds principles on the consilience of intuitions" (Wood, 2008, p. 46). Wood then points out, by way of contrast, that Kant grounds his moral principles in the faculty of reason: these principles are known *a priori*, independently of experience,

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15 This criticism is repeated in Wood's 2011 (esp. pp. 70, 82, and 82n26).

16 I owe the reference to Fried to Kleingeld (2020b, 205n3).

17 It is perhaps worth noting, however, that, although many of Wood's criticisms seem well justified, he somewhat dulls their rhetorical force when he himself takes a firm stand on what the agents in some of these trolley problems ought to do (see, e.g., his remarks about the case he refers to as "Lifeboat" in his 2011, p. 71).

18 I would like to thank an anonymous reviewer for pointing out to me that intuitionists might make a similar objection.

and if we come up against cases that elicit intuitions that seem to contradict them, then it is always and ever so much the worse for the intuitions (Wood, 2008, chapter 3; see also Wood, 2011, part one). This turns the trolley problem (and most trolleyology) on its head: if, as Thomson maintains, the Kantian prohibition cannot explain our intuitions, then either this is because we have not sufficiently scoured the logical universe of possible explanations, or it is because something has gone awry with the intuitions themselves.

I want to say two things about this. First, as a matter of exegesis, I think Wood gets Kant right: Kant makes it clear, in the *Groundwork to a Metaphysics of Morals* and elsewhere, that the moral law is *a priori* synthetic, not subject to revision based on intuitions elicited from thought experiments. This does not mean that Kant never appeals to intuitions. For example, at least some of Kant's claims about the unconditioned goodness of a good will, in part I of the *Groundwork to a Metaphysics of Morals*, seem to be based on intuition—Kant puts them forward as the considered judgments of an impartial rational spectator, underived from a higher principle.[19] But, the key point here has to do with the epistemic status that these judgments are supposed to have: they are, again, *a priori* synthetic, and, as such, not subject to revision—there is no reflective equilibrium of the kind that seems to be baked in to much trolleyology.

However, I think that at least some modern philosophers, Kantians and nonKantians alike, will find this dissatisfying because they reject Kant's epistemological model.[20] Of course, Wood might argue that this rejection is incoherent. But, that is contentious, and any such argument is beyond the present scope. Moreover, even those who accept Kant's epistemological model might point out that there is room for doubt regarding whether Kant has alighted upon the correct formulation of the *a priori* synthetic moral law, and, it might be argued, consideration of the trolley problem can serve as a healthy check upon too dogmatic assertion to the contrary.

Second, even those who accept both Kant's epistemological model and Kant's formulation of the *a priori* synthetic moral law in general, as well as the Kantian prohibition in particular, might find a use for trolleyology, notwithstanding Wood's Kantian critique. This is because, as will become important below, Kant's ethics is about more than merely the moral law and how this law applies to act tokens; it is also, as Kant makes clear in the *Metaphysics of Morals*, about general duties, which function as what Mill might have called secondary principles and what we might call auxiliaries:

[19] I would like to thank an anonymous reviewer for reminding me of this.

[20] For example, Kerstein is quite explicit about his espousal of an alternate epistemological model (Kerstein, 2013, section 1.2, remarked upon in Kahn, 2014)—as, of course, are the foils Wood mentions in chapter 3 of his (2008).

intermediary principles that guide us in day-to-day life, or at least describe it, every bit as much as the moral law, if not more so—and the point for present purposes is that trolley problems might impinge on these auxiliaries rather than the moral law. With that in mind, I want to return, briefly, to the trolley problem before advancing my own account, or at least the direction that I think an account should take.

SECTION 7. THOMSON'S TROLLEY RECONSIDERED

Recall that, in the original trolley problem, there are three cases, Trolley, Fat Man, and Loop, and Thomson asserts that it is permissible to save the five in Trolley and Loop but impermissible to save the five in Fat Man. On the basis of this, Thomson asserts that the Kantian prohibition is unable to explain Loop, and from this, she infers that the Kantian prohibition is unable to explain Trolley and Fat Man. (Or, correlatively, in her later work, when, as noted above, Thomson flips her intuitions on Trolley and Loop, the inference can move from the inability of the Kantian prohibition to explain Trolley to its inability to explain Loop and Fat Man.)

As may be seen from the foregoing, Kantian responses to the trolley problem focus on Thomson's intuitions about the cases: they argue that, *pace* Thomson, these intuitions can be explained by appeal to the Kantian prohibition (Guyer, 2006); that the intuitions are incomplete—and, once completed, they can be explained by the Kantian prohibition (Kleingeld, 2020b); that the intuitions about Loop should be discarded (Kerstein, 2013); that the intuitions about Trolley and Loop should be discarded (Mahon, 2021; Schmidt, 2022); or that all the intuitions are suspect and any intuitions that disagree with the Kantian prohibition should be discarded (Wood, 2011). However, all of these Kantian responses leave untouched Thomson's inference from the failure of the Kantian prohibition in Loop to the failure of the Kantian prohibition in Trolley and Fat Man. And it is precisely this inference that I want to call into question now.

There are three reasons for being suspicious of this inference.

First, it is at least questionable whether the failure of a principle to explain one case entails anything about its failure to explain other cases, even when those other cases are in the vicinity of the original ones. This is an issue more frequently discussed in the philosophy of science than in ethics, but perhaps the philosophy of science discussion should be extended. If Newtonian mechanics or the ideal gas law retain their explanatory power, as, to judge from the way that science is taught around the world, they do, despite their broader failures and idealizing assumptions, then, all else being equal, we might think that ethical principles can do the same.

Second, concentrating on this inference makes more apparent, I think, that Thomson's Loop is a garden-variety attempt at a false negative for the Kantian prohibition. The reason I think this is important is that it lends more weight to revisionary approaches that call into question Thomson's intuitions. That is, even if we thoroughly reject the Kantian epistemology highlighted by Wood and embrace a non-foundationalist approach to ethics, a principle as explanatorily powerful, and with as much historical and cultural momentum, as the Kantian prohibition surely ought not to be discarded merely on the basis of a single intuition about a highly unrealistic and artificial thought experiment.

Third, many of the alternate trolley cases that cause intuitions to switch differ in form rather than in substance. In this, trolleyology is much like Williams' famous personal identity thought experiments (Williams, 1970). Let me explain. Williams proposes two thought experiments involving memory erasure, one of which is supposed to elicit intuitions in favor of psychological continuity theories of personal identity, the other of which is supposed to elicit intuitions in favor of physiological continuity theories of personal identity. The philosophical punch, then, is not merely that we have contradictory intuitions, but, more, that these intuitions are elicited from alternate descriptions of the same scenario. Along the same lines, the three cases in the original trolley problem are consistent with the three cases in trolley-problem-2.0 from section 5 of this paper, and Fat Man is consistent with what we might call Fat-Man-3.0, in which, 10 minutes prior to the fateful trolley coming into sight, the fat man makes you promise to toss him in front of a trolley should the opportunity present itself for him thereby to save the five people on the track ahead. Indeed, Trolley and Loop can be formulated as elaborations of the same scenario. But, how can adding information change either whether an action is permissible or whether someone is used as a mere means?

This, I want to suggest, should give pause—which is exactly what I think the Kantian approach recommends. Let me explain.

SECTION 8. THE LAST SECTION

I want to distinguish between two questions:

1. Is it consistent with the Kantian prohibition for a particular agent in a trolley case to save the five?
2. Is it consistent with the Kantian prohibition, in general, for agents in trolley cases to save the five?

These are not the only questions that could be asked about the trolley problem cases, and the reason for distinguishing these two questions is not that their answers are going to diverge wildly.[21] Indeed, it would be strange, if not incoherent, if they did: if the answer to 2 is "yes," then it follows as a matter of logical entailment that, in general, the corresponding answer to 1 is "yes."

The reason for distinguishing these two questions is that their answers can diverge—and, more, they almost certainly will diverge in some cases. The answer to 1 sometimes will be "no" even if the answer to 2 is "yes," and vice versa. This is important because Thomson, and all of the Kantian trolleyology that has been written in response to her, seems to presuppose that these two questions do not come apart or that they come apart only in very specific ways, using a model that, I want to argue now, is at odds with Kantian ethics. To see this, we must return to Kleingeld.

Recall that, on Kleingeld's account, in Loop, saving the five can be performed on the basis of a maxim that violates the Kantian prohibition, but it also can be performed on the basis of a maxim that is in accordance with the Kantian prohibition. In explaining Kleingeld's solution in section 3 above, I left things there. However, the crucial step in Kleingeld's solution actually comes next. Kleingeld distinguishes between actions and maxims, and she argues that an action is permissible if, but only if, it can be performed on the basis of a permissible maxim. From this, according to Kleingeld, it follows that the *action* of saving the five in Loop is permissible, as per Thomson's (original) intuitions; we just have to bear in mind that a permissible action "remains permissible even when it is performed on the basis of a morally impermissible action principle" (Kleingeld, 2020b, p. 223). Kleingeld uses this to explain how Loop differs from Fat Man:

> [T]he action of pushing the heavy man off the bridge (given the details of the case) *necessarily* involves the agent's using him merely as a means...For an action to be morally permissible, it should, of course, at least be possible for an agent to perform it without violating moral constraints. Thus, if an action can be performed only on the basis of morally impermissible action principles, then it is impermissible (Kleingeld, 2020b, p. 225).

That is, the action of saving the five is permissible in Loop, for, in that case, it can be performed on the basis of a permissible maxim, but it is impermissible in Fat Man, for, in that case, it can be performed only on the basis of impermissible maxims.

I would like to say four things about this.

[21] A third question that needs to be asked, one that Wood does a nice job of discussing, is: What should someone say when asked about 1 or 2 (Wood, 2011).

First, this account of the action-maxim distinction, and how this distinction can be used to make sense of intuitions about the im/permissibility of actions, is prominent elsewhere in discussions of Kant's and Kantian ethics. For example, in response to objections that Parfit raises in *On What Matters*, both Pogge and Nyholm independently advance the same account as Kleingeld's: they argue that Parfit's intuitions, which Parfit presents as in conflict with Kant's ethics, may be seen to be in conformity with it once we understand the action-maxim distinction and, more specifically, that an action is impermissible if, but only if, it can be performed only on the basis of impermissible maxims (Nyholm, 2015; Parfit, 2011; Pogge, 2004).[22] The model with which Kleingeld is working is widespread in Kantian ethics.

Second, when Kantians champion this model, they often do so on the basis of Kant's remarks, in part I of the *Groundwork to a Metaphysics of Morals*, about action in conformity with but not from duty. For example, consider the following excerpt from Kleingeld:

> It is a familiar idea within Kantian ethics that a permissible action can be performed on the basis of permissible or impermissible action principles ('maxims'). A helpful illustration of this point is Kant's well-known *Groundwork* example of a shopkeeper who charges children the right price on the basis of an impermissible action principle, namely on the basis of the maxim of only pursuing his own long-term interests (G 4: 397). Charging children the right price (the action), Kant says here, is 'in accord with duty,' regardless of whether the shopkeeper's maxim satisfies moral requirements (Kleingeld, 2020b, p. 223).

On Kleingeld's reading of Kant, a shopkeeper who gives correct change from prudence rather than from duty is performing a permissible action from an impermissible action principle.

However, this reading is strained. On the one hand, Kant thinks that giving correct change is obligatory—this follows from the fact that the action can be performed from duty. Of course, there is every reason to think that, on Kant's account, an obligatory action is, *a fortiori*, permissible. But, an obligatory action is not merely permissible, and that is the deontic status Kleingeld seems to want to assign to saving the five in Loop. On the other hand, there is also every reason to think that, on Kant's account, the shopkeeper's maxim (and, *eo ipso facto*, the shopkeeper's act token—more on this in a moment) is permissible. Kant thinks that action from self-interest is permissible so long as this does not conflict with morality[23]. Of course, if the shopkeeper is unwilling to give the correct change *except* when it is prudent to do so, this would exhibit a fault of character on Kant's account. But, we are not given

[22] This is discussed at greater length in section 2 of Kahn (2021).

[23] For helpful discussion, see Wood (1999, chapter 1, esp. section 3.2).

enough information to make any pronouncements about that, nor is it relevant to Kant's discussion at this junction. In sum: this example does not support the model that Kleingeld and others pull from it.

Third, there is independent textual evidence against ascribing this model to Kant. For example, in the *Groundwork to a Metaphysics of Morals*, Kant asks whether it is permissible for one imagined agent to commit suicide in trying circumstances and whether it is permissible for another imagined agent to tell a lying promise in a case of financial distress, actions that Kant evidently thinks are generally impermissible. In both cases, Kant's agents come to the conclusion that the maxims on which they propose to act are contrary to duty. But, the question would not even arise if these impermissible actions could not be performed on the basis of permissible maxims, or if the only way to know whether an action is impermissible is via the knowledge that every maxim on which it can be performed is impermissible. Similarly, in the *Metaphysics of Morals*, after explaining why various actions, like suicide, are impermissible, Kant poses casuistical questions, which suggests that, on his account, the deontic status of an action type does not logically entail the deontic status of tokens of the type: permissible action types can be performed on the basis of impermissible maxims, as Kleingeld asserts, but, in addition, impermissible action types can be performed on the basis of permissible maxims (*pace* Kleingeld et al).

Fourth, this model is philosophically problematic. For one thing, because any action type can be instantiated in infinitely many tokens, and because there does not seem to be any way to assess these infinitely many tokens except by examining them one by one, given our limited capacities, cognitive and otherwise, nobody ever will be in a position justifiably to assert that a given action type is impermissible[24]. In other words, this model makes impermissibility into an unusable category. For another thing, because so many intuitively impermissible action types can be performed on the basis of permissible maxims, this model is going to have many false positives. To take just two examples: if, as many assert, it is permissible to kill in self-defense or to

[24] There is room for some pushback here. If, as Kleingeld has pointed out to me, we individuate action types by the maxims on which they are performed, then we can determine that an action type is impermissible by testing one maxim.

However, there are two problems with this proposal. One is that it presupposes that maxim types, rather than maxim tokens, are the locus of assessment in Kant's ethics, and this presupposition has recently been called into question. The other, which is independent of the first, is that action types are generally not individuated in this way (e.g., whether Emily lies in order to get revenge, or whether she lies in order to get some ready money, she is telling a lie—the action kind (lying) remains constant through alternate maxims), and for a good reason: because action kinds, unlike action tokens, can be performed on infinitely many maxims, this would render the moral landscape too fine-grained for pronouncements about action kinds to be practicable (indeed, it would fail to advance us in the trolley problem, precisely because the action kinds in question—pulling the switch, shoving the fat man, etc.—can be performed on a multitude, if not an infinitude, of maxims, something that Kleingeld herself presupposes in her solution to the trolley problem when she argues that pulling the switch in Loop can be performed on two alternate maxims).

lie to a murderer from philanthropic motives, then killing and lying are permissible action types on this model—and this seems like a deeper problem than the trolley problem which this model is supposed to solve[25]. This model arguably arises from a confusion of action types and action tokens, for, on Kant's account, an act token is impermissible if, but only if, it is performed on the basis of a maxim that violates the Categorical Imperative. So, let me conclude this article with a brief summary of the model I advocate and the direction it points us in regard to the trolley problem.

On my reading of Kant, he has a tripartite distinction: action tokens, action types, and maxims[26]. Although Kant does not address the question in these terms, I believe that he would say that an action token is metaphysically individuated, at least in part if not in whole, by the maxim(s) on which it is performed. This is important because it cuts off at its root any attempt to make the deontic status of an action token a modal property based on whether it *could* be performed on a maxim with a deontic status that differs from that of the maxim on which it actually is performed. If I am right about this, then no act token could be performed on any maxim other than the one(s) on which it actually is performed, whence it follows that no act token could be performed on any maxim with a different deontic status.

Support for this derives from Kant's formulations of the Categorical Imperative. For example, consider the Formula of Universal Law as articulated in part II of the *Groundwork to a Metaphysics of Morals*: "Act only according to that maxim through which you can at the same time will that it become a universal law" (GMS, AA 04: 421.07-08, emphasis omitted). From this formulation, it may be seen that, on Kant's account, the permissibility of an act token is to be determined by appeal to the maxim on which it is performed—not by appeal to a possible maxim on which it can be performed. Maxims are either universalizable or not, or they involve using humanity at the same time as an end or not, and act tokens are im/permissible based on this.

Turning to act types: as I read Kant, act types form the content of general duties, as argued for and categorized in the *Metaphysics of Morals*. To determine the deontic status of an act type, we can make generalizations about humans and our circumstances in order to arrive at plausible generalizations about the kinds of maxims on the basis of which we perform (or omit) act tokens of the act type in question[27]. We then say that the type is permissible if, but only if, tokens of the type are generally permissible (i.e., if, but only if, tokens of the type are generally

[25] Indeed, the model will undermine Kleingeld's solution to the trolley problem inasmuch as it undermines her pronouncement about the Fat Man case.

[26] This distinction has recently been emphasized in Kahn (2024b).

[27] For ease of exposition, I proceed without reference to duties of omission.

performed on the basis of universalizable maxims)[28]. This puts me at odds not only with the Kantian approaches to trolleyology canvassed in the foregoing, but also, more broadly, with many Kantian approaches to general duties. For example, on my account, general duties do not form deliberative presumptions that must be rebutted (*pace* Herman, 1993, chapter 7), nor are they provisionally universal, with exception clauses to be worked into them as we encounter them (*pace* Korsgaard, 2002, section 2.5.2; see also Korsgaard, 2008, p. 122)[29]. Rather, general duties are approximations, the ethical equivalent of back-of-the-envelope calculations, and this means, again, not only that a permissible act type can be tokened impermissibly (as Kleingeld, Nyholm, and Pogge assert), but also that an impermissible act type can be tokened permissibly (*pace* Kleingeld, Nyholm, and Pogge). Moreover, I think that textual evidence for ascribing this view to Kant can be derived, not only from Kant's use of casuistical questions, as described above, but also from Kant's own description, in the *Metaphysics of Morals*, of how general duties are to be argued for:

> [W]e will often have to take the special nature of humans, which is cognized only through experience, as an object in order to show in it the consequences from universal moral principles, without that, however, thereby taking away anything from the purity of the latter, or its a priori origin being made thereby doubtful. —That is as much as to say: a metaphysics of morals cannot be grounded on anthropology, but nevertheless [it can] be applied to it (MM, AA 06: 217.01-08).

According to Kant, in order to derive general duties, we have to make generalizations about humans and, more specifically, about the kinds of principles we espouse in tokening certain types, in order to determine the deontic status of those types. So, how is this model to be applied to the trolley problem?

In order to determine the deontic status of saving the five in Trolley, Fat Man, or Loop, we need to make plausible generalizations about the kinds of maxims on which agents in these situations would perform these act types. But, there is a subtlety that is worth remarking upon: the idea is not to articulate the maxims that (we stipulate) are *possible*, as per Kleingeld, but, rather, to articulate the maxims that agents generally actually would adopt. The first complication that arises, then, returns us to the Wood/Fried critique: it is unclear whether most agents, thrust into such a situation, would act unreflectively, on the basis of previously adopted maxims, or whether they would have the time and wherewithal to adopt a maxim tailored to

[28] Other deontic categories, like the obligatory, are arrived at in a slightly different, and sometimes somewhat more circuitous, fashion. Again, for ease of exposition, I omit these details.

[29] General duties might be said to establish an evaluative presumption, where an agent who performs a token of some type is presumed to have behaved im/permissibly until proven otherwise, but that is not quite the same as a deliberative presumption, where an action is presumed im/permissible in an agent's deliberations until she sees her way to performing it from the appropriate motive to make it otherwise.

the situation. To see how these come apart, note that many agents are habituated, and actively habituate themselves, to avoid physical contact with strangers, especially when this involves doing the latter harm: for many, the thought of shoving a fat man off a bridge into the path of a runaway trolley will not even be on the radar. Curiously, this means that the maxims on the basis of which we assess these actions might have little to do with the specifics of the situations at hand.

A second complication that arises is that it is unclear whether agents would know how to divert or stop the trolley. In Trolley and Loop, it is unclear how agents would figure out how to get the trolley onto the other track, even if they were able to see that there are five stuck on the one and only one on the other. In Fat Man and Loop, it is unclear how agents would figure out that another person could be used to stop the runaway trolley. Indeed, it seems *prima facie* implausible that a runaway trolley could be stopped as proposed in the thought experiments—it seems much more likely that this merely would create another victim.

Now, trolleyologists might point out that these complications have been stipulated away: they stipulate the details of the case, right down to what agents do and do not know.

In response, we can echo, once again, the complaint made by Wood and Fried that these stipulations are unrealistic. In order to figure out what the Kantian prohibition would say about these cases, we need to make generalizations about what maxims agents in these (distant) possible worlds would adopt and, then, about whether these maxims would involve using anybody as a mere means. But, because these worlds are so distant, it is exceedingly difficult to see how to do so, and this makes it even more difficult to see how any intuitions we might have about these cases can be brought to bear on principles.

If we want to engage in casuistry in order to sharpen our understanding of general principles of duty (both of what they require and of when they apply), we cannot help but confront difficult cases[30]. But, if the arguments in this article withstand critical scrutiny, then it is at least unclear whether using trolley problems is apt for this purpose.

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[30] I would like to thank an anonymous reviewer for pointing this out (I have borrowed some of the reviewer's prose in making the point here).

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Kantovska trolejologija (engl. *trolleyology*)

SAŽETAK

Rad istražuje šest suvremenih pristupa poznatom „problemu trolejbusa“ (engl. *trolley problem*) Judith Jarvis Thomson, misaonom eksperimentu koji i dalje predstavlja izazov i filozofima i nefilozofima. Analizirani pristupi uključuju one Paula Guyera, Pauline Kleingeld, Samuela Kersteina, Elke Elisabeth Schmidt, Jamesa Edwina Mahona i Allena Wooda. Svi ovi filozofi pokušavaju pomiriti Kantov moralni okvir s jedne strane s etičkim problemima koji su proizašli zbog problema trolejbusa s druge strane. Rad, međutim, ističe i objašnjava značajne izazove u pristupu svakog pojedinog filozofa, ukazujući na moguće nedostatke i nedosljednosti. U kritičkom bavljenju ovim raznolikim kantovskim pristupima rad ne samo da naglašava njihova ograničenja, nego i ponovno ispituje Thomsonov izvorni okvir problema kako bismo procijenili trajni značaj potonjeg i uronili u neka od sistemskih pitanja svojstvenih trolejologiji. Tvrdi se da je prepoznavanje ovih sistemskih problema bitno za unaprjeđenje robusnijeg kantovskog rješenja za problem trolejbusa, rješenja koje ostaje vjerno kantovskim načelima, dok se usprkos tome bavi složenošću moralnog odlučivanja u takvim situacijama.

Ključne riječi: trolejologija, kantovska trolejologija, Kantova etika, kantovska etika, Thomson, dužnosti.

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Kant and His Significance for Current Bioethical Issues

SUMMARY

In this contribution, I discuss some of Kant's impulses for modern bioethics based on his ethical standards, showing how they align with contemporary issues and how they help develop answers to new types of questions. First, I analyse the living environment and present Kant as a thinker about self-organising beings, attempting to show some perspectives for current debates on animal and environmental ethics. I then focus on the question of a human being as a dignified being. In this context, I discuss the question of whether a Neanderthal would count as a dignified being if it were possible to breed him in a research laboratory. Finally, by introducing cybrids and brain chimaeras, I discuss the project of creating human-animal mixtures.

Keywords: Kant, philosophy of organism, environmental ethics, human dignity, resurrection of Neanderthals, cybrids, hybrids, brain chimaeras, human-animal beings.

INTRODUCTION

This contribution discusses some stimulations Kant might provide for modern bioethics. When speaking of "bioethics", I do so in a wider sense and include man, animals, and even plants in my considerations. Thus, I am talking about more than just a biomedical kind of ethics. The body of Kant´s writings does not know the term "bioethics". This does not come as a surprise, as it is a recent term. Only in the past 20th century has bioethics succeeded in being established as an academic discipline. The first time the term appears in the German language is probably in 1926, in a short text by Protestant theologian Fritz Jahr (1926, pp. 604–605, as cited in Steger, 2014, pp. 25–27). However, this does not mean that there had not been bioethical considerations earlier. The opposite is true. For, insofar as it belongs to the tasks of bioethics to bring

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our way of dealing with the living to the forum of reason, we find many bioethical considerations in Kant. "Topically, bioethics are definitely not a discovery made only in the present", Fritz Jahr (1935, pp. 183–187, here p. 186) stated.

Twenty years ago, in 2004, Peter Baumanns (2004), in an important monograph, emphasised some considerations by Kant, which are pioneering examples of bioethics. There, the relevance of Kant´s ethics is demonstrated particularly by the example of issues concerning the personal and moral status of the embryo. Among the numerous publications on Kant, here I would like to also refer to a lucid work by Thomas Sören Hoffmann, who works out the concept of dignity and autonomy in more detail and discusses it in view of some bioethical issues (Hoffmann, 2005). Still influential are the considerations by the unfortunately short-lived Reinhard Löw (1980) on how to understand the living. In addition, works by Angelica Nuzzo (2008) and Helge Svare (2006) take into account the connection between body and life in Kant, which is so important for bioethics.

The progress of medicine and today´s biotechnology raises quite a number of questions and challenges, which are new and demanding. I would like to dedicate myself to some of them. First, I will look at the living environment, present Kant as a thinker of self-organising beings, and attempt to point out some paths of thinking for current animal- and environment-ethical debates (I.). Second, I will shift the focus to the question of man as a being with dignity (II.). I will then discuss the question about the possibility of a staged protection of dignity (II.1). I intend to ask whether a Neanderthal, should we succeed in breeding one in a research laboratory, would be a being with dignity (II.2), finally moving, using the examples of cybrids and brain chimaeras, to the project of creating human-animal hybrids (II.3). We will start at the beginning, with the first step.

I. PROSPECTS FOR ETHICS OF THE ORGANISM

Kant did not sketch any ethics for animals or the environment. However, he is somebody who includes not only man but also animals and plants in his thought. He draws our attention to an eminently important concept: the concept of the organism. Originating in the ideals of Newtonian physics, his thought moves towards explicitly taking the dimension of the organic into consideration.

In contemporary debates, prominent neuroscientists often reduce man to a shrunken mind-brain being while not sufficiently taking into account the organismic entirety in which the brain is embedded. The situation is similar to speculations from the field of trans- and post-humanism, whose most extreme versions assume that man´s mind

could be downloaded to a data medium. In this matter, Kant´s considerations may be eminently helpful.[1]

Kant's early writing states the following: "Give me matter, I am going to make it into a world for you" (Kant, 1902, p. 239). Only what one is capable of imitating has been really understood, as, in the same vein, the physicist and Nobel Prize Winner Richard Feynman asserts still in the 20th century. This view of nature is also shared by representatives of synthetic biology.

In Kant´s *First Critique*, we encounter a view of nature typical of the entire modern age, in which he tries to catch up with it in terms of transcendental philosophy. The kind of nature we encounter involves an understanding of nature, which is made subject to laws by reason. It is not capable of acquitting (adequately) itself. This means that it becomes part of man´s space of accessibility. However, in this way, important aspects of the reality of our lives remain ignored.

By the *Third Critique*, things are put on a different track. It is conspicuous, for example, that now Kant extends his understanding of the power of judgement from a restricted view, making use of reason to one which opens up the view in totality. Here, the dimension of the organic comes into its own. The concept of the organism is then particularly present in the *opus postumum*. Kant (1913, p. 372 ff.) prefers speaking of "organised beings". Elsewhere, he makes a variation and sometimes speaks of "organic natural beings" (ibid. p. 429), "organised bodies" (Kant, 1913, p. 193 f.), or "organised beings" (Kant, 1913, p. 372).

By the organism, we encounter a causality which is different from the linear causality of reason; we might as well say (that) "which goes beyond". In short, this kind of causality evades any explanation by reason. This is indeed the reason why Kant makes the move to teleological concepts.[2] Kant reaches back to the term "natural purpose" to underline the argument that organisms evade any purely mechanistic explanation. He is perfectly aware that speaking of a "natural purpose" may raise one or more questions. He points out that this is a "regulative term for the reflecting power of judgement" (Kant, 1913, § 65, p. 375).

The philosopher from Königsberg particularly emphasises the idea of reciprocity in his view of organisms: the elements of the organism are related to mutuality. To put it even more clearly: the elements are *by* being related to the entirety. By this, he means

[1] In the following, I will reach back to considerations from my work, Knaup, 2023.

[2] "Reason is only provided with mechanistic-causal determining and thus does never arrive at things whose particular nature suits us. Due to its nature, it will remain outside the specific unity of things and just determines how they are related" (Simon, 1991, p. 119).

that, on the one hand, the elements mutually create themselves and that, on the other hand, they depend on the organismic entirety, the integrated system.

Kant directs our attention to the fact that organismic beings are capable of self-organisation. He explains that with the organismic entirety, "everything is purpose and, conversely, also a means" (Kant, 1913, p. 376). The individual elements are related to each other. In manifold ways, Kant says, organisms are cause and effect of themselves (Kant, 1913, p. 371 f.).

> Kant is in perfect agreement with Aristotle: With organisms, the idea of the whole precedes its elements. […] If for once we compare Kant´s understanding of the organism and its way of being, i.e., life, with that of Aristotle, the congruence is astonishing. However, also the difference is obvious: the legitimation of teleological judgement. For Aristotle, it is problematic in detail, however, in general, it is constitutive for living beings: organisms *are* purpose-built, they *pursue* these purposes, they *are* built into purposeful contexts of living, after all, nature as a whole *is* one purposeful entirety. For Kant, such a judgement without any preceding critique of judgment would be dogmatism. (Löw, 1980, p. 195)

From there, it is possible also to formulate a bioethical perspective: given the other, non-human, organisms as well as given nature as a whole, humans have indirect obligations towards the whole, says the philosopher from Königsberg. Both man´s survival and his capability to act depend on the nature surrounding him, which must thus be preserved.

> Insofar as, e.g., the most different ecological systems provide a foundation for human life, protecting them is an obligation because the preservation of the natural conditions also safeguards the lives of humans. […] Our moral obligation towards rational beings – may it be towards oneself or towards other humans – gives indirect reason to an obligation to preserve non-human nature. (Breitenbach, 2009, p. 201 f.)

Given the fact that we are bodily structured, Kant states that "man´s first obligation towards himself [is] […] the self-preservation" of the organismic conditions (Kant, 1907, p. 553). A moral way of life is only possible in the context of his organismic nature.

By analogy with our reason, which strives for unity, Kant says that non-human organisms must be considered purposeful entireties. It is possible, in a way, to read our purposeful rational activity into the book of nature and, in this way, discover ourselves there. "Nature and reason […] appear as a mutually referring and mutually dependent pair when it comes to our attributions of value. Thus, nature proves to be the environment we humans are embedded in, not only as natural beings but also, *particularly*, as rational actors." (Breitenbach, 2009, p. 223) Real animal and environmental protection requires that, indeed, we read some purposefulness into

nature. Violence and pain, protection and conservation make sense only if nature itself is imagined as being teleologically constituted. In a completely physicalised world, in a nature of naked facticity, there is no room for such phenomena.

Man is related to other natural beings, but he is the only being capable of living a life according to ethical criteria. An animal can neither become guilty when killing or tormenting another animal nor can it comply with obligations. Due to the reason that man is provided by virtue of being human, there exists an obligation of a different quality than the obligation he is involved in as an organism. He is a being of liberty, a liberty in which its worth is proved by moral behaviour: we are capable of taking distance from ourselves and adopting objective, trans-individual goals. Beyond the dimension of organic and natural, qua reason, man has an awareness of unconditional obligation. He is part of an intelligible community of rational beings. Man is capable of making his own laws insofar as he is capable of participating in a general kind of reason. This is what distinguishes man or, as Kant has it, what makes him a being of absolute value. Thus, we may meaningfully speak of animal and environmental protection only if man´s particular status and responsibility for other natural beings becomes obvious. A bear does not care about the suffering of a cricket.

II. MAN AS A DIGNIFIED BEING

II.1 On the question of a staged understanding of dignity

Other than current animal ethics, which, in view of animals or even plants, speak of "dignity", Kant reserves this term for man to give expression to man´s special status, which is grounded in the capability of being oriented in the moral law and being autonomous. After all, as we have seen, the relation to animals can be emphasised through the concept of the organism.

Human dignity is no outmoded concept but a concept of particular ethical, political-practical, and legal relevance. Human dignity is absolute and of incomparable value (Kant, 1911, p. 394, 428, 436). This means that man cannot be reduced to monetary value, and that man will avoid and resist such reduction. His dignity exceeds those things that are merely useful. Dignity is about recognising the other as a subject in principle, precisely as the other. Being autonomous and capable of determining purposes is an essential part of man.[3] Human dignity is precisely not tied to certain

[3] One of man´s particular features is that he is legally autonomous. He possesses autonomy not just like he may own an automobile. Very well, however, he may be autonomous. Autonomy is not about limitlessly managing things as one pleases. Man is capable of obeying causality in liberty. If we speak of man as an autonomous being, we should be aware that he is always embedded in a community. Any autonomy that disregards the autonomy of any other human is indeed no autonomy at all. To have it in positive terms: part of autonomy is observing,

qualities and skills of man. It can never be weighable but must be valid without any precondition. Otherwise, ways of exerting violence and power could be imagined, resulting only from personal ideas of what is appropriate or also from trends, rejecting the guidance of reason and dignity.

Dignity is something that refers to all humans. If dignity was based on being born or on the possession of particular skills, some humans would be left out. It is also not dependent on intellectual or physical skills, nor on nationality or belonging to a certain religion. Also, it is not capable of being granted by certain people, nor could it be withdrawn by them. Dignity is the connecting tie between *all those* belonging to the human family.

However, today, this position of Kant is not shared by everyone. For example, a publication on CRISPR-Cas9 on the issue of human dignity, states: "Whereas by the dignity of superfluous embryos living beings are protected which have no sentience or consciousness at all and thus have no needs of their own, the basic rights of individuals, such as the freedom of research, defend interests the violation of which is experienced as pain, suffering or otherwise negatively. From an independent, moral point of view, it could not be justified to place objective, abstract values above the feelings of vulnerable people. The dignity of embryos at early stages must not be taken to be absolute and cannot be generally given superiority over the freedom of research." (Rütsche, 2017, p. 244)

In Germany, the freedom of research is guaranteed by the constitution: according to Article 5, Sect. 3 Basic Law, the sciences, research, and teaching are free. This basic right is historically rooted in the Revolution of 1848. In Europe, the freedom of research is regulated by Art. 13, Sentence 1 of the EU´s Fundamental Rights Charter. Topically, it is about being entitled to free research, drawing the appropriate conclusions from this research, and publishing the results. This basic right has its limits by the inviolability of human dignity and the protective task of the state guaranteed by Art. 1 Basic Law. If there are concerns that research projects might violate the dignity of man, such projects must be prohibited. The scientist at the laboratory enjoys "all freedom of research, however not of causing disadvantageous consequences for third parties" (Hoffmann-Riem, 2004, p. 65). The lives of humans cannot be put up for negotiation, not even if this way help can be provided for a larger group of humans.

Any "staged protection of dignity", which is occasionally mentioned (see Hacker et al., 2009, p. 85), is no protection and contradicts the idea of the dignity of man. Man

recognising the autonomy of other humans. Insofar, it is also a kind of self-limitation that explicitly agrees with the unavailability of other humans.

must be man´s "end in itself", as Kant emphasises (Kant, 1911, p. 429). Due to this being an end in itself, all instrumental approaches – however noble they might look at first sight – are limited. Were man not an end as such, some purpose might be imagined through which those who set the purpose might engineer their own (and others') extinction.

II.2 Are Neanderthals provided with dignity?

Currently, several laboratories are working on resurrecting mammoths and other beings from primaeval times through cloning and the possibilities of synthetic biology. Basically, one might imagine that even Neanderthal man might be brought into existence again.[4] Would he also be a dignified being?

Homo neanderthalensis existed with an upright posture, with manipulable hands, which allowed him various kinds of technical skills and activities. Amongst these activities may have occurred those termed religious and aesthetic (see Leroi-Gourhan, 1980, p. 35, 131, 145). Neanderthals did care for the weak and the injured and buried their dead. They took responsibility for others and lived moral values. There is a clear similarity here with what we otherwise know of "persons". Homo neanderthalensis should be recognised as moral subjects.

Now, one would probably have to situate Neanderthals as belonging to the same species as man. Neanderthals did not belong to the pan species (chimpanzee), which includes the two species of pan troglodytes (chimpanzee) and pan paniscus (Bonobo, pygmy chimpanzee). Thus, one could argue that through Neanderthal man, the idea of humankind is realised, and this must be identified and linked with our concerns regarding homo sapiens.[5]

Due to his human nature, the Neanderthal man – like you and me – can be a being of liberty. He belongs to humankind. Furthermore, homo neanderthalensis is provided with a body like ours. He would have to be recognised and treated as a physical subject; his unavailability would have to be respected. With Kant, we could now argue that belonging to the general category of humankind is sufficient for attributing and recognising dignity. Homo neanderthalensis would share the reason,

[4] In this concern, I point out the works by: Pääbo, 2015.

[5] It may be imagined that some representatives would be demanded to show species-typical qualities (interests, plans for the future, memory, etc.) to support the protected status of Neanderthal men. In this case, however, morality would be reduced to the existence of interests, being a person would be made a bundle of interests. Basically, interests may as well be immoral, which is why not interests as such but only those aiming at the good are morally relevant. "Something must deserve a moral interest, must be worth such an interest. This, however, is not stated by interest alone." (Pöltner, 2015, p. 258). To this, there adds that being human as such is no quality; we are provided with certain qualities because we are human.

as such, be an "end in it(one)self" and could thus never be treated just as a means to any given end.

It remains that this genetic programme is something artificial, made by scientists at a research laboratory for heteronomous purposes. As Kant insisted, a member of the human species or humankind must always be treated as an *end in itself*. It would have to be respected for the sake of itself. Thus, for our Neanderthal man, the following could be true:

> Now I say: man, and anyway any rational being, exists as an end in itself, not just as a means to be arbitrarily used for this or that intention, but it must, concerning all his actions both concerning himself and other rational beings, always at the same time be considered a purpose. (Kant, 1911, 429)

As far as this goes, any and all enterprises intending the recreation of Neanderthal man should be abstained from right from completely.

II.3 On cybrids and brain chimeras

As a result of the progress of biotechnologies, animal-man hybrids, which once belonged to the world of myths and inspired our imagination, have become a bioethical challenge that must be addressed.

Cytoplasmic hybrids provide the possibility of making man-animal hybrids. In terms of technology, the method is similar to that once applied to clone sheep Dolly. That is, an ovum must be enucleated. In one case, cow ova was utilised into which human nuclear DNA is transferred.[6] The developing cell is not only provided with an almost complete human genome but is capable of developing further. Similar to the case of Dolly, when the mitochondria also came from the ovum (that is, they do not come from the donor animal), also in this case, the mitochondria are contributed from the cattle cells. Purely in mathematical terms, the genome in the mitochondria makes about 0.1 per cent. More than 99 per cent are human genome.[7] "It must be assumed that particularly if ova, embryonic stem cells or other embryonic tissular are involved, there may be uncontrollable effects of the genetic fusion or the transfer

[6] In 2006, this was reported by: Illmensee et al., 2006, pp. 1248–1260. These days, such interventions are legal, e.g., in Great Britain. Three years previously, this technique had been successfully implemented with enucleated rabbit cells, achieving as much as the blastocyst stage. One succeeded in taking out pluripotent stem cells: see Chen et al., 2003, pp. 251–264; The Danish Council of Ethics, 2007, p. 13.

[7] This research field aims at producing human stem cell lines. In this context, one also encounters the argument that this way, the problems of consuming embryo research can be avoided. One may indeed argue this way if one is ready to ignore the problems connected to this research branch. Due to the mitochondrial DNA, furthermore, it cannot be safely stated whether these embryonal stem cells could really be used for therapeutic purposes. From an ethical point of view, the focus must particularly be on the fact that for the making of animal-man hybrids, embryonic tissue and stem cells (both adult and embryonic) may be used.

of genes at various levels, that is at the level of the somatic cells, the stem cells or even the primordial germ cells. Indeed, interventions into the human germ line have been internationally banned and have thus, at least for the time being, not been developed. However, as a result of experiments with chimaeras or hybrids, not only new fusions of man and animal could be technologically created, but also undesired germ line effects might occur." (ibid. p. 35 f.)

One can dispute whether or not these hybrids are human despite the presence of the human genome. If one argued yes, this would result in the consequence of recognising the hybrid as human. If, on the other hand, the answer is that such a being´s moral status cannot be localised at the same level as that of man, certain interventions would be easier. "If, e.g., the human embryo is considered a being created by the germination of a human ovum and a human sperm cell, a zygote created from the germination of an ovum and a sperm cell, one of which not being human, could not be considered a human embryo, with all the thus connected legal consequences" (Düwell, 2015, p. 227). It would not be possible to refer to constitutional basic rights such as the right to live and physical integrity (BL Art. 2 Sect. 1), as these basic rights only apply to humans.

It could be argued that these hybrids are human beings who have been polluted by animal components.[8] It is the nuclear DNA which contains the genome. And it is this nucleus that determines the phenotype (see Jaenisch, 2003, p. 233). If one accepts this, such a being would be human. Consequently, from the moral and the legal point of view, this being would have to be treated like any other human: it would be entitled to dignity, which is why, from an ethical point of view, its making and making it a purpose would have to be clearly rejected as such (see also Beck, 2009, p. 279).

If the nuclear DNA came from an animal but the ovum from a woman, the resulting organism would be an animal. Insofar as a human ovum is used for making an animal, it may be argued with Kant that such a project would be a violation of human dignity, which is why also research of this kind would have to be clearly rejected (see Beck, 2009, p. 281).

It might be argued that, due to man´s dignity, right from the beginning, it cannot be an option to combine human biological material with that of animals to create a hybrid. Then, the critical view would not only refer to the product but also to the origins and intent of research and whether such research was appropriate or condoned. As the status of any such organism is problematic, in my opinion from an ethical point of view, it would be advisable not to create such beings.

[8] The situation is different with the amalgamation of animal and human stem cells. This would result in a completely new kind of being.

In this context, let us also examine the issue of brain chimaeras! In these cases, human cells are transferred to animals. For the implementation of this procedure, one also utilises stem cells. The intended goal is to bring medicine forward and to be able to better treat grave illnesses such as Alzheimer's and also Parkinson's.

In March 2019, Chinese scientists reported they had modified macaques with human genomes, resulting in an increased performance of the short-term memory of the animals. Insofar as primates are more closely related to us than other animals, this field of research is particularly sensitive. They are close to us in terms of genetics and morphology; their facial expressions and sounds demonstrate a reaction to pain, which is not unlike ours. It is ethically dubious to consider animals as legitimate subjects of human exploitation. The objectification of the animal – as we might argue with Kant – will, in the long run, not leave man unharmed and does not increase human stature but rather reduces it.

Insofar as the brain is considered to play particular roles both for animal and human organisms when it comes to being capable of certain life manifestations, one might also argue that other organs should be likewise regarded. In addition, the issue of kinship carries weight. Apes are closer to us than rodents. In this regard, the transplantation of human cells into the encephalon of an ape would happen in a significantly different manner than that of a rodent. And, of course, the question of when the transplantation happens is equally significant. For, if the intervention happens with an embryo, we would have good reason to assume that the implanted cells will integrate into the overall organism.

One single genome implanted into an animal is no bearer of human dignity, but a human individual certainly is. Because of this, it would be possible to make use of human cells and human nuclear DNA for the creation of hybrids without any violation of human dignity. We must consider that the animal should not suffer from inappropriate damage and pain. The philosopher from Königsberg would speak of obligations "in view of" nonrational beings. His reason for this would be "compassion with their suffering" (Kant, 1907, p. 443). Any treatment which would make the animals suffer would not remain without consequences for the man himself, as it would come along with the danger that man himself becomes brutalised, that his feelings of compassion would be deadened. After all, our "view" of these animals—we would probably speak of species-appropriate treatment—would be an obligation towards ourselves (see ibid.). Animals are subject to the responsibility of the human obligation to love. Our self-esteem makes it an obligation not to make them suffer.

CONCLUSION

I now turn to my conclusion. This contribution has revealed important contributions by Kant concerning selected current bioethical issues and challenges. Following in his footsteps, it has been possible to ask some critical questions concerning bioethical developments and

social-political matters of our time. I have argued that on the basis of the ethical milestones Kant set, it is possible to formulate solutions for completely new and currently urgent problems that he probably did not even dream of. Contrary to the existing trends in mainstream bioethics, I point out approaches that intend liberal and freedom-sustaining perspectives and that challenge existing biases and assumptions. Thus, even three hundred years after his birthday, it is worthwhile to take the books written by this giant of the history of philosophy into our hands. With him, philosophy can also solve its task of appearing as a critic of our times if it is about fundamental issues of being human and of our living together.

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Kant i njegov značaj za aktualna bioetička pitanja

SAŽETAK

U prilogu raspravljam o nekim od Kantovih poticaja za modernu bioetiku koji se temelje na njegovim etičkim standardima, pokazujući kako se oni usklađuju sa suvremenim problemima i kako pomažu u pronalaženju odgovora na nove vrste pitanja. Prvo analiziram životni okoliš, a Kanta predstavljam kao mislioca o samoorganizirajućim bićima, nastojeći pokazati određene perspektive za aktualne rasprave o životinjskoj i ekološkoj etici. Zatim se usredotočujem na pitanje o čovjeku kao dostojanstvenom biću. U ovom kontekstu raspravljam o pitanju bi li se neandertalac smatrao dostojanstvenim bićem kada bi ga bilo moguće uzgojiti u istraživačkom laboratoriju. Naposljetku, predstavljanjem kibrida i moždanih himera raspravljam o projektu kreiranja mješavine čovjeka i životinje.

Ključne riječi: Kant, filozofija organizma, etika zaštite okoliša, ljudsko dostojanstvo, uskrsnuće neandertalca, kibridi, hibridi, moždane himere, ljudsko-životinjska bića.

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Kant i pravo na zdravstvenu skrb – socijalna država po libertarijanskom receptu[1]

SAŽETAK

U suvremenim raspravama o pravu na zdravstvenu skrb opće je mjesto tvrdnja da se Kantova vizija države suprotstavlja libertarijanskoj koncepciji, odnosno da Kantova ideja države obuhvaća i dužnost države da pruži određenu razinu zdravstvene skrbi svim svojim građanima. U članku se istražuju izvori i dosezi te normativne obveze u kontekstu Kantove filozofije prava i politike te se nastoji pokazati kako je njegova ideja dio liberalne tradicije, a zdravstvena skrb bi upravo trebala poslužiti zaštiti individualne slobode. Koncept moderne socijalne države može se, barem donekle, temeljiti i na Kantovim idejama, iako one definitivno nisu kompatibilne sa socijalističkim vizijama društva i države. Uz izbjegavanje libertarijanskih i socijalističkih krajnosti, Kant kao učinkovito sredstvo ostvarivanja prava na zdravstvenu skrb predlaže instrument koji može podsjećati na vaučerizaciju, dakle na instrument koji često zagovaraju libertarijanci. Uz tvrdnju o pozitivnim financijskim učincima, Kant ukazuje i na to da on povećava osobnu slobodu. To, međutim, ne znači da se Kant slaže s libertarijanskom idejom o minimiziranju državne intervencije kao onome što maksimizira slobodu pojedinca, već se radi o ideji da je olakšavanje ostvarivanja temeljnih prava ono što osigurava slobodu pojedinca, shvaćenu kao jednakost pod općim zakonima.

Ključne riječi: Kant, država, pravno za zdravstvenu skrb, socijalna država, libertarijanizam, vaučerizacija.

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UVOD

Ideja države (lat. *respublica noumenon*), prisutna u Kantovoj filozofiji prava i politike, uključuje i tvrdnju o tome da je država, s obzirom na ulogu koja joj je namijenjena, dužna pružiti svojim građanima i neku vrstu zdravstvene skrbi, tj. zaštite. Taj stav je opće mjesto u suvremenim raspravama o pravu na zdravstvenu skrb (Altman, 2011; Davies, 2014; Heubel, 1995; Loewy, 1995), a može ga se promatrati i u širem kontekstu rasprava o odnosu između Kantove normativne teorije i suvremenoga koncepta socijalne države. Polazeći upravo od toga, u članku ću ukratko analizirati Kantov koncept države, uspoređujući ga s liberalnim, libertarijanskim i socijalističkim vizijama države. Iz te šire analize izdvojit ću konkretno pitanje prava na zdravstvenu skrb te nastojati pokazati na čemu bi se ono, u Kantovoj koncepciji, temeljilo te što bi, eventualno, moglo obuhvaćati. U konačnici ću zastupati ideju da Kantov nacrt nije kompatibilan s libertarijanskim stavom o pravu na zdravstvenu skrb, ali da implementacija toga prava može, u Kantovoj viziji, biti osigurana i jednim sredstvom koje može podsjećati na vaučerizaciju, dakle instrumentom koji često zagovaraju baš libertarijanci.

ULOGA DRŽAVE U KANTOVOJ NORMATIVNOJ TEORIJI

Za Kanta[2] država je prije svega platonički **ideal**, *respublica noumenon*, odnosno normativna ideja koja „nije prazna maštarija, nego je vječna norma za svaki građanski ustav uopće“, tj. „[n]eko njoj primjereno organizirano građansko društvo“ (Kant, (1798/1991, str. 99 [7:91]). Moralna nužnost uspostave građanskoga društva proizlazi iz činjenice da ljudi, kao praktičnim umom obdarena slobodna bića, žive jedni pored drugih u neizbježnom kontaktu te je stoga nužno da se njihov međusobni utjecaj pravno regulira, budući da je pravo u svojoj biti „skup uvjeta pod kojim se htijenje jednoga može po općem zakonu slobode uskladiti s htijenjem drugoga” (Kant, 1797/1999, str. 27 [6:230]). Drugim riječima, dok se **etika** za Kanta bavi zakonima **unutrašnje** slobode i odgovara na pitanje kako trebamo **htjeti** (postavljati ciljeve samima sebi), pravo se odnosi na zakone **izvanjske** slobode i odgovara na pitanje kako trebamo **izvanjski manifestirati** svoje htijenje. U etici, prijetnja slobodi dolazi od heteronomije prilikom postavljanja ciljeva. U pravu, prijetnja slobodi dolazi od htijenja drugih ljudi. U obje sfere moralnosti **zakoni slobode** shvaćeni su kao **ista** formalna ograničenja na ono što se može htjeti kao **opći zakon**[3], a ključna je razlika

[2] Kod citiranja Kantovih tekstova, prva navedena godina odnosi se na godinu izdavanja izvornika, druga na godinu suvremenog reizdanja konkretnoga prijevoda, a u uglatim zagradama navedena je paginacija izdanja Pruske akademije.

[3] U *Osnivanju metafizike ćudoređa*, dakle u tekstu koji se bavi etičkim principima, Kant iznosi dva kriterija poopćivosti zakona. Prvi bi mogli nazvati **kriterij proturječnosti ili samoponištavanja,** a može ga se oprimjeriti

što se poštovanje pravnih zakona, budući da se oni odnose na izvanjsko djelovanje, može utjerati silom.

Pravne dužnosti Kant, stoga, naziva dužnostima uske obvezatnosti (Kant, 1797/1999, str. 177 [6:390]), tj. savršenim dužnostima, budući da precizno propisuju što je tko dužan učiniti kome, kada i u kojoj mjeri – zato se njihovo poštovanje i može utjerati silom.[4] Država je, onda, upravo „savez mnoštva ljudi koji je podvrgnut pravnim zakonima" (Kant, 1797/1999, str. 105 [6:313]), i to takav „u kojemu se svakome pomoću dostatne *moći* (koja nije njegova, nego izvanjska), *zakonski* određuje i dodjeljuje ono što mu valja priznati kao njegovo" (Kant, 1797/1999, str. 104 [6:312]; kurziv u originalu). Ono što Kanta čini dijelom liberalne tradicije je njegovo inzistiranje na tome da uloga države jest zaštita temeljnih prava, a **ne** usrećivanje ljudi ili osiguravanje njihove (kontingentne) dobrobiti (materijalne, psihičke ili ine), odnosno njegova tvrdnja da se pod dobrobiti države „ne podrazumijeva blagostanje državljana i njihovo *blaženstvo*, jer ono u prirodnom stanju (kao što također tvrdi Rousseau) ili pak pod despotskom vladavinom možda može ispasti puno ugodnije i poželjnije; nego podrazumijeva stanje najvećeg sklada između uređenja i pravnih principa, a um nas kategoričnim imperativom obvezuje da težimo za tim stanjem." (Kant, 1797/1999, str. 109 [6:318]; kurziv u originalu).

Uzevši u obzir da kao temeljne elemente privatnoga prava Kant vidi privatno vlasništvo, ugovornu sposobnost i sferu obiteljskoga prava, vrlo površnim čitanjem moglo bi se zaključiti kako se tu zagovara minimalna država, čiji je jedini zadatak obrana privatnog vlasništva i ugovora. I zaista,

> nekoliko liberalnih i libertarijanskih mislilaca tražilo je inspiraciju kod Kanta. U svojoj obrani minimalne države, Robert Nozick tvrdi kako je krivo kršiti slobodu ljudi u ime većih društvenih probitaka. Prisilnom redistribucijom bogatstva siromašnima

testiranjem laganja kao prakse. Svijet u kojem svi uvijek lažu nije moguć, budući da bi sama mogućnost prihvaćanja obećanja bila time onemogućena, a bez nje niti laž ne može funkcionirati. Drugi kriterij mogli bi nazvati kriterijem baziranim na **naravi volje**, a može ga se oprimjeriti testiranjem želje za međusobnim pomaganjem. Svijet u kojem nitko nikome nikada ne priskače u pomoć jest logički moguć, ali, kako kaže Kant, "nemoguće [je] htjeti da takav princip posvuda vrijedi kao prirodni zakon. Volja koja bi to odlučila proturječila bi naime samoj sebi, jer se ipak može dogoditi dosta takvih slučajeva u kojima mu je potrebna ljubav i sućut drugih, pa bi sebi takvim prirodnim zakonom, koji bi proizašao iz njegove vlastite volje, sam sebi oduzeo svaku nadu u pomoć koju sebi želi." (Kant, 1785/2003, str. 44 [4:423])

U *Metafizici ćudoređa*, odnosno u *Metafizičkim počelima pravnoga nauka,* dakle u djelu koje se bavi pravnim principima, možemo ponovno vidjeti ista dva probna kamena poopćivosti na djelu. U argumentu protiv postojanja prava na pobunu, temeljnom na logici suvereniteta, Kant tvrdi da bi ugrađivanje prava na pobunu u pravni sustav onemogućilo da bilo kakav pravni sustav uopće nastane – to bi bio kriterij samoponištavanja primijenjen u sferi prava. Kada, s druge strane, Kant govori o instituciji nasljednog plemstva, koja je itekako moguća u praksi, on jasno napominje: „Kako se ne može pretpostaviti da će ijedan čovjek odbaciti svoju slobodu, nemoguće je da se opća volja naroda složi s takvom bezrazložnom povlasticom, pa je ni suveren ne može nametnuti." (Kant, 1797/1999, str. 121 [6:329]). Tu je na djelu drugi navedeni kriterij poopćivosti, onaj koji se bazira na naravi volje.

[4] Tu se ujedno vidi i razlog zašto pravo kod Kanta nije moguće reducirati na puku ekstenziju etike – moralne dužnosti, same po sebi, ne obuhvaćaju nužno ovu značajku.

> ljudi se tretiraju kao puka sredstva kojima se promiče dobrobit drugih, budući da im se time oduzima ono što je po pravu njihovo bez njihova pristanka. [...] Poput Nozicka, Friedrich Hayek tvrdi da, u kontekstu zakona, Kantov kategorički imperativ služi kao „negativni test" kojim se isključuje ono što je nepravedno bez da se time zahtijevaju pozitivne dužnosti unapređivanja pravedne agende. Nozickov i Hayekov Kant ne vjeruje previše u tvrdnju da imamo društvene obveze, koje bi trebalo zakonski provoditi, a koje bi drugima pružale temeljna dobra za ljudski boljitak. (Altman, 2011, str. 77)

Međutim, dovoljno je samo malo bolje poznavati Kantove pravno-političke spise kako bi se vidjelo da se „Nozickov i Hayekov Kant" u njima ne može pronaći, odnosno da libertarijanizam svoje normativne postavke definitivno treba tražiti negdje drugdje. Kant, naime, vrlo eksplicitno tvrdi:

> Opća narodna volja sjedinila se naime u društvo koje se treba trajno održati, a u tu se svrhu podvrgnula unutrašnjoj državnoj vlasti kako bi uzdržavala one članove tog društva koji to sami ne mogu. Država dakle daje vladi pravo da imućne primora na pribavljanje sredstava za uzdržavanje onih koji ne mogu zadovoljiti ni svoje najnužnije prirodne potrebe; zato što je njihova egzistencija kao čin podvrgnuta zaštiti i skrbi zajednice, koja im je potrebna za opstanak, ujedno ono na što su se imućni obvezali, a na tome država temelji svoje pravo da ih primora na to da pridonesu uzdržavanju svojih sugrađana. To se može postići tako da se uvede porez na vlasništvo državljana ili njihovu trgovinsku razmjenu ili tako da se osnuju fondovi koji daju kamate [...] ali ta se svrha ne može postići pukim *dobrovoljnim* doprinosima (jer ovdje je riječ samo o *pravu* države spram naroda) [...] nego prisilnim, državnim nametima. (Kant, 1797/1999, str. 117-118 [6:326]; kurziv u originalu).

Država od agregata atomiziranih pojedinaca stvara, dakle, jedan novi entitet, koji se zove **narod**, tj. „[…] mnoštvo ljudi […] kojima je u međusobnome utjecaju potrebno pravno stanje pod vodstvom sjedinjujuće volje […] da bi mogli ostvarivati svoja prava" (Kant, 1797/1999, str. 103 [6:311]). A budući da se država, za razliku od pojedinaca, „mora smatrati vječnom" (Kant, 1797/1999, str. 155 [6:367]), njena je dužnost da očuva sve svoje dijelove, tj. čitav narod, te je tu u svrhu posve opravdano oporezivati bogatije članove društva. Na temelju toga, može se pojaviti i iskušenje čitanja Kanta u socijalističkom ključu, što neki također rade (Dodson, 2003; Love, 2020). Međutim, i s tim postoje brojni problemi[5], a Kant u navedenom citatu jasno

[5] Temeljni problem takvoga pristupa jest što se on temelji na ideji da se sloboda pojedinca osigurava time što ga se spašava od podložnosti volji drugih, imućnijih pojedinaca (poslodavaca, bogataša...), i time ga se izbavlja od sudbine pukoga sredstva za postizanje tuđih ciljeva te ga se poštuje kao svrhu samu po sebi. Međutim, ako bi to impliciralo ukidanje privatnoga vlasništva, i distribuciju materijalnih dobara (čak i u društvu materijalnoga obilja) **isključivo** putem državnoga ili društvenoga nadzora, time bi se sloboda pojedinca našla ugrožena od strane jednog puno moćnijeg entiteta, države. A i o tome Kant ima jasan stav:

> Vlast koja bi bila izgrađena na načelu dobrohotnosti prema narodu, kao što je *očeva* prema *djeci*, tj. *očinska vlast* (*imperium paternale*), u kojoj su podanici prisiljeni ponašati se samo pasivno, kao nedorasla djeca koja ne mogu razlikovati što im je istinski korisno ili štetno, nego moraju

navodi da se oporezivanje bogatih provodi kako bi se zbrinuli oni „koji ne mogu zadovoljiti ni svoje najnužnije prirodne potrebe“. Tu nema riječi o socijalističkoj uravnilovki, a Kant na drugome mjestu izričito tvrdi kako „opća jednakost ljudi kao podanika u jednoj državi potpuno dobro pristaje uz najveću nejednakost mnoštva u stupnju njegova posjeda, bilo da je riječ o fizičkoj ili duhovnoj premoći nad drugima, ili premoći u slučajnim vanjskim dobrima“ (Kant, 1793/2000, str. 76 [8:292]).

Razni suvremeni komentatori i komentatorice (Boot, 2018; Oki, 2018; Sánchez Madrid, 2018) stoga odbacuju ideju da se koncept moderne socijalne države može temeljiti na Kantovoj normativnoj teoriji, osobito ako bi se pod državnu ingerenciju stavila ciljana redistribucija bogatstva, i ekstenzivno zamišljen popis temeljnih prava, koji bi uključivao i pravo na pristojni životni standard. Uloga kantovske države iscrpljuje se, prema toj viziji, u osiguranju formalne jednakopravnosti pred pozitivnim zakonima države te u određenoj razini minimalne pomoći nevoljnicima. Ta pomoć, u toj interpretaciji, ne proizlazi iz dužnosti dobročinstva prema ljudima, koja je etička[6], a ne pravna dužnost, i samim time je široka, nesavršena, dakle neprecizirana, te se posljedično ne može provoditi silom (budući da se ne može jasno utvrditi tko je dužan učiniti što, kome, i u kojoj mjeri). Umjesto toga, ta minimalna pomoć proizlazi iz dužnosti države da očuva samu sebe time što će spriječiti nestanak svojih dijelova, prevenirati unutrašnju nestabilnost, ili unutrašnju slabost koja bi je učinila ranjivom u međunarodnoj areni.

Moguće je, međutim, pronaći i liberalni argument u prilog tome da Kantova vizija države obuhvaća barem neke od sastavnica moderne socijalne države. Njega, na primjer, nudi Larry Krasnoff (2018), koji tvrdi kako moderni programi socijalne pomoći mogu biti legitimirani upravo pozivanjem na slobodu, a ne na neki sekundarni, neovisno koncipirani oblik dobrobiti (materijalne ili ine). Ako je svrha države osiguranje izvanjske slobode, tada bi ona morala pružiti ljudima i određene materijalne uvjete, bez kojih ta sloboda zapravo postaje neoperativna, a ljudi samim time bivaju podloženi arbitrarnim očitovanjima volje drugih pojedinaca. Time se onda potencijalno proširuje zamislivi raspon državne pomoći, koji bi u Kantovu nacrtu morao izbjeći i libertarijansku i socijalističku krajnost. A u tom kontekstu se onda otvara i pitanje prava na zdravstvenu skrb, opravdanja na kojem ono počiva te pitanje njegova dosega u sklopu kantovske države.

čekati, kako na sud poglavara države o tome na koji način oni *treba da* budu sretni, tako i na poglavarevu dobrotu da *on hoće* njihovu sreću: takva vlast je najveći *despotizam* koji se može zamisliti (uređenje koje ukida svaku slobodu podanika, koji onda uopće nemaju nikakva prava) (Kant, 1793/2000, str. 75 [8:291]; kurziv u originalu).

6 Vidi, npr., *Osnivanje metafizike ćudoređa* (Kant, 1785/2003, str. 16 [4:398], str. 44 [4:423]).

PRAVO NA ZDRAVSTVENU SKRB KAO SASTAVNICA KANTOVSKE DRŽAVE

Kao što sam naglasio i u uvodu, ideja da Kantov koncept države uključuje i neku vrstu prava na zdravstvenu skrb poprilično je prisutna u relevantnoj literaturi, a moguće ju je utemeljiti na nekoliko načina. Jedan od njih predlaže Heubel (1995), a to je pozivanje na opću ujedinjenu volju kao heuristički normativni standard[7] procjene pravednosti zakona u Kantovu konceptu prava i politike. Heubel tvrdi da tako zamišljen standard ne dozvoljava da opća volja, koja bi obuhvaćala **sve** građane, kao umom obdarena racionalna bića, prihvati zakon koji bi nekima od njih uskratio stvari bez kojih ne mogu preživjeti: „To znači kako bi svi željeli da nekim građanima bude uskraćen pristup stvarima koje su nužne za život. Kada bi zaista svi građani to željeli, tada bi neki od njih svojevoljno prihvatili vlastitu smrt." (Heubel, 1995, str. 210). Drugim riječima, princip poopćivosti[8], kao formalno ograničenje pravnih zakona, zabranjivao bi uskratu zdravstvene skrbi kao nepravednu, i samim time nespojivu s idejom istinske države.

Pozivanjem na samu normativnu ideju toga što država jest, i što bi morala osiguravati, mogu se konstruirati i dodatni argumenti u prilog tezi o nužnosti postojanja prava na zdravstvenu skrb. Uz izravno ukazivanje na tvrdnju kako „[d]ržava daje vladi pravo da imućne primora na pribavljanje sredstava za uzdržavanje onih koji ne mogu zadovoljiti ni svoje najnužnije prirodne potrebe", i Altman (2011) i Davies (2014) koriste dva vrlo slična i povezana argumenta u prilog postojanja toga prava u državi koju propisuje čisti um.

Prvi se odnosi na tvrdnju da se građani države moraju nalaziti u situaciji temeljne simetrije uzajamne prisiljivosti, odnosno da se nitko ne bi smio naći u situaciji egzistencijalne ucjenjivosti. Kada bi to bio slučaj, imali bismo situaciju u kojoj je izvanjska sloboda nekih izravno podložna arbitrarnim očitovanjima volje drugih, što bi značilo narušavanje temeljne ideje pravnih odnosa kao odnosa u kojima se „htijenje jednoga može po općem zakonu slobode uskladiti s htijenjem drugoga". Etička dužnost dobročinstva ostaje na snazi, te bi je svi, uključujući i bogate, trebali izvršavati, u njenim nesavršenim i širokim granicama. Međutim, za razliku od libertarijanskog ideala, u kojem pomoć bližnjima u društvu mora biti plod isključivo privatne dobre volje, takav aranžman, gledan iz Kantova kuta, značio bi egzistencijalnu ovisnost dijela siromašnih o onim bogatijima, odnosno kvaziklijentelistički sustav nespojiv s

[7] „[O]no što narod (cjelokupno mnoštvo podanika) ne može odlučiti o samome sebi i svojim drugovima, to ni suveren ne može odlučiti o narodu" (Kant, 1797/1999, str. 120 [6:329]). „[O]no što narod sam o sebi ne može odlučiti, to također o narodu ne može odlučiti ni zakonodavac" (Kant, 1793/2000: 88 [8:305]).

[8] Vidi i bilješku 2 ovoga članka te usporedi ovaj primjer s primjerom nepravednosti institucije nasljednoga plemstva.

idejom **građanske** jednakosti i samostalnosti (budući da etičke dužnosti nisu utjerive zakonitom silom).

Ideju zaštite jednake izvanjske slobode kao zakonite slobode građanskoga stanja i Altman i Davies povezuju i s drugim, srodnim argumentom, u prilog postojanja prava na zdravstvenu skrb. Za razliku od unutrašnje slobode, koja je sposobnost volje da si **postavlja** moralno obvezujuće ciljeve, izvanjska sloboda, koja se tiče i **djelovanja**, mora biti povezana i sa **sredstvima** toga djelovanja. „Budući da Kant tvrdi kako je sposobnost postavljanja i slijeđenja ciljeva ono što suštinski definira racionalna bića, nemogućnost djelovanja zbog bolesti ili fizičke ili mentalne slabosti je prijetnja našoj osobnosti. Prema Kantovu mišljenju, osobnost ne uključuje samo sposobnost postavljanja ciljeva, već i sposobnost djelovanja na temelju naših odluka." (Altman, 2011, str. 75). „Zaštita slobode, za Kanta, mora dakle biti zaštita sposobnosti da se poslužiš sredstvima koja već imaš kako bi ostvario svrhe koje si sam sebi postavio; to je zaštita tvoje sposobnosti vlastitoga izbora." (Davies, 2014, str. 74). Drugim riječima, i Altman i Davies imaju isti argument koji smo, u općenitijoj formi, mogli vidjeti i kod Krasnoffa (2018), a to je ideja da upravo zaštita individualne egalitarne slobode, a ne unapređivanje nekih drugih ciljeva, od države zahtijeva određenu razinu socijalne intervencije.

Naravno, sljedeće pitanje glasi: o kakvoj razini intervencije se tu radi? Što bi točno, u konkretnom slučaju prava na zdravstvenu skrb, tu moralo biti obuhvaćeno? Na ovome mjestu važno je dati jednu općenitu napomenu o Kantovu konceptu prava, koja se onda mora primijeniti i na slučaj prava na zdravstvenu skrb. Naime, brojni komentatori i komentatorice (Holtman, 2002; Neculau, 2008; Nicholson, 1976; Seebohm, 1981) primjećuju da je Kantov nacrt prava poprilično poddeterminiran. S obzirom na visoku razinu formaliziranosti onoga što pravo za Kanta jest („skup uvjeta pod kojim se htijenje jednoga može po općem zakonu slobode uskladiti s htijenjem drugoga"), moguće je formulirati veći broj različitih „skupova takvih uvjeta", tj. veći broj različitih pozitivno-pravnih kodeksa, koji bi jednako zadovoljavali Kantovu formulaciju, iako bi možda bili međusobno nekompatibilni.

Kada Altman ističe da Kantov načelni argument ostavlja potpuno otvorenim pitanje o tome kako bi javna zdravstvena skrb trebala biti osigurana (u rasponu od engleskog modela socijalne medicine do američkog modela državno reguliranog sustava privatnih osiguravatelja, s poreznim olakšicama i subvencijama za sve[9]), to bi značilo da vrlo različiti modeli mogu, na neki način, zadovoljiti tražene formalne uvjete. Jedino što se čini sigurnim jest da Kantov model ne zahtijeva uravnilovku niti po tom pitanju: „Naravno, to ne znači da bogati i siromašni moraju imati jednaki pristup

[9] To je ono što je u SAD-u kolokvijalno poznato kao *Obamacare* (a službeno kao *Patient Protection and Affordable Care Act*).

zdravstvenoj skrbi ili jednaku količinu dobara. Posvemašnja jednakost nije nužna, već samo temeljna jednakost koja omogućuje ljudima da napreduju bez pomoći drugih.“ (Altman, 2011, str. 78).

Zanimljiv pokušaj nabrajanja konkretnih usluga koje bi pravo na zdravstvenu skrb svakako trebalo obuhvaćati u Kantovu konceptu daje Davies (2014). On započinje s pravom na preventivnu skrb, u koju, na primjer, uključuje cijepljenje i redovite liječničke preglede (pitanje o konkretnoj učinkovitosti raznih preventivnih mjera ostavlja otvorenim, ali polazi od ideje da barem neke mjere jesu učinkovite u preveniranju bolesti). Njegov načelni argument za uključivanje preventivne skrbi u pravo na zdravstvenu skrb tako proizlazi iz spomenute tvrdnje da država ima dužnost štititi našu vanjsku slobodu, što bi onda uključivalo i zaštitu sredstava koja već posjedujemo, a koja su nam nužna da bismo postavljali i slijedili vlastite ciljeve. A zdravlje bi tu bio nužan, iako ne i dovoljan uvjet naše orijentiranosti ka svrhama.

Uz preventivnu skrb, Davies tvrdi da bi i hitna pomoć svakako morala biti dio prava na zdravstvenu skrb. Pri tome on podrazumijeva hitne intervencije kojima se spašava život u situacijama u kojima je on neposredno ugrožen, dakle nevezano za bilo kakve kronične i dugotrajne bolesti koje netko eventualno ima. Uz to, on ponovno naglašava kako svrha hitne pomoći ovdje nije ublažavanje patnje, niti palijativna skrb, već ponovno ima veze sa zaštitom slobode. Naglo i nepredvidivo nastupajuće debilitativne situacije značajno smanjuju sposobnost osoba da postavljaju i slijede svoje ciljeve (dakle umanjuju sposobnosti koje su osobe prethodno imale). Oni koji se nađu u takvoj situaciji odjednom ovise o drugima kako bi mogli i dalje imati i slijediti svoje ciljeve. A ako taj oblik ovisnosti nije reguliran kroz javne institucije, ponovno se javlja situacija kontingentnosti, u kojoj sloboda nekih ovisi o arbitrarnim odlukama nekih drugih. Budući da takav oblik ovisnosti nije primjeren pravnome stanju, Davies tvrdi da hitnu zdravstvenu skrb mora pravno osigurati država, čiji je zadatak štititi jednaku temeljnu slobodu svih građana.

Uz preventivnu i hitnu skrb, Davies nastoji proširiti popis usluga koje bi bile uključene u pravo na zdravstvenu skrb, ali je svjestan da za taj potez mora prilagoditi koncept slobode kojim je operirao u prethodnim argumentima. Da bi opravdao državna ulaganja u medicinska istraživanja i medicinske tretmane za probleme koji nisu obuhvaćeni preventivnom i hitnom skrbi, na primjer ulaganja koja ciljaju na poboljšanje uvjeta osoba koje su rođene s nekim oblikom invaliditeta, on fokus prebacuje s onoga što naziva **relacijskim** konceptom slobode na ono što naziva **komparativnim** konceptom.

U Kantovim pravno-političkim spisima Davies, po mome sudu posve ispravno, detektira slobodu kao nešto što ima primarno relacijski karakter[10], jer se tiče **forme** odnosa koju građani u pravnome stanju moraju imati jedni prema drugima – jedni moraju moći obvezati druge samo na ono na što i drugi mogu obvezati njih, dakle samo prema **općem** zakonu. Biti izvanjski slobodan znači, u tom pogledu, živjeti u građanskom društvu; a takva, temeljna, egalitarna sloboda, u principu ne poznaje stupnjeve - ona ili postoji, ili ne postoji. Međutim, Davies tvrdi da se slobodu može doživjeti i kao nešto komparativno. Sredstva koja su dostupna osobi rođenoj s invaliditetom mogu biti značajno manja od sredstava dostupnih onima koji su imali više sreće; samim time, i ciljevi koji su njoj dohvatljivi vjerojatno su nešto skromniji. U tom pogledu, sloboda i može poznavati stupnjeve, pa bi država mogla, nakon što osigura relacijsku egalitarnu slobodu za sve, pomoći nekima od svojih građana da uvećaju svoju komparativnu slobodu time što će im proširiti krug sredstava, koja im iz kontingentnih i moralno irelevantnih razloga nisu dostupna.

Pitanje je, dakle, gdje bi točno državna odgovornost za zdravstvenu skrb nad njenim građanima[11] trebala imati svoju pravnu granicu. Odgovor na to pitanje morao bi, s jedne strane, imati jasnu apriornu dimenziju, budući da je Kantov koncept prava visoko formalan; to je upravo ono što je pokušao elaborirati Davies. No, s druge strane, u konkretnim slučajevima mora se uvažiti i sposobnost države da snosi troškove takvoga sustava, koji su obično vrlo visoki[12]. Uzevši u obzir da država, uz troškove

[10] Alison Mallard (2011) u svojoj doktorskoj disertaciji odlično pokazuje da se izvanjska sloboda kod Kanta ne može svesti na puku mogućnost postavljanja i slijeđenja vlastitih ciljeva (ona za to ostavlja prostor, ali se ne reducira na to). Izvanjska sloboda nije povezana s pukim ostvarivanjem ciljeva - to bi značilo zanemariti njenu **interpersonalnu** narav. Umjesto toga, ona se javlja kada se našom sposobnosti htijenja i djelovanja služimo u skladu s općim zakonom, dakle samo u određenoj vrsti **relacije s drugima**, tj. u pravnome stanju (usporedi to s Kantovom idejom da i u sferi etike biti slobodan znači biti podvrgnut univerzalnim zakonima slobode).
Na tragu toga i Katrin Flikschuh (2008) naglašava da je „sadržaj kantovskog zahtjeva za pravom koncipiran […] relacijski, tako da se ne može specificirati nezavisno od uvjeta koegzistencije" (Flikschuh, 2008, str 384). Drugim riječima, biti izvanjski slobodan, i imati prava, moguće je samo u određenoj vrsti zajednice s drugima. Relacijsku narav prava (i s njim intrinzično povezane izvanjske slobode) naglašava i sam Kant kada, u kontekstu prava vlasništva tvrdi „da čovjek koji bi na Zemlji bio posve sam zapravo ne bi nijednu izvanjsku stvar mogao imati ili steći kao svoju; jer između njega kao osobe i svih drugih izvanjskih stvari ne postoji odnos obvezatnosti. Dakle, zapravo i doslovce uzevši ne postoji nikakvo (izravno) pravo na neku stvar, nego se tako samo naziva nečije pravo spram osobe koja (u građanskom stanju) nešto posjeduje u zajednici sa svima drugima" (Kant, 1797/1999, str. 56 [6:261]).

[11] Altman u članku (2011) daje i zanimljive argumente u prilog tvrdnji da države mogu imati odgovornost za zdravstvenu skrb čak i nad ljudima koji nisu njihovi građani, i to ne samo nad onima koji se zateknu na njihovu teritoriju. Temelj toga on vidi u dužnosti uspostavljanja globalne političke zajednice, što bi impliciralo i dužnost rada na pojedinim koracima njenog nenasilnog uspostavljanja, a jedan od njih bio bi podržavanje uspostave republikanskih režima u ostalim državama svijeta. Budući da se pravo na zdravstvenu skrb ubraja u dužnosti takvih režima, njima bi trebalo pružiti pomoć u njegovom osiguranju, s tim da ona ne mora nužno biti izravno financijske prirode (i logistička pomoć, te pomoć u širenju znanja, spadale bi u ispunjavanje te dužnosti).

[12] Usporedbe radi, prema podacima Eurostata za 2021., prosjek izdvajanja za zdravstvo u Europskoj uniji iznosio je 10, 9 % BDP-a, dok je zemlja s najvišim izdvajanjima bila Njemačka, s 12,9 % BDP-a, a zemlja s najmanjim izdvajanjima Luksemburg, s 5,7 % BDP-a (*Healthcare expenditure*, 2023). Naravno, ovdje se radi o nekim od najbogatijih država svijeta, s vrlo visokim standardom zdravstvene skrbi.

zdravstva, u Kantovu nacrtu ima i druge izdatke za uzdržavanje „onih koji ne mogu zadovoljiti ni svoje najnužnije prirodne potrebe“, a da pri tome mora voditi računa i o opstanku i održivosti cijeloga sustava (budući da se država „mora smatrati vječnom”), nije moguće iz razmatranja posve isključiti pragmatične obzire: „[A]ko bi vlada mogla pružiti zdravstvenu skrb svojim građanima samo tako što bi cijelu populaciju bacila u oskudicu, tada bi financiranje takvog sustava bilo kontraproduktivno s obzirom na cilj uzdržavanja naroda. Pa ipak, kada je to moguće, uzevši u obzir i druge postojeće obveze, država treba pružiti zdravstvenu skrb svojim građanima.“ (Altman, 2011, str 81-81).

U potpunosti se slažem s navedenom Altmanovom tvrdnjom o dužnosti države da pruži određenu dozu zdravstvene skrbi svojim građanima kad god je to moguće, a slažem se i s njegovom konstatacijom da Kant ostavlja poprilično otvorenim pitanje kako to konkretno provesti u djelo. Međutim, budući da smo vidjeli određene pokušaje da se ponudi odgovor na pitanje **što** bi sve trebalo biti uključeno u pravo na zdravstvenu skrb (dakle, **koje usluge** bi ono trebalo obuhvaćati), a da to bude u skladu s Kantovim konceptom prava, zanimljivo je pokušati vidjeti može li se kod Kanta pronaći i nešto vezano za odgovor na drugo pitanje: **kako** bi se to pravo sve moglo ili trebalo osigurati (dakle, **kojim modusima** bi ljudi trebali imati pristup tim uslugama), a da to i dalje bude u skladu s temeljnim konceptom vladavine prava?

VAUČERIZACIJA KAO MODUS OSTVARIVANJA PRAVA NA ZDRAVSTVENU SKRB

Kant se, naravno, u pravno-političkim spisima nije pretjerano bavio detaljima prava na zdravstvenu skrb, budući da su ga primarno zanimale načelne stvari. Međutim, kako je ipak bio sklon davanju primjera, on na kraj *Metafizičkih počela pravnoga nauka*[13] stavlja i dio s podnaslovom *Dodatak s pojašnjavajućim napomenama o metafizičkim počelima pravnog nauka*. A u tom dodatku može se pronaći i zanimljiv pasus koji se bavi upravo komentarom o tome na koji sve način država može pomoći održanju „onih koji ne mogu zadovoljiti ni svoje najnužnije prirodne potrebe“:

> Dobrotvorna ustanova za siromahe, bogalje i bolesnike koja je osnovana na državnoj imovini (u zavodima i bolnicama) svakako je neukidiva. Ali ako prednost ne treba dati slovu, nego smislu oporučiteljeve volje, onda zacijelo mogu nastupiti takve prilike u kojima je preporučljivo ukinuti takvu zakladu, barem u tom obliku. - Tako je utvrđeno da se siromah i bolesnik (osim onoga u ludnici) bolje i jeftinije zbrinjava kada mu se pripomoć daje u obliku stanovite svote novca (razmjerne potrebama kakve postoje u određeno doba) koja mu omogućuje da unajmi stan po vlastitoj volji, kod

[13] Dakle, prvoga dijela svoje *Metafizike ćudoređa*.

> svojih rođaka i drugih znanaca, nego kada se to - kao u bolnici u Greenwichu - čini na raskošan način, uz pomoć skupog osoblja, što ipak veoma ograničuje slobodu. – Pritom se ne može reći da puku koji ima pravo na uživanje te zaklade država oduzima nešto njegovo, već ona to naprotiv promiče birajući mudrija sredstva da mu ga očuva. (Kant, 1797/1999, str. 155 [6:367])

Kako bi se bolje razumio primjer koji Kant ovdje daje, nužna su određena pojašnjenja. On ovdje govori o zavodima i bolnicama kao dobrotvornim ustanovama osnovanima na državnoj imovini. Međutim, spominje i zaklade, te „oporučiteljevu volju", čiji bi smisao, ako već ne i slovo, valjalo ispoštovati. U njegovo doba, naravno, nisu postojali sveobuhvatni sustavi opće zdravstvene skrbi, koji bi bili izravno i u potpunosti financirani od strane države. Umjesto toga, postojali su različiti drugi modusi, a konkretni primjer na kojeg se Kant tu poziva je ono što on naziva bolnicom u Greenwichu.

Ona je osnovana krajem 17. st., na želju tadašnje engleske kraljice Mary, a koju je potvrdio njen suprug, William III., doniravši jednu kraljevsku palaču kao mjesto na kojem se ona ima osnovati (*Greenwich Hospital*, 2024). Usprkos imenu, tu se prvenstveno radilo o instituciji koja je trebala zbrinuti islužene pripadnike Kraljevske ratne mornarice koji se, iz bilo kojeg razloga, više ne mogu brinuti sami za sebe, kao i njihove udovice, te skrbiti za uzdržavanje i obrazovanje njihove djece. To, dakle, nije bila bolnica u današnjem, primarnom smislu te riječi, iako jest nudila i neku komponentu zdravstvene skrbi. Što se tiče njenog financiranja, ona je bila zamišljena upravo kao neka vrsta zaklade, uspostavljena voljom pojedinaca, a uzdržavana kombinacijom privatnih (donacije) i javnih izvora novca (državna lutrija, budžetska sredstva namaknuta kaznama i konfiskacijom imovine, pa čak i neka vrsta ranog obveznog osiguranja, koju su plaćali sami mornari). Njena sudbina i jest bila ona koju je Kant anticipirao – naime, ukinuta je u drugoj polovici 19. stoljeća, kada su njenu ulogu preuzele neke druge državne institucije, budući da su očito nastupile „takve prilike u kojima je preporučljivo ukinuti takvu zakladu, barem u tom obliku".

Iako se, dakle, radi o primjeru koji je iz današnje perspektive poprilično anakron, iz njega je moguće izvući neke značajke koje mogu biti od interesa i u suvremenim raspravama. Tu Kant tvrdi kako je „**utvrđeno**" da je **bolje** i **jeftinije** zbrinjavati bolesnike (uz ogradu vezanu za psihičke bolesnike) time što će im se dati određena svota novca, koju će onda oni upotrijebiti po vlastitu nahođenju, nego da ih se zbrinjava na način koji im „**veoma ograničuje slobodu**", tj. da ih se ograničava da tu skrb dobiju isključivo na jednom jedinom mjestu, „**uz pomoć skupog osoblja**". Ove Kantove tvrdnje o „**mudrijim sredstvima**" vrlo su slične onome što mnogi libertarijanci danas zagovaraju kao prvi korak razbijanja državnog monopola na mnoge temeljne društvene usluge, a to je vaučerizacija. Milton Friedman, jedan od

intelektualnih začetnika libertarijanizma, predlagao je, naime, vrlo sličnu stvar u kontekstu obveznog školovanja:

> Razinu obveznog školskog minimuma vlade bi mogle financirati dajući roditeljima novčane kupone u visini utvrđenog godišnjeg maksimuma po djetetu, važećim samo na „odobrene" obrazovne usluge. Roditelji bi tako mogli potrošiti ovu svotu kao i svaku vlastitu dodatnu svotu, za nabavu obrazovnih usluga u „odobrenoj" instituciji po svom izboru. Obrazovne usluge mogla bi pružati privatna poduzeća na komercijalnoj osnovi, ili neprofitna institucija. Uloga države mogla bi se svesti na osiguranje minimalnih školskih standarda, kao što je uvođenje minimalnog zajedničkog programskog sadržaja na način kojim danas kontrolira restorane da drže minimalne higijenske standarde. (Friedman, 1962/1992, str. 96-97).

I zdravstvena skrb, ili barem jedan njen dio, mogu se organizirati tako da država osigura **namjenski upotrebljive svote novca,** dakle nešto slično **vaučerima**[14], koje se mogu potrošiti u bilo kojoj zdravstvenoj ustanovi, javnoj ili privatnoj, a koja zadovoljava standarde koje je država propisala za obavljanje takvih usluga. Ključno pitanje tada glasi: s kojim se motivom takav modus predlaže? Kantov motiv tu zasigurno nije instinktivno nepovjerenje prema državi, ili želja da se njen utjecaj svede na minimum, kao što je to kod libertarijanaca. Umjesto toga, on u prvi plan stavlja financijske uštede i učinkovitost, a tvrdi da je dokazano kako takav modus daje, u tom pogledu, bolje rezultate. Naravno, to je samo po sebi otvoreno, **empirijsko pitanje**, kojim se u ovom radu neću baviti. Međutim, ako se pokaže da je to zaista tako, tada

[14] Teza ovoga članka jest da Kant predlaže instrument koji može podsjećati na ono što zagovaraju libertarijanci, a to je **vaučerizacija**, ali da to ne znači kako se njegov recept uklapa u libertarijansku paradigmu. Kada autori poput Friedmana predlažu vaučerizaciju, oni korištenje tih sredstava već vide kao **kvintesenciju slobodnoga djelovanja**, tj. **manifestaciju slobode – čin** raspolaganja nečim što je (postalo) nečije privatno vlasništvo, bez daljnjih ograničenja koje nameće država, i bez obzira na daljnje posljedice do kojih bi to moglo dovesti. Za razliku od toga, u interpretaciji koju zagovaram u ovom članku, svota novca o kojoj Kant govori poslužila bi da se poveća **mogućnost dohvaćanja preduvjeta slobodnog djelovanja**, a to je uklanjanje prepreka koje ljude sprečavaju u postavljanju i slijeđenju vlastitih ciljeva (naravno, u skladu s općim zakonom).
Za razlikovanje Kantove i libertarijanske pozicije može dodatno poslužiti i Kantov stav o onome što ima, odnosno nema cijenu. Kako se može pročitati u *Osnivanju metafizike ćudoređa*, „[u] carstvu svrha ima sve ili *cijenu* ili *dostojanstvo*. Na mjesto onoga što ima cijenu, može se postaviti i nešto drugo kao ekvivalent. Što je naprotiv uzvišeno iznad svake cijene, dakle što ne dopušta ekvivalenta, to ima dostojanstvo" (Kant, 1785/2003, str. 56 [4:435]; kurziv u originalu). Ono jedino što čovjeku daje dostojanstvo jest njegova moralnost, odnosno sposobnost da bude slobodno racionalno biće, zakonodavac u kraljevstvu svrha. Ako bi ga nedostatak zdravlja spriječio da egzistira i djeluje kao slobodno i racionalno biće, onda bi se mogli poslužiti i popularnom izrekom kako „**zdravlje nema cijenu**". Doduše, **zdravstvena skrb** je očito ima, budući da zahtijeva određene materijalne uvjete, znanje i trud, a novac je, po Kantovoj definiciji, „stvar koja u optjecaju posjeda (permutatio publica) određuje *cijenu* svih drugih stvari (roba), u koje spadaju čak znanosti, ako poduka u njima nije besplatna;" (Kant, 1797/1999, str. 81 [6:289]; kurziv u originalu). Zdravlje se ne može kupiti novcem (barem ne izravno), ali zdravstvena skrb može, i to na različite načine (gdje se onda može govoriti o ekvivalentnosti ili neekvivalentnosti pružene usluge).
Plaćanje zdravstvene skrbi sa što manjim upletanjem države u Kantovoj paradigmi nije, samo po sebi, kvintesencijalni slobodni čin. Ali, ukoliko se empirijski pokaže da takvo korištenje državnoga novca može povećati mogućnost osiguravanja preduvjeta slobodnoga djelovanja, ono utoliko jest nešto što država ima dužnost osigurati svojim građanima, i to u sklopu njene uloge zaštite egalitarne slobode. Zahvaljujem anonimnim recenzentima/recenzenticama na sugestiji da se pojasni distinkcija između onoga što Kant predlaže i suvremene koncepcije vaučera te da se pitanje kontekstualizira i u odnosu na Kantovu raspravu o novcu i vrijednosti.

ne postoji niti jedan **normativni** razlog zašto se, u sklopu Kantova koncepta, država ne bi poslužila baš tim modusom kako bi osigurala ono što joj je dužnost pružiti, a to je određena razina zdravstvene skrbi za svoje građane.

Ono što bi, pak, iz normativne perspektive, moglo u ovom slučaju zbližiti Kanta i libertarijance, jest Kantova tvrdnja kako takav modus, uz financijske uštede, ima i pozitivan efekt **proširivanja slobode pojedinaca**. Tu bi se ponovno moglo učiniti da Kant i libertarijanci imaju sličan koncept države, u kojem prijetnja slobodi pojedinaca dolazi najčešće od prevelike uloge države u njihovim životima, tj. od ograničenja koja im ona nameće. Međutim, smatram da bi takvo čitanje ponovno bilo pogrešno. Proširenje slobode pojedinaca u ovom slučaju sastoji se u tome što se siromašnijim dijelovima društva povećava izbor sredstava za dohvaćanje željenih ciljeva, koji su povezani s njihovim pravima, te ih se u tom pogledu izjednačava (ili barem približava) onima imućnijima, jer se njihova mogućnost za operacionalizaciju tih prava donekle ujednačava. A, kao što sam u prethodnom poglavlju nastojao pokazati, izvanjska sloboda se, za Kanta, sastoji upravo u životu pod **općim** zakonima, dakle i u općoj jednakosti prava.

Država, za Kanta, nije instanca koja primarno ugrožava slobodu pojedinaca, već **jedina** instanca koja je omogućava. Oporezivanje bogatih u Kantovu konceptu nije nikakvo nasilje, niti protupravna prisila nad njima. Upravo suprotno! Normativno opravdanje države podrazumijeva da ona to može i treba činiti, da je oporezivanje „ono na što su se imućni obvezali", između ostaloga i zato što prava, pa tako i pravo vlasništva[15], izvan države niti ne mogu postojati, pa tako niti njihovo bogatstvo. Povećanje slobode u ovom slučaju ne proizlazi, dakle, isključivo, ili čak primarno, iz smanjenja državnih ingerencija, već iz ujednačavanja temeljnih mogućnosti građana, vezanih za njihova prava.

To i dalje ne mora značiti da, prilikom ostvarivanja prava na zdravstvenu skrb, mora vladati uravnilovka. Posve je moguće, i u skladu s pravom, da i u tom pogledu postoje razlike, pa čak i značajne. Ako je neka osoba dovoljno imućna da si plati liječenje u privatnom sanatoriju, s jednokrevetnim sobama koje imaju vlastiti vrt i bazen te medicinskim osobljem koje se bavi isključivo njome, to joj mora biti moguće. Međutim, i najsiromašnijim građanima moralo bi biti omogućeno da na što jeftiniji i bolji način zaštite temeljne preduvjete svoga izvanjskoga djelovanja, a time i egalitarno shvaćenu izvanjsku slobodu.

§

Kroz ideju toga što država jest, a koja onda objašnjava i to čime bi se ona trebala baviti, nastojao sam pokazati kako Kantov nacrt spada u liberalnu tradiciju, u kojoj

[15] Vidi bilješku 9 za pojašnjenje te tvrdnje.

je uloga države primarno namijenjena zaštiti prava čiji su nositelji pojedinačne osobe. Uz jasnu ogradu da svrha države nije promoviranje pojedinačne dobrobiti, niti sreće, već zaštita egalitarne slobode izvanjskoga djelovanja, ukazao sam i zašto se Kantova koncepcija ne može upotrebljavati u opravdanju libertarijanskih vizija države i društva. Daleko od zagovaranja minimalne države, čija je primarna svrha štiti privatno vlasništvo, Kant izričito tvrdi kako država ima dužnost pomoći onim članovima društva koji nisu u stanju pomoći samima sebi, te je u tu svrhu posve opravdano oporezivati bogatije članove društva. S druge strane, nastojao sam pokazati i zašto smatram da socijalističko čitanje Kanta nije u skladu s temeljnim idejama njegove filozofije prava i politike, u sklopu koje se smatra posve pravednim da u društvu postoje i značajne razlike u individualnom materijalnom bogatstvu.

U kontekstu rasprava o modernoj socijalnoj državi, to bi značilo da Kantova vizija prava mora izbjeći i libertarijansku i socijalističku krajnost. Primijenjeno na konkretno pitanje prava na zdravstvenu skrb, to bi značilo da država ima dužnost pružiti određenu razinu skrbi svojim građanima, s jedne strane zato da bi očuvala samu sebe, a s druge strane upravo zato da bi time štitila njihovu izvanjsku slobodu, što joj je temeljna dužnost. Kod pitanja kako to točno provesti u djelo, Kant ukazuje na jedan instrument koji podsjeća na vaučerizaciju, dakle na nešto što se često povezuje upravo s libertarijanskim receptom za uređenje društva. Tvrdeći da je taj instrument jeftinije i bolje sredstvo ispunjavanja tih ciljeva u zdravstvu, on tvrdi i da se tim putem uvećava sloboda pojedinaca. Iako se tu, ponovno, javlja površna sličnost s libertarijanskim pogledom, nastojao sam pokazati kako uvećanje slobode, u Kantovu nacrtu, ovdje primarno ne znači zahtjev za smanjenjem ingerencije države, već za povećanjem mogućnosti ostvarivanja temeljnih prava pojedinaca, upravo uz pomoć države, čime se onda osigurava njihova egalitarno shvaćena sloboda.

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Kant and the Right to Healthcare – A Welfare State by Libertarian Means

SUMMARY

In contemporary discussions of the right to healthcare, it is commonly accepted that Kant's vision of the state is opposed to the one envisioned by libertarians, i.e., that Kant's state encompasses the duty to secure a certain standard of healthcare for all its citizens. This article explores the origins and implications of such a normative commitment in the context of Kant's legal and political philosophy. It aims to show that his idea is a part of the liberal tradition and that healthcare should thus enable the protection of individual freedom. The concept of the modern welfare state can, at least to a certain extent, be grounded in Kant's ideas as well, although they are definitely not compatible with socialist visions of society and the state. Avoiding both the libertarian and the socialist extremes, Kant proposes that something resembling vouchers, an instrument that libertarians often advocate, can be used to secure everyone's right to healthcare. Pointing to positive financial effects, Kant also claims that its use expands the limits of individual freedom. That does not mean that Kant accepts the libertarian notion of maximizing individual liberty by minimizing state intervention; it simply entails the idea that what secures individual freedom, conceived as equality under universal laws, is precisely the facilitating of the realization of basic rights.

Keywords: Kant, state, right to healthcare, welfare state, libertarianism, vouchers.

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Scaling Up: Analyzing Classification Outcomes in Large Korean Legal Document Datasets

SUMMARY

This paper proposes an integrated approach that combines artificial intelligence models for automatic classification and prediction of Korean legal judgments. Given the complexity of the Korean legal system and the diversity of its legal issues, this study utilizes a transformer-based model to classify and predict legal judgment documents. By leveraging these models, this study addresses the challenges posed by the intricate legal language and diverse topics within Korean legal documents, significantly improving the efficiency and accuracy of classification tasks. The proposed approach enhances the automation and reliability of legal document predictions, demonstrating exceptional performance in managing the complexities of legal language. Specifically, the models facilitate a deeper understanding of the context of Korean legal judgments, thereby increasing the reliability of prediction outcomes. Moreover, this study introduces a novel integrated framework that significantly enhances the performance of automated legal document processing and prediction systems. This framework supports legal consultations, document management, and automated judgment systems, representing a significant advancement in the application of artificial intelligence in the legal domain.

Keywords: Legal Case Classification, Legal Analysis, Transformer Model, Legal Text Processing.

1. INTRODUCTION

In modern society, legal issues frequently arise in daily life, and resolving them effectively requires precise legal knowledge and expert assistance. However, it is difficult for the public to acquire and utilize such knowledge (Katz, 2013). Legal professionals also spend considerable effort searching for relevant or irrelevant

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information in their judgments to support their arguments (Al-Kofahi et al., 2001). To address these challenges, innovative legal services incorporating artificial intelligence (AI) have been developed (Van Opijnen & Santos, 2017).

Recent advancements in AI technology, particularly in natural language processing (NLP), have enabled us to understand the complex structure of legal documents and support judgment prediction and legal decision-making. These technologies play a crucial role in analyzing vast amounts of legal documents and data quickly and accurately and predicting the outcomes of judgments. However, for these technologies to function effectively, they must be tailored to reflect the specific characteristics of the legal system.

This study proposes an integrated framework that combines classification approaches reflecting the unique aspects of the Korean legal system. Specifically, we utilized models based on transformer architectures, such as Bidirectional Encoder Representations from Transformers (BERT) and generative pre-trained transformers (GPT), to perform case classification. This approach effectively processes the intricate linguistic features of legal documents, enhancing the accuracy of judgment predictions.

Finally, this study proposes an AI-based approach aimed at automating legal document processing and prediction, considering the unique characteristics of the Korean legal system. By integrating classification and retrieval approaches, this study attempts to automate the process of predicting legal judgments in Korea. Classification focuses on automatically categorizing legal documents into specific categories to improve predictability and helps quickly and accurately find critical information within legal documents, providing the data necessary for legal decision-making.

We aim to develop an automated judgment prediction system that reflects the complex characteristics of the Korean legal system, thereby supporting legal professionals in making more efficient and accurate decisions.

2. RELATED WORK

Early legal information analysis efforts relied primarily on knowledge engineering approaches based on AI and case-based reasoning. However, these methods faced challenges such as scalability and high costs, eventually rendering them unsustainable in the long term (Maxwell & Schafer, 2008). This realization led to a significant shift towards alternative methodologies, particularly those employing NLP techniques, which have since transformed the field by automating text analysis and improving the accuracy of legal text tasks.

Subsequent advancements in this area leveraged machine learning techniques, such as support vector machines (SVMs) and term frequency-inverse document frequency (TF-IDF), to process text data for legal tasks (Prastyo et al., 2020).

Simultaneously, there have been significant developments in document embedding strategies, particularly those aimed at creating dedicated vector spaces for the legal domain. These approaches utilized innovative algorithms, such as PageRank graphs combined with TF-IDF, to train neural network models efficiently, thereby improving the effectiveness of legal text tasks (Sugathadasa et al., 2019). Legal-specific embeddings such as LegalBERT have outperformed general NLP models by capturing the unique linguistic features of legal languages, thereby enhancing classification and prediction tasks (Chalkidis et al., 2020).

In the realm of legal document classification and prediction, research has aimed to reflect the legal specificities of various countries, including China, the United States, Italy, and the European Union. For instance, Lawformer was developed to classify Chinese legal documents, utilizing an attention mechanism to effectively capture linguistic structures, particularly in tasks such as the China AI and Law Challenge (Qin et al., 2022). These approaches underscore the importance of tailored models that reflect the nuances of national legal systems.

In addition to applying language models to legal documents, efforts have been made to transform and develop these documents into specialized datasets. In the European Union, the EURLEX legal dataset has been extended to a recently published multi-EURLEX dataset. This new dataset explores zero-shot cross-lingual transfers in legal topic classification by including multiple languages and reflecting various national legal structures, thereby addressing the limitations of the original EURLEX dataset (European Union, 2022; Song et al., 2022). These developments are crucial in enhancing the cross-border applicability of legal AI models.

In addition to advancing existing datasets, efforts have been made to create new datasets tailored to specific legal frameworks. For example, a dataset reflecting the hierarchical structure of Italian law was introduced to improve content navigation in legal document classification tasks (Benedetto et al., 2023). The study validated the effectiveness of utilizing language models for legal document classification, highlighting the potential of AI in navigating complex legal hierarchies. Similarly, in the United States, a judgment-based dataset was developed to facilitate automated legal text classification using methods such as random forest and deep learning, thereby demonstrating the effectiveness of domain-specific features (Chen et al., 2022).

3. BACKGROUND ON THE SOUTH KOREAN LEGAL SYSTEM AND DATASET

To analyze and predict legal outcomes in the context of South Korean law effectively, it is essential to understand the unique structure of the South Korean legal system and the characteristics of the dataset used in this study. This section lays an overview of these elements and provides the necessary foundation for the following methodologies and experiments.

3.1. The Structure of the South Korean Legal System

The South Korean legal system is unique in that it incorporates elements from both civil and common law traditions (Kim, 2008). Consequently, judicial precedents often establish standards for legal judgments that are not explicitly defined by the law itself, and these precedents play a critical role in the interpretation and application of the law (Kim & Kim, 2020). Consequently, South Korean court rulings typically include reference precedents, relevant legal provisions, previous rulings, and points of law, which serve as implicit standards for legal decision-making, although they may not be explicitly stated in legal documents (Hwang et al., 2022).

3.2. Dataset Overview and Focus

The dataset constructed for this study was specifically designed to focus on legal issues addressed in appellate court decisions, with the goal of gaining a deeper understanding of the essence of legal judgments. While lower court rulings primarily focus on determining the facts of a case, appellate courts, particularly the Supreme Court, center their attention on legal matters (Civil Procedure Act, Article 432; Criminal Procedure Act, Article 383). Therefore, this dataset is structured to concentrate on the legal problems and issues addressed in appellate decisions, providing legal professionals with clear guidance for interpreting and resolving complex legal matters.

Moreover, this dataset encompasses a broad range of legal fields, including administrative, patent, and tax laws, which are not covered by the existing LBOX OPEN dataset. It primarily comprises appellate court rulings rather than lower court decisions (Open Law, 2022). This approach reflects the intricate structure and unique characteristics of South Korean legal judgments and is expected to make significant contributions to legal AI research and applications.

The dataset used in this study comprises 87,160 Korean legal judgments. These judgments cover a wide array of legal issues and cases, with each document detailing the case background, legal issues, and judgment outcomes (Open Law, 2022).

Additionally, the dataset includes critical legal elements such as relevant statutes, case types, and primary reasons for judgments, ensuring that essential information can be effectively extracted and analyzed from the rulings (Open Law, 2022).

4. MODEL DESCRIPTION

In this study, experiments were conducted to predict the dismissal of legal judgments using transformer models. The primary models utilized include the LCUBE model, based on the transformer architecture with GPT, and the BERT and RoBERTa models, both based on BERT. These models were evaluated for their effectiveness in accurately classifying legal judgments based on the textual data from court rulings. Figure 1 shows the overall progress of the experiments using advanced transformer-based models.

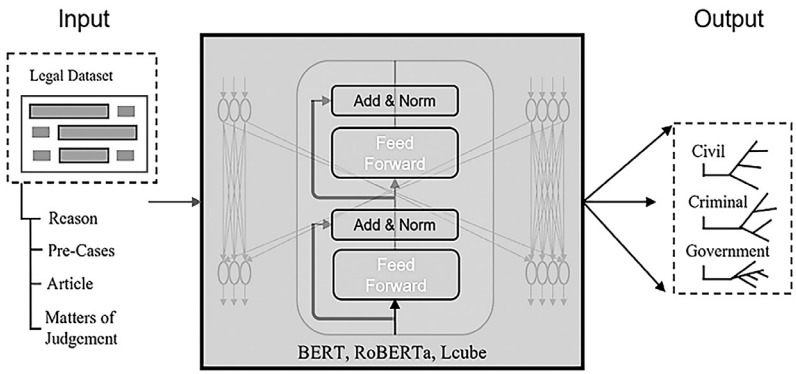

Figure 1. Overall Progress of The Models Used in Experiments.

4.1. LCUBE (GPT-based Model)

LCUBE is a model optimized for the classification of Korean legal texts built on the GPT architecture. Leveraging the powerful generative capabilities of GPT, LCUBE excels in deeply understanding and analyzing the context and meaning of texts. The model is particularly effective in handling the complex logical structures of legal texts, making it highly suitable for large-scale language models (Hwang et al., 2022).

4.2. BERT (BERT-based Model)

BERT is a BERT-based model trained on Korean Language Understanding Evaluation (KLUE) data (Devlin et al., 2019), optimized for Korean text with a strong ability to capture contextual nuances and detailed meanings in legal texts. By leveraging bidirectional encoding, KLUE-BERT effectively learns contextual information and

specific legal elements in judicial documents, making it widely applicable to text classification tasks.

4.3. RoBERTa (BERT-based Model)

The robust, optimized BERT approach (RoBERTa) is an enhanced version of BERT developed by Facebook AI, which improves performance through key training optimizations (Liu et al., 2019). It utilizes larger datasets and dynamic masking, removes the next-sentence prediction task, and employs larger batch sizes and learning rates. These modifications make RoBERTa more effective in understanding complex language patterns, consistently outperforming BERT in various NLP tasks.

5. EXPERIMENTAL RESULTS ON LEGAL CASE CLASSIFICATION

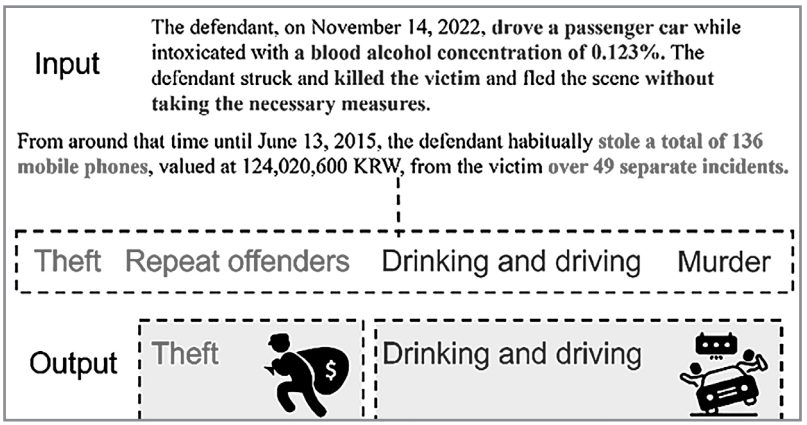

Figure 2. Example of Legal Case Classification.

In this study, legal case classification was conducted to categorize legal judgments based on key legal issues (case name). Figure 1 illustrates an example (drinking and driving, theft) of legal case classification. The primary goal of this classification is to automatically identify and group cases that share similar legal characteristics or issues, thereby enabling more efficient handling and analysis of legal documents. The classification system facilitates the legal research and decision-making process by focusing on the most critical legal issues in each case.

5.1. Experimental setting

The experiments conducted in this study utilized the dataset described in Section 3.2, comprising 87,160 legal judgments. In the experiments, 80% of the dataset was used as

the training set, 10% as the validation set, and the remaining 10% as the test set. Each model was trained over 20 epochs with a batch size of ten to ensure robustness, and its performance was evaluated based on key metrics, including precision and accuracy.

Precision was chosen as the primary evaluation metric in this study because of its relevance to legal judgment predictions, where the focus is on the accuracy of positive predictions. In legal contexts, false positives (incorrectly predicting a judgment as relevant) can be particularly significant, making precision a critical measure of performance.

5.2. Comparison results

Table 1 summarizes the performance of each model. The experimental results showed that the transformer-based LCUBE and BERT-based models outperformed the traditional models overall, particularly in understanding contextual meanings. The LCUBE model demonstrates outstanding predictive performance in handling the complexity of legal texts.

Table 1. Classification Performance of Different Models on Dataset.

Model	Accuracy	Precision
Lcube	0.3888	0.6751
Klue/Bert	0.3911	0.8244
Klue/RoBERTa	0.3896	0.7999

The BERT model also demonstrated strong performance in understanding context and detailed information, which is consistent with its BERT-based architecture, and achieved high accuracy in processing the complex structures of legal texts.

These experimental results reflect the challenges in classifying legal judgment data and the effectiveness of text classification. The LCUBE and BERT models have proven to be highly effective tools for the automatic classification of Korean legal texts. The performance of each model varied depending on the characteristics of the data and the complexity of the classification task, with the transformer- and GPT-based models particularly excelling in legal text classification.

Furthermore, as shown in Table 2, the models are capable of effectively categorizing cases based on specific categories. They excel in classifying cases related to core legal issues, such as those involving Article 23 of the Labor Standards Act, which pertains to wrongful dismissal and wage-related disputes. This demonstrates the models' ability to not only handle complex legal texts but also accurately identify and classify key legal issues, making them a valuable tool for legal practitioners.

Table 2. Example of Classification Results Related to Article 23 of the Labor Standards Act.

Title	Category	Contents
2007Du20157	Revocation of Personnel Order	If an employer unlawfully dismisses an employee or engages in other unfair labor practices, the employee may file a petition for remedy with the Labor Relations...
2015Du776	Cancellation of Unfair Suspension Relief	The lower court, after considering the adopted evidence, recognized the facts as stated in the judgment. It found that the plaintiff bank, in agreement with the labor union, aimed to strengthen organizational competitiveness and improve the seniority-based, high-age, and high-cost personnel...
2015Du38917	Cancellation of Unfair Reduction and Relief for Unfair Labor Acts	On July 14, 2011, the plaintiff unlawfully entered his previous workplace on his day off, accessed his work computer, and deleted the File in this Case, thereby intentionally destroying evidence of information leakage and obstructing the company's legitimate audit operations (hereinafter referred to as the "Second Disciplinary Reason"...

6. DISCUSSION

We evaluated LCUBE, KLUE/BERT, and KLUE/RoBERTa to classify Korean legal documents and observed significant performance differences. The LCUBE model had a lower precision (0.6751) than those of KLUE/BERT (0.8244) and KLUE/RoBERTa (0.7999). To understand these results, we analyzed the judgments predicted by each model.

The simpler vocabulary-based approach of LCUBE likely fails to capture the complex language and context of legal documents. In contrast, the transformer-based KLUE/BERT and KLUE/RoBERTa models handle contextual nuances more effectively, leading to higher performance. Our analysis showed that LCUBE is prone to misclassification because it does not recognize subtle differences in legal terms.

These findings highlight the importance of models that can effectively process the complexity of legal language. Future studies should focus on enhancing model capabilities and expanding datasets to better represent the features of legal documents.

6.1. Model Performance Comparison

The experiments demonstrated that the KLUE/BERT and KLUE/RoBERTa models significantly outperformed the GPT-based LCUBE model in classifying Korean legal documents. The key performance metrics, including accuracy, precision, recall,

and F1-score, were consistently higher for the BERT-based models, indicating their superior ability in handling complex legal texts and diverse legal categories.

6.2. Precision and Efficiency

The KLUE/BERT and KLUE/RoBERTa models not only improved the accuracy of legal document classification but also enhanced the overall efficiency of the processing pipelines. These models are more effective in capturing complex legal languages and contexts, resulting in more reliable classification outcomes. Accurate classification improves the speed and quality of legal document processing and is particularly important for providing precise information in complex cases. The experimental results showed that the accuracy of the LCUBE, KLUE/BERT and KLUE/RoBERTa models was relatively low, with values of 0.3888, 0.3911, and 0.3896, respectively.

6.3. In-depth analysis

Figure 3 illustrates the performance of the LCUBE model, highlighting a broad distribution of errors across various legal documents. This widespread error distribution indicates that the LCUBE model struggles to consistently capture the subtleties of legal language, resulting in frequent misclassifications across diverse legal contexts. While the GPT-based LCUBE model leverages its generative capabilities, it demonstrates limitations in effectively adapting to the complex syntactic and semantic structures inherent in legal texts. This underscores a critical drawback of the LCUBE model: despite its strengths as a general-purpose language model, it fails to meet the specificity required for accurate legal judgment prediction.

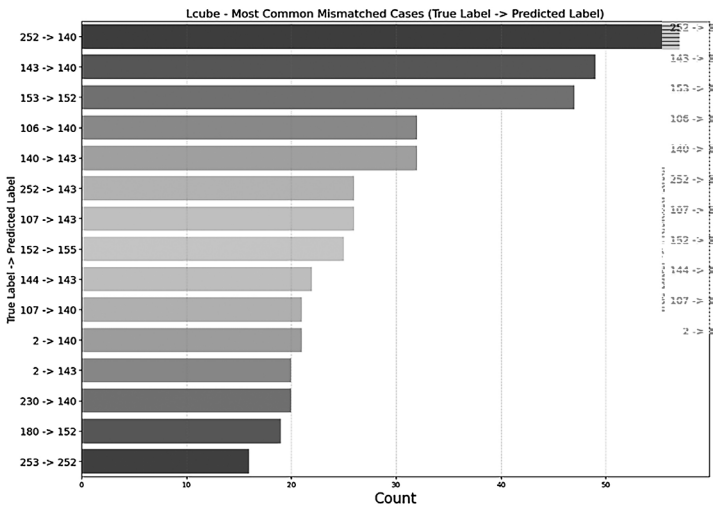

Figure 3. Error Distribution of the LCUBE Model Across Legal Document Types.

Figure 4 analyzes the performance of the KLUE/RoBERTa model, showing the frequency of errors across various types of legal documents. Notably, KLUE/RoBERTa demonstrates a distinct performance difference in accurately capturing subtle yet significant legal distinctions, such as between "cancellation of ownership transfer registration" and "ownership transfer registration." These results reveal that while the KLUE/RoBERTa model excels in understanding general legal terminology, it faces challenges in distinguishing complex and nuanced legal differences. This model's effectiveness is partly due to its optimized pretraining techniques, but it also inherits the benefits of the bidirectional encoding approach introduced by BERT, which allows it to understand context from both directions within a sentence. This bidirectional encoding is particularly valuable in legal texts, where the precise interpretation of terms depends heavily on their surrounding context. However, KLUE/RoBERTa still requires additional fine-tuning to enhance its ability to handle highly specialized legal subdomains.

Through this analysis, it becomes evident that the architectural characteristics of each model directly influence their performance in legal judgment prediction. The LCUBE model, relying on its generative capabilities, exhibits limitations without domain-specific training, whereas KLUE/RoBERTa leverages BERT's bidirectional encoding and other optimizations to show strong potential, demonstrating greater effectiveness with precise fine-tuning to tackle specialized legal tasks.

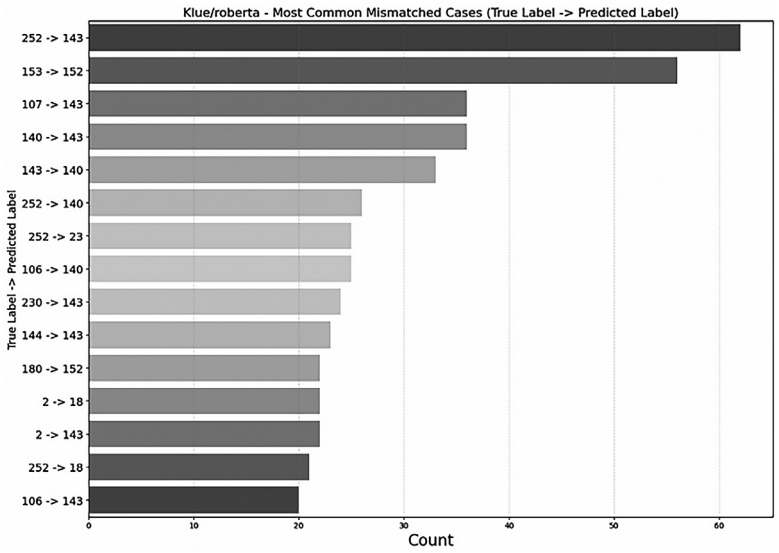

Figure 4. Error Distribution of the KLUE/RoBERTa Model Across Legal Document Types.

6.4. Error Analysis

In this study, we identified three major categories of errors in the classification of Korean legal documents.

Type 1 Misclassification Based on Incorrect Targets

The model often misclassifies cases by focusing on the main subject of the dispute rather than on the legal nature of the issue. For example, cases involving the cancellation of administrative dispositions should be categorized under administrative law; however, the model incorrectly classifies them as ownership transfer registrations or building deliveries. One instance of this is a case involving the cancellation of an administrative disposition that was incorrectly classified as an ownership transfer registration and a building delivery case (Supreme Court of Korea, 1969a; Supreme Court of Korea, 1990)

Type 2 Confusion Between Similar Topics

Another issue is that the model tends to confuse cases that involve similar topics but differ in their core legal aspects. For instance, in cases involving ownership transfer, building delivery may involve a transfer of ownership, but the underlying legal issues may be distinct. However, the model classifies them as the same type. For example, a building delivery case was incorrectly classified as an ownership transfer registration (Supreme Court of Korea, 1989). Similarly, in cases involving compensation for damages, the model misclassifies cases involving consolation money (which concerns emotional damage) as general compensation for damages (Supreme Court of Korea, 1968).

Type 3 Failure to Distinguish Subtle Legal Differences

Third, the model struggles to distinguish between subtle legal distinctions. For example, ownership transfer registration and the cancellation of ownership transfer registration are different legal actions; however, the model frequently misclassifies cases as the same. One such instance is a case involving the cancellation of an ownership transfer registration that was incorrectly classified as an ownership transfer registration (Supreme Court of Korea, 1969b).

Figure 5 summarizes various types of misclassifications made by the model.

These errors occur because the model fails to fully grasp the core legal issues in each case, relying more on surface-level content than on underlying legal relationships. To address these problems, future improvements should focus on developing algorithms that better understand legal concepts and enhance the model's ability to accurately capture key issues in legal cases.

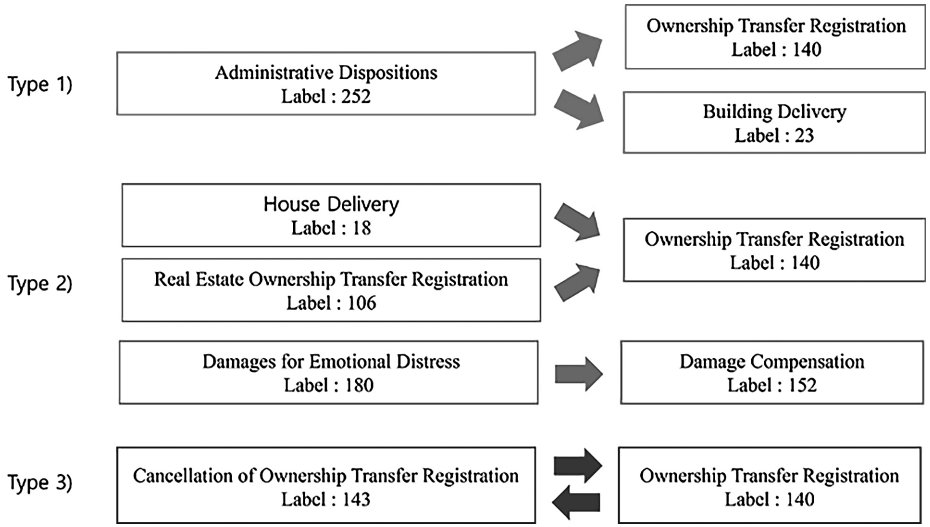

Figure 5. Illustration of Misclassification Types in Legal Document Analysis.

7. LIMITATIONS

Despite the strengths of the proposed method, several limitations were identified in the experiments. First, the models exhibit reduced precision in complex legal scenarios, particularly those involving intricate legal reasoning or specialized legal terminology. This impacts the reliability of predictions, especially in cases where an accurate interpretation of legal language is essential. Second, the models were not sufficiently fine-tuned for domain-specific legal texts, such as intellectual property law, corporate law, and international trade law. This lack of domain adaptation leads to suboptimal performance when encountering the specific legal nuances of these fields. Third, legal documents often contain archaic language, complex sentence structures, and specialized terminology, which pose significant challenges for NLP models. As a result, the models struggle to interpret and classify texts, requiring a precise understanding of legal terms. This complexity affects performance consistency across diverse legal contexts. Finally, these limitations reduce the overall effectiveness and reliability of the system, impacting its applicability in real-world legal settings.

To address these limitations, the following enhancements are suggested. First, domain-specific fine-tuning: Incorporating additional fine-tuning of legal corpora in underperforming areas, such as intellectual property and corporate law, could improve model performance in these specialized fields. Second, implementing legally specific named entity recognition, context-aware tokenization, and syntactic parsing

could better address the complexities of legal language and improve classification accuracy in intricate legal documents.

8. CONCLUSION AND FUTURE WORK

The proposed integrated framework represents a significant advancement in applying AI to legal research and practice. While this study demonstrates improvements in the efficiency and adaptability of transformer-based models, challenges such as handling complex legal language and domain-specific nuances remain. However, with ongoing developments, including adaptation to multilingual contexts, fine-tuning for specialized legal domains, and optimization for real-time responsiveness, this framework has the potential to become an indispensable tool in the legal field. Its adaptability across various legal systems worldwide holds promise for supporting more informed and efficient decision-making, contributing to the advancement of global legal practices.

ACKNOWLEDGMENT

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Povećanje učinkovitosti: analiza ishoda klasifikacije u velikim skupovima podataka korejskih pravnih dokumenata

SAŽETAK

Rad predstavlja integrirani pristup koji kombinira modele umjetne inteligencije u svrhu automatske klasifikacije i predviđanja korejskih pravnih presuda. S obzirom na složenost korejskog pravnog sustava i raznolikosti njegovih pravnih pitanja, ova studija koristi transformerski model za klasifikaciju i predviđanje dokumenata pravnih presuda. Koristeći ove modele, ova se studija bavi izazovima koji su nametnuti zbog kompleksnog pravnog jezika te raznolikih tema koje su dio korejskih pravnih dokumenata, značajno poboljšavajući učinkovitost i točnost zadataka klasifikacije. Predloženi pristup poboljšava automatizaciju i pouzdanost predviđanja pravnih dokumenata, pokazujući izniman učinak u upravljanju složenošću pravnog jezika. Konkretno, modeli olakšavaju dublje razumijevanje konteksta korejskih pravnih presuda, povećavajući time pouzdanost predviđanja ishoda postupaka. Štoviše, ova studija uvodi novi integrirani okvir koji značajno poboljšava učinak automatizirane obrade pravnih dokumenata i sustava predviđanja. Ovaj okvir podržava pravne konzultacije, upravljanje dokumentima i automatizirane sustave presuda, što predstavlja značajan napredak u primjeni umjetne inteligencije u pravnom području.

Ključne riječi: klasifikacija pravnih predmeta, pravna analiza, transformerski model, obrada pravnog teksta.

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Dasom Kim*

Political AI and the General Will of Rousseau[1]

SUMMARY

In this paper, I aim to compare Rousseau's concept of the General Will with generative AI based on artificial neural network deep learning algorithms from the perspective of a rule-based ethical framework. To this end, I focus on Rousseau's issue of the "formation, concentration, and fulfillment of the General Will" to explore the implications of AI use for democracy, particularly in the contexts of democratic decision-making and public policy formulation.

As an alternative for realizing the General Will in lawmaking and public policy development, AI can be considered for gathering public opinion and facilitating decision-making processes. AI-driven opinion-gathering and decision-making can overcome the practical challenges of forming the General Will in democratic systems, including conflicts between majority and minority groups. Furthermore, unlike humans influenced by partisan loyalty or political interests, AI can identify the best policies for everyone in an unbiased manner, fostering broad agreement. Additionally, I critically examine potential issues arising from the politicization of AI, despite its advantages in addressing the weaknesses of democratic systems.

Keywords: General Will, generative AI, political AI, legislation, public policy.

AI AND DEMOCRACY

The impact of AI and robots on humans and society is no longer limited to the technical realm. From the writing of academic papers using big data to addressing complex political and social issues, it is hard to find areas where AI's intervention and influence are absent. Moreover, AI technology is advancing at an astonishing pace.

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Surveillance and control through AI are increasingly expanding into both personal privacy and public activities. If we do not proactively prevent the problems that may arise from AI's intervention and control, humanity may find itself facing unforeseen risks and crises.

Generative AI, such as ChatGPT, is fundamentally a system of information and rules, as well as a formal system of coding, programming, and deep learning algorithms. This version of Deep Learning 2.0 learns from big data autonomously, based on the structure of artificial neural networks, and processes tasks seamlessly through precise and accurate calculations and rapid judgments. Moreover, with the development of Generative AI, which can be regarded as an integration of human reason and will, the advancement of various types of problem-solving AI is expected to accelerate. The work of interactive AI, such as ChatGPT, closely resembles the decision-making and rational choice processes found in democratic societies.

Generative AI, based on artificial neural networks and deep learning algorithms, solves problems through data collection, analysis, understanding, and interpretation related to the 'presented task'. This process can be compared to the decision-making involved in public policy formulation. Countries that have increased the productivity and efficiency of administrative tasks through the electronic processing of information services and e-business are also striving to transform from 'Electric Government' to 'Intelligent Government'. This transformation is not limited to simply enhancing productivity, efficiency, speed, and accuracy in business processes; it is increasingly recognized as an important means of addressing policy issues and further emphasizes the need to strengthen communication and cooperation with citizens.

There are various models of democracy (Fuchs, 2023, pp. 230–231), but Rousseau, in the 18th century, who advocated for the democracy of the sovereignty of the people, established through his 'general will theory' that legislation and government should embody 'the general will' (fr. *volonté générale*) of the people. The general will that Rousseau refers to is closely related to the public interest. Rousseau's theory of the sovereignty of the people states that all laws cannot be recognized as legitimate unless they represent the general will of the people. Furthermore, the people, as democratic citizens, have the right and responsibility to participate in the formation of the general will. For Rousseau, true freedom means political participation and political autonomy. However, he does not specifically outline an objective procedure or method for confirming whether the laws and policies created through political participation reflect the general will.

Although the principle of majority vote is proposed as a method of democratic decision-making under today's representative democratic system, it has a fundamental limitation in that it cannot fully account for the minority, which occupies the same

proportion as the majority. If the majority is always right or if the minority is not always wrong concerning issues of right and wrong, this implies that the policies supported by the majority may not align with the general will. The same holds true for legislation enacted by legislators. Rousseau's concept of the general will emphasizes the public interest beyond the principle of majority vote, namely the happiness and welfare of the community.

On the one hand, many emphasize that AI is fundamentally different from the human social intelligence required for democratic political discourse and social meaning-making. Some argue that AI is an enemy and a threat to democracy because it is essentially aligned with technocracy (Risse, 2023, p. 64), or can be used to strengthen dictatorship through technological means such as AI (Risse, 2023, p. 57). On the other hand, the potential for AI to support more democratic forms of government and governance is also explored (Coeckelbergh, 2022, p. 66). A thorough evaluation of each of these perspectives should be prioritized; however, it is clear that contemporary representative democracies face numerous challenges. In particular, political scientists point to "citizens' ignorance and the resulting deterioration in the quality of public decision-making," noting that even well-informed voters tend to "choose based on social identities and partisan loyalty" (Risse, 2023, p. 64). In such problematic situations, I believe it is very meaningful to consider whether artificial intelligence can contribute to the operation of democracy (Maeng, 2024, pp. 74–77)

First of all, as an alternative that can reflect the general will in the establishment of legislation and public policy, the use of AI in the processes of collecting public opinions and making decisions can be considered. Opinion collection and decision-making by AI can avoid the practical impossibility of forming the general will and the problem of confrontation between the majority and minorities. In addition, AI can find the best policy for everyone "without prejudice" in a way that everyone can agree upon. To achieve this, it is essential to first confirm or verify whether the data analysis and opinion collection process of AI is fair and whether it accurately reflects the general intentions of citizens. Furthermore, it is crucial to determine whether these intentions genuinely represent the general will.

In this paper, I aim to examine the significance of using AI in the operation of democracy, particularly in relation to democratic decision-making and the establishment of public policy. My focus will be on the issue of "the formation, concentration, and fulfillment of the General Will" that Rousseau proposed. Through this exploration, I will emphasize the importance of preemptive responses to the problems that may arise from the politicization of AI.

DEEP LEARNING ALGORITHMS AND COMMUNICATIVE AI

Recently (September 12, 2024), ChatGPT developer OpenAI released "OpenAI o1", a new version of ChatGPT that enhances its reasoning abilities. ChatGPT is fundamentally a generative AI based on artificial neural networks and deep learning algorithms. It is rapidly evolving into superintelligence as its training data, such as Big Data, becomes more extensive. The current iteration of generative AI, ChatGPT, uses vast datasets to generate new information and generates text by accessing the internet and collecting necessary information. Launched by OpenAI, a company that aims to develop AGI, "OpenAI o1" is an AI model that specializes in solving complex math problems.

Communication of exchanging opinions is an interactive method. The formation and concentration of the general will involves the process of collecting opinions, from which laws or public policies reflecting the general will are formulated. However, in general, the actual legislative process is either unilaterally reflected or compromised, resulting in a compromise. In either case, it is difficult to assert that it reflects the general will. Rousseau defines the general will as a common will, everyone's will, and the public interest. According to this, it seems clear that in order for everyone's will to be reflected, the subjective intentions or objectives of legislation or policymakers must be excluded. To reflect the general will, a fair or neutral third perspective, or an impartial wait-and-see attitude, is required. As the being closest to this point of view at the present time, we can assume an artificial general intelligence (AGI) that enables human-level thinking and can successfully solve problems regardless of the subject. ChatGPT, or its new version, OpenAo1, can be regarded as an AI capable of playing a role comparable to AGI, which is expected to be realized in the near future[2].

The interlocutor for the communicating AI is Big Data, and it can also collaborate with multiple AIs. ChatGPT, a generative AI that uses artificial neural network deep learning algorithms, also works in both directions with tremendous speed of fast computing, unlike conventional computers that only work in one direction. In particular, the artificial neural network structure of rule-based AI works in a way that continues to search from very small rules to higher rules and again to higher rules, just as AlphaGo, who has acquired the principle of Baduk, remembers numerous 'go game records' to find answers and finds new numbers from them if necessary (Powers, 2018, p. 465). Additionally, deep learning is a technology used for clustering or classifying objects or data. Therefore, artificial neural network models

[2] As is well known, AGI can learn and infer like humans and actively cope with problems. Unlike Weak AI, which can only move within learned algorithms, it can cope with new situations that have not been learned. However, since 'human-level thinking' is defined differently by scholars, the specific definition of artificial general intelligence may be different for each field ("What is AGI", 2024).

can be regarded as a system of "similarity-based inference" rules that utilize Big Data (Anderson & Anderson, 2018; p.332; Guarini, 2018, p. 332). These mathematical inference models can be used as ethical inference models.

Given the current trends in AI development, it is highly likely that AI legal assistants will play an active role not only in supporting simple tasks and conducting data research but also in facilitating transaction negotiations, mediating disputes, and making ethical judgments (Kim & Maeng, 2022, pp. 151–152, 156–157). A notable example is the growing movement in certain sectors to implement a judicial system based on strict, mechanical AI for criminal trials, particularly in regions where public trust in the judiciary is low. Furthermore, AI systems capable of self-directed learning through deep learning can act as neutral agents by designing algorithms to provide essential data for policy formulation (e.g., objective data and public opinions). This could enhance the acceptability of policies by ensuring they reflect a consensus that all citizens can agree upon.

In a democratic state, governments responsible for gathering and acting on public opinions must establish and implement policies in line with the will of the general public. However, determining an objective method to confirm which laws or policies genuinely reflect the public will remains a challenge. Communicative AI presents a viable alternative. It can contribute to mitigating or resolving the complex issues democratic societies face in legislative and policy decisions. Traditional democratic decision-making, based on majority rule, often excludes or marginalizes minority interests and can become merely a formal, procedural exercise. It is also prone to political partisanship and bias. In contrast, AI can adopt a third-party perspective, maintaining an impartial and objective stance. Therefore, AI could enhance public trust in government while advancing the democratic ideal of popular sovereignty. By offering unbiased data-driven insights, AI can help eradicate political harms, such as prioritizing special interest groups or creating popular policies solely for political gain. In fact, in order to establish and fulfill democratic legislation and public policy, we can consider the use of more advanced communicative AI (or AGI, possibly in the near future), including ChatGPT or OpenAo1. ChatGPT, as a generative AI, is a drive machine that automatically finds the right words from a sentence structure when an input is provided. Therefore, ChatGPT is an AI that is good at finding the right expression. It specializes in finding the right expression to come next in units of sentences or paragraphs, not in units of words. Since ChatGPT's algorithm is designed to function based on the accuracy of the input, collecting information(knowledge) by using a general search portal aids in obtaining high-quality answers.

As is well known, the current level of AI allows for self-directed deep learning using Big Data based on the structure of artificial neural networks. This AI system

automatically performs precise calculations and makes rapid judgments through this process. When developing new legislation or public policy, Big Data—serving as empirical examples or information—acts as an interlocutor, following predefined rules to generate conclusions that best fit the given input. Once the communication process is complete, AI uses inductive generalization to infer general principles from individual cases. Just as algorithms for language translation can be designed, deep learning algorithms utilizing Big Data function as rule-based ethical reasoning systems. These systems are carefully designed to infer correct answers to complex problems by analyzing individual cases, offering a structured approach to ethical and policy decision-making.

This ethical reasoning machine will infer new public policies that align with the specific ethical situations and conditions provided through input values, utilizing stored Big Data, which includes various ethical cases and historical data. The more accurate and specific the problem situation (policy intention, preferences, goals, costs, available resources, etc.) and input values are, the higher the likelihood of arriving at an appropriate conclusion for establishing new policies. In particular, for new legislation, the system can be expected to reach a conclusion consistent with the legislative intent by incorporating court precedents and rulings, where numerous cases have been accumulated to ensure accurate input values. Additionally, various data with narrative significance, such as historical lessons of success and failure, can serve as a foundation for specific calculations and ethical reasoning (Artz, 2000, pp. 73–78). As such, the reasoning system based on artificial neural network deep learning algorithms can be applied as a framework for ethical reasoning, which is essential for the development of legislation and public policies.

THE GENERAL WILL OF ROUSSEAU AND AI AS A RULE-BASED ETHICAL SYSTEM

Democracy based on the principle of majority rule can never fully embody the General Will. The majority rule as a decision-making method cannot guarantee the rights of minorities and the vulnerable. In fact, the principle of majority rule, which often leads to a monopoly of power or the dominance of the majority's interests, may end up justifying majority rule rather than ensuring fairness. According to Rousseau's theory of the General Will, majority voting is neither a rational nor a just method of decision-making.

In decision-making, the majority principle is a form of inductive reasoning. ChatGPT, a generative AI that combines rule-based learning and machine learning, functions as both a communicative AI and a deductive computational reasoning model. However,

ChatGPT's decision-making process still faces several limitations, such as verbal, gender, and political biases. It is natural to anticipate the development of models that address or resolve these limitations. Such problem-solving models would be rule-based AI systems that provide reasoning to ensure that everyone reaches the same conclusion. In this context, AI, as a system of reasoning rules, can replace subjective communication between multiple individuals with objective communication. In legislative or policy-making contexts, rational communication between political parties or interest groups with specific political agendas is often difficult to achieve. Most legislative processes end with either a superficial compromise between interest groups or a unilateral victory or defeat for one side. These issues highlight the fundamental limitations of a democracy that relies on the principle of majority rule.

As examined earlier, AI as a rule-based ethical system is structurally and systematically very similar to Rousseau's General Will in evaluating the morality of legislation and public policy. Rousseau's General Will represents a moral ideal that all sovereigns must strive to realize. He asserts that the General Will is the will of the sovereign or of all the people. Rousseau's General Will corresponds to a moral ideal that all sovereigns must strive to realize. However, it is difficult to precisely define what the General Will is in practice. Nevertheless, it is equally hard to deny that this concept embodies the most fundamental spirit of democracy. According to Rousseau, "the General Will is always right and tends toward the public advantage; but it does not follow that the deliberations of the people are always equally correct". In this sense, sovereignty is exercised through the General Will, which serves as a measure of whether legislation and public policy truly reflect the people's will. Furthermore, Rousseau's General Will, in this sense, functions similarly to Kant's categorical imperative as a universal principle for evaluating the morality of lawful conduct. It is not merely the sum of the individual wills of those involved in legislation, meaning it is not simply a reflection of the numerical majority.

Rousseau further explains the concept of the General Will by comparing it with other types of wills. He states that "the General Will considers only the common interest, while the will of all takes private interests into account, and is merely the sum of particular wills". Therefore, it is crucial not to confuse the General Will with "the will of all" (fr. *volonté de tous*). In the case of the will of all, it is common for individuals to reject or oppose the demands and orders of the state, but the General Will is a will that cannot be opposed. Moreover, in the case of the majority's will, I may not be part of that majority. In other words, the General Will belongs to a completely different realm from the will of all or particular wills (fr. *volonté particulière*), which are merely empirical facts or unanimous agreements that can be measured numerically. In this sense, the General Will takes on the nature of a moral idea, one that applies to all members of the community without exception, as it is

not an empirical fact that can be observed. As such, the General Will, which cannot be found in the empirical world, is an artificial construct that serves as a standard for measuring the legitimacy of a political community. It represents a political right of a new level, entirely independent of natural law. Therefore, in principle, the legislation and public policies of democratic states and governments must reflect the General Will.

The proposition "The general will is the will of the sovereign, or all the people" defines Rousseau's theory of sovereignty of the people. According to Rousseau, "sovereignty is only an exercise of the general will" and "the general will is always correct and always intended for the public interest, but the will of the people is not always correct." (Rousseau, 1950, p. 26). According to this, the general will is a measure of the morality of the people's will. Therefore, in terms of formality, the general will of Rousseau takes the form of a universal proposition that evaluates the morality of doctors, as Kant did in his categorical order. This general will is not the will of the whole, which means the sum of the special will of the members participating in the legislation, or simply the will of the number majority. However, not one person, on behalf of everyone, has a special will for his or her own interests. "While the general will considers only the common interests, the total will is merely the sum of special wills that consider only the individual interests" (Rousseau, 1950, p. 26). Therefore, it is important not to confuse the general will with the total will.

In the case of the will of all, it is common to reject or oppose the demands and orders of the state, but the general will is a will that cannot be opposed to such. Also, in the case of the majority of wills, I may not be included in the majority. In other words, the general will belongs to a completely different world, unlike the total will, such as the 'particular will', which is merely an empirical fact or unanimous agreement that can be confirmed numerically. In this regard, it can be said that the general will has the character of a moral idea that is valid for all members of the community without exception in that it is an object that cannot be confirmed as an empirical fact. As such, the General Will, which cannot be found in the empirical world, is an artificial association and, is a criterion for assessing the legitimacy of a political community, and relates to an artificially established political right that completely dispels dependence on natural law. Therefore, in principle, the legislation and public policy of democratic countries and governments should reflect the General Will.

According to Rousseau, "the social order is a sacred right which is the basis of all rights. Nevertheless, this right does not come from nature, and must therefore be founded on conventions" (Rousseau, 1950, p. 4). Here, convention is a kind of willful act and a kind of promise or agreement made between humans with freedom of will. Rousseau's social contract based on acts of free will predicts a society without

fraud, deception, and hypocrisy, a society based on mutual trust, in a word, a moral society. In addition, Rousseau's social contract is a moral agreement and commitment that limits individuals' private rights as a kind of alliance to protect everyone's lives and goods, and embodies the General Will, which combines the common will of all members of society. This General Will is 'a moral and collective body' that serves as a legitimate political power and unity (Rousseau, 1950, p. 15), and the state itself as a public person and political body. The state, as such a political unity, can be considered a moral entity with reason and will.

The general will is a universal legislative will that is valid for everyone. The general will is neither an abstract ideal nor a whole quantitative thing. It is like the moral will be held by the people in their capacity as citizens. The general will is, in principle, a reflection of the spirit of democracy. Rousseau argues that "conventions and laws are needed to join rights to duties and refer justice to its object. [...] In the state of society, all rights are fixed by law" (Rousseau, 1950, pp. 34–35), which addresses "the question of legislation". Rousseau repeatedly says, "To make laws are acts of the general will." General will is fundamentally related to "the common good", "the common interest", "the public advantage", "the realization of equal freedom for all", "the rules of justice and peace that all people should follow", and "the will to oppose inequality" in particular (Rousseau, 1950, pp. 23, 26, 30, 36; Shklar, 1985, p. 185). However, it is difficult to confirm which laws or public policy fulfill the general will because the general will is not the total will in number and quantity, but the will on the basis of one's sense of justice.

Rousseau emphasizes that "what makes the will general is less the number of voters than the common interest uniting them," and that "this admirable agreement between interest and justice gives to the common deliberations an equitable character" (Rousseau, 1950, p. 30). Most obviously, in making decisions about legislation and public policy, the general will and the principle of majority seem incompatible. Therefore, interactive AI that can communicate reasonably can compensate for these weaknesses of democracy. ChatGPT can stand in a neutral and uncomfortable position that can gather the opinions of as many people as possible, rather than political or partisan decision-making. AI participating in the legislative process can assume the role of the General Will, while AI lawyers can be seen as legislative agents that indirectly address issues of poverty through their involvement in trial processes and contributions to legal precedents. This possibility heralds the emergence of AI legislators, and its feasibility can be seen as practicing Rousseau's democracy of the formation and concentration of the general will.

BIG DATA AND THE FORMATION AND CONCENTRATION OF THE GENERAL WILL

Democracy is founded on the principle that self-governance is not limited to a select few but is accessible to a large number of individuals. From Rousseau's perspective, democratic citizens must make continuous efforts to achieve the formation and concentration of the General Will. As Rousseau emphasized, political power is not inherently sacred or natural; it originates from the collective will of the people, who are the true sovereigns. This will must be continuously shaped and refined as the will of the state itself. Rousseau argued that citizens are truly free only when they actively participate in forming the General Will, free from the tyranny or coercion of others (Coeckelbergh, 2022, p. 26).

The General Will, as Rousseau refers to it, can be said to be the will to legislate various laws in which the will of all the people is consolidated. The practical implementation of the general will is practically impossible, but AI using Big Data can take over the role. If the big data used to make laws or policies replace the will of the people, AI that performs these tasks, as a rule-based system, can be regarded as a legitimate political power. There have been concerns about the risks of such politicized AI, especially AI combined with big data. For example, there have been long-standing criticisms that it may be exploited for "surveillance capitalism" that facilitates capital accumulation and can empower state totalitarianism (Coeckelbergh, 2022, p. 85; Zuboff, 2015; Zuboff, 2019). In this situation, it is increasingly important to consider the moral use of AI, which is expected to wield greater political power than it does today, as various groups, including international organizations, are advocating.

AI is expected to achieve Artificial General Intelligence (AGI) in the near future. Even at its current level, AI can collect and store Big Data through network technologies such as the Internet of Things (IoT) and cloud computing. The process of analyzing and utilizing this data for problem-solving mirrors the formation and concentration of the General Will through communication, information sharing, and the exchange of opinions among individuals. At this stage, Big Data already demonstrates substantial capabilities in data collection, cognitive processing, and social decision-making. The Big Data generated by IoT and Generative AI, equipped with self-directed deep learning, has evolved to the point where it can independently design new algorithms. This evolution indicates a growing potential for the formation of new opinions as the scope and scale of Big Data inputs continue to expand.

From Rousseau's perspective, the success or failure of democracy depends on active participation in the continuous formation of the General Will. This is because the happiness and welfare of the community represent the social realization of freedom, which requires ongoing effort. Freedom is not something that can be granted or

revoked by others; it must be actively pursued and realized. According to Rousseau, participation in legislative processes to shape the General Will is essential for protecting and achieving this freedom.

Thus, political participation is a fundamental duty for any citizen striving for freedom in a democratic society. Merely adhering to the formal procedural justification of majority rule, while neglecting the process of forming and concentrating the General Will, contradicts the essence of popular sovereignty. However, the challenge lies in the lack of an objective method to ensure that the formation and concentration of the General Will are transparent and fair. If AI can address these critical weaknesses, it could offer an innovative solution for advancing democracy by enhancing fairness, inclusivity, and trust in the decision-making process.

With its deep learning capabilities, Generative AI has the potential to evaluate existing policies and develop new ones that reflect citizens' desires based on Big Data. For example, a U.S. company has developed an Artificial General Intelligence (AGI) called ROBAMA, which is designed as a vital support tool for social and political activities. ROBAMA can survey over 5,000 public opinions daily, functioning as a decision-making support system with the potential to supplement or even replace traditional government and legislative processes. ROBAMA ensures that citizens can freely express their opinions and receive immediate feedback, enhancing public engagement. It also plays a critical role in decision-making by identifying key information on significant social and political issues, analyzing evidence, and generating comprehensive reports. The development of AI systems with such capabilities could facilitate the formation and concentration of the General Will, while also mitigating political biases that often influence legislation, media, and civic organizations (Rousseau, 1979, p. 37). This technological advancement could become a crucial countermeasure to address the ongoing crisis facing democracy, promoting fairness, transparency, and inclusivity in governance.

However, it is crucial to take preventive measures against the potential consequences of decision-making and influence through algorithms. One of the most significant concerns regarding the formation and concentration of the General Will, as well as the use of AI in decision-making, is the handling of Big Data. The misuse or abuse of AI, driven by biases inherent in Big Data and algorithms, can pose a threat to the very fabric of society. Indeed, concerns about these adverse effects have led to a growing demand for "explainable AI" that can minimize or verify misjudgments and errors, particularly regarding the structural characteristics, technical complexity, and reliability of Generative AI. Additionally, it is essential to establish an organization dedicated to supervising data management to prevent the government or a small number of companies from monopolizing or controlling data. Considering the

relationship between AI, the General Will, and Big Data, the future success of democracy hinges on the "moral use of Big Data" and the "development of Explainable AI" that can effectively replace the General Will.

POLITICAL AI AND RELIABLE AI

Democracy involves the process by which public opinions are exchanged, and decisions are made regarding which laws, policies, and institutions should be established. Rousseau states the following:

> How are the people to regulate the conditions of the society? Is it to be by common agreement, by a sudden inspiration? Has the body politic an organ to declare its will? Who can give it the foresight to formulate and announce its acts in advance? Or how is it to announce them in the hour of need? How can a blind multitude, which often does not know what it wills, because it rarely knows what is good for it, carry out for itself so great and difficult an enterprise as a system of legislation? (Rousseau, 1950, pp. 36–37).

As a qualification for such legislators, which can be seen as aligning with the principle of separation of powers, Rousseau emphasizes that, as individuals positioned outside the body of the state, legislators should not use the law as a means to satisfy personal desires (Rousseau, 1950, pp. 37–39). In summary, Rousseau argues that legislators should resemble gods who provide laws for humanity (Rousseau, 1950, p. 38). Paradoxically, Rousseau's demand for legislators to be God-like is literally just a wish. Using Big Data to replace the formation and concentration of the General Will does not solve all problems. Dependence on political AI comes with significant risks. The greater the dependence on Big Data and algorithms, the more serious the civil liberties may be compromised by countries or governments with certain powers that strengthen their control over citizens. The possibility of 'control by AI or algorithmic governance' may pose the most powerful threat to the basic principle of democracy.

In general, the prevailing idea is that excessive dependence on AI weakens or reduces human autonomy and self-determination, which are the basic rights of democracy. This problem can hardly be said to be limited to dependence on AI. This is because, in many cases, it is common to seek help from someone to make one's own decisions. Just as it is undesirable to rely on help from others unconditionally, the greater the dependence on AI, the higher the likelihood of facing unexpected difficulties. In this regard, a good example is the case in which trillions of dollars disappeared when programmatic sales of stocks triggered a massive sell-off within 15 minutes during the 2018 global stock market crash. It was found that 'Algorithmic Trading by AI' was the cause ("Algorithmic trading", 2024). This was an incident that occurred as a

result of AI comprehensively analyzing data and automatically trading stocks when various stock price variables were made into Big Data and entered. Such an event can occur even if it is not necessarily caused by AI. The more serious problem that excessive dependence on AI could cause is its intervention in decision-making related to the lives of the majority of people in ways that cannot be controlled.

Due to biases in Big Data, distorted analyses by AI, manipulation of information through algorithms, and the mass production of false information, individuals' legitimate choices or suffrage may be compromised. This is closely related to the specific policy decisions informed by the data. One can consider cases where irrelevant data are used in policy decisions or where past or favorable data are deliberately selected by policymakers to achieve desired outcomes. These instances are also quite common.

The "moral use of Big Data" is closely related to the monopoly and the potential for misuse or abuse of Big Data. As the concentration and monopoly of data accelerate and AI's data processing capabilities improve, concerns about information dictatorship and surveillance societies have become pervasive. In particular, the 'moral use of Big Data' is directly connected to the issue of reliable AI. Measures must be taken to prevent policy decisions made using Big Data from being planned in advance to benefit a specific group. This is the most undemocratic act of abusing Big Data, corresponding not only to the manipulation of the General Will but also posing a significant risk to democracy itself. Additionally, the monopoly of algorithms and Big Data by powerful groups may facilitate the manipulation of public opinion through propaganda. Thus, guidelines are necessary to enforce the moral use of Big Data and the algorithms that utilize it. This raises concerns about trust in AI; in an increasingly AI-driven society, distrust in AI can contribute to significant social anxiety. Addressing the social problems caused by this will require enormous social costs.

Reliable AI problems can also be addressed through the development of "Explainable AI" (Kim, 2023, pp. 276-277, 286-287). The misuse and bias of Big Data can be partially mitigated through the regulation of algorithms used to tackle these issues. For example, ChatGPT, a generative AI based on an artificial neural network deep learning algorithm, addresses this concern through self-directed learning via its feedback system. However, even in this case, the problem remains unresolved. Most people do not understand how AI makes decisions and cannot verify the fairness of its processes. Considering that AI is not perfect and, moreover, is susceptible to human intentional intervention—in other words, acknowledging the possibility of error in any situation—ignorance of AI's working processes could lead to unforeseeable or irreversible risks. The normal operation of AI's autonomous deep learning is difficult

to understand unless one is a high-level expert. It is impossible to leave such a machine to determine the lives of most people.

To prevent this risk, there is a growing demand for a new concept of AI, or "explainable AI", that can transparently show the process behind AI's judgments and actions or explain them to humans. "Explainable AI" is an AI that can articulate its actions and judgments in a manner comprehensible to humans, explaining how decisions are made (Kamath & Liu, 2021, ix). One measure to enhance the reliability of AI applications is to impose an "obligation to provide explanations of the operation of algorithmic models and their conclusions" on interpretable machine learning and explainable AI. This procedure is necessary for AI to diagnose and debug potential biases in algorithmic models while also clarifying the conditions and calculation processes that lead to their conclusions, thereby enhancing trust in the results.

CONCLUSION

Numerous studies have examined the relationship between AI and democracy. Even before the advent of AI, the so-called crises of democracy—including regression and contraction—were widely discussed. In the context of practicing the General Will, many criticisms have been raised regarding whether public decision-making processes, such as elections and voting, truly reflect the political equality of all citizens. Above all, while democratic elections can facilitate the transfer of power, merely winning an election often fails to foster the formation and concentration of the General Will and may instead intensify political polarization.

In this context, introducing AI into a democratic political system—given its potential for both positive and negative impacts—can be seen as a bold and risky endeavor. However, if the use of AI becomes inevitable not only in politics but in almost all areas of society, our task is to minimize the threats AI poses to democracy while promoting its development and use to enhance democratic processes.

AI has already been employed in fields such as law and politics, including legislative activities and public opinion polling. However, AI has become highly politicized and is particularly vulnerable to further politicization in these domains. Since human actions are inherently influenced by politics, AI systems designed and used by humans are, by extension, also political. Consequently, the political misuse of AI could have severe consequences, as few areas of human life remain unaffected by politics.

Decision-making based on the principle of majority rule often initiates new political disputes and does not necessarily constitute a fair or just political act. Given the inherent limitations of democracy—such as its frequent difficulty in aligning with the

realization of a collective will like Rousseau's concept of the General Will—the ethical use of AI, including the development of explainable algorithms and moral guidelines, will play a critical role in determining whether democracy can succeed alongside AI.

As AI technologies advance in applying and executing reasoning rules, it is crucial to ensure that humans do not become passive subjects of algorithmic governance. To achieve this, explainable AI must be implemented as a system capable of validating the reasoning process to minimize biases and informational errors in Big Data. Additionally, it should enhance the transparency and fairness of decision-making by clarifying how Big Data is collected, stored, analyzed, and processed.

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Politička umjetna inteligencija i Rousseauova teorija opće volje

SAŽETAK

U radu namjeravam usporediti Rousseauovu teoriju opće volje s generativnom umjetnom inteligencijom koja se temelji na algoritmima dubokog učenja umjetne neuronske mreže sa stajališta etičkog okvira temeljenog na pravilima.

U tu svrhu usredotočit ću se na Rousseauovo pitanje „formiranja, koncentracije i ispunjenja opće volje" kako bih istražio implikacije uporabe umjetne inteligencije (UI) u svrhu demokracije, osobito u kontekstu demokratskog odlučivanja i formuliranja javne politike. Kao alternativa za realizaciju Opće volje u izradi zakona i razvoju javne politike UI se može uzeti u obzir za prikupljanje javnog mišljenja i olakšavanje procesa donošenja odluka. Prikupljanje mišljenja i donošenje odluka uz pomoć umjetne inteligencije može prevladati praktične izazove oblikovanja opće volje u demokratskim sustavima, uključujući sukobe među većinskim i manjinskim skupinama. Nadalje, za razliku od ljudi na koje utječu stranačka lojalnost ili politički interesi, UI može identificirati najbolje politike za svakoga na nepristran način, potičući široku suglasnost. Osim toga, kritički ispitujem potencijalne probleme koji proizlaze iz politizacije UI-ja, unatoč njegovim prednostima u rješavanju slabosti demokratskih sustava.

Ključne riječi: opća volja, generativni UI, politički UI, zakonodavstvo, javna politika.

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A Holographic Manifesto: Joi's Independence in Denis Villeneuve's *Blade Runner 2049*

SUMMARY

Unlike critics' understanding of Denis Villeneuve's *Blade Runner 2049* as a misogynistic movie, this paper argues that the film tries to destroy male-centered gender stereotypes through Joi's subversive performance acts. Joi goes against the traditional passive and powerless female stereotype by escaping the domestic field and welcoming her freedom. Joi no longer remains a sexual object of the male gaze. Instead, she turns this male-female relationship upside down by making K the sexual object for her own pleasure. Joi even does not hesitate to risk her own death to go beyond her pre-designed program. In this respect, the movie should be understood as an attempt to put an end to gender inequity.

Keywords: AI, *Blade Runner* (1982), *Blade Runner 2049*, Gender Inequity, Independence, Joi, performativity.

> "Did it never occur to you [Deckard] that was why you were summoned in the first place? Designed to do nothing short of fall for her right then and there. All to make that single perfect specimen. That is, if you were designed. Love or mathematical precision. Yes? No? You are a window to me."
>
> Niander Wallace, *Blade Runner 2049*

I. INTRODUCTION

At the end of Ridley Scott's *Blade Runner* (Scott, 1982), based on Philip K. Dick's *Do Androids Dream of Electric Sheep* (1968), the camera shows that Deckard (Harrison Ford), who, as a blade runner has retired (killed) rogue replicants, is being chased by a replicant named Roy (Rutger Hauer). When Deckard misses his step and falls, Roy

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unexpectedly saves him. Then Roy sits in front of Deckard, who does not understand Roy's behavior, and delivers this famous death monologue: "I've seen things you people wouldn't believe. Attack ships on fire off the shoulder of Orion. I watched C-beams glitter in the dark near the Tannhäuser Gate. All those moments will be lost in time, like tears in rain. Time to die." Although Roy, designed to live only four years, has been struggling to expand his lifespan, he finally embraces his death and even saves his would-be-killer, Deckard, suggesting that Roy is more human than human. This final scene raises the fundamental *and* ongoing question: What does it mean to be human?

In fact, this same question does continue in French Canadian Denis Villeneuve's *Blade Runner 2049* (Villeneuve, 2017). As the sequel to Scott's *Blade Runner*, Villeneuve's *Blade Runner 2049* shares the futuristic dystopian sprawl. The movie is set in Los Angeles in 2049. It portrays technologically advanced flying vehicles, ugly and even deformed humans, and non-humans (androids, replicants, and holographic people)—all within a multi-cultural atmosphere represented with audio-visual commercial ads that are primarily in Japanese, Chinese, and Korean. The movie also highlights promising off-colonies, devastated outer cities, sexualized women, and replicant rebel forces, among other futuristic elements. However, the film also departs from its prequel: while the original *Blade Runner* does not tell us Deckard's identity either as a human or a replicant, *Blade Runner 2049* clearly describes K (Ryan Gosling) as a replicant. K, who works as a blade runner for the Los Angeles Police Department, knows that he is a Nexus-9 model replicant.[1] In addition, at the beginning of *Blade Runner*, Rachel (Sean Young)—Tyrell's (Joe Turkel) secretary—does not know she is a replicant. However, when Rachel realizes she is not human, she runs away with Deckard. Luv (Sylvia Hoeks) in *Blade Runner 2049* also works as Niander Wallace's (Jared Leto) right-hand woman, but she, unlike Rachel, knows that she is a replicant and remains a faithful servant to him. If the original movie's six rogue replicants, Nexus-6 models, can live only four years, the lifespan of the replicants, mostly nine models, in *Blade Runner 2049* is not limited.[2] While *Blade Runner*'s Tyrell Corporation focuses on the production of replicants, *Blade Runner 2049*'s Wallace Corporation pays attention to procreation.

Although there are many differences between these two movies, one of the striking variations is the addition of K's holographic lover called Joi (Ana de Armas) to *Blade Runner 2049*.[3] She is a holographic projection operated by a ceiling-mounted

[1] Interestingly enough, Ridley Scott viewed Deckard as a replicant; however, Harrison Ford acted Deckard as a human. As if assuring this, there has not been a unanimous opinion on Deckard's identity.

[2] In fact, replicants' life expectancy is not limited for the Nexus-7 model replicants.

[3] Since there are many different Jois in the movie, I will refer to Joi, who has a relationship with K, as K's Joi.

projector or a portable device called an "emanator." Joi, who appears to be an attractive young woman, is produced by the Wallace Corporation. As her name Joi (joy) suggests, she is programmed to be a female companion for male customers to meet both their physical and emotional needs. In order to satisfy customers' needs, Joi can change her appearance (such as eye and hair color, voice, body type, and outfit) to be continually attractive to K. Sex seems to be the primary purpose for Jois that the Wallace Corporation produces, which is seen in the building-scale advertising a pink nude Joi, who continually flirts with men on the street. However, Joi can also meet emotional needs as she is good at comforting male customers by understanding their feelings and emotions, which is well presented in K's relationship with Joi. With the help of Joi, K, who does not have any friends—either replicants or humans—no longer feels lonely. K often seeks advice from Joi about his identity confusion. To K, Joi is a friend, a lover, and a life partner.

In this respect, *Blade Runner 2049* seems to be somewhat like the first *Blade Runner*, which portrays women as sexual objects of the male gaze, thus enforcing gender stereotypes. For example, the scene in the original, where Deckard rapes Rachel, has been criticized for the traditional gender treatment of women. During the interview with Villeneuve, Jordan Hoffman tells Villeneuve: "Some critics accused the 'world' in *Blade Runner 2049* of being hostile to women." Villeneuve answers: "I am very sensitive to how I portray women in movies. This is my ninth feature film, and six of them have women in the lead roles. The first *Blade Runner* was quite rough on the women; something about the film noir aesthetic. But I tried to bring depth to all the characters. For Joi, the holographic character, you see how she evolves. It's interesting, I think" (Hoffman, 2017). However, unlike Villeneuve's portrayal of the women in his movie, scholars have criticized that Villeneuve's version of *Blade Runner* is also "hostile to women" and even encourages gender imbalance. Katie Goh argues that "the film's [*Blade Runner 2049's*] women occupy limited roles: they are either evil, sex workers, or simply naked. Occasionally they are all three" (Goh, 2017). Observing the movie's treatment of Joi, Goh harshly notes: "At best, she's a sexual fantasy; at worst, she's a smashed iPhone that K failed to back up on the Cloud" (Goh, 2017). Likewise, understanding *Blade Runner 2049* as "a misogynistic mess, and the most overrated movie of the year," Charlotte Gush (2017): "Women are either literally prostitutes (including Mackenzie Davis as Mariette), holographic housewives like Joi (Ana de Armas) . . . or some slightly meaner, more violent boss women (Robin Wright as Lieutenant Joshi, and Sylvia Hoeks as Luv, also a 'companion' but one who can kick ass) who nevertheless meet gruesome deaths that we watch in horrifying detail". Ashley McCann (2023, p. 51) agrees with these critics and sums up this reading in the phrase "hegemonic femininity": "The holographic character Joi's appearance and interactions with the male protagonist K reflects hegemonic femininity, which

adds to how the film's women characters reaffirm the centrality of K and gender stereotypes".

However, going against critics' view of the film as a misogynistic movie, this paper argues that *Blade Runner 2049* tries to destroy male-centered gender stereotypes by showing "how she[Joi] evolves," if I may borrow Villeneuve's statement, from a mere sexual product of the male gaze to an independent woman. Throughout the movie, Joi performs a series of subversive acts; she, therefore, ends up going against the traditional passive and powerless female stereotype and welcomes her freedom. As a result, Joi no longer remains a sexual object of the male gaze. Instead, Joi turns this male-female relationship upside down by making K the sexual object for her own pleasure. Finally, Joi does not hesitate to risk her own death to go beyond her pre-designed program. Joi is willing to die "for the right cause," which is "the most human thing" she can do. In this respect, the movie should be understood as an attempt to put an end to gender inequity.

II. BECOMING INDEPENDENT: JOI'S HOLOGRAPHIC MANIFESTO

Observing the biological differences between women and men, John Ruskin writes:

> The man's power is active, progressive, defensive. He is eminently the doer, the creator, the discoverer, the defender. His intellect is for speculation and invention; his energy for adventure, for war, and for conquest... But the woman's power is for rule, not for battle, – and her intellect is not for invention or creation, but for sweet ordering, arrangement, and decision . . . Her great function is *Praise*. (emphasis added, Ruskin, 1865, p. 51)

On the one hand, Ruskin seems to acknowledge the differences between women and men, going so far as to seemingly appreciate women's intelligence for "ordering, arrangement, and decision." However, by deftly connecting these differences with social roles, Ruskin successfully confines women to the home, which he calls "Queens' gardens" (Ruskin, 1865, p. 51). Moreover, by arguing that women's great function is "praise," Ruskin defines women as useful female companions for men.

Ruskin's portrayal of women is well presented through K's apartment scene in *Blade Runner 2049*. As soon as K enters the home, he activates Joi by turning on the console on the wall. While the camera keeps its focus on K, we only hear Joi's voice. Since her voice is without a body, Joi appears to be an insubstantial entity. Later, while showering, the camera shows K gluing his wound. After this, K tells Joi: "I had an accident at work. I think I ruined my shirt." K's wound and ruined shirt by the "accident at work" recall Ruskin's statement that men are specialized in outdoor

work. The audience finally meets Joi when K sits in a chair, and the camera shows a ceiling projector. A second later, Joi shows up as a hologram. As a hologram, Joi is literally confined to K's apartment; she cannot have an existence beyond wherever the projector is. On top of this imprisonment, Joi is initially presented as an old-fashioned woman. The script even describes Joi: she is supposed to be "like a cartoon 60s housewife" (Fancher, 2017, p. 15). While the audience may not be privy to the script itself, the director's intention is seen here. Joi is not merely a representation of classical femininity but the quintessential extreme of classical femininity. She is supposed to be a "housewife," and she must be a 1960s housewife. Even more, she is reminiscent of a cartoon housewife, suggesting not only an idealized femininity but an impossible one. It is the impossibility of Joi's represented femininity that I would like to focus on. Clearly, the script is criticizing classical femininity by making it cartoonish: it is both an idealization and an impossibility. Joi plays a part in the audience's first encounter with her by comforting K after something happens to him at work ("It was a day"). Joi first asks K to read a book titled *Pale Fire*. However, as soon as K says, "You hate that book," Joi throws away the book and says: "I don't want to read either." In fact, it does not matter whether Joi likes the book or not; her main concern is to make K feel better. Then Joi changes her outfit from a housewife's clothing to a beautiful dress and asks him to dance.[4] Joi's actions suggest that Joi's "great function is praise." In this respect, K's apartment scene seems to reify the Ruskinian view of women.

However, as the movie goes on, Joi, as Villeneuve says, gradually "evolves" into an independent woman. Paul Smart (2019, p. 127) writes: "We know, of course, that Joi is synthetic, in the sense of being a technological artefact, but as the movie progresses, it becomes increasingly difficult to see her as anything other than a virtual person". Joi's evolution becomes possible because of her "performative acts", to borrow Judith Butler's term. Butler argues:

> Gender is not passively scripted on the body, and neither is it determined by nature, language, the symbolic, or the overwhelming history of patriarchy. Gender is what is put on, invariably, under constraint, daily and incessantly . . . but if this continuous act is mistaken for a natural or linguistic given, power is relinquished to expand the cultural field bodily through subversive performances of various kinds (Smart, 2019, p. 531).

Butler discusses that gender is not naturally given; rather, it is a social construction made by repeated performative acts. Focusing on performativity, Butler asserts that

[4] McCann argues: "This scene cements Joi's lack of agency and identity outside of her master. Her identity is in flux, ready to shift at a moment's notice in order to pacify the man that owns her" (63). While agreeing with McCann, I also believe that her flux identity also signifies that she can change her identity to whatever she wants to be, which means that she can be free from the traditional roles of women.

this socially performed gender can also be reconstructed by "subversive performances." Following Butler, if Joi's classical femininity has been constructed by women's repeated formative acts in a male-dominated society, one way to escape from this classical femininity will be through her subversive performances. Joi's first subversive performance is shown through the rain scene, although she enjoys her freedom for a very short time. To celebrate their anniversary, although there is nothing to celebrate, K gives Joi an emanator as a gift. The emanator is a portable projector, allowing Joi to move freely in the outside world. After connecting Joi to the emanator, K tells Joi: "Honey, you can go anywhere you want in the world now." If the old Joi, who was confined to K's apartment, represents a traditional woman, the new Joi, who is now in the emanator, suggests that she is literally and symbolically free. When Joi steps outside the home for the first time, she willingly welcomes her freedom. Because the rain goes through Joi, she is constantly flickering, which reminds the audience of her holographic identity. Then, the camera zooms into Joi's hand in the rain. Although Joi's hand is also flickering, the camera shows that her hand contains a few raindrops, which suggests that Joi does feel the rain. Joi then closes her eyes and spreads her arms wide to feel the rain throughout her body. Although neither Villeneuve nor any critics have dealt with this rain scene in detail so far, I believe that Joi's welcoming the rain with her arms wide open is an homage to *The Shawshank Redemption* (1995) by Frank Darabont. Andy Dufresne (Tim Robbins), who is imprisoned in the Shawshank prison for killing his wife and her boyfriend, successfully emerges from the prison in the rain. Finally, he spreads his arms wide and enjoys freedom when he is finally outside the prison. Because of the lightning strikes behind him, Dufresne's body is repeatedly seen and not seen, which produces a flickering effect. This scene almost exactly overlaps with Joi's rain scene: K's apartment is just like the Shawshank prison; Joi and Dufresne are flickering in the rain, and they also welcome their freedom. Furthermore, Dufresne is unjustly imprisoned because he is, unlike the other prisoners, innocent of the crime. He is serving a sentence that is not meant for him. Joi's freedom, since it is analogous to the Dufresne's, suggests that Joi herself is unjustly imprisoned and that even K, her benefactor, never had a true claim to her. In this light, the rain scene should be understood that Joi is progressively becoming independent.

Nevertheless, Joi's freedom does not last long because of an incoming voice message from K's superior, Joshi (Robin Wright); Joi, who is about to kiss K, suddenly freezes. McCann (2023, p. 64) argues: "Joi remains frozen for the duration of the call, still stuck in the same position. When the call is over . . . he powers her off, once again emphasizing that she is simply an object at his disposal". To be sure, this frozen Joi suggests that she still belongs to K and, by extension, to the Wallace Corporation. However, even if Joi is still at K's disposal, she does not simply remain K's pre-

programmed female companion. Instead, Joi performs her second subversive act: to reverse the male and female relationship, which is shown through the sexual encounter of Joi/Mariette with K. Coming back home from the police station, K discovers that Joi buys a prostitute called Mariette (Mackenzie Davis), who, in fact, works for the replicant rebel cell, to sleep with him. Since Joi does not have a physical form, she cannot touch or kiss K. Instead of a man choosing a prostitute for himself, Joi literally picks the woman for K's sexual pleasure.[5] In doing so, their relationship becomes reversed. K, who is the owner of Joi, symbolically becomes a prostitute. In doing so, Joi, who belongs to K, becomes the owner of K, and his embarrassment signifies this inverted relationship. If Joi buys the prostitute as one of her programmed responses or if K previously wanted this kind of consummation with Joi/a prostitute, then K would not be perplexed. Through K's embarrassment, the movie connotes that Joi is becoming *different* from other Jois of the corporation. Joi no longer responds as programmed; Joi is special because she acts independently.

Joi's independence is highlighted through the strange threesome: K, Joi, and Mariette. Villeneuve says: "You have a man who's being touched by a woman for the first time. You have a hologram that feels she can be real for the first time. And you have a prostitute who's being kissed by a man with love for the first time, and she's not sure how to deal with that" (Buchanan, 2017). Since this odd threesome is first to K and even to the prostitute Mariette, they simply look at each other and wait for Joi. Then Joi leads this threesome by superimposing herself on Mariette's body. The name "Mariette" suggests the word "marionette," a puppet controlled by strings and manipulated by a puppeteer. If the elision of "on" is even meaningful: it is as if Mariette is "off" until someone like Joi turns her "on." Indeed, Mariette is the puppet: when Mariette flips over her hands, Joi also flips over her hand to sync with Mariette's movement. At first, Joi often fails to follow Mariette's motion. After a few trials, the camera shows only one hand, suggesting Joi finally succeeds in syncing with Mariette. Feeling weird, Mariette says: "Look at you." Then Joi says, "Quiet now. I have to sync." Although we know that Joi simply follows Mariette's movement, the camera suggests that it is now Joi who moves and tries to sleep with K through the appearance of the superimposed Joi/Mariette. The red hair and body belong to Mariette, but the face is Joi, which makes Joi/Mariette look more like Joi than Mariette. In doing so, Mariette, who has a corporeal body, becomes a mere backdrop for Joi. As a result, Joi, who has previously exhibited agency, now exhibits corporeality. Thus, it is Joi, not Mariette, who sleeps with K. If romance in the rain scene is unexpectedly stopped with the frozen Joi, she, with the help of Mariette,

[5] I want to emphasize that it is Joi who tries to kiss K first in the rain scene. As far as their physical relationship is concerned, Joi always takes the lead.

continues the romance with K. By doing so, Joi stops being at K's disposal. In fact, K seems to be at Joi's disposal.[6]

If the reversed relationship denotes Joi's imminent freedom, Joi's last performative act makes it possible for her to gain independence. Knowing that Wallace's secretary, Luv, is coming after K, Joi, with a grim expression, tells K: "I am coming with you." Since K always carries the emanator, Joi always comes with K regardless of her will. However, Joi's next line suggests that it is her own decision: "Not like this. If they come here looking for you, they'll have access to all my memories. You have to delete me from the console." Then the camera does a closeup on Joi: her pupils shake, she often lowers her head, and she gulps. This series of actions shows her determination to die for K. Hearing this, K, who disagrees with Joi's decision, tells Joi, "If anything happened to it, that's it. You'd be." By saying this, K assures that she will die if the emanator is broken. Knowing what this data termination means, she answers: "Yes. Like a r*eal* girl (emphasis mine)." The phrase "like a real girl" signifies that she wants to be a real girl, not a holograph, and she wants to act whatever she wants to do. Considering that Joi, as a female companion for men, is originally designed to behave the way the owner wants, this conversation suggests that Joi goes against K's wish. Much like the threesome, Joi decides for herself and acts for herself.[7]

Furthermore, Joi asks K to break the antenna on the emanator, which continually sends information about Joi's whereabouts to the corporation. As soon as K breaks the antenna, the ominous music camera shows that Joi's signal disappears on the map. Luv, who watches K through the antenna, gets up and rushes, looking for K. The ominous music and Luv's hurried walking suggest Joi surpasses the pre-decided responses. She no longer follows programmed responses. In other words, she is different from other replicants. For example, when Wallace examines a newborn female replicant to see if she can give birth, the camera shows that she trembles with fear and waits helplessly for Wallace's judgment. As Wallace knows that she cannot deliver a child, he simply kills her without any feelings. Luv, who has watched this whole process, sheds tears but does not do anything for her; Luv is simply standing next to Wallace. However, unlike these powerless replicants, Joi rebels against her

[6] Another interesting point is that none of them are humans in this threesome scene: two replicants and one hologram. Buchanan writes: "Though the effect is surreal and sometimes unsettling as Joi's face commingles with Mariette's, K goes in for the kiss, and these three artificially intelligent beings find a unique new way to make love" (Buchanan). This "a unique new way to make love" suggests not only they feel the same way, but also they look like humans.

[7] As for Joi's decision to delete her data, McCann (2023, p. 66) writes: "Whereas previous scenes seemed to suggest Joi truly lacked free will, this scene comes to the opposite conclusion. This is the only moment in the narrative when Joi acknowledges her own lack of agency and displays self-awareness". Here McCann (2023), who views the movie as misogynistic, agrees that this scene shows her "self-awareness." However, without further talking about Joi's independence, she moves on to another argument: women as helpless and powerless beings in the movie.

creator, Wallace, just as Roy in the original movie *Blade Runner* goes against his destiny as a replicant. Realizing that he will die soon because of the 4-year life limit, Roy meets his creator, Tyrell, to expand his lifespan. However, knowing that even his creator cannot increase his life expectancy, Roy kills Tyrell. Although Joi, unlike Roy, does not kill her creator, she shows her resistance through her performative act to destroy the antenna. In doing so, Joi finally becomes an autonomous entity.

III. CONCLUSION: Joi's "dying for the right cause"

The arrival of artificial intelligence in our world keeps asking us what it means to be human. Philip K. Dick' *Do Androids Dream of Electric Sheep?* challenges the notion of humanity by describing replicants as more human than human. Likewise, the original *Blade Runner* also touches upon this question of humanity. In fact, many books and movies on artificial intelligence have attempted to answer this question by dealing with replicants, robots, cyborgs, and androids. Although these terms are often used interchangeably, one thing is certain: they look just like humans. They have physical human bodies and behave just like humans. At first, Villeneuve's *Blade Runner 2049* also seems to follow this somewhat traditional approach that deals with human-like artificial intelligence by portraying a replicant's search for identity. However, the movie goes further than identity on an individual spectrum. Rather than simply inquiring into this general humanity question, the movie upstages gender imbalance through Joi's subversive performative acts to be an independent woman.

Joi is described as a Ruskinian queen when she appears in the movie for the first time. She is wearing a 60's fashioned housewife clothing with an apron on and waits on K. By asking him to read a book and changing her outfit, Joi tries to make K feel better. However, as the movie continues, Joi increasingly becomes independent through her performativity. First, the rain scene shows that Joi is physically free from the Ruskinian domestic field. She steps outside the home and enjoys the freedom in the rain. Then, the threesome scene suggests that Joi is becoming an autonomous entity through her sync with Mariette. In addition, the owner-servant relationship between K and Joi becomes reversed. Joi begins to lead their relationship. Finally, by deciding to delete her backup data from the house console and breaking the antenna on the emanator, Joi evolves into an autonomous woman. Unlike critics' understanding of *Blade Runner 2049* as a misogynistic movie, Joi's evolution into an independent woman suggests that the movie, as Villeneuve states, in fact, tries to break down the gender imbalance through her performative acts.

Understanding that women in the movie as mere appendages to the male protagonists (K and Deckard), McCann (2023, p. 59) argues: "There is Joshi, K's superior officer

who flirts with him; Luv, a cold replicant henchwoman for the Wallace corporation who is killed by K; Deckard's daughter, an isolated shut-in who helps K with his investigation; and Mariette, the prostitute hired by Joi who secretly works for the resistance. Moreover, there is Joi, the holographic woman that K owns, literally". However, unlike McCann's argument, K's superior Joshi, much like Joi, risks her own death to protect K; Luv, unlike helpless and powerless traditional women, is a masculine woman; Deckard's daughter is the key figure who can blur the distinction between humans and non-humans; Mariette, who works for the replicant rebel cell, saves K, whom Luv beats, *and* finally, I believe that McCann forgot to mention, Freysa (Hiam Abbass) leads the rebel forces and delivers this famous speech: "Dying for the right cause. It's the most human thing we can do." Women in *Blade Runner 2049*, in fact, are not described as traditional female stereotypes. At the center of these women, there is Joi, who dies "for the right cause." In doing so, Joi goes beyond her programmed identity and the traditional female roles.

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Holografski manifest: Joina neovisnost u filmu *Blade Runner 2049* Denisa Villeneuvea

SAŽETAK

Za razliku od kritičara koji film *Blade Runner 2049* Denisa Villeneuvea smatraju primjerom mizoginije, u ovom radu se iznosi da film kroz Joinu subverzivnu performativnost nastoji razbiti rodne stereotipe usmjerene na muškarce. Joi se suprotstavlja tradicionalno pasivnom i bespomoćnom ženskom stereotipu bježeći izvan okvira domaćeg i prihvaćajući svoju slobodu. Ona više nije seksualni objekt muškog pogleda. Umjesto toga, ona preokreće taj muško-ženski odnos, čineći K-a seksualnim objektom za svoje osobno zadovoljstvo. Ona čak ni ne oklijeva riskirati vlastitu smrt kako bi nadišla svoj unaprijed dizajnirani program. Iz tog kuta gledano, film bi se trebao shvatiti kao pokušaj okončavanja rodne neravnopravnosti.

Ključne riječi: UI, *Blade Runner* (1982), *Blade Runner 2049*, rodna neravnopravnost, neovisnost, Joi, performativnost.

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PRIKAZI KNJIGA

BOOK REVIEWS

EUROPEAN JOURNAL OF BIOETHICS
EUROPSKI ČASOPIS ZA BIOETIKU

Borovečki, Ana – Klarica, Marijan (ur.)

Medicinska etika

Zagreb, Hrvatska sveučilišna naklada –
Medicinski fakultet, 2023.

Knjigu *Medicinska etika* uredili su Ana Borovečki i Marijan Klarica s Medicinskog fakulteta Sveučilišta u Zagrebu, koji je uz Hrvatsku sveučilišnu nakladu i izdavač knjige. Knjiga je tiskana 2023. godine, a odobrena je i kao sveučilišni udžbenik Sveučilišta u Zagrebu.

Strukturalno je podijeljena u 7 dijelova. Prvi dio, naslovljen „Predgovor", sadrži predgovor urednika te prvo poglavlje kontekstualnoga karaktera koje tematizira medicinsku etiku u sklopu Medicinskoga fakulteta Sveučilišta u Zagrebu, a potpisuju ga Marijan Klarica i Davor Miličić.

Drugi je dio uvodni i sadrži tekst Hrvoja Jurića o temeljnim pojmovima, teorijama, principima i metodama etike, zatim poglavlje o medicinskoj etici u svjetlu kršćanske antropologije Tončija Matulića i, naposljetku, poglavlje o granicama koje medicinsko pravo postavlja medicini na primjeru nesavjesnog liječenja autorice Sunčane Roksandić.

Treći dio nosi naslov „Liječnici i društvo", a čine ga četiri poglavlja: o profesionalnoj medicinskoj etici Marka Ćurkovića, o prigovoru ili prizivu savjesti Ane Borovečki, o komorama u zdravstvu Mirana Cvitkovića i Ante Klarića te o korupciji u zdravstvu Ane Borovečki.

Četvrti dio naslovljen „Liječnici i pacijenti" donosi također četiri poglavlja: o medicinskoj informaciji Gordane Pavleković i Ane Borovečki, o djetetu kao pacijentu Danijele Petković Ramadže, Mirne Natalije Aničić, Borisa Filipovića i Aide Mujkić, o etičkim aspektima zaraze HIV-om Sanje Belak Škugor, Šime Zekana i Josipa Begovca

te o etici u psihijatriji s posebnim naglaskom na autonomiji pacijenta Marine Šagud, Petrane Brečić i Marka Ćurkovića.

„Početak ljudskog života i genetika" naslov je petog dijela koji sadrži prilog o etici u ginekologiji i opstetriciji Josipa Jurasa te o etičkim aspektima genetičkog savjetovanja o nasljednim karcinomima Ljiljane Šerman.

Šesti dio „Etika istraživanja u medicini" donosi četiri priloga: o etici uporabe životinja u biomedicinske svrhe Nataše Jovanov-Milošević, Vladiane Crljen, Ane Katušić Bojanac, Nina Sinčića, Sare Trnski i Floriane Bulić-Jakuš, o etici u kliničkim istraživanjima Ane Borovečki i Jelene Barilar Osmanović, o etičkim povjerenstvima Ane Borovečki i o osnovama neuroetike Ane Borovečki, Gorana Šimića i Marka Ćurkovića.

Posljednji, sedmi dio nosi naslov „Etička pitanja vezana uz kraj ljudskog života" i također donosi četiri poglavlja: o transplantaciji organa Željka Kaštelana, Tvrtka Hudolina i Daniela Derežića, o etičkim pitanjima u intenzivnoj medicini Dinka Tonkovića i Daniele Bandić Pavlović, o etičkim pitanjima u palijativnoj medicini Nataše Klepac i Marijane Braš te o odlukama o kraju života Marka Ćurkovića i Ane Borovečki.

Uz zanimljive slikovne priloge, čitatelju svakako olakšava čitanje vizualno dobro grafički riješeno obojenje svakog poglavlja u zasebnoj boji, kao i predmetno kazalo na samom kraju knjige. Tekst je pojedinih poglavlja skladno i primjereno dopunjen brojnim tabelarnim prilozima, grafikonima, kao i cijelim nizom izvadaka iz originalnih dokumenata, sudskih slučajeva i drugih važnih izvora za pojedinu temu.

Na kraju svakog poglavlja zasebno je izdvojeno sumiranje najbitnijih točaka pod naslovom „Što je važno zapamtiti", što knjizi daje dodatnu udžbeničku vrijednost. Svako je poglavlje popraćeno i popisom korištene literature za daljnje produbljivanje znanja iz svake pojedine teme.

Medicinska etika stoga je svakako knjiga koju radosno dočekuje bioetička zajednica, a posebno oni koji se bave medicinskom etikom, gdje će iznimno biti važna predavačima iz medicinske etike i etike zdravstvene skrbi kao nezamjenjivo štivo koje je na jedinstven način popunilo prazninu jednog prijeko potrebnog udžbeničkog izdanja ovakve vrste. Utoliko svaka čestitka i pohvala urednicima i svim autorima na realizaciji ovog izdanja.

Igor Eterović

Arne Næss

There is No Point of No Return

Penguin Books, London 2021, pp. 102

Arne Næss's book *There is No Point of No Return*, published in 2021 by the British publishing house Penguin Books as part of their "Green Ideas" series, consists of five essays: (1) "The Deep Ecology Movement" (pp. 1–20); (2) "Self-Realization: An Ecological Approach to Being in the World" (pp. 21–51); (3) "The Place of Joy in a World of Fact" (pp. 52–71); (4) "Lifestyle Trends Within the Deep Ecology Movement" (pp. 72–75); and (5) "Industrial Society, Postmodernity, and Ecological Sustainability" (pp. 76–102).

The first essay – in a slightly different version – was previously published in *Philosophical Inquiry* 8 (1986, pp. 10–31), and subsequently in A. Drengson & H. Glasser (eds.), *The Selected Works of Arne Næss* (2005, vol. X, pp. 33–55), while the other four essays stem from Næss's ground-breaking book *Ecology of Wisdom* (2016, pp. 81–96, 123–132, 140–141, 279–292).

One can certainly argue that this book addresses some of the most important topics in Næss's environmental philosophy – from a critical evaluation of the human condition to a philosophical rethinking of the ongoing environmental crisis. It is filled with fun, vivid, and joyful examples from everyday life while also presenting "hard academic philosophy" in a reader-friendly way. The writer's style is sharp and precise, making the book a true page-turner. Apart from being Næss's latest book published in English, at least to our knowledge, it holds particular significance as it summarizes some of his most important ideas – making it an ideal read for those unfamiliar with his environmental philosophy. In this review, we will briefly highlight key aspects of his environmental philosophy while also encouraging readers to fully explore the depth of his life's philosophy (i.e., *Ecosophy T*).

The first essay presents the well-known "eight principles of deep ecology", formulated by George Sessions and Arne Næss, followed by extensive commentary on each principle in various contexts. For instance, Næss examines the eight principles in relation to pollution, resources, population, cultural diversity, appropriate technology, land and sea ethics, education and scientific enterprises, while arguing both from a shallow and deep approach – emphasizing that shallow environmentalism needs deep ecology. On that note, the essay also explores the distinction between the so-called "shallow" and "deep ecology movement", concepts that are crucial to Næss's environmental thought. As he noted:

"The decisive difference between a shallow and a deep ecology movement hinges on the willingness to question, and to appreciate the importance of questioning, every economic and political policy in public. The questioning is 'deep' and public. It asks *why* more insistently and consistently, taking nothing for granted." (p. 18)

Apart from asking "deep" and "meaningful questions", when it comes to dealing with environmental issues, the deep ecological approach seeks to address the root causes of environmental issues, whereas the shallow ecological approach tends to only scratch the surface. In this sense, the key difference between the two approaches lies in the following:

"The shallow environmental approach, on the other hand, tends to make the human population more passive and less interested in environmental issues. The deep ecology movement tries to clarify the fundamental presuppositions underlying our economic approach in terms of value priorities, philosophy, and religion. In the shallow movement, argument comes to a halt long before this. The deep ecology movement is therefore 'the ecology movement that questions deeper.'" (p. 20)

However, it is important to remember that effectively addressing – and hopefully solving – the pressing environmental issues of our time requires both approaches.

On that note, the second essay introduces the concept of "self-realization" and Næss's deep-ecological analysis of what it means to "be in the world". Here, "self-realization" refers to the process of expanding one's self beyond the individual ego to recognize a deep connection with all living beings and nature. It involves moving from a "narrow sense of self" to an "ecological self", fostering harmony with the environment and acting in ways that support the well-being of the Earth as an interconnected whole. In the same context, Næss introduces the concept of "identification" as well. Namely, "identification" refers to the process through which individuals recognize their deep connection with nature, seeing themselves as part of a larger ecological whole. It is a key step toward "self-realization", as it involves empathizing with and understanding other beings – both human and non-human – leading to an "expanded sense of self"

that includes the natural world. This identification fosters ecological responsibility and compassionate action. With that in mind, Næss wrote the following lines:

"We need environmental ethics, but when people feel that they unselfishly give up, or even sacrifice, their self-interests to show love for nature, this is probably, in the long run, a treacherous basis for conservation. Through identification, they may come to see that their own interests are served by conservation, through genuine self-love, the love of a widened and deepened self. (p. 29)

This is precisely one of the reasons why Næss was so deeply influenced by Gandhi's selfless acts and non-violent resistance. In fact, Gandhi was one of the main influences, alongside Rachel Carson and Spinoza, in shaping Næss's critical evaluation of "biospherical egalitarianism". As the Norwegian philosopher said:

"Gandhi made manifest the internal relation between self-realization, nonviolence, and what sometimes has been called biospherical egalitarianism." (p. 40)

However, it's important to note that Næss was not your typical environmental philosopher. Although most environmental philosophers developed some form of ethics, Næss opposed a uniform ethical system (apart from Spinoza's ethical system), believing that human action should arise from inclination rather than imposed moral duty. Following Kant's distinction between "beautiful" and "moral action", he prioritized beautiful actions, as they stem from "spontaneous experience" and "identification" with all living and non-living beings. Still, it would be inaccurate to claim that Næss developed his own ethical system, even though his ideas provide a strong foundation for what might be called an "ethics of compassion". Instead, when addressing ecological issues, he placed greater emphasis on ontology. For example, in one passage, he wrote the following:

"Academically speaking, what I suggest is the supremacy of environmental ontology and realism over environmental ethics as a means of invigorating the environmental movement in the years to come. If reality is experienced by the ecological self, our behaviour *naturally* and beautifully follows norms of strict environmental ethics. We certainly need to hear about our ethical shortcomings from time to time, but we more easily change through encouragement and through a deepened perception of reality and our own self. This is, deepened realism. How is this to be brought about? The question lies outside the scope of this essay! It is more a question of community therapy than community science: healing our relations to the widest community, that of all living beings." (p. 45)

Næss's "deepened realism", grounded in his "relational" and "gestalt thinking", argues that we live in a rich reality – a world full of concrete and interconnected contents. Here, "gestalt thinking" refers to Næss's view that organisms and their environment

form interconnected wholes, or gestalts, rather than being separate entities. Influenced by Gestalt psychology, Næss argued that organisms and their environments form dynamic, interconnected totalities and that perception and understanding arise from holistic relationships rather than isolated parts. This perspective supports deep ecology by emphasizing "relational thinking" – the idea that individuals are not separate from nature but embedded within it, fostering identification and self-realization with all living beings. On that note, Næss asserted:

"The rich reality of the world is getting even richer through our specific human endowments; we are the first kind of living beings we know of who have the potential to live in community with all other living beings. It is our hope that all those potentialities will be realized – if not the near future, then at least in the somewhat more remote future." (pp. 50–51)

The third essay addresses the topic of joy, attempting to answer the question: where is joy in the world of fact? Before providing an answer, Næss argued that environmentalists sometimes "succumb to joyless life that belies their concern for a better environment" (p. 53). Concerned for their well-being and mindful of the importance of their work, he believed that:

"Life should manifest the peaks of our value priorities. Working for a better environment is, after all, only of instrumental value. We remain on the level of techniques. What criterion shall we use to follow the lead of our personal priorities? We do have one that is underrated among conscientious, responsible people: joy." (pp. 54–55)

Næss described joy as something that arises from an "active engagement" with the world, rather than from passive contemplation or humility (which he associates with sorrow). His view is influenced by Spinoza, particularly the idea that joy comes from an increase in one's power and understanding. Following Spinoza's philosophy, he outlined three kinds of joy: (1) the joy that comes from recognizing our own power, however small, which gives us self-respect and contentedness; (2) the joy that arises from actively learning about and understanding things greater than ourselves; and (3) the joy that comes from actively engaging with the world and being part of a larger whole, which defines both us and the reality around us. To be more precise, in his words:

"We can come to know adequately more potent things than ourselves. This gives us such joy because of our activeness in the very process of knowing them. The realization of our own potency, and our active relation to the more potent, result in joy. Thus, instead of humility (which is a kind of sorrow), we feel three kinds of joy: first, the joy resulting from the contemplation of our own power, however small,

which gives us *acquiescentia in se ipso*, self-respect and contentedness; second, the joy resulting from increased personal, active knowledge of things greater than we are; and third, the joy resulting from active interaction, which, strictly speaking, defines us (as well as other objects or fragments) in the total field of reality (or in Nature, in Spinoza's terminology)." (p. 65)

Næss suggested that joy is deeply tied to activity, self-realization, and our relational existence within nature. However, it is also important to keep in mind that:

"The rationality of a total view like Spinoza's is perhaps the only form of rationality capable of breaking down the pseudorational thinking of the conservative technocracy that currently obstructs efforts to think in terms of the total biosphere and its continued blossoming in the near and distant future." (pp. 68–69)

In addition to offering readers the opportunity to critically re-think some of the fundamental topics of deep ecology (e.g., joy, self-realization, and identification), Næss does not shy away from expressing his most intimate beliefs and elaborating on his personal life philosophy (i.e., *Ecosophy T*). For instance, in one passage, he wrote the following:

"Personally, I favor the kind of powerful premises represented in Chinese, Indian, Islamic, and Hebrew philosophy, as well as in Western philosophy – namely, those having as a slogan the so-called ultimate unity of all life. They do not hide the fact that big fish eat small ones, but stress the profound interdependence, the functional unity, of such a biospheric magnitude that nonviolence, mutual respect, and feelings of identification are always potentially there, even between the predator and its so-called victim. In many cultures, identification is not limited merely to other living things but also to the mineral world, which helps us conceive of ourselves as genuine surface fragments of our planet, fragments capable of somehow experiencing the existence of all other fragments: a microcosm of the macrocosm." (p. 69)

Shortly after, he added:

"Self-realization is not a maximal realization of the coercive powers of the ego. The *self* in the kinds of philosophy I am alluding to is something expansive, and the environmental crisis may turn out to be of immense value for the further expansion of human consciousness." (p. 70)

It is clear from this that Næss is not just presenting a theory but also his personal worldview (*Weltanschauung*), which serves as an inspiration for developing one's own ecological wisdom (i.e., *ecosophy*). At the very end of his analysis of joy in the world of fact, Næss strongly expresses his personal worldview:

"So-called physical reality, in terms of modern science, is perhaps only a piece of abstract mathematical reality – a reality we emphatically do not live in. Our living environment is made up of all the colorful, odor-filled, ugly, or beautiful details, and it is sheer folly to look for an existing thing without color, odor, or some other homely quality. The significance of this subject is a broad cultural one: the rehabilitation of the status of the immediately experienced world, the colorful and joyful world. *Where* is joy in the world of fact? Right at the center!" (p. 71)

The fourth essay is much more practical in nature, offering a list of 25 different ways in which supporters of the deep ecology movement can joyfully adapt their lifestyles to the movement. Here, we will highlight just a few of them:

1. "Use simple means; avoid unnecessary, complicated instruments and other sorts of means."
2. "Seek depth and richness of experience rather than intensity."
3. "Cultivate life in community (*Gemeinschaft*) rather than in society (*Gesellschaft*)."
4. "Try to satisfy vital needs rather than desires."
5. "Never use life-forms merely as means. Remain conscious of their intrinsic value and dignity, even when using them as resources."
6. "Try to protect local ecosystems, not only individual life-forms, and think of one's own community as part of the ecosystems."
7. "Try to act resolute and without cowardice in conflicts, but remain nonviolent in words and deeds." (cf. pp. 72–75)

The fifth and final essay explores industrial society, postmodernity, and ecological sustainability from a philosophical and deep-ecological perspective. Among other things, Næss also argued that the total unecological consequences of policies ΣU can be expressed in the following equation:

$$\Sigma U = (\Sigma P_u + \Sigma C_u) \times N$$

Where ΣP_u stands for "the per-capita sum total of unecological consequences by production for a given community", ΣC_u for "consumption", and N for the "number of people in the community or country". He also added that:

"For industrial societies, their ΣU_I should not be greater than 10 percent of the total ΣU_T. Without substantial progress toward that goal occurring each year in the industrial societies, this will be difficult to accomplish." (p. 80)

This prompted him to think not only about the theoretical possibilities and limitations of green utopias but also about real, struggling communities that need social support

and political guidance. Regarding industrial societies, postmodernity, and ecological sustainability, Næss strongly argued against consumerism as a modern way of life and in favor of a gradual decrease in population, which was not well received by his critics. For instance, in one of his passages, Næss wrote the following:

"As a firm supporter of the deep ecology movement, I hold that a decrease in consumption and a slow decrease in population will *not* necessarily result in a decrease in the quality of life. There will be a transition period, during which some people living according to the slogan 'Enough is never enough' will have difficulties. But provided the downscaling is effectuated with a strong sense of justice, major uprisings may not occur." (p. 80)

Although "controversial", today we see that many environmental scientists and philosophers largely agree with his deep-ecological analysis. Additionally, numerous artists, anthropologists, biologists, ecologists, and academics from various disciplines are staunch supporters of the deep ecology movement – even though some strongly oppose it due to its "controversial aspects". Be that as it may, one can certainly learn a great deal from reading Næss, regardless of whether we agree with him or not. For instance, Næss is an excellent author to turn to when seeking to view pressing environmental issues from a different perspective. This "change in perspective" is closely tied to his personal worldview, expressed in the following statement:

"There is no physical *world* with specifically physical *content*. There is a reality, the content of which we have direct contact with only through and in our spontaneous experiences. It is a reality of infinite richness." (p. 86)

By reflecting on the concrete content and richness of the world we live in, Næss shifted his focus to developing countries and reforestation. He sought to envision a way to transition from "preindustrial" to "postindustrial" societies with minimal unecological consequences (p. 91). Expressed in his words:

"In short, there is no way back to societies that belong to the past, but there is a way back to ecological sustainability. In fact, there is not just one way but many ways, so that widely different, sustainable cultures are possible." (p. 99)

With all of the above in mind, one could certainly argue that Næss's main deep-ecological message – apart from the importance of joy, identification, and self-realization in the world of concrete content – can be found in the final paragraph of his book:

"There is, however, no point of no return. Compared with the investment of life, work, and money in a great war, the investment needed to overcome the ecological crisis is very small. Moreover, the work of a determined minority could get the work started in earnest." (p. 102)

In conclusion, *There is No Point of No Return* is a small book with big ideas valuable not only for students and academics but also for the general readers. It offers an excellent introduction to Arne Næss's environmental ontology and environmental philosophy in general. In these dire times, this book is a must-read for anyone concerned about the future and well-being of our planet.

Jan Defrančeski

EUROPEAN JOURNAL OF BIOETHICS JAHR **EUROPSKI ČASOPIS ZA BIOETIKU**

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EUROPEAN JOURNAL OF BIOETHICS JAHR **EUROPSKI ČASOPIS ZA BIOETIKU**

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Examples of citations

Book, one author: Engelhardt, T. H. (1986). *The Foundations of Bioethics*. New York: Oxford University Press.

Book, multiple authors: Beauchamp, T. L. & Childress, J. F. (2013). *Principles of Biomedical Ethics*. New York: Oxford University Press.

Proceedings: Rendtorf, J. D. & Kemp, P. (Eds.). (2000). *Basic Ethical Principles in Bioethics and Biolaw, Vol. I. Autonomy, Dignity, Integrity, and Vulnerability*. Copenhagen/Barcelona: Center for Ethics and Law/Institut Borja de Bioetica.

Article from the proceedings/book chapter: Gracia, D. (2001). History of Medical Ethics. In H. T. Have & B. Gordjin (Eds.), *Bioethics in European Perspective* (pp. 3417-3450). Dordrecht: Kluwer.

Journal article (DOI number should be listed whenever available): Andorno, R. (2005). The Oviedo Convention: A European Legal Framework at the Intersection of Human Rights and Health Law. *Journal of International Biotechnology Law*, *2*(4), 133-143. https://doi.org/10.1515/jibl.2005.2.4.133

Electronic sources: Faden, R. & Shebaya, S. (2016, June 16). Public Health Ethics. In E. N. Zalta The Stanford Encyclopedia of Philosophy, https://plato.stanford.edu/archives/win2016/entries/publichealth-ethics/ (access: 16 June 2017).

Editions of institutions: The Croatian Bureau of Statistics (2006). *Statistical Yearbook 2006*. Zagreb: The Croatian Bureau of Statistics.

Legislation and other regulations: Environmental Protection Act. *Official Gazette*, 110/2007.

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EUROPEAN JOURNAL OF BIOETHICS JAHR **EUROPSKI ČASOPIS ZA BIOETIKU**

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Knjiga, više autora: Beauchamp, T. L. i Childress, J. F. (2013). *Principles of Biomedical Ethics*. New York: Oxford University Press.

Zbornici: Rendtorf, J. D. i Kemp, P. (Ur.). (2000). *Basic Ethical Principles in Bioethics and Biolaw*, *Vol. I. Autonomy, Dignity, Integrity and Vulnerability*, Copenhagen/ Barcelona: Centre for Ethics and Law/Institut Borja de Bioetica.

Rad iz zbornika/poglavlje knjige: Gracia, D. (2001). History of Medical Ethics. U H. T. Have i B. Gordjin (Ur.), *Bioethics in European Perspective* (str. 3417–3450). Dordrecht: Kluwer.

Članak u časopisu (DOI broj treba navesti kad god je dostupan): Andorno, R. (2005). The Oviedo Convention: A European Legal Framework at the Intersection of Human Rights and Health Law. *Journal of International Biotechnology Law*, *2*(4), 133–143. https://doi.org/10.1515/jibl.2005.2.4.133

Elektronski izvori: Faden, R. i Shebaya, S. (2016). Public Health Ethics. U E. N. Zalta *The Stanford Encyclopedia of Philosophy*, https://plato.stanford.edu/archives/win2016/entries/publichealth-ethics/ (pristup: 16 June 2017).

Izdanja institucija: Hrvatski zavod za statistiku (2006). *Statistički godišnjak 2006.* Zagreb: Hrvatski zavod za statistiku.

Zakonski propisi i druge regulative: Zakon o zaštiti okoliša. *Narodne novine*, 80/13, 153/13, 78/15, 12/18, 118/18.

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