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Editorial: Ethical Systems

The ethical principle to do no harm is usually viewed from the perspective of health care professionals minimizing risk of harm to vulnerable patients, however in the first paper in this issue of EJAIB Sukran Sevimli reports on a challenge that she has documented in Turkey, violence against health-care professionals. There are some shocking accounts of how the families of patients become angry with the medical staff, and may commit acts of violence. This reframing of the question of vulnerability is important for us to consider how to reframe the importance of a health care system that minimizes unethical confrontation.

Human society is still in a process of evolution, perhaps with some direction and others led by chance. Camilo Noguera Pardo presents a paper exploring how hyperconsumption may damage our cognitive health, and the responses of biolaw and bioethics. Jan Gresil S. Kahambing also discusses some images of the future of a post-human and how it may reshape the meaning of what it means to be a human being. Although the paper considers sexlessness, it seems that the human desire to leave descendants is strong all around the world, and new technology is being applied to achieve this. Emmanuel Efem Etta and Mary Julius Egbai described and examine the ethics of surrogate motherhood in Nigeria.

Our world is more than simply human kind, and we should consider the future world that we will construct, as Christopher Ryan Maboloc explores in views of liberal environmentalism and global climate justice. Alex Waller reviews a book called *The Ethics of Sustainability.* There has been a generation of scholars exploring sustainability, so we hope that eventually we can see a more sustainable world.

In the first and second week of March I joined the 43rd Session of the United Nations Human Rights Council in Geneva, and made a few statements in the UN Assembly Hall. The respect for diversity and rights of all are critical, and it reminded me of the passion I brought to the UNESCO missions. We have to remain committed to our dreams to construct a more ethical world. - Darryl Macer

An analysis of violence against healthcare professionals in Turkey from online media reports

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Abstract
Aim: Healthcare professionals have faced high rates of violent injury and fatality in the workplace. This study's objective was to evaluate the existing knowledge on the extent of workplace violence from online reports, to contribute on these incidents to serve as a basis for future research which could provide a synergistic relationship via the media for preventive policies.
Methods: This study utilizes a descriptive and qualitative analysis of online media reports on violence against healthcare professionals that were collected from two websites which are linked to mainstream media from January 1, 2012 to October 1, 2019.
Results: This online report analysis indicated a total of 1028 incidents of serious violence occurred against healthcare professionals. The data of the study is in the forensic news category and it is seen that physicians, especially male physicians (95%) and emergency service (31%) are at the forefront of physical attacks. It is seen that patient's relatives (92%) play an important role as aggressor and the most common causes of violence were dissatisfaction with the treatment or diagnosis (51%), services (24%), and expensive fees (5%). Most of the headlines stated that there is interpersonal violence; but did not mention health policy, structural and organizational issues**.**
Conclusion: This study indicated that experiencing different kinds of violence at healthcare facilities have become common and normal news resulting in life-threatening injuries of the victims. Because the patients/patients relatives have thought that healthcare workers are responsible for all problems arising from the transforming health program. For this reason, any kind of inconvenience is returning to health workers as violence. In conclusion, the media, the government, and the healthcare professionals should work together to produce solutions.

Introduction
Violence has been an important epidemic problem in all layers of societies and in the healthcare system in many countries across the world (Medicine & Council, 2013). World Health Organization (WHO) indicated that violence is a universal problem that disrupts the fabric of an individual and communities, and threatens the life, and happiness of us all (WHO), 2019). Over the past two decades, healthcare professionals (HCPs) have encountered higher violent risk by patients and/or patient relatives (PPRs) at healthcare settings in China, Turkey, Bangladesh and so on (Ferri et al., 2016; Hasan et al., 2018; İnci & Bourse, 2014; Peng et al., 2016; Wu et al., 2015). Research has indicated that HCPs are at a greater risk of WPV than other employees. Correspondingly, Elliot (1997) indicated that HCPs experiencing violence is 16 times greater than other work places. In addition, WHO reported that HCPs have faced physical violence between 8% and 38% at some point in their careers (Gates, 2004). In order to prevent this dangerous development, many researchers and international foundations have published their own research reports (e.g., World Medical Association, World Health Organization, Occupation Safety and Health Administration etc.) which included warnings, taking measures and putting forward suggestions as well as legal and ethical codes against the violence of HCPs in the work place. The rights of the patient as well as the obligations of the patient/relative are clearly explained in the "Regulation on Patients' Rights "which was prepared by the Ministry of Health in Turkey (Yönetmeliği, 1998). Correspondingly, the patient acts in accordance with the rules and practices of the health institution and organization she applies when she receives health service and acts with the awareness that she is a part of the diagnostic and treatment team with a participatory approach (HHY. Art. 42 / A-a) (Sert, 2004).

However, WPV in the healthcare setting has its own origins in a number of factors and also impacts. Healthcare places are more prone to WPV than others due to its own special factors stemming from the nature of health issues. These are (i) health system and policy (e.g., the rapid increase of the population benefiting from health services, the inability to make investments in health in line with this increase, insufficient central organization of health and lack of sanctions)(Chauhan et al., 2017), (ii) hospital management (e.g. number and quality of health personnel, the number of patients as well as health resources, necessity of effective use of time) (Peng et al., 2016),(iii) the persistent intervention of patient/patient relatives (PPRs) (e.g., miscommunication, aggressive work environment and violations of hospital procedures and low overall health literacy rate, the desire to provide PPRs own their justice on the basis of insecurity in the system) and (iv) hospital organization and ethical-legal regulations (e.g., HCPs or PPRs' acts/expectations beyond relevant procedures, violation of ethical principles, European Convention on Biomedicine and Human Rights 1999, and Patient Right Regulation 1998)(Sert, 2004).

WPV has multidimensional negative impacts at a healthcare setting; WPV affects the victim and the perpetrator as well as the PPRs, assistant health personnel and even the other patients and relatives who are there presently affected and deteriorating relations between medical staff and their patients. In

addition, the victim may be absent from work due to the treatment process. Therefore, HCPs cannot give service or follow up to their patients, in addition this process has caused financial harm to the victim by preventing him from benefiting from the performance-based supplementary payment system in health care enterprises (Meker & Barlas, 2013; Safety & Administration, 2017). To which the government should shoulder the medical expenses that is incurred by the damages on the victims. In addition, there should also be psychological and legal support for the victim. Furthermore, there is also the unobserved heterogeneity distribution (unobservable effects that have been produced by the attacks received by the victims who could also be labeled as mental health problems and lengthen the duration of absences from work) that plays a substantial part that affects the victims emotional and physiological thinking that could potentially urge them to not go back to work (Campolieti, Goldenberg, & Hyatt, 2008). These longer absences from work could reflect the impact of workplace violence on organizational and personal outcomes (Campolieti et al., 2008). As for legal actions, the victims that file for a law suit could also potentially be more draining financially and emotionally as most cases takes a long time before a verdict could even be decided on (Altaş, 2009). Correspondingly, these negative emotional experiences and that the perpetrators of violence are not punished in a short time (legal cases are usually concluded in a long time in Turkey (Altaş, 2009)) may be caused by a negative effect on the quality of healthcare service delivery. (e.g., anger, fear, depression, anxiety and sleep disruption) may influence victims' health service a long time. Briefly, WPV cannot be considered as only interpersonal violence between HCPs and PPRs it should be evaluated as a serious public health problem.

WPV can be classified into two types, as personal and structural. Personal violence is easier to recognize compared to structural violence because it is visible and observable such as verbal abuse, physical attacks, and sexual assault. Structural violence on the other hand cannot be easily detected due to the embedded injustice in structures regarding unequal power or unequal living opportunities (Galtung, 1969). Structural violence was defined by Johan Galtung as factors of structural violence including inegalitarian distribution of resources and burdens in the healthcare setting, the rising number of patients, delimitation of the number of doctors and nurses, shortage of medical supplies, physicians spending a short time both on patient examination and obtaining informed consent. In addition, powerful-influential people use their power to change the egalitarian balance such as disrupting the patient waiting line, haggling the doctors through unreasonable demands, insisting that the doctors give the more attention and compassion, etc. This kind of issue can cause structural violence and result in violations of the ethical principles of "do no harm, autonomy and justice". These violations are perceived by patients and their relatives as a direct attack of the HCPs, due to their unawareness of the healthcare system and protocol. Indeed, the patients and patients' relatives (PPRV) have mostly tried to solve these kinds of systemic problems by violence.

International studies show that HCPs are exposed personal and structural forms of violence in their very line of work. WPV against HCPs is a global and serious public health problem (Ferri et al., 2016) not only in Turkey but also in many countries. What can be the reasons for this? There are three important reasons the bio-psycho-social problems of the patients, the attitude of the health personnel and the problems in the health system.

WPV is more commonly reported in healthcare settings. Reasons for such behavior is also varying per situation. Some of these reasons are the disease crisis creates an unnerving environment for the P/PRs. Patient's expectations from the doctor will be very high or their hope triggers their own agitations and can lead to violence. Furthermore, many studies and online headlines show that personal violence is closely related to patient expectations. However, PPRs cannot find a proper environment to immediately solve their health problem. They have faced some negative issues; the lack of interest of the health personnel, failure to provide enough information about diagnosis and treatment, negligence of eliminating the special concerns of the patients during the informed consent process, overcrowding of the waiting rooms, and so on (K. Ghosh, 2018). However, these expectations cannot be met as quickly as the patient wants, not only from HCPs individual attitudes but also some barriers in the healthcare system. This condition directs us to the second reason pointing to structural barriers in the hospital system which initiates structural violence. Many of the problems mentioned above are in fact due to the healthcare structure. For example, a large number of patients limits the physician's time and extends the waiting time. Limitation of hospital resources (number of beds, medical equipment, staff number, unsanitary practices) prevents patients from receiving appropriate treatment (Ghosh, 2018). Finally, the number of patients increases the burden of the HCPs and can lead to exhaustion. The problems in the health sector are intertwined, each issue triggering one another.

WPV in the healthcare setting which includes multi-faceted factors and influences has gained visibility and acquired a space in the mainstream media online news. This is important because people can access with one click digital media to have information from different media outlets, opportunity to share readers' interpretations, no costs, and the possibility to discuss the news with other readers, 24/7 updates, in-depth and background information and it has also an indisputable influence, especially in guiding the

perception and attention of society and determining policy (Huesmann & Taylor, 2006; Nguyen, 2010).

WPV is frequently reported as first-page news because of attracting the public, as well as related foundations and politicians. However these real-world HCPs and WPV online reports have involved limited information according to each media's own policy or target; some headlines present WPV against HCPs as interpersonal violence, while some media present it as emotive narrative news (İnci & Bourse, 2014; Wu et al., 2015) "PPRs assault pregnant doctor", or some online news headings that judge health personnel or the opposite; some headlines make violence ordinary, e.g. "violence continues".

Despite the serious impact of digital media on various layers of the public and policies, there are limited studies about researching WPV in healthcare. Therefore, this study will make a significant contribution to healthcare problem and WPV presented by digital media. The mainstream media news/reports of WPV have seriously influenced the public perceptions; media can steer public attention towards social-political issues and determinant of these issues which can be tackle or ignore. Therefore these real-world violence reports can involve different information according to the policy of each media (global or national), the state health policy, and public sensibility. For example, factors derived from organizational or health policies behind the violence are usually not included in the headlines. Actually digital media may be more informative to contribute to creating peaceful understanding policymaking to prevent or to reduce violence.

On the other hand, the selection of headlines of online news is of socio-cultural and economic importance for journalists, readers and newspaper advertisers. The headlines, which play a very important role in the perception of society and the formation of policies, are definitely of special importance. Hence online news reports help to us understand WPV not only on journalists, agency policy, government policy, but also for the public perspective of healthcare settings and HCPs. Therefore, this study has made a significant contribution to WPV in the healthcare setting.

Research question

This research is based on online media reports which influence public awareness, and the Turkish Medical Association and HCPs approaches. I try to understand whether online news reports about violence against healthcare professionals has an effect on public awareness of the issue. And the data for this research is gathered from sources between January 1, 2012 and October 1, 2019. As violence is increasing unexpectedly each day, therefore healthcare professionals started making a webpage, as a collection of all of these online media news in Turkey since 2012. And we have collected our research data from these webpages.

The first question is did the number of incidences and reports of WPV in Turkey have become more prominent from 2012 until the present time. As well as the change in characteristics in the nature of WPV perpetrated upon HCPs. We collected online report headlines to analyze them, as headlines are important for readers who will make a decision whether to read the article or not. Thus, if headlines are influencing the awareness of people, then they should include some kind of clues for causal reasons or responsibilities of the healthcare policy, hospital organizations or personnel that must be implemented. Followed by the question, do the headlines have a one-sided opinion such as bias or does it persuade readers to think of the issue in a certain similarity to that of the writer? Do the headings contribute to the justification of violence? Do the headlines give direct information about the nature of WPV perpetrated upon HCPs? Do the headings reveal responsibility for violence as an individual or politico-organizational-systemic problem?

Method

Design: This research was designed to evaluate violence in online media reports against HCPs between the periods of January 1, 2012 and October 1, 2019 as both a quantitative (e.g., number, gender, and acts of violence) and qualitative (headline analysis) study, across Turkey. Reports were from newspapers and online two news sites.

Data collection: In order to examine in great detail the cases of violence that are reflected in online media, data were collected using two important websites which have been organized and tallied for analysis of the study. Reasons for choosing these web pages were primarily because they contain content focused on violence and protest activities involving healthcare professionals. Secondly, these webpages compile all the news contained in Turkish newspapers/ medical magazine or editions (e.g., Cumhuriyet, Medi Magazin, Sözcü, Hürriyet, Habertürk, Milliyet, ABC Newspaper). And lastly, we can track the incidents in an organized system as far back as 2010. As these webpages were legally founded by the Turkish Medical Association (TTB) and Health of Health Workers' Working Group (SÇS). Turkish Medical Association (TTB) is constituted under the Turkish Constitution with the law No. 6023, in 1953(TTB). TTB is a non-profit organization and 80% of doctors in Turkey are members of the TTB. So, these data sources are the legal representations of the media and websites of Turkish medical organizations. Correspondingly, two websites have been utilized to collect online articles from mainstream media for the years 2012-2019, mostly on violent news against medical professionals. A total of 1099 online reports were identified as violence against HCPs. After reviewing the collected reports only 1028 were considered for analysis as some were repeated on certain websites.

Media articles are important, to understand how the media presents and explains WPVs against HCPs to the public, and how journalists approach WPVs in their online platform. In addition, complaints of HCPs have reported the white code system of the ministry of health. However, since the reports on these complaints were not published by the Ministry, they were not included in the study (Table 1).

Study criteria: After collecting the data, we organized the articles by some criteria; first, according study key words such as doctor, nurse, HCP, hospitals, violence, aggression, assault, WPV in healthcare setting. Second, separating articles according to headlines and omitting irrelevant articles that are focused on medical education, salary and union issues of HCPs that have no connection to WPVs.

Classification of HCPs: The collected data indicated that physicians were the primary target in state hospitals and second target is in the private hospitals health setting. Only a few cases can be seen that they are targeting nurses or other health professionals.

Identified study variables: The identified study variables of incidents were gender, position, type of violence, number of violators, healthcare setting violence, and the reason of violence, personal violence tools, and health service for quantitative analysis. In addition online reports headlines were collected and classified to analysis for qualitative analysis.

Headline analysis: Newspaper headlines are important to attract people and to encourage them to read the whole article. Correspondingly, researchers show that casual readers have continued to read the story if the headlines have influenced them by being emotive, social or cultural (Taiwo, 2007).Therefore, online headlines are not neutral, transparent or 'innocent, versus they have related media policy and the ideological system, people emotions and culture (Olowe, 1993).In these reasons, we collected online headlines from websites between 2012-2019 and analyzed them to understand present approaches on WPV. The analysis carried out was according to some keywords (e.g., assault, HCP, P/PR, legal-ethical rules). These headlines analyzed thematic and episodic. In these reasons, we collected online headlines from websites and analyzed them to understand the present approaches on WPV. This analysis is carried out according to some keywords (e.g., assault, HCP, P/PR, legal-ethical rules). These headlines were analyzed by being both thematic and episodic (Iyengar, 1996). Most of them had episodic framing which draws people's attention to the individual as a HCPs responsibility rather than instructional/general health policy issues while some thematic headlines were regarding an explanation of HCPs or their association which focused on health policy, structural issues of health or can uncontrolled factors (Iyengar, 1996; Metila & Humanities, 2013).

Data analysis: Standard descriptive statistics were used to describe the data. Associations between categorical variables were tested with chi-square tests. All data analyses were conducted using SPSS 16.0.

Ethical considerations

Approval for the study was received from the local Ministry of Health Ethical Commission on 16.01.2019-14.

Results

This research has identified a total of 1090 news items were published in two major websites which was linked to mass media mainstream. Of these, 1028 included statements about attacks, protests or attacks and 71 reports did not meet the inclusion criteria (Figure 1).

The research data were defined according to the determined criteria and their numbers and percentages were evaluated in Table 1. The data revealed that incidents of violence against HCPs are an important problem throughout Turkey. The study data collection found that 87% of the male HCPs experienced P/PRV. Online reports indicated that 80% of the health care workers were doctors, 20% were nurses and the others were 0.9% other health personnel. Of them 99% were working at the state hospital. As already mentioned, the problems in the health sector are intertwined and each triggers each other.

Healthcare structure problems are an important role to emerge personal violence. However, in this study, we defined the structural violence cases which were arising from direct legal procedures, health management, or insufficient medical devices problems. When we look at the gender of the patient or patient relatives who apply violence, it is seen that 95.1% is male. Of the violators 92.2% are the PRs, 0.6% are patients and 7.2% are HCPs. Other important data are that there are individual attacks and collective attacks of the patient relatives against HCPs. According to study data, 79% of the attacks were individual and 21% of the attacks were carried out collectively (as a group).

Study data indicated that reasons for violent attacks included: 24% excessive waiting time duration, 24% were miscommunication, 13% were dissatisfaction with received treatment, 12% were workplace conflict, 9% were denial to write of a medical report, 8% were lack of Informed consent, 7% were over the counter medication request and 3% were death of the patient. Some of these reasons are related to doctors' attitudes such as miscommunication, the dissatisfaction of patients because of receiving treatment and informed consent. Correspondingly, some of them were related health structure such as excessive waiting time, workplace conflict and death of the patient.

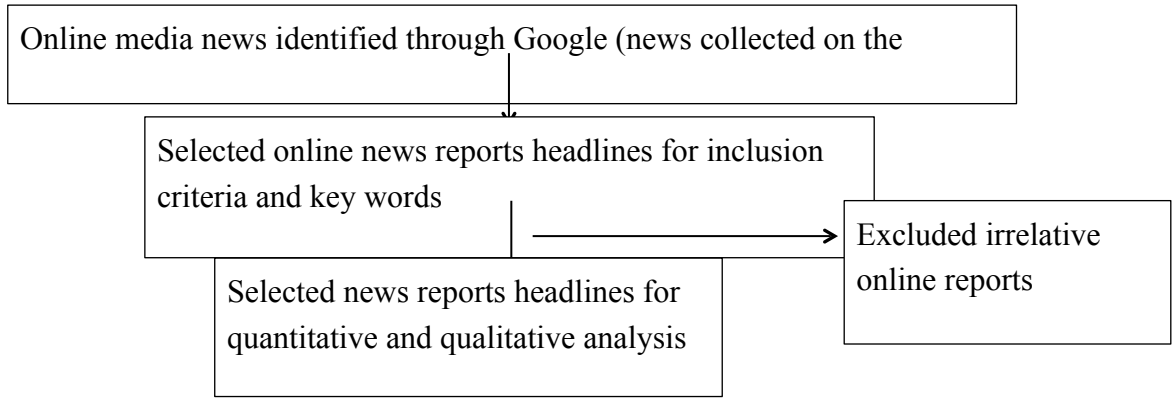

Figure 1. Screening flow diagram

Table 1. Characteristics of online reported workplace violence in the health sector of Turkey between 2012-2019

Gender of Victim	**n %**	**Victims' Position**	**n %**	**The Violator/s**	**n %**
Male	890 86.6	Doctor	881 85.7	Patient relative	948 92.2
Female	138 13.4	Nurse	138 13.4	Patient	80 7.8
		Other	9 0.9		
Gender of Violator	**n %**	**Number of Violators**	**n %**	**Hospitals**	**n %**
Male	978 95.1	Individual	810 78.8	Public hospital	1019 99.1
Female	50 4.9	Group	218 21.2	Private hospital	9 0.9
The Reason of Violence	**n %**	**Personal Violence Tools**	**n %**	**Healthcare Service type**	**n %**
Excessive Waiting Time Duration (structural)	247 24.0	Fist-Kick	737 71.7	Emergency Room	319 31.0
Miscommunication (personal)	244 23.7	Knife	192 18.7	Pediatric Services	182 17.7
Dissatisfaction with Received Treatment	137 13.3	Sexual Harassment	59 5.7	Outpatient unit	208 20.2
Workplace Conflict (Hospital management)	120 11.7	Gun	24 2.3	Medical unit and Family medicine	133 12.9
Denial to write of a medical report (Legal-medical)	92 8.9	Verbal Abuse	14 1.4	Surgical unit	87 8.5
Lack of Informed Consent (Personal)	85 8.3	Chair-table-door Throwing	1 0.1	Cardiology	51 5.0
Over the Counter Medication Request (legal)	76 7.4	Arson doctor's room	1 0.1	Intensive Care Unit	44 4.3
Death of the Patient (personal)	27 2.6			Ambulance Employee	4 0.9

N=1028 *Structural violence is often seen in the following: (the rising number of patients, delimitation of the number of doctors and nurses, shortage of medical supplies, powerful and influential people take advantage and disrupts the patient waiting line, and so on)

(it is not clear that death is related to the treatment of the doctor).

In addition some requests were not appropriate in accordance with legal regulations such as a denial to write a person' medication request (some persons wanted to take medicine on behalf of his/her patients who did not come into the healthcare settings, or the wanted drug is not related to the patient's health condition), denial to write a medical report (some people want to get a doctor's report in order not to go to work even if they are not ill or people who have health to work can ask the doctor to give them a report that they cannot work or be a soldier because of disease or handicap).

Our study also evidenced that the most frequent violence was physical and the prevalent aggressors were PRs. Some of the forms of attack and weapons used found in our study are: 72% used kick-or fist, 19% used a knife, 2.3% used guns, 1.4% did verbal abuse (verbal harassment is not a complaint unless a very serious situation occurs), and 0.1% threw a chair or-table against HCPs.

According to the data of the study, some health services seem more risky. The percentage of violence in these services were: 31% were emergency room, 20% were outpatient unit, 18% were pediatric services,13% were medical units and family medicine, 9% were surgical unit, 5% were cardiology, 4% were intensive care unit, and 1% were ambulance employees. Most of them were about patient issues and after that, violence to physicians and other health personnel."

The study data shows that there is violence in almost every health service except the laboratories. Furthermore, a patient's medical condition was closely related to violence, according to study data of emergency services, pediatric unit, and outpatient unit. In addition, the units related to the health outcomes of the patients are the target of the violator, for example, cardiology, surgery unit and intensive care unit.

HCPs have limited time and too many patients and patient relatives have caused noise, chaos and debate (family inside and/or outside) lead to many problems apart from medicine. Therefore the disease crisis affects the hospital environment and prepares a wider crisis environment**.** The data of healthcare work violence in Turkey are summarized in Table 1.

Qualitative analysis (headline analysis): The news headlines carry important clues about the content of the news and the reader is affected positively or negatively by the headline. The fact that the headings expressing violent incidents carry the same or similar words may give the impression that the news belongs only to a recurring event. Or the headline may direct the reader to read the full text of the news. Therefore, the title can lead the reader to focus and synthesize the situations associated with the title. When content analysis of online news is done, it is seen that there are different reasons for the events in the press. These problems include ethical and legal problems, long-standing patient problems, and/or insufficient health personnel, lack of resources and/or problems of resource allocation.

Table 2. Classification of Headlines

Online report headlines (Episodic or thematic framework)	n=1028
1. Headlines present violence against HCPs, as standard/normal interpersonal violence (keywords: threat, beat, assault, continue, not to end) (episodic)	789
2. Headlines on some claims on patient rights violations as legal-ethical-medical issues. (keywords: claim, informed consent, a long time waiting, patient's death) (episodic)	136
3. Headlines on P/PRs violated legal-ethical rules and they punished (keywords: reject to write a prescription, illness report or examine) (episodic)	60
4. Headlines on protest or press statement against violence. (keywords: statement, protest, declaration or speech) (thematic)	43

Discussion

Health care is the most important public affairs concern for most citizens; each kind of news about health care and healthcare settings always attracts the attention of society. The violence that occurs in health institutions and HCPs protest against violence have steered the attention of the public, therefore these kind of news are often found on the front page. For that reason, this study contributes by highlighting how violence is a significant phenomenon and that HCPs are at risk of suffering aggressive assaults and how the media present these events, because the media is important in organizing and developing social-legal-ethical responses regarding WPV. In fact, certain HCPs' associations fight to have even harsher punishment for violent people including zero-tolerance (Singh, 2017).

Furthermore, digital media plays a more effective role in spreading the information of incidents as well as information on the protests, press releases and public responses to the events. On the other hand, the media may exaggerate or misinterpret incidents due to lack of information or to attract an increased number of click on the digital link drawing traffic. The online report is often emphasized on the victimization of the P/PRs who are violent or HCPs. However, in reality, not only the P/PRs are affected but also the HCPs by the poor conditions of the current victimizing environment. Indeed, WPV at healthcare setting is usually bilateral. Therefore, media reports should include structural problems as well as personal HCPs practice problems, this in turn could have contributed more to the solution of the WPV. That's why; these online

reports should provide synergistic relationship among the media organizations, policies, and law binding agencies, to create common sense and solution to WPV.

There are several studies that focus on violence against HCPs which have been undertaken in several countries (Raveel & Schoenmakers, 2019). However, there are only a few online reports studies about violence against HCPs (e.g., Bangladesh, China, Australia, and Turkey). This study also reviewed online reports regarding violence against HCPs that were opened to judicial investigations. Thus it is difficult to compare these studies because of the variations of the study data. In this study, I focused on online reports of violence against HCPs in Turkey from January 1, 2012 and October 1, 2019, involving 1028 incidents.

This study data indicated thatperpetrators were 95% male, attacking male HCPs (87%), and 79% of them attacked individually. In another study conducted by Duğan in Turkey, analyzed 296 news stories on HCPV between 2011-2013; 23% were also males perpetrator and 24% victims were also males and gender is not clearly stated in some news (Duğan, 2015). In this regard, gender studies has also indicated that men play an important role in various violent incidents in society both perpetrator and victim (Cooper & Smith, 2012; Harders, 2011).

This study also indicated that 86% victims were doctors, and 13% were nurses. Correspondingly, a Bangladesh study found similar data where physicians were 96% and nurses were 2% of the victims (Hasan et al., 2018). The main reason that doctors are targeted is that they are in a decision-making position because of their profession, that the P/PRs are the direct contact person and that the majority of the society accepts the doctor as the person responsible for the solution of patients' health problems. Not taking into account the relationship of hospital organization, policy or other social, economic and political problems of the health policy and directs all its anger to the doctor who is considered responsible and not on structural issues (Farmer, et al., 2006).

This study indicated that perpetrators attack used violent actions such as kick or-fist (72%), knife (19%), sexual harassment (6%), gun (2.3%), verbal abuse (1.4%) and chair or-table-or door throwing (0.1%). Another study conducted in Turkey shown that perpetrators mostly used physical power (28%), knife (7%) , verbal assault (3.7%), gun, pistol or rifle (1.7%), materials used in the news is not specified (3.1%), and mobbing (1%) (Duğan, 2015). Both study results have shown the perpetrators' intentions of giving serious injuries/harms for HCPs.

They don't care about the general reasons of health service. They almost turn all their anger, current tensions, and concerns about life to the HCPs. Because, this study data has also shown that most of the violent attack were caused due to long waiting times (24%), miscommunication was the second reason (24%), third is an illegal request of the patient (denial to write a medical report or medicine due to ethico-legal-medical reasons) (16%), fourth is patient dissatisfaction (13%), fifth was mess of hospital plan and organization (12%), sixth is lack of informed consent (8%) and seventh is after receiving patients death information (2.6%). Correspondingly, Duğan's thesis (2015) indicated that the emergence of violence on the part of P/PRs was contributed by the following; (9.1%) refusal to accept hospital rules, (6.1%) late intervention to the patient, (4.4%) lack of interest of health personnel, (3.4%) reports of patient's death in the hospital premises, (2.7%) psychological problems, and (1.0%) dissatisfaction with the services received or results (Duğan, 2015).

However, another data revealing the real cause of these problems is the situation in the state and private hospitals. Our study also stated that HCPs in private hospitals indeed encountered less WPV (1.3%), because most of their clientele are white-collared individuals, they have financially stabledpatients, fair and limited waiting time, better medical service, good social facilities, providing a five-star hotel like experience and a better relationship with patients. Actually this conclusion indicated that main problem of WPV is on the systemic-organizational-policy emphasizing on structural inefficiency. This is noted by other researchers; the conditions of HCPs in private hospitals have encountered less WPV, because of its limited patients number, better medical service, good social facilities, quality accommodation services and a better relationship with patients (Kanjaksha Ghosh, 2018).

Our study indicated that 31% of violence occurred in an emergency room, and 20% in an outpatient unit. Correspondingly, another study which was analyzed emergency department news between 2010-2012, indicated that 23% of emergency service news had a negative tone in Turkey (Acar, Çevik, Uyguner, & ÇINAR, 2013) and Bangladesh study stated that the places where violence is highest are emergency service (52%) and indoor (41%) (Hasan et al., 2018).

In addition to these descriptive data, we analyzed the tone of the online headlines which has increased with digital technology on the public and governmental level and the contribution of the press to public perception on the subject will be evaluated. A headline is important as it is the essence of the news. The readers will read the whole story of news if the headlines are interesting enough for them. This study was able to show that people who are exposed to episodic framing tend to put the blame on an individual level or who is the subject of the report, while those exposed to thematic reports are putting the blame on the organization or a higher position that the report is focusing on (Iyengar, 1996). Actually, we don't know if journalists have a conscious approach to this. Maybe they need to think about episodic and thematic reports and review their current approach. There are only a few studies

in Turkey regarding the analysis of the headline was available and no study data from other countries were found.

1. Headlines present violence against HCPs, as standard/normal interpersonal violence: The headlines in this category included an episodic approach; therefore they have focused on the conflict between the HCPs and the P/PRs. In this regard, 789 out of 1028 headlines attacking the doctor was reported as an interpersonal case and have made the doctors both weak and the social reputation of the doctor's profession is damaged. In addition, the practice of violence against doctors is normalized. WPV is usually carried out by PRs, therefore this headline is important to indicate this situation in Turkey. Examples:

"This time the violence came from the patient, not patient' relatives!" 19.08.2014 (Medi-Magazin, 2014).

The violence of Patient Relatives to a resident in Ankara 02/17/2013 (SÇS; TTB).

A new one while the pain is still fresh ... Patient' relatives attacked to a Professor Doctor assaulted patient relatives! 09/10/2018 (SÇS)

Attacked with Scissors and dragged on the ground! 12/06/2017(SÇS; TTB)

“Relatives of the patient who did not want to wait in line, attacked the doctor: The doctor under observation in intensive care” (Medi-Magazin, 2019; SÇS)

Some news headlines contain the word claim. In the context of the choice of this word, which creates uncertainty as to whether the attack has taken place, it can be said that the victim may have lied and that the victim of violence has been victimized once more (Durur, 2017; İnci & Bourse, 2014). Examples:

The alleged assault against doctor from a commissioned officer in Cizre 15.04.2013

The alleged assault on healthcare worker in Osmaniye 12/15/2016 (SÇS; TTB)

The claim violence against a doctor in the hospital in Adıyaman 08.02.2019 (SÇS; TTB)

In Şanlıurfa female doctor was assaulted 12/20/2018 (SÇS; TTB)

In some headlines, the continuity of the news of violence is emphasized and despair is constructed and normalized with a meaning that measures cannot stop these events (İnci & Bourse, 2014). Examples:

Violence in a health setting continues 09.12.2016 (SÇS; TTB)

Violence in Health Doesn't Stop ... 12.06.2017 (SÇS; TTB)

2. Headlines on some claims on patient rights violations as legal-ethical-medical issues: These headlines in this category included an episodic approach, therefore they have focused on the conflict between the HCPs and the P/PRs. Examples:

Violence to the physician: A political party manager said 'I waited for a long time', attacked the doctor! 23.08. 2017 (SÇS).

They broke the nose of the doctor who gave the news of death 25.07.2017 (SÇS; TTB).

Beat the doctor who wished patients to receive a sequence number 22.02.2016 (SÇS; TTB).

Attack to the doctor who objected to the write illegal report in Antalya (SÇS; TTB).

Attacks doctor because he held a responsible doctor from his father's death 04/20/2013(SÇS; TTB)

Moreover, online news both headline and content can create a negative image for doctors due to sensationalization presentation of media/ journalists. Examples:

Doctor's 'sarcastic attitude' was slapped: 'This slap was the slap of the people’) 16.02.2018 (TTB).

Doctor who was not prescribed drugs in Urfa was beaten 08.07.2017 (SÇS; TTB)

The doctor wanted X-ray from his 4-year-old son's; he was angry and he distributed up emergency room 21.04.201 (SÇS; TTB)

3. Headlines on P/PRs violated legal-ethical rules and they punished: These headlines in this category included an episodic narrative; therefore they have focused on the conflict between the HCPs and the P/PRs. In some of the headlines in the attack news against doctors, it was concluded that violence was justified with details such as not writing prescriptions or reports, giving news of death. Here are some news headlines that can be evaluated in this context:

The doctor was threatened by a patient relative who received 16 months in prison because of threat15.02.2019 (SÇS).

The perpetrator attacked doctor with cobblestone, the judge wanted the penalty 09/11/2018In Antalya, 'patient said to the doctor, “You'll examine like a donkey” judge wanted fine for those words. 07.09.2018 (SÇS)

4. Headlines on protest or press statement against violence. These headlines in this category included a thematic approach and places considerable emphasis on structural problems. They also included the name of institutions that make statements such as the Ministry of Health and the Chamber of Physicians. Such news reports the seriousness of the situation, the health policy, the health organization and the number of patients, but unfortunately, they have not played a role to create common sense. Examples:

Doctors protest once violence 11.21.2018(SÇS).

In the state hospital: One health worker is exposed to violence every hour 07.20.2018 (SÇS).

Declaration of the Turkish Medical Association against violence was announced in Şanlıurfa 30.07.2018 (SÇS)

Briefly, the above analysis shows us that the press does not take enough structural issues into consideration. As we mentioned earlier, the number of patients, the weight of the workload, the lack of medical staff and medical resources, limited time,

fatigue or burnout. In addition some topics are related on structural violence which is not mentioned both on headlines and content. These are; financial losses of both HCPs and government; loss of labor; priorities of the performance system (performance which are payment to health professionals as much as the number of patients) problems arising from general health policy or hospital organization; failure to relate the main source of violence to the general problems of the hospital (the number of patient-doctors have to take care of 80 to 200 patients each day (Çamsarı, 2013). These figures vary according to the doctor's specialty and population in Turkey; limitation of resources, time and staff. The online report often emphasized the victimization of the P/PRs who are violent or HCPs. However, in reality, not only the P/PRs but also the HCPs are affected by the poor conditions of the current victimization environment. Indeed, WPV victimization is usually bilateral. Therefore, when the media reports have included structural problems as well as personal HCPs practice problems, they will have contributed more to the solution of the WPV. These online reports should provide synergistic relationship among the media organization, policy, and law binding agencies, to create common sense and solution.

References

(WHO), W. H. O. (2019). Violence against health workers: Framework guidelines for addressing workplace violence in the health sector. Retrieved from https://www.who.int/violence_injury_prevention/violence/workplace/en/

Acar, Y. A., Çevik, E., Uyguner, C., & ÇINAR, O. J. T. J. o. E. M. (2013). Türkiye'de Basın Gözüyle'Acil Servis': Ulusal Gazetelerdeki Acil Servis Haberlerinin İçerik Analizi. *13*(4).

Altaş, S. E. (2009). *Ceza davalarının uzun sürmesinde rol oynayan etmenler*. İstanbul Bilgi Üniversitesi,

Campolieti, M., Goldenberg, J., & Hyatt, D. (2008). Workplace Violence and the Duration of Workers' Compensation Claims. *Relations Industrielles / Industrial Relations, 63*(1), 57-84.

Chauhan, V., Galwankar, S., Kumar, R., Raina, S. K., Aggarwal, P., Agrawal, N., . . . Srivastava, R. P. (2017). The 2017 Academic College of Emergency Experts and Academy of Family Physicians of India position statement on preventing violence against health-care workers and vandalization of health-care facilities in India. *International journal of critical illness and injury science, 7*(2), 79-83. doi:10.4103/IJCIIS.IJCIIS_28_17

Cooper, A., & Smith, E. L. (2012). *Homicide trends in the United States, 1980-2008*: BiblioGov.

Duğan, Ö. (2015). *Sağlıkta şiddet haberlerinin basına yansıması.* Selçuk Üniversitesi Sosyal Bilimleri Enstitüsü, Konya, Turkey. Retrieved from https://scholar.google.com/scholar?hl=en&as_sdt=0%2C5&q=Sa%C4%9Fl%C4%B1kta+%C5%9Eiddet+Haberlerinin+Bas%C4%B1na+Yans%C4%B1mas%C4%B1&btnG=

Durur, E. K. J. A. İ. D. (2017). MEDYADA ŞİDDETİN BİR BAŞKA YÜZÜ:'DOKTORA SALDIRI'HABERLERİ. (14), 45-60.

Elliott, P. P. (1997). Violence in health care. What nurse managers need to know. *Nurs Manage, 28*(12), 38-41; quiz 42.

Farmer, P. E., Nizeye, B., Stulac, S., & Keshavjee, S. (2006). Structural violence and clinical medicine. *PLoS medicine, 3*(10), e449-e449. doi:10.1371/journal.pmed.0030449

Ferri, P., Silvestri, M., Artoni, C., & Di Lorenzo, R. (2016). Workplace violence in different settings and among various health professionals in an Italian general hospital: a cross-sectional study. *Psychology research and behavior management, 9*, 263-275. doi:10.2147/PRBM.S114870

Galtung, J. (1969). Violence, Peace, and Peace Research. *Journal of Peace Research, 6*(3), 167-191. doi:10.1177/002234336900600301

Gates, D. M. (2004). The epidemic of violence against healthcare workers. *Occupational and Environmental Medicine, 61*(8), 649. doi:10.1136/oem.2004.014548

Ghosh, K. (2018). Violence against doctors: A wake-up call. *Indian J Med Res, 148*(2), 130-133. doi:10.4103/ijmr.IJMR_1299_17

Ghosh, K. (2018). Violence against doctors: A wake-up call. *Indian J Med Res, 148*(2), 130-133. doi:10.4103/ijmr.IJMR_1299_17

Harders, C. (2011). Gender Relations, Violence and Conflict Transformation. In.

Hasan, M. I., Hassan, M. Z., Bulbul, M. M. I., Joarder, T., & Chisti, M. J. (2018). Iceberg of workplace violence in health sector of Bangladesh. *BMC Res Notes, 11*(1), 702. doi:10.1186/s13104-018-3795-6

Huesmann, L. R., & Taylor, L. D. (2006). The role of media violence in violent behavior. *Annu Rev Public Health, 27*, 393-415. doi:10.1146/annurev.publhealth.26.021304.144640

İnci, H. Ç., & Bourse, Y. J. G. Ü. İ.-ş.-i. D. (2014). Sağlık İletişiminin Bakış Açısı ile Türkiye'de Sağlık İşyeri Ortamında Sağlık Çalışanlarına Yönelik Şiddet. 31-52.

Iyengar, S. (1996). Framing Responsibility for Political Issues. *The Annals of the American Academy of Political and Social Science, 546*, 59-70.

Medi-Magazin. (2014). Bu Kez Şiddet Hasta Yakınından Değil Hastadan Geldi! [This time the violence came from the patient, not patient' relatives]. *Medi Magazin*.

Medi-Magazin. (2019). Sıra beklemek istemeyen hasta yakını doktoru darbetti: 'Yoğun bakımda gözlem altında'. [Relatives of the patient who did not want to wait in line, the doctor was hit: 'he is under observation in intensive care'].

Medicine, I. o., & Council, N. R. (2013). *Contagion of Violence: Workshop Summary*. Washington, DC: The National Academies Press.

Meker, T., & Barlas, Y. (2013). *Dynamic impacts of performance based payment system on public hospitals in Turkey.* Paper presented at the Proceedings of the 31st international conference of the system dynamics society. http://www.systemdynamics. org/conferences/2013/proceed/papers P.

Metila, R. A. J. A. J. o. S. S., & Humanities. (2013). A discourse analysis of news headlines: Diverse framings for a hostage-taking event. *2*(2), 71-78.

Nguyen, A. (2010). Harnessing the potential of online news: Suggestions from a study on the relationship between online news advantages and its post-adoption consequences. *11*(2), 223-241. doi:10.1177/1464884909355910

Olowe, J. J. A. U. P. D. T. (1993). Language and ideology in Nigerian newspapers in the English medium.

Peng, W., Ding, G., Tang, Q., & Xu, L. (2016). Continuing violence against medical personnel in China: A flagrant violation of Chinese law. *Biosci Trends, 10*(3), 240-243. doi:10.5582/bst.2016.01094

Raveel, A., & Schoenmakers, B. (2019). Interventions to prevent aggression against doctors: a systematic review. *BMJ Open, 9*(9), e028465. doi:10.1136/bmjopen-2018-028465

Safety, O., & Administration, H. (2017). Workplace violence in healthcare. Understanding the challenge. 2015. OSHA 3826. In.

SÇS. Sağlık Çalışanlarının Sağlığı. Retrieved from http://www.saglikcalisanisagligi.org/siddet

Sert, G. (2004). *Hasta Hakları Uluslararası Bildirgeler ve Tıp Etiği Çerçevesinde*. İstanbul: Babil Yayınları.

Singh, M. (2017). Intolerance and Violence Against Doctors. *Indian J Pediatr, 84*(10), 768-773. doi:10.1007/s12098-017-2435-9

Taiwo, R. J. N. (2007). Language, Ideology and Power Relations in Nigerian Newspaper Headlines. *4*(1).

TTB. Türk Tabipler Birliği (Turkish Medical Association) Şiddet/Violence. Retrieved from http://www.ttb.org.tr/

Wu, D., Hesketh, T., & Zhou, X.-D. (2015). Media contribution to violence against health workers in China: a content analysis study of 124 online media reports. *The Lancet, 386*, S81. doi:https://doi.org/10.1016/S0140-6736(15)00662-5

Hasta Hakları Yönetmeliği 2019 C.F.R. (1998).

Bio-law and biotechnological hyperconsumption: towards bio-juridical resignification of two bioethical principles for protection of cognitive health*

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Abstract

Several studies have reviewed the connection between cognitive pathologies and exposure to certain biotechnologies. In this article I briefly examine four issues: I introduce, from theoretical contributions by contemporary philosopher Byung-Chul Han, the neuronal damage caused by biotechnological hyper-consumption; I demystify the idea that the legal system should not intervene in the moral and social systems; I show, based on three scientific studies, some of the cognitive pathologies due to unregulated use of specific biotechnologies; I propose that biolaw, as a legal neoform and a suitable legal framework for the normative regulation of biotechnologies, may organize and direct them towards cognitive health, as an unconditional basis for human development, through resignification of the principles of integrity and vulnerability coined by Jacob Dahl Rendtorff and Peter Kemp in their 2000 book entitled *Basic Ethical Principles in European Bioethics and Bio-law.*

Introduction

Byung-Chul Han, in his essay entitled *La sociedad del cansancio* (the Society of Tiredness), examines some of the effects of "overabundance of positivity", the neuronal consequence of continued exposure of human beings to certain forms of life and culture; he reviews the pandemic of the 21st century, which he considers to be neuronal. This new society, which is tired and neuronally ill, has explicit symptoms of a disease: depression, attention deficit hyperactivity disorder (ADHD), borderline personality disorder (BPD), occupational burnout syndrome (ODS), among other disorders. His study is not a mere philosophical speculation, but corresponds to other diagnoses made by intellectuals of notable prestige, on the one hand, and with numerous scientific works focused on the test of relationship or links between cognitive damage and certain contacts with cultural forms on the other hand.

"We check behind the digital medium, which, below the conscious decision, decisively changes our behavior, our perception, our sensation, our thinking, our coexistence. We get drunk today with the digital medium, without being able to fully assess the consequences of this drunkenness. This blindness and simultaneous obnubilation constitute the current crisis." (Chul-Han, 2018, p.11).

While the Byung-Chul Han approach is sharp, relevant and current, it is not *ex nihilo.* From a judicious reading of Nietzsche, Franz Kafka, Walter Benjamin, Merleau Ponty, Paul Cézanne, Hanna Arendt, Gregory the Great, Giorgio Agamben, Martin Heidegger, Jean Baudrillard, Roberto Esposito, among others.

"*Due to lack of calm, our civilization leads to a new barbarism. At no time has active been quoted more, that is, the restless. Consider, therefore, among the necessary corrections that must be made to the character of humanity the strengthening of the contemplative element to a large extent"* (Nietzsche, 2007, p.180).

Byung-Chul Han deepens his initial intuition about the "overabundance of positivity" as one of the characteristic elements of the "performance society" and analyzes its consequences. The sharpness of his analysis is twofold: on the one hand, he arrives at a current and relevant reading of the intellectuals mentioned and many others who also warned about the dangers of unlimited techno-scientific progress; on the other hand, his deductions, based on literature and philosophy, correspond to scientific evidence, some of which will be cited below.

In summary, Byung-Chul Han's work reviews how biotechnological hyper-consumption and some of its cognitive demands reduce the mind to a digital swarm and digital communication that inevitably end up cracking cognitive health; a digital swarm of digital men who eventually become *Hikikomoris.*

*Hikikomoris are p*eople who live outside society. These people decide their isolation. They prefer to spend their days at home in front of television, social networks and video games, rather than sharing with people in personal ways. *Hikikomoris* develops mental disorders over time which definitely compromises their cognitive health.

A cognitive demand for technological hyper-consumption, typical of the fatigue society and the

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performance society, is multitasking. The individual, is overwhelmed by a multiplicity of biotechnological stimuli and the needs that they entail, that fragment his attention. This fragmentation has negative effects on cognition. In the words of Byung-Chu Han: "The excess of positivity is also manifested as an excess of stimuli, information and impulses. It radically modifies the structure and economy of care. Because of this, perception is fragmented and dispersed. The technique of time management and *multitasking* attention does not mean progress for civilization. It is rather a regression. Not only *multitasking,* but also activities such as computer games arouse wide but superficial attention, related to the surveillance status of a wild animal. Recent social developments and the change in the structure of attention cause human society to get closer and closer to savagery" (Ibid, p. 34).

This biotechnological hyper-consumption causes more and new cognitive sequelae. An example that is increasingly visible is the IFS (*Information Fatigue Syndrome*). This syndrome is a psychic disease produced by biotechnological information:

"Those affected complain of increasing paralysis of analytical capacity, disruption of attention, general concern or inability to assume responsibilities. A major symptom of the IFS is the paralysis of analytical ability. Analytical capacity constitutes thought. Too much information causes thought to be stunted. In short, it is the ability to distinguish the essential from the non-essential. The flood of information to which we are exposed today undoubtedly decreases the ability to reduce things to the essence. And, in fact, the negativity of distinction and selection belongs essentially to thought. The tiredness from information also includes symptoms that are characteristic of depression. Among the symptoms of the IFS is also the inability to assume responsibility. Responsibility is an act that is linked to certain mental and temporary conditions." (Byung-Chul Han, pp. 88,89,90).

This work articulates the link between an unregulated use of biotechnologies or biotechnological hyper-consumption, and cognitive damage. Hence, I formulate the following thesis: bio-law has a responsibility to cognitive health that consists in regulating the use of biotechnologies with binding and limiting force, through the resignification and specification of specific bioethical principles.

Legal order and other systems

The relations between the legal system and the moral system have been a constant reflection of the philosophy of law and legal theory for centuries. The position whether these two systems are the same, are antagonistic or different, but at the same time, related, has varied between different conceptions and schools of law: legal formalism, legal historicism, legal relativism, Scandinavian legal realism, North American legal realism, legalism, constitutionalism, neo-constitutionalism, critical school of law, originalism, living constitution and schools of natural law. All these conceptions and schools of law address the problem and throw dissimilar conclusions about the relations between the systems in question.

Basically, the legal system (in this case bio-jury) and the moral system (in this case bioethics) are intrinsically related. Their relationship has the same reasons that the philosophy of law has explained to prove that law and morals have close relationships: 1) morality is a source of law, since respect for morality is something that matters to the common good, and the common good is one of the purposes of law; 2) "it is a function of law to create a climate, so to speak, conducive to the fulfillment of morality, not only in the sense of not creating obstacles to virtuous life, but also in promoting an empire of ethical order, and this because the greater moral perfection of men contributes effectively to the social order and the realization of the common good "(Noguera Laborde, 2003, p.139); 3) the law makes moral life possible, since a goal of the legal order is making morality possible.

In accordance with the above, I defend the thesis according to which bio-law and bioethics are different but related systems; more specifically, I promote the right of communities to cognitive health for human development, through the resignification and specification of bioethical principles. In particular, I develop the idea that bio-law enables and regulates bioethical principles and, with that, can be a binding legal framework to regulate, beyond the deliberative frameworks of bioethical principles, the uses that individuals make of new technologies or, more exactly, of biotechnologies, by putting limits on biotechnology generators over the abuse of the consumer. Therefore, in this research I propose that two principles be reshaped to preserve cognitive integrity: the principle of integrity and the principle of vulnerability.

Use of biotechnologies and cognitive damage: scientific evidence

It is a scientific fact, not a philosophical speculation or a literary fiction, that the exposure of the human brain to certain biotechnologies triggers adverse and harmful effects on cognitive health. I refer and abbreviate two scientific investigations in this regard.

In 2010, researchers Victor C Strasburger of the *Department of Pediatrics, University of New Mexico School of Medicine*; Amy B. Jordan of *Anneberg Public Policy Center, University of Pennsylvania, Philadelphia,* and Ed Donnerstein of the *Department of Communications, College of Social and Behavioral Sciences, University of Arizona,* published a review article entitled "Health Effects of Media on Children and Adolescents." In the article, they argued, on a scientific basis, that spending an average of 7 hours on television, the Internet, video games and cell phone have consequences on children such as eating disorders, disorders in moods, sexuality, learning, substance abuse and eating disorders.

In July 2011, researchers Betsy Sparrow of Columbia University; Jenny Liu of Wisconsin University; and Daniel Wegner of Harvard University published an article "Google Effects on Memory: Cognitive Consequences of Having Information at Our Fingertips", in the Science Magazine. The article, now known in the scientific community as the article on the "Google Effect," reveals proven effects of the Internet on the human brain. Researchers show, with tests applied to university students, that the Internet has begun to replace memory. Data banks begin to act as a collective and available memory for consultation. In sum, the "Google Effect" proves that it is increasingly difficult for human beings to remember, that is, to have a good memory. In other words, overexposure to this type of biotechnology undermines memory and, consequently, affects such cognitive function.

In short, it is possible to establish a necessary causal relationship between neuronal damage and exposure to certain technologies.

Integrity and vulnerability: epistemological resignification

Jacob Dahl Rendtorff and Peter Kemp described four ethical principles or common moral values for European bioethics and bio-law: autonomy, dignity, integrity and vulnerability. In this investigation, I examine and re-signify two of these principles: principle of integrity and principle of vulnerability.

Erick Valdés has criticized the approach of J. Rendtorff and P. Kemp and developed, based on his criticism, a resignification of the principles in question. His criticism basically consists in pointing out that these principles can only be shared in a formal way, that is, communities can agree to accept those principles, but not necessarily the content of those principles. Hence, they cannot be considered bio-legal principles but bioethical. His resignification consists in granting to these principles normative force and binding power to guarantee their obligatory nature and, therefore, their denomination of bio-law. This thesis has been ratified by Tom L. Beauchamp in 2019. Both exhibitions are found in the book “Biolaw and Policy in the Twenty-First Century. Building Answers for New Questions” (Valdés and Lecaros, 2019). This research goes beyond Valdés' criticism, not only pointing out the need to juridify bioethical principles, but also to specify that juridification towards a specific end: the preservation of cognitive health as a fundamental basis for human development. Ultimately, this research proposes a specified resignification of the principles of integrity and vulnerability. Such a proposal has, then, an implicit moral claim, because it tends to protect and develop a particular conception of good that corresponds to cognitive health.

The principles of European bioethics and bio-law, identified and defined by Rendtorff and Kemp, could acquire a greater strategic value if they functioned legally; that is, if they reach, at least partially, a legally binding value. Clearly, in their original constitution, the principles do not enjoy that statute, because they simply function as common moral standards. It is the Danish theorists who assume that the principles have a legal condition, which in my opinion is non-existent. The principles of European bio-law indicate rather ontological conditions or general values, but the epistemological configuration of each of the principles does not indicate an explicit normative and legal content. Hence, a well-executed, systematized and legalized principled model is needed to generate new regulatory certainties on biomedical practices.

Therefore, I propose that, in order to limit, with a legal framework, the indiscriminate use of certain biotechnologies to preserve cognitive health, the Rendtorff and Kemp principles of integrity and vulnerability be resignified and specified. This resignification consists, specifically, in two aspects: first, to grant them normative force; second, specify the scope and purpose of that normative force, that is, its epistemological density.

Rendtorff and Kemp (2000) assume that their principles have already been legalized because although they are ethical principles, they "are somehow" already part of the law. However, that represents an arbitrary leap from ethics to law, which is inadmissible, to build a logical bio-law in its formal and material aspects. Consequently, and without affirming that this could be a definitive bio-juridical model, I show, very synoptically, how the two principles already mentioned of European bioethics and bio-law could be redefined and juridified. Such resignification and juridification optimizes the proposal of Rendtorff and Kemp. From the preceding diagnosis, the principles can be redefined as follows (Valdés 2015; Valdés 2019).

Respect for integrity: which indicates the right of every human being to 1. Remain unalterable in his physical, psychological, biological and genetic constitution, and protect him from any detriment, damage and alteration. It is based, mainly, on the Declaration of Helsinki (1964) which states "the right of the subject of experimentation to safeguard his integrity, and the duty to respect that integrity."

Respect for vulnerability: which orders the respect and protection of the inherently reliable condition of the human being. Indeed, the human being, in its biological and psychological dimensions, is vulnerable and, as such, is exposed to damages, risks and threats. Valdés has stressed that the procedural extension of this principle is greater than that of the other three since, in material terms, autonomy, dignity and integrity are subject to the finite and mortal condition of human beings. Therefore, the vulnerability principle assumes an ontological preeminence (but not necessarily normative) with respect to the first three.

I now show how Rendtorff and Kemp should have proceeded if they had made a correct and explicit juridification of their principles. The process of juridification of the principles of bio-law that Valdés

(2015) has proposed is theoretically simple. It is about transforming them into concrete rules of a binding nature through legal specification of the principles of biomedical ethics. I make the caveat that observing how the principles of European bio-law are constructed epistemologically (more as ontological conditions than as legal norms), still legalized, its scope would only apply to solving rather simple cases in the context of bioscientific practices. To address and cover all or most of the complex cases, a more comprehensive and essentially legal bio-law model is required, which we will offer, together with Erick Valdés and Laura Victoria Puentes (2020), in a book soon to appear.

For now, and taking into account the above, I test the proposal for juridification. To do this, I will contrast the two principles analyzed, with the contemporary event of biotechnological hyper-consumption and determine whether this should be, in some way, regulated by international legal systems. In the same act I will provide more epistemological content with the principles mentioned, granting them more concreteness and limiting their originally vague and general scope. Applied the principles, already endowed with content, as a binding regulatory framework for non-therapeutic genetic practices, the result could be the following:

The principle of respect for integrity would reject the effects of biotechnological hyper-consumption. Respect for the genetic integrity of the human being implies the right of each individual to live an authentic human life, that is, endowed with a psychological and cognitive structure that has not been altered, tendentiously and harmfully, by external agents. At the same time, and in deontological terms, psychological and cognitive integrity must be understood as part of the cultural and social duties that a certain identity implies.

In view of this argument, some procedural rules of beneficence that regulate the protection of integrity should be considered, namely: always do what is good for the other; protect and defend the rights of others; prevent damage to others; and promote the good of others. In short, once the principle of integrity is legalized, it will not endorse deregulation of biotechnological hyper-consumption.

In turn, the juridification of the principle of respect for vulnerability implies the consideration of certain rules of non-maleficence, such as "not causing unnecessary harm" or "not depriving others of the assets of life", so, before this epistemological content of the principle, the same principle would reject the individual and social effects of technological hyper-consumption.

In this way, the process that I have described, indicates that a substantial difference between bioethics and bio-law resides in its binding character. However, depending on the procedural and epistemological differences between the two disciplines, the difference is observed in that the specification of the bioethical principles has different consequences than that applied to the principles of bio-law; that is, that the former tends to raise the standard of deliberation, while the second tends to provide the basis for regulations; that is, for juridification.

Conclusion

Biotechnological hyper-consumption generates cognitive damage in individuals. Cognitive damages supported by scientific evidence include mood disorders, eating disorders, learning disorders and sexuality disorders. However, there is no binding global framework to regulate biotechnological abuse of consumers or the information that biotechnology generators should include in their products. Bioethical principles are not enough to institutionalize binding frameworks. It is not enough to biojuridically resignify the bioethical principles, that is to say, it is not enough to grant a binding character to the bioethical principles, but it is necessary to specify a normative character, endowing them with greater epistemological content. Cognitive health is the fundamental basis for human development. Accordingly, it is necessary to protect cognitive health from biotechnological hyper-consumption, through bio-juridification and specification of bioethical principles.

References

Beauchamp, Tom. (2019). A Defense of Universal Principles in Biomedical Ethics. In, Valdés, E. y Lecaros, J.A. *Biolaw and Policy in the Twenty-First Century: Building Answers for New Questions*, Switzerland: Springer.

Byun-Chul H. (2018). *La sociedad del cansancio*. Barcelona: Herder.

Byung-Chul H. (2018). *El enjambre*. Barcelona: Herder.

Byun-Chul H. (2018). *Hiperculturalidad*. Barcelona: Herder.

Byun-Chul H. (2018). *Buen entretenimiento*. Barcelona: Herder.

Casabona, C.R. (Dir). (2011). *Enciclopedia de Bioderecho y Bioética*. Granada: Comares.

Fisher, Matthew, Goddu, Mariel K. y Keil, Frank C. (2015). Searching for Explanations: How the Internet Inflates Estimates of Internal Knowledge. *Journal of Experimental Psychology* 144(3): 674-687.

García Lorca, Federico. (2008). *Federico García Lorca. Obra completa II. Poesía, 2*. España: Akal.

Nietzsche, Friedrich. (2007). *Humano, demasiado humano*. Madrid: Akal.

Noguera Laborde, R. (2003). *Elementos de filosofía del derecho*. Bogotá: Fondo de publicaciones Universidad Sergio Arboleda.

Rendtorff J. y Kemp, P. (2000). *Basic Ethical Principles in European Bioethics and Biolaw* (Vol I). Barcelona and Copenhagen: Institut Borja di Bioetica &Centre for Ethics and Law.

Sparrow, Betsy, Lui, Jenny y Wegner, Daniel M. (2011). Google Effects on Memory: Cognitive Consequences of Having Informations at Our Fingertips. *Sciencexpress* (Report): 1-6.

Strasburger, Victor C., Jordan, Amy B, y Donnerstein, Ed. (2010). Health Effects of Media on Children and Adolescents. *Pediatrics* 125(4): 756-767.

Valdés, Erick, Noguera Pardo, Camilo, y Puentes, Laura Victoria (2020). *Biolaw: Origins, Doctrine and Juridical Applications on the Biosciences*, Switzerland: Springer.

Valdés, Erick. (2019). Towards a New Conception of Biolaw. In, Valdés, E. y Lecaros, J.A. *Biolaw and Policy in the Twenty-First Century: Building Answers for New Questions*, Switzerland: Springer.

Valdes, Erick (2015). Bioderecho, daño genético y derechos humanos de cuarta generación, México, *Boletín mexicano de Derecho Comparado* 48(144): 1197-1228.

Posthuman sexlessness in cloning, Pokémon, and Nietzschean ethics

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Abstract

An inquiry into the bioethical or ethical component of post-humanism can be through the question of sex. Following from Manoj's idea of a cyborg as having a "sexless" possibility, this paper presents other arguments that advance the possibility of asexuality in the posthuman. First, I begin with a discussion of Žižek's point concerning the cessation or voiding of sexual difference. Second, I will continue such an argument through the self-replicating possibilities of cloning and full cyberspace immersion, the later as prototyped by Pokémon. And finally, there seems to be an inevitable thread that begs to link the concept of the posthuman to Nietzsche; so I will explore some of the arguments that include or exclude Nietzschean ethics in this prospect.

Posthuman bioethics and sexlessness

In Dr. V.R. Manoj's *Cybofree: Posthuman Bioethics for a Sustainable Humanity* (2019), he reiterates how in the future a completely trans-human cyborg can conclude the fact that "the essence of reproduction may completely escape the need for sex" (p. 33). He backs this point by the non-necessity of bodies coming together for contact, real-time transfer of genetic information, and the preference of high information credits than orgasms. In this sense, "we could evolve into a species which has time to devote to other activities. People need not anymore be concerned that they need to find a partner real fast before their biological clocks stop ticking" (p.33). At present, radical technology, he hopes, can open this future by 'incredibly cheap and easy tele-dildonics' for better cyborg sex by noting the following:

1. Better contraceptives made by nanotechnology which can effectively filter out sexually transmitted microbes while not compromising on pleasure.
2. Bionic implants that can help people unable to have sexual relations.
3. Hormonal switches for voluntary control of functions.
4. Drugs to effectively help people who find abstinence for religious purposes difficult to handle.

Despite these, Manoj further concludes his point by affirming a possibility of posthuman asexuality. He says that the "cyborg world could certainly become sexless" (p. 33). Moreover, the movement of posthuman sex, which in this case is situated in better cyborg sex, can be countered again on the argument of the abyss or the meaninglessness that looms within the background of sexual affluence (cf. Kahambing, 2019a). In this paper, I will present other arguments that advance the possibility of asexuality in the posthuman. First, I will discuss Žižek's argument of voiding sexual difference. Second, I will expand such an argument through the self-replicating possibilities of cloning and full cyberspace immersion. And finally, I will explore some of the arguments that include or exclude Nietzschean ethics in this prospect.

Voiding sex and sexual difference

In plotting and contrasting the domain of possibilities for the argument of asexuality in the posthuman, Žižek explains the less-known prototype of Alan Turing's imitation game. The game tests if a machine can process *thinking itself.* This is done by comparing two computer interfaces: one interface is operated by a human and the other is operated by a computer. The comparison seeks to find out whether there is any differentiation between the "thinking" processed by the human and the computer or machine. To explain the digitalization that is at work in the differentiation of thinking between man and machine, one only has to look at the meaning and function of an 'interface'. Žižek in *Incontinence of the Void* (2017) wrote that "*inter-face* means precisely that my relationship to the other is never *face-to-face,* that it is always mediated by the interposed digital machinery" (p. 169). What the less-known prototype of this game points to, however, is the initial task of determining the answers between a man and a woman. Later, this has provided a jumping board towards replacing the woman with a machine since at best, the results of symbolic utterances between a man and woman provide null and erroneous results. Turing explains this in rhetoric: "What will happen when a machine takes the part…? Will the interrogator decide wrongly as often when the game is played like this as he does when the game is played between a man and a woman?" (Turing, 1950, p. 434). Sexual difference, thus, creates a sort of imbalance in the straightforward determination of human rationality, which is just right against the presumed objective of cognitive processing by a machine. The question "can machines think?" can only be determined through the interfaces between a man and a machine, so that sexual difference can be voided as a real purely *human* representation. Concerning sexual difference, Copjec's *Sex and the Euthanasia of Reason* shares Žižek's thought of sexual difference as assuming the stance of the real:

"Sex serves no other function than to limit reason, to remove the subject from the realm of possible

experience or pure understanding. This is the meaning, when all is said and done, of Lacan's notorious assertion that 'there is no sexual relation': sex, in opposing itself to sense, is also, by definition, opposed to relation, to communication. This psychoanalytical definition of sex brings us to our third complex of questions, for, defined not so much by discourse as by its default, sexual difference is unlike racial, class or ethnic differences. While these differences are inscribed in the symbolic, sexual difference is not: only the failure of its inscription is marked in the symbolic. Sexual difference, in other words, is a real and not a symbolic difference. This distinction does not disparage the importance of race, class or ethnicity; it simply contests the current doxa that sexual difference offers the same kind of description of the subject as these others do. Nor should this distinction be used to isolate considerations of sex from considerations of other differences. It is always a sexed subject who assumes each racial, class or ethnic identity" (Copjec, 1994).

Žižek asserts: "What if sexual difference is not simply a biological fact, but *the Real of an antagonism that defines humanity*, so that once sexual difference is abolished, a human being effectively becomes indistinguishable from a machine" (ZNS; Italics; cf. Kahambing, 2018). In this sense, sexuality can be considered as the "obstacle" towards man's ideal form. Incidentally, this ideal form of man can be recalled in Nietzsche. Ann Boyd (2018) wrote in this journal that Nietzsche, particularly his concept of the *Ubermensch,* has been continually cited by scholars for and against transhumanism. Putting this in Nietzsche's terms, the cognitive product of man and woman that comprises the human is only representative of the last man in *Thus Spoke Zarathustra* (1969), taken as the opposite of the superman.

How then would Nietzsche's idea of Last Man link to the notion of voiding sexual difference? The last man is man still at the intersection point between the realm of sexuality and the future realm of sexless possibility. The last man is, then, the man who is still tailing at the end of sexuality, who still has sexuality, and hence the present. This is the man who relishes the thought that sex is still the functioning mechanism that operates the transactions of society. As in all postmodern reading of the anthropocentric episteme of modernity, the last man *is* the modern man. And this can be read in Albert Camus' *The Fall* when Camus speaks as Clamence as he generalizes the human condition in modernity: "A single sentence will suffice for modern man: he fornicated and read the papers" (1956, p. 6). It can be drawn then that the disposition which besets the modern man is one that is highly sexuated in the most carefree sense of the term, but mostly inactive at the abyss that permeates in his lifestyle. Once this sexual difference and the basic notion of sex are voided, one can proceed to an asexual conception of the posthuman. The possibilities that extend this argument lies in cloning and full cyberspace immersion.

Genetic cloning

Voiding sex can also be explained in the possibility of a posthuman as a by-product of cloning. Historically, it was proposed in 1903 by W. Sutton that "genes reside on *chromosomes*" and it was backed experimentally in 1910 by T.H. Morgan, which led to the technologies of *gene mapping* (Brown, 2006, p. 3). This led to the production of a "comprehensive analysis of the relative positions of over 2000 genes on the four chromosomes of the fruit fly, *Drosophila melanogaster*," in 1922. But this was incomplete as the real understanding of the gene's molecular nature came later in the 40s. The experiments in 1944 and 1952, leading up to their developments in 1966, had broken down the structure of a genetic material that was the DNA. Henceforth, "the structure of DNA was elucidated, the genetic code cracked, and the processes of transcription and translation described" (Brown, p. 3). What followed in the years 1971-1973 was a revolution: recombinant DNA technology or *genetic engineering*, "and having at their core the process of *gene cloning*," led to the "rapid and efficient *DNA sequencing* techniques that enabled the structures of individual genes to be determined" as improved now in modern *biotechnology* (Brown, p. 4). This will come as no surprise that the current technological franchise might already be able to create a *clone.* As explicated in Marshall (2015, p. 93), a clone is a "cell, group of cells, an organism produced *asexually* from a single ancestor and is genetically identical to a single ancestor," in which a *human clone* means "the creation of a genetically identical copy of a human" (p. 94). This is one self-replicating possibility that does not involve sexuality.

Pokémon, or full immersion prototyping

There are self-replicating possibilities that involve the absence of sexual differentiation e.g. transfer of consciousness, virtual reality, etc. If one can then transfer one's consciousness from one body to another, or to some new other (synthetic) host-body, sexuality would no longer hold its desire and function. The ontological level here can be seen in the way that sexual differentiation disappears, since the transfer may happen regardless of whether the body from which consciousness transfers is male or female. It should be noted however that strictly speaking, sexuality can be separated from desire, as a kind of organ (desire) without body (sexuality) as seen for example in Žižek's explication of Gilles Deleuze's ideas and their implications in *Organs without Bodies: Deleuze and Consequences* (2016). Sex and sexation are still significant in a post-human era, because it brings into fore the clarificatory point of this paper regarding sex: it puts Žižek precisely on the speculative turn of continental philosophy, which is to say that he goes beyond mere hermeneutics and that his speculations on the future can still radically

reach an extreme, even the traumatic end of sexuality.

Another possible path that this end can take is virtual reality (VR). Here, Žižek explains the general lesson of VR from no other than the crazed game that was released in July 2016 - Pokémon Go. It is a "location-based, augmented-reality game for mobile devices, typically played on mobile phones; players use the device's GPS and camera to capture, battle, and train virtual creatures ("Pokémon") who appear on the screen as if they were in the same real-world location as the player" (Žižek, 2017, p. 151). But this is merely AR or Augmented Reality. Žižek differentiates the four levels of reality in this technology: there is VR (Virtual Reality), AR (Augmented Reality), MR (Mixed Reality), and RR ("real" Reality 'which we perceive and interact with'). The idea is that AR, MR, and even RR can be neglected in the argument for self-replicating possibility since the important feature of VR is not found in the other three. In which case, Žižek (2017, p. 153) says that "when we deal with the new developments in Virtual Reality (VR) technology, we usually focus the *prospect of full immersion*, thereby neglecting the much more interesting possibilities of Augmented Reality (AR) and Mixed Reality (MR)." To quote:

"*In VR, you wear something on your head (currently, a head-mounted display that can look like a boxy set of goggles or a space helmet) that holds a screen in front of your eyes, which in turn is powered by a computer. Thanks to specialized software and sensors, the experience becomes your reality, filling your vision; at the high end, this is often accompanied by 3D audio that feels like a personal surround-sound system on your head, or controllers that let you reach out and interact with this artificial world in an intuitive way. The forthcoming development of VR will heighten the level of immersion so that it will feel as if we are fully present in it: when VR users look (and walk) around, their view of that world will adjust in the same way as it would if they were looking or moving in real reality*" (Žižek 2017, p. 153-154).

In VR, the possibility of being sexless arrives as a mechanism of total immersion where, before the transfer of consciousness, the subject's consciousness initially goes into cyberspace. Although this might work into *full consciousness immersion* as an *extreme* possibility and still might be distant as a futuristic reality, cloning as already within the grasp of technology, still trumps in its immediacy the interesting take that VR might bring. What the idea of Pokémon brings is the prototype of a full immersion into this space in the future where sexlessness resides in the ability to choose virtual bodies, a kind of reproduction of the self through a machine.

This exposes a glaring thought: is this not self-machinery reproduction or the precise ontological deal that presages the declining motion after the climax of sexual differentiation, so that the true ascent of man, its apex, lies not in spirituality but in technology? Žižek's position extrapolates the extent of posthuman futurism under the aegis of the technological facets that can designate themselves as replacement of traditional enlightenment or in Nietzsche's term, as a critique of morality. Žižek says that: *"The end of sexuality in the much celebrated posthuman self-cloning entity expected to emerge soon, far from opening up the way to pure spirituality, will simultaneously signal the end of what is traditionally designated as the uniquely human spiritual transcendence. All the celebrating of the new "enhanced" possibilities of sexual life that Virtual Reality offers cannot conceal the fact that, once cloning supplements sexual difference, the game is over."* (ZNS; cf. Kahambing, 2018).

But is a Nietzschean critique of morality a proper argument to supplant the bioethical component of posthuman sexlessness? How much of Nietzschean ethics or critique of morality can be involved? Ann Boyd (2018) already claims that "Nietzsche's overhuman is the ideal person, not an eternal version of the human or a radically enhanced form, rather one that has attained mastery of the will" (p. 139). How do we understand this?

Nietzsche's ethical view of the posthuman

Why is Nietzsche, rather than any philosopher, an important part of the subject within the discussion of posthumanism? Alain Badiou writes about an event (*événement*) and in one of his writings asked the question *who is Nietzsche* (Badiou, 2001, p. 1-11). He answers that Nietzsche is an event: "this event is an absolute break, whose obscure proper name is Nietzsche" (Badiou, 2001, p. 3). This means that Nietzsche, the name, is an event that breaks the world in two as his madness: "that he is the name, not only of what announces the event, not only the name of the rupture, but ultimately the name of the world itself" (p. 8). An event is a "creative novelty" that sutures the future, or more precisely, tarries with the future; in which case Nietzsche, more than anyone, with his concept of the superman as the man of the future becomes the event that signals the breakage of two possible worlds into which the past and future collide. Hence, the name Nietzsche becomes a significant part of the future that includes the posthuman.

Francesca Ferrando (2013) specifically pinpoints Nietzsche's significance in the broad terminology of the posthuman. Narrowing down Boyd's point concerning Nietzsche's involvement in transhumanism, Ferrando situates Nietzsche within *anti-humanism*, which projects the critical assessment of what is human. As such, the understanding of Nietzsche and Foucault on at the end of man fits well in this area of posthumanism. This is important since the discussions of the 'Nietzschean-Foucauldian legacies' whose themes include the 'death of man' and technologies of the self are part of anti-humanism. The end of man supports the necessary consequence of the birth of the superman.

The difference of this to posthumanism, however, is that "posthumanism does not rely on any symbolic death" (Ferrando, p. 31) but is more Derridean than Nietzschean-Foucauldian when it 'deconstructs' the image of man. With Žižek's voiding of sexual difference in posthumanism as a traumatic asexual end, the elements of the real far surpass symbolic tones. If there is anything that connects posthumanism in general to Žižek's, it is the act of going beyond - in the sense of deconstructing - 'man', which for Žižek can be scrutinized under psychoanalytic and hence even under 'real' terminologies.

What is further vital in Ferrando's analysis is her understanding that posthumanism can go beyond technological means of (re)production. Žižek might even share the other equally crucial point that Ferrando contributes (2013), which is that "although posthumanism investigates the realms of science and technology, it does not recognize them as its main axes of reflection, nor does it limit itself to their technical endeavors, but it expands its reflection to the technologies of existence" (p.30). This is where Nietzsche also comes in, when existence is never totally attached to modern technology, as in Foucault's technologies of the self or Nietzschean self-artistry. With this, Ferrando recommends the investigation of the geological time of the Anthropocene wherein the human becomes decentered from its primary focus: the human is no longer seen as an "autonomous agent" but is "located within an extensive system of relations" (p. 32).

But will Nietzsche save the transhumanist process in terms of its ethical warranty? Agatonović (2018) directly fits into the question of whether or not Nietzsche can be used on the advancement of transhumanism by targeting on the coordinates of the transhumanist process. His insights can be gleaned from a counter-reading and are therefore *against* the relationship of Nietzsche and the transhumanist agenda. His thoughts are based largely on the idea that Nietzsche's conception of enhancement, which is directly tied to the conception of overcoming in the sense of going beyond man, goes against the transhumanist conceptions of enhancement. This is based more particularly on the idea that Nietzsche's concept of overcoming then did not yet fully consider the insertion of modern technology. Instead, Nietzsche from his context, certainly cannot possibly include this technological enhancement as a means of overcoming because he relies simply on traditional and not technological means. What Nietzsche means when he says that the superman must not be an accident is that he must undergo cultural means such as "adequate education, formation, social-cultural values, examples of human excellence" (Agatonović, 2018, p. 437), hence implying that the superman must overcome through the coordinates of life-affirmation, of saying 'yes' to life from what has been and what will be (cf. Zimmerman, 1986, p. 156). But what Agatonović does further, in the end, is a form of association in terms of the rules of replacement in symbolic logic: to illustrate his position (*p*) of thinking against the relationship of Nietzsche (*N*) and transhumanism (*t*) [symbolically: p ● (N ● t)], he cleverly uses Nietzsche and his position to think *against* transhumanism [hence: (p ● N) ● t], which gives the same thought all the same. He does this when he argued that Nietzsche can still serve a purpose in the relationship with transhumanism but only through Nietzsche's critique of morality as countering the process. That is to say, that the critique of morality can be used as a critique of the transhumanist conceptions of human enhancement, so that the moral presuppositions that underlie the means of medicine and technology when they are guided by "universal moral considerations (Agatonović, p. 437)," can be replaced by the creative act of a more traditional overcoming of self-knowledge. In the words of Zarathustra: "let your spirit and your virtue serve the meaning of the earth, my brothers… physician, help yourself: thus also help your sick. Let that be his best help, that he sees with his own eyes the one who heals himself" (Nietzsche, 1969, I).

However, if Nietzsche can be read as a counter to the transhumanist process because his ethics can be contextualized through culture or education (*Bildung*), then this can also be situated as a part of the posthumanist process. Ferrando (2013) notes of the fact that posthumanism not only accommodates cultural elements, but posthumanism *is* necessarily cultural. The posthuman process is cultural because it hinges on cultural studies (as in Halberstam and Livingston, 1995; Badmington, 2000; Miah, 2008). On the outset, the term "posthumanity" is defined not in univocal terms with posthumanism, but is the broad academic term for the studies of "the human condition to the posthuman" and which can be extended to "future generations of beings evolutionarily related to the human species" (Ferrando, p. 32).

Recapitulation

In this paper, I expounded on some of the arguments that advance posthuman sex through the possibility of sexlessness. There are good reasons to suppose the advancement of asexual posthumans when sexual difference and sex can easily be voided through self-replicating possibilities. The crucial thought to bear in mind here is that the sexual cessation may not even take the form of a symbolic death but of the real. If cloning and cyberspace immersion (in Pokémon) will be situated in the real, the game is over for sex. Although the philosophical and psychoanalytical undertones of the concepts of sex, sexation, sexual difference, and sexuality are strictly distinguishable, there is a tie that connects them in reproduction, so that the attack on reproduction (recall Manoj), links the idea of sexlessness. What this paper was able to reroute is the notion of Nietzsche's ethics within the concept of the posthuman: what if sex stands on the stage of the

last man and sexlessness in the posthuman can set the stage towards the superman? Nietzsche's ethics, as explicated in his critique of morality, is involved in this case when it makes overcoming the impetus for human advancement no matter that, liberally speaking, for Žižek this can go on as a kind of fashionable way to insert a sexless possibility whether in modern technology or in cultural movements. Posthumanism, posthumanity, and transhumanism are broad terms that require further philosophical infiltration and these had to include, rather than delimit, as many ethical considerations as possible. The question of sex in man and the posthuman is a crucial entry more than ever at this point.

References

Agatonović, M. (2018). The Case of Transhumanism: The Possibility of Application of Nietzsche's Ethics and Critique of Morality Today. *Philosophy and Society, 29*(3), 317-474.

Badiou, A. (2001). Who is Nietzsche? *Pli, 11*, 1-11.

Badmington, N. (Ed.) (2000). *Posthumanism*. New York: Palgrave.

Boyd, Ann. (2018). Transhumanism Challenge to Bioethics. *Eubios Journal of Asian and International Bioethics, 28*(5), 137-140.

Brown, T. (2006). *Gene Cloning & DNA Analysis: An Introduction*. Fifth Edition. University of Manchester, UK: Blackwell Publishing.

Camus, A. (1956). *The Fall* (J. O'Brien, Trans.). New York: Vintage Books.

Copjec, J. (1994). Sex and the Euthanasia of Reason. In Copjec, J. (Ed.), *Supposing the Subject* (pp. 16-44). London: Verso.

Ferrando, F. (2013). Posthumanism, Transhumanism, Antihumanism, Metahumanism, and New Materialisms. *Existenz: An International Journal in Philosophy, Religion, Politics, and the Arts, 8*(2), 26-32.

Halberstam, J., and Livingston, I. (Eds.) (1995). *Posthuman Bodies*. Bloomington: Indiana University Press.

Kahambing, J. G. (2018). Without Sex: An Appraisal of Žižek's Posthumanism. *International Journal of Žižek Studies, 12*(2), 1-16.

Kahambing, J.G. (2019a). The Ethical Nihilism of Hedonistic Posthuman Sex. *Eubios Journal of Asian and International Bioethics, 29*(6), 203-207.

Kahambing, J.G. (2019b). The Derrida and/to Žižek on the Spectral Victim of Human Rights in *Anil's Ghost*. *International Journal of Žižek Studies 13*(3).

Manoj, V.R. (2019). *Cybofree: Posthuman Bioethics for a Sustainable Humanity* (Ed. Darryl Macer). Eubios Ethics Institute: New Zealand.

Marshall, D. (2015). *Human Cloning: Specifically, REM Driven Human Cloning*. Vincent Eastwood Interview.

Miah, A. (2008). Posthumanism in Cultural Theory. In Gordijn, B., and Chadwick, R. (Eds.), *Medical Enhancement and Posthumanity* (pp. 71-94). Berlin: Springer.

Nietzsche, F. (1969). *Thus Spoke Zarathustra: A Book for Everyone and No One* (R. J. Hollingdale, Trans.). New York: Penguin Books. (Original work published 1883-1891).

Turing, A. (1950). Computing Machinery and Intelligence. *Mind*, *59*(236), 433–460.

Žižek, S. (2016). *Organs without Bodies: Deleuze and Consequences*. Routledge.

Žižek, S. (2017). *Incontinence of the Void: Economico-Philosophical Spandrels*. Cambridge: The MIT Press.

Žižek, S. (n.d.). No Sex, Please, We're Post-human! Retrieved from http://www.lacan.com/nosex.htm.

Liberal environmentalism and global climate justice

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Abstract

Liberal environmentalism, or green politics, intends to find a compromise between the prevailing global economic order and the need to protect the environment. The idea of sustainability, introduced in the Rio Summit, is the central component of international climate agreements. But on closer analysis, it can be argued that the problem of climate change is rooted in a neo-liberal system in which corporate interests collude with state policies. The free market is one of the fundamental causes of the systematic destruction of the environment. Big corporations, so motivated by profit, cannot be trusted to absorb the huge social costs of environmental degradation. For this reason, the use of indigenous wisdom is proposed to balance our way of life and environmental preservation. The study argues that climate justice would require dismantling an exploitative economic order to avert the existential threat from changing climactic patterns.

The tipping point

Liberal environmentalism deals with the institutionalized norms designed to address the issues concerning environmental protection. At the same time, it seeks to preserve the prevailing global economic order in its approach. Laws, rules, and policies, in this regard, exhibit the compromise among governments and powerful corporate interests. The reality of climate change reveals itself, in this sense, as a collective problem made worse by the rent-seeking ways of big corporations and state policy makers who exploit the earth for their own good and benefit.

The antagonists in the issue of climate change are governments, states, and corporations. Some leaders seem to be more concerned about growth and progress without considering the impact of economic activities on the environment. Upon closer analysis, environment advocates are actually battling structural issues. For Greta Thunberg, the climate crisis is the consequence of the "fairy tales of eternal economic growth."[1] However, Adam Kalkstein, is quick to point out that such may not the case. In an op-ed for the *New York Daily News*, he opines:

"In fact, the planet has warmed by about 1.0° Celsius over the past century, and temperatures

[1] https://time.com/5684216/greta-thunberg-un-climate-action-summit-climate-speech/

continue to rise in concert with increasing greenhouse gas concentrations. Impacts from this warming are already being felt in the form of rising sea levels (about 3.1 mm per year), more common heat waves, and more intense (but not necessarily more frequent) storms and beyond. Yet despite this, humans have thrived due to a multitude of advancements."[2]

Kalkstein recognizes the problem of climate change, but he disagrees with Greta that the earth is at its tipping point. He believes that the problem lies mostly in the less developed countries, in which the threat of climate change is exacerbated by the lack of infrastructure, pollution, and the poor enforcement of environmental policies. However, he adds that science does not support the claim of Greta that the earth's ecosystem is nearing collapse, Kalkstein thinks that "unlike Greta's bleak outlook, the solutions would require relatively few changes to our current lifestyles."[3]

Stephen Bulanyi writes that "it is not clear where Thunberg's politics lie, or where they will go in the future, but her rhetoric mirrors the left of the environmental movement, a wing of which has long cautioned that reductions in consumption and growth will be required to deal with the climate crisis."[4] But such move towards the left is understandable considering the absence of any clear cut approach when it comes to finding the balance between environmental preservation and economic development. Bulayni writes:

"Thunberg's great contribution is to convince the wider public of the bankruptcy of that outlook, and to indict years of missed targets as the failures that they are. Politicians don't appear to take her, very seriously. They are happy to bask in her light, perhaps convinced this new insistence on immediacy will pass, as all the others did."[5]

Globally, we are at a political tipping point. Politicians and policy makers now find themselves in an end-game. Greta inspires a solid form of radicalism, one that is, while moved by the politics of liberals, brings advocates at the front in the struggle to save the planet from destruction. Climate wars might ensue, for example, in view of the sheer necessity to preserve the natural environment or in the fight for water resources in the future. The message of Greta, at the very least, is a strong moral wakeup call for everyone.

It may be necessary to provide Greta's advocacy with a democratic platform to make it effective and sensible since the influence of hegemonic politics and the ambition of poor societies to attain industrial growth lurk in the background. From a neo-liberal viewpoint, the need to improve the standard of living of people is apparent though the truth of the matter is that most societies suffer from the impact and effect of climate change due to the lack of the technical competence to manage such an issue at the top level of the bureaucracy.

Tilting the balance of power

Steven Bernstein argues that the hegemony in global politics has less importance when it comes to climate discussions. Bernstein thinks that "the state-centric view of hegemonic stability theory has proven of limited usefulness in explaining either international environmental cooperation or normative development."[6] However, such an assessment may not be realistic. It can be countered that the problem of pollution remains big in weak states whose leaders lack the political will to implement laws against environmental exploitation and abuse.

When it comes to environmental problems and issues, society often considers what individuals or human beings can do to help mitigate the impact of abnormal climate patterns. We emphasize that citizens should be conscious of their duty to protect the environment and for this reason, must use right judgment in terms of their actions. When we look at polluted waterways, people would pin the blame on the lack of discipline of individuals living near these places. Modern society will then judge the poor as irresponsible and should be punished for their behavior.

But the above judgment hides the fact that poor people, who are often blamed for the miserable plight of the natural environment, are actually powerless. When it comes single-use plastics, the culprit is not really the kind of economy that exists among poor consumers but the way capitalism also takes advantage of the situation of the poor. Corporations possess the resource, influence, and power to control the economy. In this way, the poor are put into situations beyond their control.

The basic point is that environmental destruction cannot be blamed solely on individuals. In the Philippines, road widening projects often result to the deliberate and senseless cutting of century-old trees, all in the name of progress. Such cases are often rampant given the rapid infrastructure development that is being pursued by every government administration. In relation to this, people need to ask if there has been any consultation to ensure that no harm is done against them.

The crafting of laws and policies, however, remains undemocratic. For instance, while there is a total log ban in the Philippines, there are illegal logging activities in some provinces that continue to reduce the country's forest covers. Antonio Contreras writes about the fact that despite massive funding to protect the environment in the

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[2] https://www.nydailynews.com/opinion/ny-oped-sorry-greta-youre-mostly-wrong-20190924-t7depfksqnfmhpjgcwv6iyfesm-story.html

[3] https://www.nydailynews.com/opinion/ny-oped-sorry-greta-youre-mostly-wrong-20190924-t7depfksqnfmhpjgcwv6iyfesm-story.html

[4] https://www.theguardian.com/commentisfree/2019/sep/ 30/greta-thunberg-enemies-inaction-climate-crisis

[5] https://www.theguardian.com/commentisfree/2019/sep/ 30/greta-thunberg-enemies-inaction-climate-crisis

[6] Steven Bernstein, *The Compromise of Liberal Environmentalism*, (New York: MIT Press, 2002), 13.

Philippines, the political power structures in the country, however, continue to influence the outcomes of environmental laws and policies so "characterized by skewed distribution of economic and political power…"[7]

The imbalance in terms of political power in the Philippines is made manifest during the Marcos regime. The former dictator saw to it that a member of the First family or a crony holds one board seat in every logging firm.[8] Such showed not only the blatant abuse of power of the Marcos regime, but it also hastened the destruction of forests. The country did not benefit from the exploitation of its natural resources. Crony capitalism only fattened the bank accounts of many corrupt politicians.

The Kyoto Protocol and Paris Agreement

According to John Dryzek, Richard Norgaard, and David Schlosberg, "climate change presents perhaps the most profound [or greatest] challenge ever to have confronted human social, political, and economic systems."[9] Finding a real solution to the challenges at hand has been the primary motivation in the Kyoto Protocol. However, President George Bush refused to sign the agreement. Politics, for obvious reasons, always gets in the way. The agreement, however, is a pragmatic step forward that is grounded in free market principles. Bernstein says:

"The Kyoto mechanisms all work on the same basic principle: that assigning property rights to emissions and creating a market that allows them to be transferred will enable emission reductions to be achieved where it is most efficient, or cheapest, to do so. They can be considered market or incentive-based mechanisms because they rely on the establishment of a market for emission credits to create price signals, and thus incentives for buyers." (p. 10).

The Kyoto Protocol unveiled the imbalance in the global political order. President Bush argued that the Kyoto arrangement would harm the US economy. But in truth, he was obviously bowing to political pressures at home. In this way, the decision of the president was based on his desire to protect US economic interests. For him, singing the Kyoto agreement would stifle the growth in job creation in the US. Bernstein, thus, is correct to say that "whereas it opens up opportunities for new forms of management, and perhaps for democratic participation as well, it also reinforces the role of the market." (p.10).

Meanwhile, the Paris Agreement on Climate Change, signed by 196 states in 2016, is supposed to advance many of the prior commitments made after Kyoto. Signatory countries have been asked to report their emission reduction progress while also keeping in mind the goal of limiting the rise of global temperatures to no more than 1.5 degrees centigrade. The Paris pact asks all governments to reveal their mitigation projects. Its "20-20-20" strategy hopes to achieve a 20% carbon emission reduction, a 20% renewable energy market share, and a 20% increase in energy efficiency.

President Donald Trump, using Article 28 of the Paris Agreement, has notified the UN of the withdrawal of the United States from the accord. President Trump has reasoned that the consensus would harm the US economy which again is echoing the same sentiments used by President Bush in rejecting the Kyoto agreement. President Trump mentioned that his decision is founded on his "America First" policy. Although the reaction to the president's decision was largely negative, Mr. Trump maintains that he remains focused in "helping businesses and workers."[10]

Most discourses in Third World societies are usually framed around the idea of state corruption and also by the lack of funding. But as what Dryzek, Norgaard, and Schlosberg would show, such is inadequate in terms of understanding the real culprit of the issue. In a way, people underestimate the harm caused by corporations since the same have the power to hide everything under the guise of their CSR projects. The trouble lies in the effect of industrial activities. Dryzek, Norgaard, and Schlosberg say:

"National governments are embedded in market economies that constrain what they can do, and the social realm is often limited by economistic frames and discourse. However, markets are not necessarily just a source of constraint. Markets are also made up of producers and consumers who might themselves change their behavior in ways that reduce emissions. The most important producers here are large corporations."[11]

The above points to the challenges before us. BP once marketed itself as "Beyond Petroleum" until the oil spill in the Gulf of Mexico. It can be argued that the real problem is the neo-liberal system that has for so long a time controlled the world. Consumerism dictates how people behave and explicates, as a result of the lifestyles created by the market, why individuals tend to think of the environment as nothing more than a commodity that is meant to be consumed. Indeed, what is to be done is to irrevocably overhaul an exploitative system.

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[7] Antonio Contreras, "The Political Economy of State Environmentalism: The Hidden Agenda and its Implications on Transnational development in the Philippines." In *Capitalism Nature Socialism* 2:1 (1991): 66.

[8] Marites Vitug, "Forest Policy and National Politics." In *Forest Policy and Politics in the Philippines*, ed. Peter Utting (Quezon City: Ateneo de Manila University Press, 2000), 11.

[9] John Dryzek, Richard Norgaard, and David Schlosberg, *Climate Change and Society: Approaches and Responses*. (Oxford: Oxford University Press, 2011), 1.

[10] https://thehill.com/policy/energy-environment/335955-trump-pulls-us-out-of-paris-climate-deal

[11] Dryzek, Norgaard, and Schlosberg, *Climate Change and Society: Approaches and Responses*, 1.

Free market environmentalism or indigenous wisdom?

Liberal environmentalism is an approach that considers, first and foremost, the sustainability of the people's ways of life. The idea of sustainable development, in this respect, does not reject the manner in which states and societies handle climate justice issues. Although citizens desire to protect the environment, they may not be able to do away with the modern ways of living. Meaning to say, liberal environmentalism is the attempt at some form of a compromise. There is really no way to return to the original state of our natural environment. Jessica Dempsey explains:

"The approach desired by the scientist-bureaucrat can be summarized as follows: "In order to make live, one must make economic." In other words, for diverse nonhumans to persist, biodiversity conservation must become an economically rational, sometimes even profitable, policy trajectory. For several decades now, environmental economists and policymakers have discussed the need for a market…".[12]

What government policy makers are looking at are economic frameworks that are acceptable. For instance, it may well be counter-productive for impoverished states to wait for investors if there are persons who want to put up a coal-fired plant. Hence, Bernstein (2002, p.2) thinks that the "norms of liberal environmentalism predicate international environmental protection on the promotion and maintenance of a liberal economic order." Any government cannot just walk away from its perceived comfort zone. In this case, the Rio Conference comes to mind. Bernstein notes:

"The elements of the specific compromise institutionalized at Rio include state sovereignty over resources (and environment and development policies) within a particular state's borders on the political side, the promotion of global free trade and open markets on the economic side, and the polluter pays principle and its implicit support of market instruments over strict regulatory mechanisms and the precautionary principle on the management side." (p.4).

Bernstein mentions the fact that sustainable development had "emerged in the 1980s as that breakthrough idea, becoming the dominant conceptual framework for responses to international environmental problems and capturing the imagination of world opinion. In this way, liberal environmentalism is the marriage between sustainability and environmental protection. While neo-liberals will acknowledge the effect of corporate greed and a 'throw-away culture' on the environment, they also realize that the means of survival of people cannot just reject what states have been building for centuries – industries, corporations, exploitation of natural resources. Jan Narveson, in this regard, argues in favor of the free market.[13]

The concept of a free market rests in the position that states can protect the environment by strengthening private property rights. The argument proposed by Narveson is that the concept of public goods only reinforces the "tragedy of the commons" which puts our natural resources into the hands of the government which in the end might not be able to preserve it. Tony Smith rejects such an argument. The idea of putting our natural resources into private hands does not guarantee that the environment will be safe from abuses or over-exploitation. It is not necessary to privatize public property to achieve an equilibrium with the natural environment.[14]

A shift to a green economy, one that is based on communal preservation, has been suggested. The idea includes small farms, urban gardening, and the abandonment of the use of commercial pesticides that have been proven to be harmful to the environment. Industrial farming and large-scale agricultural plantations, for example, have been blamed for massive forest denudation due to the need to clear thousands of hectares of land as a requisite for large-scale plantations.

It may be said that climate debates among nations at the UN remain to be interest-based, a kind of politics that is defined by those who are in positions of power in the global hegemonic order. This can be challenged, however, when we speak of indigenous peoples (IP), whose local wisdom has not been utilized in fighting climate change, although their communities are good models for the harmonized relation between human beings and nature. Western models and rationalities are usually employed in climate discussions, with the use of scientific evidence as the universal basis for every claim, sans the contribution of indigenous knowledge.

Indigenous peoples and communities have been reduced into helpless moral patients. Though they too are stakeholders in the climate change debate, their important voices have been pushed in the sidelines in favor of universal liberal principles. But if history is to be used as judge when it comes to human survival, IP communities are a good example. In fact, for hundreds of years, IP communities have survived the onslaught of colonialism and modernity. IP communities have found ways to adapt to the present times. Jose Mencio Molintas elaborates:

"The indigenous peoples in the Philippines continued to live in their relatively isolated, self-sufficient communities, at the time when most lowland communities had already been integrated

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[12] https://canadiandimension.com/articles/view/the-tragedy-of-liberal-environmentalism

[13] Jan Narveson, "The Case for Free Market Environmentalism." In *Journal of Agricultural and Environmental Ethics*, 8:2 (1995), 145.

[14] Tony Smith, "The Case against Free Market Environmentalism." In *Journal of Agricultural and Environmental Ethics* 8:2 (1995), 131.

into a single colony under Spain in the 1700s and 1800s. They were able to preserve the culture and traditions of their "ethnos" or "tribe" as reflected in their communal views on land, their cooperative work exchanges, their communal rituals, their songs, dances, and folklore."[15]

Karl Gaspar says land for indigenous peoples is sacred.[16] This means that for IP communities, there is a bond between humans and the earth, which means that IP wisdom teaches us to respect the environment and not to overuse the same, to take only what is needed, and not to exploit the goods of the earth. According to Molintas, "land is a central issue to indigenous peoples because it defines their very existence."[17] Land defines the way of life of IP communities. It is this way of life that enables local ethnic groups to preserve the environment. This is because the survival of the tribe depends on land.

For local tribes, the idea is to take only from the earth what a person needs and nothing more. The way of life of indigenous peoples teaches us to respect mother-nature and for this reason, we must not abuse the natural environment. The employment of indigenous wisdoms brings us to a realization of the important value of maintaining the balance between human interests and environmental preservation. Perhaps, this is the most useful proposition against the onslaught of a modern consumer culture which tend to commodify everything.

Indeed, the intrusion of corporations continue to threaten endemic cultures and the tradition of IPs. An avalanche of intruders does not only disrupt the peaceful lives of the locals but also harms the future of indigenous cultures. While indigenous wisdom is important in learning how to adapt to global climactic changes and react urgently to catastrophic events, the same is under threat from a neo-liberal system that focuses on economic growth at the expense of human lives. As such, we must understand how local wisdom can be used to counter the destructive forces of capitalistic expansionism.

On global climate justice

The biggest problem confronting humanity is the lack of a moral voice in the effort to solve the climate crisis. The frustration that comes from Greta is a manifestation of the sentiments of cause-oriented groups who believe that governments are not doing enough to address the issue. Yet, the real trouble comes from the fact that the United Nations does not have any authority or control over corporate misdeed. Enforcement becomes another issue in view of the fact that compliance is difficult in Third World countries. Moreover, the belief among the poor is that the lifestyle of affluent individuals is to be blamed for all the climate mess we are in.

Markets have proven themselves to be a destroyer of worlds. This has been shown in the Great Depression when Wall Street crashed. The most recent of course is the subprime market in the US that caused a recession, forcing the US Treasury to inject hundreds of billions of dollars to bail out banks and huge corporations. In 1997, the Asian financial crisis also stifled growth while Structural Reform Adjustments in Latin America during the 80's plunged the continent into political chaos. The truth of the matter is that ordinary citizens do not trust big corporations. There is no guarantee that corporations are willing to absorb the enormous social costs of climate change. In the end, the profit-driven agenda of corporations prevents the world from realizing a consensus when it comes to a pragmatic solution.

In truth, climate politics is full of ironies and contradictions.[18] While the UN is aware that the concept of a free market economy has contributed to the climate crisis, it also cannot criticize a dominant neo-liberal system. Third World countries cannot just tear down their coal-fired plants like Germany, considering that green energy is expensive to produce. In addition, the problem is that it is difficult to entice investors to build new power plants since investment returns cannot be guaranteed by national governments. While the Philippines desires to construct or even operate the mothballed Bataan facility, it actually does not have the technical competence. The reality is that we are still dependent on fossil fuels. Bernstein finds a problem with the UN strategy:

"While this [UN)] strategy may make some headway within liberal environmentalism, it is also subject to the limits of corporate self-regulation since the UN has no mandate to independently regulate private corporations. At the same time, some civil society groups, frustrated with the limited ability of international institutions to address environmental concerns under the current governing arrangements, have begun to launch more radical forms of opposition to challenge the legitimacy of existing institutions."[19]

The way forward is to dismantle the grip of corporate [oil] interests in climate discussions. This means that states and governments should make the well-being of the environment a priority and not the economic interests of multinational firms. This will

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[15] Jose Molintas, "The Philippine Indigenous Peoples' Struggle for Land and Survival and Life: Challenging Legal Texts." In *Arizona Journal of International and Comparative Law* 21:1 (2004): 275.

[16] Karl Gaspar, *Manobo Dreams in Arakan: A People's Struggle to Keep Their Homeland*. (Quezon: Ateneo de Manila University Press, 2011), 1.

[17] Molintas, "The Philippine Indigenous Peoples' Struggle for Land and Survival and Life…," 275.

[18] Bernstein, *The Compromise of Liberal Environmentalism*, 12.

[19] Ibid., 13

require recognizing local culture and ways of life that pay respect to nature. For instance, mining firms should not touch ancestral lands. States should guarantee the protection of indigenous communities from the intrusion of destructive mining and other industrial practices that harm the environment. This means putting an end to a profit-driven system. Communities must be given the freedom to pursue their indigenous ways of life without interference from outsiders.

The "polluter pays principle" reveals that those who produce pollution should pay for the health and environmental costs of pollution. But this market-driven principle is not effectively working. This is because such a method only incentivizes environmental destruction, forcing poor societies to sell their balance in their carbon limits. Poor countries do not actually have industries that match those in the First World. For this reason, the money states get from selling their carbon emission quotas do not contribute to cleaning the earth. The funds that come from these approach that the state earns only goes into the pocket of corrupt politicians who cut corners to get contracts from the government and thus, continue to take advantage of the most vulnerable in their societies. Roy Cordato explains:

"The use of "market-based instruments" to enforce these arbitrary curtailments of the use of property are often justified on the grounds of "economic efficiency." Instruments such as tradable emissions permits are said to result in less misdirection of resources than command and control solutions to pollution problems. However, when the fundamental concept of pollution is misguided, and the target reductions are made arbitrarily without the benefit of market signals as to the costs of production or the wishes of the consumers, no instrument is efficient".[20]

Unsound environmental practices, Smith (1995) notes, can harm the future generation And yet the future generation cannot sue today's violators. There is a need, in this regard, to protect people from rent-seeking or "the possibility of state policy being dictated by a coalition of state officials and private interests groups." (p. 138). To enforce the same, it is necessary for governments to strengthen their institutional approaches to environmental issues. Civil society groups must work toward the democratization of decision-making processes in weak states. Violators of environment laws must be punished and be held accountable for the social costs. The idea is to rectify an injustice and to redistribute resources in order to benefit the poor.

Liberal environmental justice may put constraints on choices that might affect the situation of the worst off, which in this case are the poorest.[21] Protecting the planet means protecting the most vulnerable people. Climate justice, in this way, is about the preferential treatment we must give to those who are mostly affected by calamities – women and children, persons with disability (PWD), the poor and homeless among us. We must remember that moral responsibility is about the burden we carry for causing pain and discomfort to people. To protect the planet as our home also means that societies have to compensate all those who have been victims of irresponsibility and corporate greed.

Conclusion

This paper started with an assessment of Greta Thunberg's speech at the UN Climate Summit. We examined her position under the moral lens of liberal environmentalism. Such view considers the power of market forces while also recognizing the duty to preserve the environment. In this way, it can be said that green politics is still market driven since as Bernstein notes, states can only look for a compromise, but cannot do away with an economic system that has undermined climate policies. The position of this paper points to the free market as the fundamental root of the problem when it comes to environmental degradation.

Free market environmentalism argues for the strengthening of private property rights to protect the environment from the "tragedy of the commons." The problem, however, is that corporations cannot be trusted to absorb the social costs. The idea of "polluter pays" only incentivises the over-exploitation of the environment. The approach using the market only reinforces the root cause of environmental degradation in the world today. The more urgent thing to do is to determine ways that will protect the environment from the rent-seeking ways of private interest groups. Profit is the main motive of corporations. It is also the enemy of the environment.

The concept of using indigenous wisdom toward a greener society has been proposed countless times. The way of life of indigenous peoples is rooted in communal practices that consider the land as sacred. The basic point with regard to such is that it counters the commodification of resources and makes the respect for mother-nature the centerpiece of human activities. The threat, however, remains because of the intrusion of corporate interests in IP areas. For this reason, the government must secure the rights of IPs to their land and way of life.

States and governments, through the arrangements and dialogues led by the UN, have not found a solution. The reason is more economic than political. Some powerful state interests are out there to protect market forces. This is obvious given the hegemonic system in global politics. Climate politics, in this way, has become more of a problem rather than a positive way forward, following Thunberg's outcry. The "polluter pays" approach does nothing to

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[20] Roy Cordato, "The Polluter Pays Principle: A Guide to Policy Makers." (Washington: The Institute for Research on the Economics of Taxation, 2001), ii.

[21] Derek Bell, "How can Political Liberals be Environmentalists." In *Political Studies* 50: 714.

reduce in a significant way the carbon footprints of affluent industrial societies.

Indeed, the threat remains. The threat comes from state interests that also collude with corporate interests. Governments, in this way, wrongly negotiate climate justice on the basis of such systemic defect. For this reason, there is a need to dismantle neo-liberal systems and market structures that cause environmental harm. The problem of climate change, in this way, requires more than green politics. Markets tend to protect economic interests above everything else. Society must recognize the needs of the powerless who have suffered from the inaction of policy makers and leaders.

References

Bell, Derek. 2002. "How can Political Liberals be Environmentalists?" In *Political Studies* 50: 703-724.

Bernstein, Steven. 2002. *The Compromise of Liberal Environmentalism*. New York: MIT Press.

Bernstein, Steven. 2002. "Liberal Environmentalism and Liberal Global Governance." In *Global Environmental Politics* 2 (3): 1-16.

Bulanyi, Stephen. 2019. "Greta Thunberg's Enemies are Right to be scared." In *The Guardian*. Retrieved from https://www.theguardian.com/commentisfree/2019/sep/30/greta-thunberg-enemies-inaction-climate-crisis. Accessed on November 8, 2019.

Cama, Timothy and Henry, Devin. 2017. "Trump: We are getting out of Paris Climate Deal." In The Hill. Retrieved from https://thehill.com/policy/energy-environment/ 335955-trump-pulls-us-out-of-paris-climate-deal. Accessed on November 19, 2019.

Contreras, Antonio. 1991. "The Political Economy of State Environmentalism: The Hidden Agenda and its Implications on Transnational development in the Philippines." In *Capitalism Nature Socialism* 2 (1): 66-85.

Cordato, Roy. 2001. *The Polluter Pays Principle: A Guide to Policy Makers*. Washington: The Institute for Research on the Economics of Taxation.

Dempsey, Jessica. 2017. "The tragedy of liberal environmentalism." In *Canadian Dimension* 51 (2). Retrieved from https://canadiandimension.com/ articles/view/the-tragedy-of-liberal-environmentalism. Accessed on November 7, 2019.

Dryzek, J., Norgaard, R. and Schlosberg, D. 2011. *Climate Change and Society: Approaches and Responses*. Oxford: Oxford University Press.

Gajanan, Mahita. 2019. "Greta Thunberg gives powerful speech at UN Climate Summit." *Time Magazine*. Retrieved from https://time.com/5684216/greta-thunberg-un-climate-action-summit-climate-speech/. Accessed on November 7, 2019.

Gaspar, Karl. 2011. *Manobo Dreams in Arakan: A People's Struggle to Keep Their Homeland*. Quezon City: Ateneo de Manila University Press.

Kalkstein, Adam. 2019. "Sorry Greta Thunberg, but you're (mostly) wrong." In *New York Daily News*. Retrieved from https://www.nydailynews.com/opinion/ny-oped-sorry-greta-youre-mostly-wrong-20190924-t7depfksqnfmhpjgcwv6iyfesm-story.html. Accessed on November 6, 2019.

Molintas, Jose. 2004. "The Philippine Indigenous Peoples' Struggle for Land and Survival and Life: Challenging Legal Texts." In *Arizona Journal of International and Comparative Law* 21 (1): 269-306.

Narveson, Jan. 1995. "The Case for Free Market Environmentalism." In *Journal of Agricultural and Environmental Ethics*, 8(2): 145-156.

Smith, Tony. 1995. "The Case against Free Market Environmentalism." In *Journal of Agricultural and Environmental Ethics* 8 (2): 126-144.

Vitug, Marites. 2000. "Forest Policy and National Politics." In *Forest Policy and Politics in the Philippines*, ed. Peter Utting. Quezon City: Ateneo de Manila University Press, 2000.

BOOK REVIEW

The Ethics of Sustainability

Authors: Kibert, C.J., Thiele, L., Peterson, A. and Monroe, M. 2010

Available online at: https://www.cce.ufl.edu/wp-content/uploads/2012/08/Ethics%20of%20Sustainability%20Textbook.pdf

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This book is the foundation for a subsequent volume *Working Toward Sustainability: Ethical Decision Making in a Technological World* published by Wiley (2011). The freely available online version reviewed here, contains much of the text without the supporting illustrations and figures of later purchasable editions. Nonetheless it remains an extremely useful supporting text for university students embarking on environmental ethics courses. Sustainability is now an established ethical principle. However, it is important to recognise that the term has multiple definitions and is used by different actors to reinforce their own agendas. The widely quoted Brundtland Report's definition is more than thirty years (a generation) old yet for many societies the new generation's needs have already been compromised. Kibert *et al*'s book begins by highlighting some of the fundamental issues relevant to sustainability including population growth, consumer behaviour, resource depletion, climate change, biodiversity loss, soil and water quality, as well the inequality of wealth distribution. These are all just as if not more important today as they were ten years ago when *The Ethics of Sustainability* was written. For example, last year the IPCC reported regarding the biodiversity crisis that one million species are now facing imminent extinction. The remainder of the introductory chapter outlines the alternative frameworks for sustainability including the Hannover Principles, the three legged stool, corporate responsibility and nature based systems conditions.

Written with engineering students in mind Kibert *et al* establish an inextricable link between sustainability and technology. Yet, recognizes that technology and science alone cannot address the complex issues of sustainability in isolation of human behaviour and relations. The book is divided into three sections: the foundations with historical

insights, the theoretical basis of ethics relevant to sustainability and then putting principle into practice. Specific chapters are devoted to exploring the very concept of sustainability, an overview of ethical philosophy, the social and environmental ethics and a thorough background to capitalistic and economic ethics.

The authors make the ethical issues explicit and unpack them in a coherent and comprehensive manner. In the third chapter for example, different perspectives of various religions are seen as contemporary Christianity emphasizing stewardship, Hebrew-Christian social justice demonstrating interdependence and relations between people, Islam and Catholics largely agreeing on concepts of justice, equality, equity and charity and that as God created all living things they have intrinsic value in themselves. Buddhist ethics are built upon respect and relational values. These points underpin many arguments in favour of environmental justice. Secular classical philosophical ethics emphasis qualities of leadership, and virtues such as wisdom; qualities in short supply it seems in some present-day governing bodies, yet essential if sustaining meaningful and fulfilled lives is the ultimate goal we are aiming for. The authors note that deontological ethics of rules and duties has evolved to establish various rights. However, rights in this present day sense is from a clearly western origin and could be seen as a western ideal. Other major frameworks are outlined and discussed such as consequentialism being useful when a unified approach for common outcome is sort, or that pragmatism has strength in setting strategies to achieve attainable goals. The central chapters explore principles that are fundamental to sustainability: procedural and distributive justice, polluter pays, precaution with the virtue of prudence at its core, reversibility, intergenerational justice and the right to know.

The final section of *The Ethics of Sustainability* demonstrates how ethical principles and theories of change and social learning can be applied in decision making and to resolve conflicts. This reveals some barriers in simplistic analyses and highlights the long-term benefits of systems thinking. To conclude the authors apply the theory of planned behaviour and the diffusion of adoption of technological innovations to demonstrate how changes in personal, professional and societal norms take time to be taken up and become embedded. There are a variety of brief case studies from different contexts around the world that are cited to illustrate the points and bring the theory to life.

The Ethics of Sustainability is very readable and clearly conveys the core points relevant to its title. The fact that it so accessible and not dependent on the ability to pay is surely the essence of sustainable ethics, being not only affordable to already advantaged people. In my mind, this adds greater credence to the authors as they have applied the principles to themselves. This too is a founding principle of AUSN; Education for the people by the people. I strongly recommend *The Ethics of Sustainability* as a valuable resource for background reading for all researchers and students new to sustainability and environmental ethics.

The Iraq Commitment Medals

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I have written previously about the ethical issues raised by the Iraq war (Issa, 2010). This short paper is not to diminish any conception of the evils of war, but reports on postwar cooperation between The USA and Iraq. It is extraordinarily rare when something good comes out of war (Šmihula, 2004). But even in the most noxious tropical miasma or foul-smelling Southeast Asian swamp emerges the lotus blossom – a fragrant and very ornamental flower prized for its beauty and sweet scent (Mukherjee et a., 2010). So it is possible something positive can emerge from the horrors of war (McBean, 1998).

The Iraq Commitment Medal (ICM) is in the same category (Figure 1). The ICM was authorized by the Government of Iraq in June 2011 for all Coalition Forces nations who sent military troops to serve in Iraq during Gulf War II (Al-Dlaimi, 2001). The award was created as a thank you or in appreciation to those countries to helped to overthrow a tyrant and finally establish freedom for the Iraqi people. However, the Government of Iraq's official authorization letter stated that each of the 42 Coalition Forces nation could manufacture the ICMs at their own expense and distribute them to their own troops.

Each Coalition Forces nation refused the Government of Iraq's offer. Only the U.S. government initially accepted the ICMs and has allowed retention by each individual recipient, but not for wear. However, the whole matter lay dormant for almost a decade.

In November 2019, the Government of Iraq issued an exclusive license in an official authorization letter to a U.S.-based firm called SEATE Services to manufacture, distribute and redesign the ICM (Al-Shimari, 2019). They further authorized a civilian version of the ICM, in addition to the military version of the medal (Le Blanc, 2020). SEATE Services is in the process of distributing all ICMs to each Coalition Forces nations for free so they can distribute the ICMs to those military and civilian government workers who earned the medal (Le Blanc, 2020). To date, only the Government of Nicaragua has authorized the acceptance of the ICM for retention by the recipient and official wear on the uniform (Chamikorn, 2020).

The civilian and military version of the ICM are the same except the ribbons on the medals are

reversed for the military version (black-to-red) and civilian version (red-to-black; Figure 1,2). The medallions are the same. As there are at least six different widths and types of ribbons for each Coalition Forces nation, SEATE Services is manufacturing these ICMs to meet each Coalition Forces nation's military specifications so the medal can be worn on the uniform.

The further good news is that the ICMs will be offered for sale to non-recipients; i.e., museums, ribbon and medal collectors, replacement medals, public and private displays, patriotic organizations, veterans groups, extra medals for personal display boxes, memorials, etc. All the proceeds will be given as charitable contributions to bioethics organizations or societies, fund national and international bioethics conferences, support internationally-accredited universities, help bioethics education programs plus also support aid to Arab refugees living in the many refugee camps throughout the Middle East and Thailand.

The ICM now stands as a symbol of recognition of past selfless service to others, but it also stands as a real symbol for future selfless service to many.

Figure 1: Photos of the Iraq Commitment Medals

References

Al-Dlaimi, S., Dr. (2001, June 11). Letter from Dr. Saadoun al-Dlaimi, Iraqi Minister of Defense, Iraq Ministry of Defence to Dr. Leon Panetta, U.S. Secretary of Defense, U.S. Department of Defense, Washington, DC. *Official Authorization and Offer of the Iraq Commitment Medal to the U.S.A. and other Coalition Forces Nations.* Baghdad, Iraq:Iraq Ministry of Defence, Government of Iraq.

Al-Shimari, General N. H. (2019 November 07). Letter from General Najah Hasan Ali Al-Shimari, Iraqi Minster of Defence, Iraq Ministry of Defence to Mr. Leonard H.Le Blanc III, SEATE Services, Manhattan, KS, USA. *Approval for an ExclusiveLicense to Manufacture, Distribute and Sell the Iraq Commitment Medal.* Baghdad, Iraq: Iraq Ministry of Defence, Government of Iraq.

Chamikorn J. (2020 January 28). On behalf of the Honorary Consul (MR) Kritsada Mahavijit, Personal Assistant to Honorary Consul, The Consulate of the Republic of Nicaragua to the Kingdom of Thailand. *Official Approval of the Government of Nicaragua to Formally and Officially Accept the Iraq Commitment Medal for Retention and Wear by their Recipients.* Consulate of the Republic of Nicaragua: Bangkok, Thailand. https://mail.google.com/mail/u/0/#inbox/KtbxLxGPngtjsQbDrRKZJwvdmbsLSMrPlq

Issa, L. (2010) .The Invasion of Kuwait: Reasons, Agents and Chances for Peace, pp. 89-96 in Macer, D.R.J. and Saad-Zoy, S. *Asian-Arab Philosophical Dialogues on War and Peace.* UNESCO: Bangkok.

Le Blanc, L. H. III. (2020, February 11). Letter from SEATE Services to U.S. Secretary of State Michael R. Pompeo, U.S. State Department, Washington, D.C. *Offer the Iraq Commitment Medal to U.S. State Department Civilian Employees.* SEATE Services: Bangkok, Thailand.

McBean, S. C. (1998). *Out of War: True Stories from the Front Lines of the Children's Movement for Peace in Colombia.* New York, NY: Scholastic Press.

Mukherjee, P. K., Mukherjee, D.; Amal K. Maji, A. K., Rai, S., and Heinrich, M. (2010). The Sacred Lotus (Nelumbo nucifera) Phytochemical and Therapeutic Profile. *Journal of Pharmacy and Pharmacology, 61*(4), 407–422.

Šmihula, D. (2014). *The Use of Force in International Relations.* San Francisco, CA: Veda Publishing Co., p. 67.

The Sacred Lotus (Nelumbo nucifera) – Phytochemical and Therapeutic Profile. *Journal of Pharmacy and Pharmacology, 61(*4), 407–422.

Surrogate Motherhood in Nigeria: An Ethical Appraisal

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Abstract
The question of surrogate parenthood comes when a woman who wishes to conceive and raise a child is medically incapable of carrying a pregnancy. The inability of a Nigerian woman to fall pregnant within months of marriage is usually seen as a cause for anxiety and if this condition continues for some years, the woman is tagged barren and treated as a woman with a disability. In most cases, the husband's family mount pressure on the husband to either marry an additional wife or another wife to produce a child. This leads many women to make desperate decisions that may not necessarily be legally recognized, including the practice of buying babies. This leads many Nigerian women to make desperate decisions that may not necessarily be

legally acknowledged, including buying babies from surrogate mothers. The article examines surrogate motherhood practice in Nigeria.
Keywords: Nigeria, surrogacy, Motherhood, Ethics.

Introduction

According to Warnock (1984) surrogacy means —the practice whereby one woman carries a child for another with the intention that the child should be handed over after birth. Surrogate motherhood involves a contract or agreement between desiring parents and a fertile woman who is going to be the surrogate mother of the child-to-be. The surrogate mother is either fertilized with the sperm of the contracting man or artificially conceived the embryo of commissioning couple through IVF and go through a full-time pregnancy. According to the agreement surrogate mother has no right on the child after birth, she has to surrender the child to the prospective parents, just after birth. Thus surrogacy is also defined as contractual pregnancy. Surrogacy arrangements may take several forms, depending on where the gametes come from. Gametes, i.e., sperm and egg may be supplied by one or both of the commissioning couple, the gestational mother/ or her partner or by the third-party donor. Based on these criteria surrogacy can be divided in to two type- 1) traditional surrogacy and 2) gestational surrogacy.

Traditional Surrogacy

In Traditional Surrogacy (T.S) a woman becomes impregnated by artificial insemination or in vitro fertilization, using her egg and the sperm of another man (either the commissioning father or donor) (Strasser 2015, p.85). She agrees to carry the child to full term before the birth and relinquishes her parental right just after the birth of the child.

Gestational Surrogacy

In Gestational Surrogacy (G.S) a woman is impregnated by the fertilized embryo through IVF technology like traditional surrogacy she agrees to bear the child to full term and relinquish her parental rights just after the birth of the child. The difference between T.S and G.S is that in T.S the genetic mother is the gestational mother but in gestational surrogacy gestational mother and genetic mother are two different persons (Quinn & Huddleston 2017, p.228).

Surrogate Parenthood in Nigeria

There is currently no legal framework governing surrogacy in Nigeria; however, there is a country-wide system of regulated third-party reproduction (Adelakun, 2018). The pro-natalist nature of the typical African society where procreation is called invaluable has undoubtedly contributed to the slow rate of acceptability in the conduct of surrogacy as well as to the possible development of a regulatory framework work. Some current investigation exposed the custom of surrogacy in some parts of the country most especially among the rich families who are unable to give birth to children, although the validity of such actions remains debatable provided the non-existence of any legislation or constitutional pronouncement on the said operation.

Surrogacy contracts in Nigeria are based on simple contract terms; therefore, the concern is whether such contracts which are conceived for surrogacy purposes can be enforced in our national courts. Amidst other conditions, most contracts require two key elements to make them legitimate and enforceable: The sides must agree (based on an agreement between the parties), and something of worth must be swapped to serve as a condition (Makinde et al, 2016).

As with most jurisdictions, it becomes enforceable in Nigerian once a contract has satisfied the required element. Although there is no law or statute in Nigeria regulating the surrogacy act, its contracts and pacts remain enforceable. The morality and public policy standpoint may present a contrary view on the enforcement of surrogacy contracts; nevertheless, it does not alter the fact that surrogacy contract terms fall within legally enforceable agreements (Makinde et al, 2016). So, to say the least, it may be suggested that legislative intervention enactments are needed to help curb possible abuse or exploitation of the procedure. Hence there is the need for a legal framework serves to guarantee adequate enforcement.

Ethical Issues

Perhaps the greatest moral objection against surrogacy lies in the notion of selling baby in surrogate motherhood. These arise when surrogacy is commercialized or it involves monitory transactions. According to the contract, the surrogate mother would bear the child up to nine months and renounce her parental rights just after the birth of the child however she is paid a ransom for doing this. The moral problem with selling persons in this context would be understood with the help of Immanuel Kant's moral doctrine. According to Immanuel Kant, "everything in the kingdom of ends has either a price or a dignity" (Paton 1947). If it has a price something else can replace it as an equivalent, for example, my wristwatch, If I found my wrist-watch old fashioned I have two ways either I sell it or exchange it with another wristwatch. But if a thing is exalted above all price and has no equivalent then it has dignity. For example, persons have dignity means they are priceless, they are not replaced by anything else. Thus Kant's distinction between things with a price and things with dignity helps us to understand what is wrong in selling human beings. The selling of human beings treats rational human subjects as commodities, which is an insult to that person's dignity.

On this ground Herbert Krimmel in his article "*The Case Against surrogate Parenting* suggests that" Things one pays for have a way of being seen as

commodities" (Krimmel 1983, p.37). It means that putting a price on a person would transform them into mere commodities which are an affront to his dignity. However, this is done in surrogacy. According to Krimmel surrogacy contracts turn children into commodities though not permanently but temporarily which degrades their self-worth (Krimmel 1983, p.37). He says —Even though one of the ends may be stated altruistically as an attempt to bring happiness to an infertile couple, the child is still being used by the surrogate. She creates it not because she desires it, but because she desires something from it (Krimmel 1983, p.38). Exchange of money in surrogacy makes the fact clear that a child is a means to its biological mother's end.

Here it would be pertinent to discuss another problem cropping out from the surrogacy issue. Surrogacy arrangements not only degrades human value but also degrades the bond between a newborn and its mother. Research reveals that both the newborn child and gestational mother are tied in a profound bond during pregnancy. The hormone oxytocine plays a crucial role to establish such bonds and promote maternal instincts. This bond becomes more profound after the birth of the child. Interaction between gestational mother and the newborn like skin to skin to skin contact, breastfeeding initiate the continuous release of oxytocin which promotes this bond and helps the newborn to develop and cure the mother. It is undeniable that this deep emotional bonding is established during pregnancy and it gradually grows with the period of gestation. In this context, Rosalie Ber maintains, —One much-neglected aspect of the surrogate mother's mental health relates to the phenomenon of bonding…though lacking scientific proof many psychologists, psychiatrists and developmental biologists believe that a special tie develops during gestation between many, if not most, pregnant mothers and the child they bear in their womb (Ber 2000, p.153). Carrying a baby in the womb, feeling her existence within body, supplying her nutrients, feeling her kick after five months and at mature stage of pregnancy seeing her movements within the body gradually grows the urge to love her, cuddle her, protect her from every harmful thing, and then departing from that baby just after the birth inevitably breaks forth emotional shock that may lead to severe depression.

Ted Peters in his book *For the Love of Children: Genetic Technology and the Future of the Family* states, *"The surrogate mother is likely to find the whole adventure more difficult in executing than in planning. The various methods of implantation are complex and time-consuming…The pregnancy may include unforeseen side effects, and the childbearing itself may be quite painful. As the bond develops between the surrogate mother and the life growing in her womb, it may be difficult to think of the child as 'theirs 'and not 'hers'. The relinquishment of the baby may turn out to be much more difficult than anticipated, and for weeks afterward, she might be burdened with a sense of loss"* (Peters 1996, 63).

Surrogacy arrangements destroy such bonds, parting mother from her new born. Now in response to first objection it is said by the proponents of surrogacy that surrogate motherhood is not a case of baby selling, rather this is the case of selling service. It occurs in three stages; first, the surrogate mother is impregnated by the sperm of the couple or by the embryo fertilized in a laboratory whose genetic material perhaps supplied either by the commissioning couple or donor, through IVF. Second, the legal stage where a contract is made between surrogate mother and the commissioning couple which holds that the surrogate has to go through a full-term pregnancy and deliver the child to the commissioning couple after the birth of the newborn and breach of contract would cause monitory compensation. Then comes the third stage, where the question of money comes, the surrogate receives money out of her service. So it is concluded that surrogacy is just a case of selling service not a case of selling the baby.

But the opponents retort that if money is paid for gestating the child which is termed as 'service' in this context then there should be no legitimate expectation on the part of the couple that the child will be delivered to them just after the birth and in turn the surrogate mother also has no liability to hand over the child. Fact is that if surrogate mother is being paid for her service then she has no liability to deliver her child to the expectant couple, what she is paid for is simply gestating the child . However, this is not done. So here raises the question about the object of trading money. The commissioning couple pays money for the child not for the service. The couple desires the child and that is why surrogate is being paid for the gestating child and liable to deliver the child. From this point, it is assumed that in case of surrogacy money is exchanged for the child not for the service. Hence surrogacy arrangement is an example of baby selling.

In response to such objection, the proponents of commercial surrogacy suggest focusing on the role of surrogate mother. A surrogate acts like a procreator while providing an ovum, then she acts like a host to the fetus, she helps the fetus to develop safely in her womb, nurtures it and protects the fetus. All these things she does as a —foster mother or a —wet nurse (Peters 1996, 63) who looks after the child when a natural mother cannot do so. For example, let us assume a situation where a governess looks after a child whose parents are very busy in their working field and thus appointed her to take care of their only child with a handsome salary. In such a situation, that governess does all the things that a mother is supposed to do, from day to night, and for doing this she is paid. But this does not imply that she makes that child a mean to her financial end. She simply sells her service against which she receives money. In the case of surrogacy surrogate mother also plays the same role as a governess who is

nothing but a caretaker of the child. However, given the biological and psychological attachment following from gestation such a surrogate is a really more intimate caretaker than a mother. Her service which is a unique kind of caretaking engagement does not degrade the child's dignity as a human being. Now another doubt might be raised regarding the role of commissioning couple. It may be doubted that the child is a means to fulfill the emotional end of the commissioning couple as they are purchasing the surrogate's service. Perhaps this objection does not take a strong position against commissioning couple. It is true that the commissioning couple who are the legal parents of the child purchase the surrogate's service, but they do so to arrange their child's early biological development. For example, beside surrogacy there are lots of cases where biological and gestational mother becomes incapable to bear children after few months of pregnancy. In such cases doctors operate her and keep the premature baby in an incubator which functions like an alternative womb and survives the child. This medical procedure charges a heavy amount and the parents admit that for the sake of their child. The same thing happens in case of surrogacy also. The commissioning couple here provides the necessary genetic material and makes an arrangement for their child's early biological development that is why they appoint surrogate who will rent her womb for nine months to beget their child. All these arrangements are done to have their own child who is an end in himself. Thus it is concluded that surrogacy arrangement has no connection with baby selling.

owever, the above discussion shows that surrogacy is not baby selling though it brings forth another burning issue regarding the service of the surrogate. Opponents of surrogacy alleged that commercial surrogacy is similar to prostitution. American feminist Andrea Dworkin says in this context that surrogacy is — a new branch of female prostitution with the help of scientists (Dworkin, 1983). According to the opponents both surrogates and prostitutes use their body to earn money. In both cases, physical service is being offered in absence of emotional attachment. Thus it degrades the dignity of women's reproductive system. So it is immoral.

According to E. S. Anderson surrogacy commodifies reproduction. She uses a term —alienated labor to the service of surrogate mother (Anderson 2018, p.167). The term —Alienated Labor is taken from Hegelian philosophy and used to refer to such situations where the product of labor is separated from the producer because the producer surrendered it to the market. According to Anderson pregnancy should not become a form of alienated labor, because it commodifies women's reproductive labor. Anderson holds that pregnancy is not like other services, it has great worth, great value because it is about a preparation to bring a new life and that is why it owes dignity which should not be forbidden (Anderson 2018, p.167). As surrogacy commodifies pregnancy and degrades it‘s worth, so surrogacy is immoral.

Surrogacy seems problematic for two reasons; one, it involves monitory transaction and second, it departs the child from its gestational mother. It is discussed before that an emotional bond generates between mother and fetus during the period of pregnancy. This bond becomes more profound after the birth of the child and for many emotional and medical reasons the new born and its gestational mother needs to live together, which helps the baby to develop and mother to recover soon. Thus departing the baby just after the birth from the gestational mother seems non-human. It damages the fetal maternal bond, which is the purest bond of love and affection, second, monitory transaction destroys the respect and dignity of reproduction. Following the famous philosopher Immanuel Kant we can say dignity is priceless. However, there are many things which are priceless for instance a gold spec of my grand grandmother. But if thieves come to my house and ask for that keeping a gun at my child, I will surrender it for the sake of my child's life. But human dignity is something which cannot be exchanged by anything, neither by money nor by power nor for the sake of any good consequence. Hence commoditizing reproductive dignity is immoral.

Moral Evaluation of Surrogacy

Surrogacy arrangement can be divided into two kinds, viz altruistic surrogacy and commercial surrogacy. In altruistic surrogacy surrogate mother bears the child for the commissioning couple or person just for the sake of humanity. She does not make any financial profit out of her service. However in commercial surrogacy the surrogate is appointed for nine months and she receives monetary compensation for gestating and delivering the child after birth. Ethical objections against surrogacy arrangements crop out when the monetary transaction gets involved. When money lies at the heart of surrogacy arrangement it is alleged either as a baby selling business or as modern version of prostitution. In this section we intend to evaluate the moral justification of commercial surrogacy from the six different ethical point of view.

Moral Evaluation of Surrogacy from the Utilitarian Standpoint

We shall begin with utilitarianism. Utilitarianism put stress on the consequence produced by an action. If an action produce good consequence for the maximum number of people then that action is good (Nagla 2016, p.3). Hence from utilitarian point of view a successful commercial surrogacy may not be ethically wrong or impermissible as such arrangement serves the interest of all the parties involved in surrogacy. Mainly three parties are involved in commercial surrogacy first, the commissioning couple or person, second the surrogate mother and third the baby. Among them

first two are directly involved as they initiate such arrangement and the third one gets involved being a result of such arrangement. A successful commercial surrogacy arrangement brings happiness to all of them. The commissioning parents became happy after having their child, the surrogate mother receives good amount of money out of her service which may remove her financial crisis and the baby receives parents. Thus nobody is deprived of receiving benefits. Hence from utilitarian point of view commercial surrogacy is morally justifiable.

Moral Evaluation of Surrogacy from the Deontological Standpoint

However deontologists may hold different position in case of justifying commercial surrogacy as deontological ethics gives priority to the moral duty than the consequence. According to Immanuel Kant a person should not be used as a means to an end (Korsgaard 2012, p.76). In case of commercial surrogacy the surrogate mother is used to fulfill the wishes of the commissioning couple or person. She has to bear the child for nine months and relinquish the baby just after the delivery. Despite she is paid for her service but in major cases the amount does not balance over her emotional loss. It is undeniable that during gestation a bond is established between mother and her child. This relationship cannot be equalized with the relation between a labour and his or her product. Besides, for Kant human beings have dignity which is exalted over price. Hence human beings should not be reduced to commodity that are purchased and used. A woman being a surrogate puts her womb for rent for nine months and acts merely as a reproductive machine which degrades her dignity. Nevertheless surrogacy is morally wrong since referring to Kant‘s ethics it is not universally applicable. For Kant —act only in accordance with that maxim through which you can at the same time will that it become a universal law (Korsgaard 2012, p.77). Surrogacy cannot be universalized because had it been taken as a universal way of reproduction then every woman would look for a surrogate to gestate her child, and nobody would be ready to conceive her own child. Consequently conceiving one‘s own biological child will become meaningless. Thus from deontological point of view surrogacy is morally wrong.

Moral Evaluation of Surrogacy from the Standpoint of Virtue Ethics

On the other hand virtue ethics maintains that virtue lies between two extremes. Extreme of any feeling is vice. Virtue ethics put stress on agent‘s character, the states of character from which actions flow. When a mother gives up her child after carrying her nine months in her womb, for the sake of humanitarian ground to those couple who are infertile her action would be considered as benevolent. But when she receives money for doing so that implies that she conceived the baby for achieving monetary profit. It may be said that in surrogacy the surrogate makes profit out of her service, but then it can be asked what kind of service? If she is paid for her service then she is not bound to relinquish her baby after the birth. However this does not happen. If surrogate mother denies to give up her baby after a successful delivery then she will not be paid. Hence surrogate mother is paid against her baby. Thus in case of commercial surrogacy money becomes the alternative of a human baby. Undoubtedly this degrades the bond between mother and child and lust for money makes this action vice. So from the stand point of virtue ethics surrogacy is morally right if and only if it is performed for the sake of benevolence but if monetary profit gets involved in surrogacy then it is a morally wrong action. In this context of virtue ethics it seems pertinent that it has become a fashion nowadays having baby from surrogacy (). Many fertile couple who belong to the upper-class of the society appoints a surrogate because of avoiding the hazards of pregnancy. Their actions are also vice as the lack of proper courage leads there action.

Moral Evaluation of Surrogacy from the Standpoint of Care Ethics

Care ethics is a well- known feminist approach to morality. However in case of commercial surrogacy feminists are divided into two groups having their own distinguish standpoint. Some feminists support commercial surrogacy saying that it paves the way for exercising reproductive freedom. For these feminists, a woman must have right to use her body as she chooses, if that invokes her to rent her womb she is allowed to do so. On the other hand another group of feminists believe that surrogacy is an arrangement which exploits poor and needy women (Korsgaard 2012, p.80). In this arrangement poor women are exploited by the upper-class people. They also charged that commercial surrogacy commodifies women‘s body and resulting children. Now we will evaluate the moral justification of commercial surrogacy from the standpoint of care ethics. According to Virginia Held “...the ethics of care concerns itself especially with caring relations” (Held 2006, p.19). Caring relations have primary value. Now, as far as relation of care is concerned, the best example is the relation between a mother and her child. A mother who gestates her child for nine months into her womb, by virtue of her nature develops a profound emotional bonding of love and care for the child. She is the best care taker of the child and nothing in the world can replace her. However, in commercial surrogacy – a surrogate mother is contractually bound to relinquish her baby just after the birth and for doing this she receives a lucrative amount. Thus commercial surrogacy turns a mother into a labor and her child into a product or commodity and humiliates the mother-child relationship. As care ethics emphasizes on the caring relationship it seems that commercial surrogacy may fail to receive moral permission from this point of view.

Moral Evaluation of Surrogacy from the Standpoint of Principlism

The dominant form of principle based ethics put stress on four principles namely autonomy, beneficence, nomaleficence and justice. Now we are about to explore the morality of commercial surrogacy from this point of view. The first principle autonomy has already been considered as the dominant principle in the field of medical ethics. Autonomy is concerned about the freedom of the will commercial surrogacy engages two parties namely the surrogate mother and the commissioning couple or person. While discussing the moral merit of commercial surrogacy under the light of principle of autonomy question may raise whose autonomy it is. That of the commissioning couple or that of the surrogate mother? In case of commissioning couple or person, it is clear that as they are desiring for baby they make an autonomous choice to have baby through Surrogacy however in case of surrogate it seems arbitrary that whether her participance is fully autonomous or not (Goldberg 2014.). The fact is that, that in commercial surrogacy most of the surrogates belong to poor family. They take part in commercial surrogacy to fulfill their family needs. Often this participation is not voluntary rather out of the pressure of family. Thus it can be assumed that not all time participation of surrogate is autonomous. Sometimes a passive coercion works behind her participation. The principles of beneficence and nonmaleficence stand for providing medical benefits to the patient and do no harm. In case of commercial surrogacy the surrogate mother might be benefitted by the amount that she receives from the commissioning party but the fear of harm to her mental and physical health persists. In an article *Ethical Issues in Gestational Surrogacy* Rosalie Ber has focused on some crucial points considering the health hazard of surrogate mother. She questioned that if the surrogate develops some critical health problems for example breast cancer or malignant tumors who will take her responsibility after contract has been fulfilled (Ber 2000, p.153). Would the commissioning couple take the responsibility of surrogate‘s children or family if she dies during delivery or some sort of illness induced from pregnancy? Apart from the fear of physical harm to the surrogate there also remains the fear of mental harm that results after parting from the child. Hence in any case commercial surrogacy cannot bypass the fear of harm to the surrogate mother. The principle of justice stands for equality and fairness. Commercial surrogacy fails to answer questions from this ground. For example if a deformed child is born who will take his/her responsibility. If both of the parties refuse to take that child what will happen? Besides, let us assume a scenario where doctors are bound to terminate the child to save the surrogate mother‘s life at the final stage of pregnancy. Would the commissioning couple take her responsibility? According to the surrogacy contract the surrogate has performed all her duties but after this incident would she be paid for her service by commissioning couple? Such questions remain unanswered. Thus it is assumed that commercial surrogacy is not morally justified from the standpoint of principle based ethics.

Conclusions

The aim of this research is to introduce and elucidate the controversy over surrogate motherhood Nigeria. We have focused on the central point of these issues that succeeds controversy. The problem with surrogacy leads to a serious allegation namely exploitation of poor women, in third world countries like Nigeria. In Nigeria surrogates are paid around $400 which is a lucrative amount to them indeed. However in comparison to the rate of surrogates in developed countries this rate seems to be very cheap. Hence it is alleged that surrogacy arrangement in third world countries like Nigeria, exploits poor and needy women. The vulnerability of poverty is being exploited in the whole system.

References

Held, V.(2006), The Ethics of Care: Personal, Political and Global, Oxford University Press, Inc., New York

Adelakun, O. S. (2018). The concept of surrogacy in Nigeria: Issues, prospects and challenges. *African Human Rights Law Journal*, *18*(2). https://doi.org/10.17159/1996-2096/2018/v18n2a87

Anderson, E. S. (2018). Is women’s labor a commodity? In *Women, Medicine, Ethics and the Law* (pp. 167–188). https://doi.org/10.4324/9781315189413

Ber, R. (2000), Ethical Issues in Gestational Surrogacy‖, Theoretical Medicine and Bioethics(21), pp. 153-169.

Dworkin A. (1983), Right-wing women: the politics of domesticated females, The Women‘s Press, London.

Goldberg, N. J., & Goldberg, N. J. (2014). Defending Principlism. In *Kantian Conceptual Geography* (pp. 136–164). https://doi.org/10.1093/acprof:oso/9780190215385.003.0006

Korsgaard, C. M. (2012). Kant’s Formula of Universal Law. In *Creating the Kingdom of Ends* (pp. 77–105). https://doi.org/10.1017/cbo9781139174503.004

Krimmel,H. (1983), "The Case Against Surrogate Parenting," Hastings Center Report, vol. 13(5).

Makinde, O. A., Makinde, O. O., Olaleye, O., Brown, B., & Odimegwu, C. O. (2016). Baby factories taint surrogacy in Nigeria. *Reproductive BioMedicine Online*, Vol. 32, pp. 6–8. https://doi.org/10.1016/j.rbmo.2015.10.001

Nagla, M. (2016). Women and Ethics in Medicine: Historical Perspective and Contemporary Concern. *International Journal of Science, Technology & Society*, *2*(1-2). https://doi.org/10.18091/ijsts.v2i1-2.7543

Paton,H.J. (1947), The Categorical Imperative: A Study in Kant’s Moral Philosophy, Hutchinson & Company, Ltd., London.

Peters, Ted (1996), For the Love of Children: Genetic Technology and the Future of the Family, Westminister John Knox Press, Louisville, Kentucky.

Quinn, M., & Huddleston, H. (2017). Gestational surrogacy. In *The Endometrial Factor: A Reproductive Precision Medicine Approach* (pp. 228–233). https://doi.org/10.1201/9781315151472

Strasser, M. (2015). Traditional Surrogacy Contracts, Partial Enforcement, and the Challenge for Family Law. *Journal of Health Care Law and Policy*, *18*(1), 85.

Warnock, D. M. (1984), Report of the Committee of Inquiry into Human Fertilisation and Embryology, World Scientific Publishing, London.

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