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Human Rights and Science

Hans-Peter Zenner (Ed.)

Deutsche Akademie der Naturforscher Leopoldina –
Nationale Akademie der Wissenschaften, Halle (Saale) 2014

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Editor:

Hans-Peter ZENNER (Tübingen)
Member of the Leopoldina Presidium

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The Human Rights Committee of the Leopoldina

The Human Rights Committee (HRC) was established in 2001 and consists of members of the Leopoldina from Germany, Austria, and Switzerland. In 2003, it was admitted to the International Human Rights Network of Academies and Scholarly Societies. As a member of the Network, the HRC assists scientists and scholars, students and their lawyers around the world who are subjected to repression. The HRC organizes the symposium "Human Rights and Science" on a regular basis to discuss worldwide cases of scientists who are victims of human rights violations. Furthermore, the symposium provides a platform to debate human rights aspects and bioethical questions in science.

Members of the Human Rights Committee of the Leopoldina:

- Prof. Dr. Hans-Peter Zenner, Tübingen, Chairman
- Prof. Dr. Gereon Wolters, Constance
- Prof. Dr. Rudolf Cohen, Constance
- Prof. Dr. Bruno Gottstein, Bern (Switzerland)
- Prof. Dr. Horst Aspöck, Vienna (Austria)

Preface

Hans-Peter Zenner ML (Tübingen)

Member of the Leopoldina Presidium

Human Rights such as freedom of speech are essential for science. However, in certain parts of the world scientists still have to face discrimination or repression solely for having nonviolently exercised their rights as stated in the United Nations' Universal Declaration of Human Rights. The Human Rights Committee (HRC) of the German National Academy of Sciences Leopoldina is an active member within the International Human Rights Network of Academies and Scholarly Societies (HR Network), which supports scientists around the world who are victims of human rights violations.

Besides its activities in the HR Network, the HRC periodically organizes the symposium "Human Rights and Science" to discuss with members of the European scientific community, who are often also representatives of academies, cases of scientists suffering from discrimination and repression as well as external strategies to support them. Moreover, the symposium provides a platform to debate human rights aspects and bioethical questions in science.

The articles and statements contained in the present *Nova Acta* publication discuss human rights issues in the thematic areas of education, new media and neurosciences. The first two topics were addressed during the most recent symposium "Human Rights and Science", organized in collaboration with the Polish Academy of Sciences, from 12 to 13 September 2013 in Warsaw. The topic of "Human Rights and Neurosciences" was discussed in the course of the previous HRC symposium, which took place from 13 to 14 September 2012 in Berlin.

Moreover, this *Nova Acta* publication includes speeches and articles by representatives of the Network and national academies of sciences from Sweden, Finland, France and the Netherlands who presented their personal thoughts and the activities of their organizations in the field of human rights during the 2013 symposium.

The HRC publishes the results of the symposia to inform politics and society on critical and challenging developments with regard to human rights and science and to encourage the active engagement of individuals and organizations in this field. The HRC would like to thank all scientists and representatives of academies participating in the symposia for their efforts and their valuable contributions to the promotion of human rights.

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HRC Symposium 2013, Warsaw

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The International Human Rights Network of Academies and Scholarly Societies – Recent Activities and Continuing Concerns

Carol Corillon (Washington, DC, USA)

Executive Director of the International Human Rights Network of Academies and Scholarly Societies

1. Introduction

Good morning and my thanks to the Polish Academy of Sciences, the German Academy of Sciences Leopoldina, and everyone involved in organizing this conference. The topics are important, and I am certainly looking forward to learning from each of the speakers here today and tomorrow.

For my part, I want to tell you about recent activities, a number of successes, and continuing concerns of our International Human Rights Network of Academies and Scholarly Societies (Network). The Committee on Human Rights of the National Academies in the United States, of which I have been director for some 30 years, serves as the Network's secretariat.

2. The Network

When, in 1993, it occurred to me to try to set up a network of science academies to support human rights, I solicited the help of three Nobel Laureates: François Jacob in France, Max Perutz in England, and Torsten Wiesel who is Swedish but was living in the United States, as well as a human rights legal scholar who was, at the time, a judge on the Netherlands Council of State, Pieter van Dijk.

2.1 The Network's Executive Committee

Today, the Network has an international Executive Committee (EC), to which we are adding additional members from Asia, Africa, and Latin America in the coming year. I was delighted to see that one of our dedicated members, Professor Alenka Šelih from Slovenia, is giving a lecture here this afternoon. It is the individual EC members who speak to the public about Network concerns and make occasional public statements and issue press releases on particular issues. We often ask Network affiliated academies to endorse the EC's statements to the press, some of which I will describe during this talk.

I should stress that each academy that is affiliated with the Network acts independently and at its own discretion. Many have established Internet links to the Network from their academies' home pages and post our statements and reports, which is very helpful in gaining foreign press attention to urgent cases and issues.

2.2 The Context of Our Activities

When our founding members held the Network's first meeting at the Royal Netherlands Academy of Arts and Sciences, about a dozen European academies attended. Several meetings later we developed a statement of the Network's aims. It reads as follows:

"The International Human Rights Network of Academies and Scholarly Societies assists scientists, scholars, engineers, and health professionals around the world who are subjected to severe repression solely for having nonviolently exercised their rights as promulgated by the Universal Declaration of Human Rights (UDHR). It stands in solidarity with sister national academies and scholarly societies worldwide to support their independence and autonomy, and it promotes institutional human rights consciousness-raising and commitment to supporting such efforts."

Today, 79 national academies are affiliated with our Network. We meet about every two years at a different academy. The last meeting was hosted by the Academia Sinica in Taiwan. Unfortunately, only about 30 academies have created functioning human rights committees, and many are not very active, but we are persistent. If you are an academy member and have not yet been pestered, you are forewarned!

We are often asked how an academy becomes a member of the Network. Our response? "If your academy actively supports our work, you are considered to be a member." That said, we also understand that some academies in the developing world and in countries with repressive or autocratic governments risk reprimand, loss of funding, and sometimes worse from their governments if they become too outspoken on human rights issues.

If we have succeeded in raising these academies' awareness of the many human rights abuses perpetrated against scientists, engineers, and health professionals – that, in itself, is an important accomplishment. As we are all aware, human rights work takes patience, prudence so as to do no harm, determination, optimism, and sustained commitment. We never drop a case until it is successfully resolved. If a prisoner dies or disappears we go after those responsible and insist that both those who committed the crime and those who planned or ordered it be brought to justice. A bit of serendipity and some old fashioned good luck doesn't hurt our efforts either!

2.3 Defense of Unjustly Accused Colleagues

The Network undertakes the cases of scientists, engineers, and health professionals anywhere in the world who we decide, after careful investigation, are what Amnesty International (AI) calls "prisoners of conscience." The cases we undertake cannot be those of individuals who have advocated or practiced violence.

We are sometimes asked why we defend only our colleagues. I should explain that. We certainly care about the human rights of everyone, be they children, young students, hairdressers, senators, bricklayers, or the unemployed. But we have limited resources. And national academies are scientific organizations that are concerned about human rights issues; but protecting and promoting them are not their raison d'etre.

Many of the scientific issues on which our academies work help fulfil the positive rights of people around the globe: studies related to reduction of carbon emissions, clean water and access to it, healthier and more productive crops, rehabilitation of the environment, containment of weapons of mass destruction, priorities in government spending, safer highways and bridges and modes of transportation, cultural preservation and better education standards, and so on.

Our appeals for our colleagues help both science and scientists. They are viewed by governments for what they are – expressions of humanitarian concern, by colleagues, for colleagues. Given these boundaries, governments cannot accuse us of political motivations, which they often use against human rights organizations.

The Committee on Human Rights (CHR) of the U.S. National Academy of Sciences, National Academy of Engineering, and Institute of Medicine takes on dozens of cases, many of which are shared with the Network. Currently we are working on cases in Bahrain, China, Democratic Republic of Congo, Guatemala, India, Iran, Myanmar, Saudi Arabia, Syria, Turkey, Vietnam, and Yemen.

We communicate with the Network by sending out Action Alerts on individual cases, often every few weeks, and through our short electronic newsletter, "UPDATE," every three or four months. Both are also available on our private website to Network participants.

Most of our cases are private – meaning that we do not discuss them publicly or post them on the Internet. We believe that, with certain exceptions, we should try our best to resolve cases "behind the scenes" in a polite, humanitarian, diplomatic manner. It is only when these efforts fail that we undertake a fact-finding mission to a specific country, release a report, or write a press release – or do all of the above – as we've done with regard to unjustly accused colleagues in Turkey this year.

2.4 Independence of Science Academies

We also work to promote and protect the independence of academies and scholarly societies worldwide, as well as the free exchange of ideas. We have spoken out recently on behalf of science academies in Turkey and Russia because their members believed their independence was under threat and asked for our support.

3. The UDHR and Other Human Rights Mechanisms

3.1 The UDHR

I want to emphasize that our work is grounded in the Universal Declaration of Human Rights (UDHR). As most of you know, the UDHR was written following World War II. It was adopted by the United Nations General Assembly in 1948 and is part of international customary law. All member countries of the United Nations are expected to secure its recognition and observance. The UDHR includes rights which, if not respected, can have a significant detrimental effect on science and scientists, as well as a nation's economy and the health and well-being of its people.

For example, who can do serious science without "freedom of opinion, expression, speech, and movement"? And what about the ability to freely "seek, receive, and impart information and ideas, through any media and regardless of frontiers"? There is the right to "peaceful assembly and association." And then, there is the right to education and to share in scientific advancement and its benefits.

Scientists who exercise these rights can be arrested in many countries. Some face "arbitrary detention and arrest," others are denied "an effective remedy by the competent national tribunals when such rights are violated." Many, as we recently observed in Turkey, are denied

"presumption of innocence," and "a fair and public hearing by an independent and impartial tribunal;" others are "subjected to torture or cruel, inhuman, or degrading treatment or punishment" – all of which are specifically prohibited in the UDHR.

3.2 Access to Science Information and Education

Of late, our Network has done some work related to nondiscrimination and equal access to higher education on the basis of merit. For example, at about this time last year, Iran barred women from 77 fields of undergraduate education, including chemistry, nuclear physics, computer science, engineering, archaeology, and other scientific and non-scientific fields. The Network decided to speak out publicly about this blatant discrimination. We told the Iranian government that "to impose, in the 21st century, such restrictions on the higher education of Iranian women, who currently make up 65 % of university students and about 70 % of science graduates, is appalling. The harmful consequences of this 'alignment' against women for the future of Iran are incalculable, as are its effects on the reputation of the Iranian government in the eyes of the world."

The Network went on to say, "We call on the government of Iran to rethink this ill-advised policy for the sake of the future development of its country and the well-being of its entire people."

4. Submission of Cases to UNESCO's CCR

The Network, through the CHR secretariat, makes regular use of the confidential process for submitting human rights cases to the United Nations Educational, Scientific and Cultural Organization, known by the acronym UNESCO. The past year has been no exception.

We prepare new cases, updates, and responses to ongoing submissions for UNESCO's Committee on Conventions and Recommendations (CCR) every six months. This requires substantial work on the part of the secretariat's staff, but the process is one of the few ways in which human rights concerns are brought directly to high-level government officials – usually ambassadors or supreme court justices – of a government which we believe has unjustly imprisoned a scientific colleague. It is an important and unique process which abusive governments have tried for years to do away with.

5. Status of the Network's Cases

Releases and Cases of Ongoing Concern

Between 2011 and mid-2013, 52 cases in 10 countries were resolved, and conditions of confinement were improved in other cases for which we had appealed – some for many years. I'll mention just a few.

5.1 Russia

In November 2012, Russian physicist Valentin Danilov was released on parole. He had spent more than nine years in a prison in the Siberian city of Krasnoyarsk. This had followed an

unjust second trial held after an initial jury trial found him innocent. He had served more than two-thirds of his 13-year prison sentence. Prior to his arrest, Professor Danilov had been head of the Thermo-Physics Centre at Krasnoyarsk State Technical University. He was charged with espionage and fraud for allegedly selling classified satellite information to a Chinese company. This is a complicated case because of the espionage charges. When cases are resolved, we post them on our public website so you can read the details there if you would like to know more about the circumstances.

5.2 United Arab Emirates

Another recently resolved case involved a well-known 78-year-old South African pediatric oncologist and professor emeritus of the University of Cape Town, Dr. Cyril Karabus. He was arrested while on a stopover in Abu Dhabi. It was only then that he learned he had been charged, tried, and convicted in absentia 10 years earlier, following a complaint about his treatment of a 3-year-old terminally ill leukemia patient. She died while he was working as a locum for five weeks in 2002 in a medical centre in Abu Dhabi. After two months in jail, he was released on bail; his conviction was set aside on the grounds that he had been denied the right to defend himself. A retrial was ordered, and, after numerous delays and the failure of the prosecution to provide the court and the defence with the complete medical file of the patient, a medical review committee finally met and absolved Dr. Karabus of any wrong doing. Subsequently, he returned to South Africa. During his time in the UAE, we were in contact with his daughter in South Africa, who provided us with information, updates, and advice on strategies. We issued several Action Alerts in his behalf, and many of the Network's members wrote him letters of support, to which he often replied, with gratitude.

5.3 Bahrain and Syria

The biggest issue in Bahrain and Syria, in terms of the Network's cases, is the targeting of health professionals for injury, arrest, and sometimes torture and outright assassination. In short, Bahrain and Syria have shown a contempt for medical neutrality. In Bahrain the crackdown on health professionals began in February 2011, when street demonstrations, primarily by the Shiite majority, were organized to demand political and economic reforms, the release of political prisoners, and an end to torture and discrimination against Shiites. Security forces of the Sunni-dominated government responded by using violence throughout the country to suppress the peaceful demonstrations. Several demonstrators were killed, and hundreds were injured. Arrests included health professionals who were providing medical care to the injured on the streets, in makeshift hospitals, and in the central hospital in Manama.

We were in direct contact by Skype with a number of female medical doctors in Bahrain who had been detained, tortured, and charged. Subsequently, we established contacts with the Bahrain Independent Commission of Investigation (BICI) and a medical doctor who examined some of the torture victims for the commission.

We undertook the cases of two groups of health professionals: 20 charged with felony crimes in the first group and 28 charged with misdemeanour crimes in the second group. Fifteen of the 20 Bahraini health professionals were convicted of felony crimes and received sentences ranging from 5 to 15 years in prison. Today, of the two who remain in prison, both are serving reduced sentences of three years and five years respectively.

The cases of the second group of health professionals – 28 charged with misdemeanour crimes – were resolved in 2013. Throughout this period, the Network urged Bahrain to make changes recommended in the BICI report, including respect for medical neutrality, and it made a public appeal that was published in several journals.

We also continue to work on the case of an engineer and long-time professor at the University of Bahrain. In addition to his academic work, he is a prominent human rights defender, opposition leader, and spokesperson for the Human Rights Bureau of the Haq Movement for Civil Liberties and Democracy, an opposition political organization. This professor was outspoken in his peaceful criticism of the Bahraini government and, in early March 2011, the government brought unjust charges of "setting up terror groups to topple the royal regime and change the constitution." This professor testified in court that he was tortured, and Amnesty International reported that no credible evidence was presented in court to support the charges brought against him. He was sentenced, nonetheless, to life in prison. Of course, we continue to appeal, and seek other effective approaches.

In Syria, given the continuing chaotic situation, we are at a loss as to what to do – except to continue to "name and shame." We do know that one medical doctor was released but another was tortured to death and used as an example to other doctors. Dozens more are imprisoned or disappeared. We must continue to condemn President Assad for allowing or, in fact, encouraging such criminal behaviour toward health professionals and to seek press coverage of the situation.

5.4 Iran

In Iran, Ebrahim Yazdi, a 79-year-old pharmacologist and secretary-general of the banned political party, Freedom Movement of Iran (FMI), was released from Evin Prison in March 2011 after being detained without charge for more than five months. Just prior to his release, Dr. Yazdi issued a statement in which he said that he had officially resigned as secretary-general of the FMI. This was the third time he had been detained since June 2009. One dares not speculate about what tactic induced him to resign.

Also in Iran, a number of Baha'i leaders who are scientists, and often teachers, are imprisoned for giving lectures at the Baha'i Institute for Higher Education (BIHE). The BIHE provides university-level courses to Iranian Baha'i students who are otherwise prohibited from attending Iranian institutions of higher learning because of their faith.

The accused, two of whom are women, are charged with "membership in the deviant Baha'ist sect with the goal of taking action against the security of the country." Others are charged with "teaching and counselling without valid accreditation" and "assembly and collusion with the intent to disrupt national security." This, despite that Nobel Peace Prize Laureates Desmond Tutu and Jose Ramos-Horta have said the BIHE is "taught by accredited professors" and "the quality of the coursework has been recognized and accepted for credit by more than fifty universities outside of Iran."

We are urging the Iranian government to uphold Articles 18 and 19 of the UDHR – which promulgate the rights to freedom of religion and freedom to seek, receive, and impart information and ideas – and to release the imprisoned Baha'i educators so that they may continue peacefully to provide education to young Iranians eager to learn.

5.5 Turkey

I will finish by telling you about last February, when our meeting organizer, Hans-Peter Zenner, Peter Diamond (an MIT professor emeritus and Nobel Laureate in economics), and I travelled to Ankara and Istanbul on a week-long fact-finding mission on behalf of eight colleagues. We did not give interviews to the press during our visit. Peter Diamond gave a talk at the Turkish National Bank in a demonstration of good will.

During our mission we met with Turkish government officials, the U.S. and German ambassadors to Turkey, staff of the European Union delegation to Turkey, lawyers, journalists (on background), family members of the prisoners, and academics who were knowledgeable about the cases of concern to us and the overall situation in Turkey.

We also received government permission to visit three colleagues detained in Silivri High Security Prison, about an hour and a half drive from Istanbul, and a colleague held in Sincan High Security Prison outside Ankara.

In our report, for which we got excellent press coverage, we conclude that, "despite being charged with terrorism-related offenses in four different, enormous, and highly flawed political trials, none of our eight colleagues has advocated or practiced violence and that there appears to be no credible basis on which to judge any of them guilty of committing the crimes of which they have been accused."

We asked that the 13-year sentence of Faruk Yarman, a nuclear engineer with a Ph.D. from MIT, be immediately abrogated and that he be released from prison. He is one of only two people not in the military who were tried and sentenced in the Operation Sledgehammer trial. Three hundred and twenty members of the military were also sentenced in that trial – some to life in prison, subsequently reduced to 20 years. Most are elderly so their sentences may well amount to life imprisonment as they are likely to die there.

When we met with Dr. Yarman in Silivri prison, he seemed in good spirits and determined to get a new and fair trial. His sentence is currently before the high court of appeal. Meanwhile, in response to a petition, the United Nations Working Group on Arbitrary Detention has decided in favour of those sentenced in the Sledgehammer trial and has requested that the government of Turkey remedy the situation in accordance with the provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

In the Ergenekon trial, we met all three of those colleagues who were being held in prison and subsequently corresponded with the three others who were not under arrest but had been charged also with terrorism crimes. The sentences in that trial were handed down a week after our report was released in pre-publication form. Of the three we had visited, two were released pending the outcome of their appeals.

One of the released was Dr. Mehmet Haberal – a 69-year-old university rector and prominent transplant surgeon, who had been held for 4 years pending the outcome of his trial. He had suffered serious heart problems, requiring several hospitalizations during his time in prison. He was subsequently sentenced to 12 years and 6 months in prison, but he was released pending the outcome of his appeal.

A second prisoner, Kemal Gürüz, a chemical engineer, and former university rector who was head of Turkey's Council of Higher Education, had been imprisoned for about six months when we met with him, and he faced two trials. Last June, after a year in prison, he attempted suicide out of utter despair. In the Ergenekon trial he was sentenced to 13 years and 11

months. He could have gone home pending the outcome of his appeal except that he had to remain in prison because he faced a second trial, called the Postmodern Coup trial, which did not begin until this month. When the trial began about a week ago, he was granted release pending its outcome – which could last for many months.

Unfortunately, the last person we visited, Fatih Hilmioğlu, a medical doctor and former university rector, who appeared to us to be the worst off, both physically and mentally, was sentenced to 23 years without release (less the four years he has already served) and thus remains in prison. One of his sons was killed in an automobile accident while he has been in prison, and his wife was so ill during our visit that she could not meet with us. We are extremely concerned for his well-being.

Another university rector and medical doctor, Kemal Alemdaroğlu, was sentenced to 15 years and 8 months and immediately taken to prison. We are in contact with his wife and daughters, who are, of course, devastated, and we will continue to seek his release pending the decision of the appeals court.

Two of the other former university rectors who are also medical doctors, Drs. Ferıt Bernay and Mustafa Abbas Yurtkuran, were sentenced to 10 years in prison but remain free pending the decision of the appeals court.

Our last case in Turkey is that of a prominent political scientist, Professor Büsra Ersanli, who was imprisoned for seven months before being released on bail. Peter Diamond and I met with her at her home in Istanbul. She is being tried along with dozens of others – mostly Kurds, many elected to office, who are accused of terrorism related to the KCK trial. We have urged the Turkish judiciary to take immediate and concrete steps to ensure that Dr. Ersanli's trial is expedited and that it meets international standards of justice; of our eight cases in Turkey, she is the only one who is a human rights advocate. In a highly-polarized society, Professor Ersanli defends those whose rights are abused – whether she agrees with them or not – a rarity in Turkey today. We hope that our report and continuing press attention will help in her case as well.

I will end now – on the hope that those of you who are academy members will feel inspired to help us or to do more. Clearly, there is no shortage of worthwhile work to be done.

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Human Rights and Education

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Inclusive (Mainstream) Education of Children with Intellectual Disabilities as Human Rights Issue

Alenka Šelih (Ljubljana, Slovenia)

1. Introduction

Equality of men and non-discrimination are those among many human rights towards which society at large has always aspired. Equality and equal treatment of people in the broadest sense of the word have always presented the basis for existence and implementation of human rights in general. In the words of the German author von Bernstorff, "We do not exaggerate affirming that struggle against discrimination is the central developmental principle of the system of human rights as a whole" (von Bernstorff 2007).

The importance of these two rights is especially great in the field of education. This becomes evident especially in cases in which an educational institution or the individual have to do with a person who is "different". This "being different" can be very heterogenous; it is, however, common to all forms of it that an individual different from the majority is in question and that this majority perceives them as "different". The majority of the average population perceives all children with special needs – and these are quite varied – as different, unknown and, hence, often in a sense suspicious. Within the group of children with special needs, children with intellectual disabilities, because of their intellectual weakness, occupy an especially exposed place.

Until the 1970s professionals, as well as politicians, have built up a system of special education for all children with special needs, those with intellectual disabilities included. At the time, this system was certainly a great step forward in comparison to the previous situation when these children very often did not attend any school at all. This model, described as the "medical model", emphasized the individual child's deficiencies and shortages. During the last decades professionals, as well as many policies, in the developed countries started to introduce a different approach: These "different" children need empowerment, equal treatment, and inclusion; work with them should be based upon a "social" model which has also been adopted by different instruments of international law. In education this approach has meant including these children, those with intellectual disabilities included, into the mainstream school system (Kavkler 2008).

The inclusive approach in education is clearly and firmly based upon human rights as a general social and legal category. During the last 20 years an international legal document has shown a pronounced direction of improving and enhancing human rights of all disabled persons, among them children with intellectual disabilities.

2. International Legal Documents Referring to Inclusion

While the *UN Universal Declaration of Human Rights* (1948) as well as the *UN International Covenant on Civil and Political Rights* (1966) could be mentioned here, it is appropriate to start with the *UN Convention on the Rights of the Child* (1990) consecrated specifically for children. This legally binding document (for those states parties that have ratified it) obliges "[...] the States Parties to respect and ensure the rights set forth in the present Convention to each child [...] without discrimination of any kind, irrespective of the child's, [...] disability [...]."

Here, disability is for the first time mentioned as part of a legal norm in connection with the prohibition of discrimination. The convention, however, goes further in Article 23 dealing with the rights of the "mentally or physically disabled child." It requires for them, among others, the right to enjoy a full and decent life; the right to effective access to and receiving of education.

During the 1990s two specific international documents which are not legally binding were adopted: the first is the *UNESCO Salamanca Statement* (1994) on principles, policy, and practice in special needs education, adopted at the World Conference on Education for Persons with Special Needs. It demands, among others, that "[...] those with special educational needs must have access to regular schools which should accommodate them within a child centered pedagogy capable of meeting these needs," and that "[...] regular schools with this inclusive orientation are the most effective means of combating discriminatory attitudes, creating welcoming communities, building an inclusive society and achieving education for all; more over, they provide an effective education to the majority of children and improve efficiency and ultimately the cost-effectiveness of the entire education system." (2., viii).

The second document to be mentioned is the *Resolution on Inclusion of Disabled Children and Young Persons in Mainstream Educational Systems* adopted by the EU Council and the EU ministers for Education in 1990. It demands, among others, that inclusion in mainstream schools should be in all appropriate cases always the first choice and that the work of specialized schools and centres for disabled children and young persons is understood as supplementary to the mainstream educational system.

Without going into details, it should be stressed that this document contains a whole system of means and measures for inclusion of children with special needs into the mainstream educational system.

Finally, let us mention the recent and the most important among the international legal documents – the *UN Convention on the Rights of Persons with Disabilities* (2006). This legally binding document for those states that have ratified it recognizes to this group of persons ***the right*** to education in an inclusive education system (Article 24). This right should be ensured without discrimination and on the basis of equal opportunity, thus enabling these persons to participate effectively in a free society.

In accordance with the Article 24, the States Parties are bound to enable all children with disabilities to access "[...] an inclusive, quality and free primary and secondary education on an equal basis with others in the communities in which they live." Reasonable accommodation of the individual's requirements and necessary support should be provided. The States Parties should employ qualified teachers and train professionals at all levels to incorporate disability awareness and to use appropriate augmentative and alternative modes, means and formats of communication, educational techniques, and materials to support persons with disabilities.

After the adoption of this convention, many an international NGO demanded that the States Parties should implement this provision since common learning is important for all children.

3. Inclusion in Practice

These legal provisions refer to all persons with disabilities, especially to children – including those with intellectual disabilities. These children should be – in accordance with their capabilities – included in the mainstream educational system, especially in the primary schools system. In the countries which have in the past set up and maintained a system of special schools for this group of children, inclusion seems to be especially difficult to accept and to develop ways and forms of including this group of children into the mainstream educational system.

This holds true of Slovenia, a country which has relatively easily accepted physically handicapped as well as blind children into the mainstream school system. Inclusion of children with intellectual disabilities, however, seems to be a much more difficult problem. Although the national law has made it possible for the last ten years to include such children into the mainstream system – especially in primary schools –, such cases have been very rare and exceptional, and so far no systemic approach has been worked out. On the one hand, professionals in special education have not welcomed it, and on the other hand personnel at the special school system have felt threatened by losing some of their pupils and, consequently, maybe also their job. In contrast to this, in neighbouring Croatia, at the present 70 children with Down syndrome are attending regular primary schools, have a teaching assistant at their side, and teachers have been instructed on how to deal with them (Vuković et al. 2011).

It would be necessary to prepare an action plan in which appropriate measures should be foreseen and steps to be taken in order to slowly reorganize the current special school system so that some of their pupils would be included into mainstream schools with teachers having received appropriate supplementary information on the needs of these children and on the ways how to deal with them. One part of this group of children will probably need to have special programs carried out in special institutions. As far as personnel of the schools in this special system is concerned, they should be in part reoriented towards securing support in mainstream schools while others of them will still be needed in the special school system.

This seems to be the way another country, Germany, which has a similar system of special schools as Slovenia, has gone. As far as an outsider can judge, the German system of special schools is well-developed and well-established, and there is no doubt that many reservations exist – both within the system and outside of it – to make it inclusive at least in some parts. Nevertheless, in 2011, the competent bodies accepted a 10-year action plan in which more than 200 measures have been foreseen in order to realize the obligation taken by ratifying the above-mentioned UN convention. This 10-year action plan should lead to "inclusion and cooperation of persons with disabilities put into life" (Schulte 2011). It is too early to await any results, but progress towards the implementation seems to have been made.

The path towards inclusion of children with intellectual disabilities into the mainstream education system is certainly a difficult task. Some examples – e.g. some parts of Austria, the Netherlands, and England – prove, however, that it is not unachievable. Inclusion, if implemented in the right way, can be positive for both children with disabilities who would not be excluded and would socialize in an usual environment, as well as for "normal" children who would learn how to understand and to live with those who are different, but who are

at the same time much more like us than we could presume and are human beings just like ourselves.

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Combating Discrimination and Racism in and through Human Rights Education

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1. How We Define Human Rights Education

Human rights education has been defined as training, dissemination, and information efforts aimed at the building of a universal culture of human rights through the imparting of knowledge and skills, and the moulding of attitudes, which are directed towards:

– Strengthening respect for human rights and fundamental freedoms;
– Full development of the human personality and the sense of its dignity;
– Promotion of understanding, tolerance, gender equality, and friendship among all nations, indigenous peoples and racial, national, ethnic, religious, and linguistic groups;
– Enabling of all persons to participate effectively in a free society.

It is thus clear that an essential part of any educational activities aimed at promotion of human rights standards and principles must be devoted at combating discrimination and racism.

2. Targets of Human Rights Education

Human rights education efforts should be able to reach all segments of a society. However, methods used should be diversified according to the needs of different target groups. Therefore it is necessary to identify what educational and promotional tools are to be employed with regard to the following subjects:

– The general public, at all levels of literacy and education, to ensure that they are informed of their rights and responsibilities under international human rights instruments;
– Vulnerable groups, including women, children, persons with disabilities, older persons, minorities, refugees, indigenous peoples, the poverty-stricken, and persons with HIV infections or AIDS;
– The police, prison officials, lawyers, judges, teachers and curriculum developers, the armed forces, development officers, international civil servants, the media, government officials, parliamentarians, and other groups particularly well placed to ensure the realization of human rights;
– Schools, universities, professional and vocational training programmes, and institutions which should be encouraged and assisted in developing human rights curricula and cor-

responding teaching and resource materials for incorporation into formal education at the early childhood, primary, secondary, post-secondary, and adult education levels;
– Appropriate institutions of civil society, including non-governmental organizations, workers' and employers' organizations, labour unions, the mass media, and religious organizations;
– Community organizations, the family, and resource and training centres.

Well-structured human rights education policy requires a complex approach and active participation of various actors, both governmental and non-governmental. Knowledge of international instruments to be used in that context is of crucial value.

3. Instruments of the International Human Rights Protection Bodies

Human rights treaties' regulations and jurisprudence are further developed and specified in the form of recommendations, guidelines, plans of action, etc., issued by various human rights protection bodies.[1] As the frames of the present paper do not allow detailed analysis of all relevant instruments, one should only mention most important ones:

– *Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education*[2]
  The Charter was prepared in 2010 as a result of a growing awareness of the fact that education plays an essential role in the promotion of the core values of the Council of Europe – democracy, human rights, and the rule of law – as well as in the prevention of human rights violations. What is also underlined in the Charter is the fact that education should be increasingly seen as a defence against the rise of violence, racism, extremism, xenophobia, discrimination, and intolerance. One of the main goals of the Charter is to help introduce in the member states of the Council of Europe human rights education, defined as "education, training, awareness raising, information, practices and activities which aim, by equipping learners with knowledge, skills and understanding and developing their attitudes and behaviour, to empower learners to contribute to the building and defence of a universal culture of human rights in society, with a view to the promotion and protection of human rights and fundamental freedoms".[3]
– *European Commission Against Racism and Intolerance General Recommendation Number 10 on Combating Racism and Racial Discrimination in and through School Education*[4]
  Member states of the Council of Europe are obliged to guarantee that school education plays a key role in the fight against racism and racial discrimination in society by: ensuring that human rights education is an integral part of the school curriculum at all levels and across all disciplines, from nursery school onwards; by removing from textbooks any racist material or material that encourages stereotypes, intolerance, or prejudice against any minority groups; by promoting critical thinking among pupils.

1 For general remarks on the universal and regional – European human rights protection system see eg. Egan 2011, Kleinsorge 2011.
2 Available at: http://www.coe.int/t/dg4/education/edc/default_en.asp.
3 Section I, point 2 b of the Charter.
4 Available at http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N10/default_en.asp.

– *UN World Programme on Human Rights Education*[5]
  Proclaimed in 2004 by the UN General Assembly, the World Programme for Human Rights Education (2005 – ongoing) aims to advance the implementation of human rights education programmes in all sectors.
– *UN Educational, Scientific, and Cultural Organization Guidelines on Intercultural Education*[6]
  Three main principles are enshrined in the Guidelines: (*a*) Intercultural Education respects the cultural identity of the learner through the provision of culturally appropriate and responsive quality education for all. (*b*) Intercultural Education provides every learner with the cultural knowledge, attitudes, and skills necessary to achieve active and full participation in society. (*c*) Intercultural Education provides all learners with cultural knowledge, attitudes, and skills that enable them to contribute to respect, understanding, and solidarity among individuals, ethnic, social, cultural, and religious groups and nations.

Organization for Security and Co-operation in Europe materials[7]:

– Human Rights Education in the School Systems of Europe, Central Asia, and North America: A Compendium of Good Practice;
– Guidelines on Human Rights Education for Law Enforcement Officials;
– Guidelines on Human Rights Education for Secondary School Systems.

4. A Case Study: Poland

Poland, like many East European states which have regained their independence and turned into democracies only a decade ago, faces serious problems with including human rights protection into the centre of state's activities and policies. Consequently, human rights and anti-discrimination discourse is limited to specific groups and stays mostly outside school curriculum. Between 2002 and 2004 the "Open Republic" Association Against Anti-Semitism and Xenophobia carried out the School of Openness programme.[8] A team of reviewers analyzed school textbooks for Polish language, history, and knowledge about society from the viewpoint of respect for ethnic, national, and religious differences. Approximately 80 gymnasium textbooks were reviewed from the 150 textbooks available on the market. The results of the research revealed that only to a limited extent did Polish schoolbooks include reliable information concerning different minorities or address the topic of non-discrimination. Ethnic, national, or religious minorities are absent in school texts that deal with Polish society. As the reviewers indicated, the most worrisome situation appears in case of textbooks for history classes – historical controversies, such as Polish-Jewish relations before and during the World War II, are omitted and ignored, as if they did not match to the officially accepted version of the past. Thus, the only chance for students to get involved in stimulating discussions on difficult topics depends from the teachers' attitude and competences.

5 Available at http://www.ohchr.org/EN/Issues/Education/Training/WPHRE/SecondPhase/Pages/Secondphaseindex.aspx.
6 Available at http://unesdoc.unesco.org/images/0014/001478/147878e.pdf.
7 All materials available at http://www.osce.org/odihr/93991.
8 Full report available at http://www.otwarta.org/index.php/jak-dzialamy/nasze-projekty/archiwalne/szkola-otwartosci-2001-2004/ (in Polish).

Additionally, the very concept of human rights and anti-discrimination is often misunderstood, abused, or even ridiculed in political and ideological conflicts. Thus, some particular human rights problems, such as reproductive rights, are commonly associated only with the feminist movement, which in turn is negatively portrayed by almost all political forces in Poland. However, the greatest difficulties appear in cases of LGBT[9] discrimination and sexual education at schools. Here human rights educators and activists meet the strongest opposition and irrational fears, which make it impossible to educate about, among others, discrimination against transsexual persons.

The consequences of this situation are observed not only at the level of school or university, but also in the larger dimension of social and public life in Poland. One of the most disturbing results of the lack of proper antidiscrimination, but also historical education, is observed in the wording of many judgments and prosecutors' decisions in cases concerning racist and anti-Semitic hate speech and hate crimes. In Bialystok, the city which faces the problem of racism and intolerance more than any other large city in Poland, the public prosecutor refuses to initiate the criminal proceedings in case of swastika symbols painted on the walls in public spaces with the explanation that in Asian cultures the swastika is regarded as a symbol of happiness and fortune.[10] In Wrocław, yet another city with an increasing problem with the activities of far-right organizations, a judge acquitted a group of racists stating that their racist views were nothing but an element of their fascination with the ideology of Arthur de Gobineau, who promoted the idea of racial cleanness and "mosaic of races".[11] Such decisions and judgments of the representatives of the justice system create a general atmosphere of acquiescence and permission, where racist and anti-Semitic remarks and attitudes are tolerated.

Another result of ignorance, prejudice, and a lack of knowledge (which in turn are effects of a lack of proper human rights education) is a widespread homophobia and hostile attitudes towards LGBT persons in Poland. Even the Sejm, the lower chamber of the Polish Parliament, is not free from homophobic attitudes. One of the most shameful, and still lacking any significant consequence, behaviours of the Polish Parliamentarians are the public statements of Krystyna Pawłowicz, a professor of law. She has more than several times publicly insulted another representative of the parliament, Anna Grodzka, who is a transgender person.[12] It is difficult not to associate these problems with the fierce opposition to introducing into Polish schools a textbook prepared by the Council of Europe, called *The Compass*.[13] The main argument of the opponents of this book was based on the fact that it promoted the knowledge and attitude of openness and tolerance towards homosexuals. According to the surveys of the Campaign Against Homophobia, almost 77 % of interviewed teachers claim that they do include the topics related to LGBT persons during their classes. At the same time, more than 60 % of their students claim that such topics are absent and intentionally avoided. These data and information should be simultaneously confronted with data concerning homophobic attitudes and acts in Polish schools: 76 % of high school students interviewed answered that in their schools homophobic hate speech occurs on a daily basis.

There are, however, plenty of positive examples which prove that human rights education and, in particular, education concerning the issues of racism and discrimination can be suc-

9 LGBT: Lesbian, Gay, Bisexual and Transgender/Transsexual.
10 See Tzur 2013.
11 Judgment IV Ka 978/10 of the District Court in Wrocław.
12 See Adekoya 2013.
13 See Makuchowska and Pawlęga 2013.

cessfully implemented in Poland. At the same time it must be noted that most of such education campaigns are sponsored and introduced by Polish NGOs.[14]

5. Conclusions and Recommendations

Human rights education in Poland, just as the whole movement for inclusion of human rights into the mainstream of the public debate, legislation, and state policy, meets obstacles and difficulties typical for young democracies. Thus, it is crucially important to identify proper foundations for the creation and implementation of effective human rights education. Most important of them include:

- Review of school and university curriculum with the aim of implementing and empowering human rights education (with a special emphasis on anti-discrimination issues);
- Human Rights Law as an obligatory element of law studies programmes at universities;
- Training for judges, prosecutors, law enforcement officers, etc.;
- State-sponsored media and social campaigns against racism, xenophobia, and homophobia;
- Best practices exchange at governmental and non-governmental levels;
- Developing among young people skills for promoting social cohesion, valuing diversity, and handling differences and conflict, which should be regarded as a key factor in modern education.

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14 Non-Governmental Organizations. See in particular the educational activities of the Campaign Against Homophobia: http://world.kph.org.pl/index.php?lang=en&doc=page&id=6&title=education.

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How Human Rights Education Can Contribute to Developing a "Human Rights Culture"?

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Within the global discourse on human rights education the notion of "human rights culture" is being increasingly used as a key purpose of human rights education. What do we understand by human rights culture? Even though there is not yet any comprehensive definition one may find at least some guiding indications about the content of the emerging concept. Human rights culture is about:

- Shared values underpinning human rights;
- Human rights awareness of the community as a whole;
- Responsible individuals;
- Human rights as an integrated part of the everyday life;
- Human rights as a way of life.

In the *UN Declaration on Human Rights Education and Training* (*UN* 2011) a first attempt at a definition reads like this: Developing an universal culture of human rights, in which everyone is aware of their own rights and responsibilities in respect of the rights of others, and promoting the development of the individual as a responsible member of a free, peaceful, pluralist, and inclusive society.

The increasing use of the term underlines a growing sensitivity for something that is understood as indispensable for the strengthening and development of human rights. Obviously when there is a lack of shared values underlying human rights, individuals defend their rights, but neglect their responsibilities, human rights awareness is restricted to individual ownership, human rights seem to have hardly any influence on everyday life, human rights are reduced to a set of legal norms and the power dimension of human rights has been underestimated. Introducing the perspective of culture means to shift from the viewpoint of individual human rights awareness to one of the community as a whole.

1. Why Do We Need a Human Rights Culture? Learning from the Political Culture Approach

In order to give a conceptual ground for the vague notion of human rights culture it is helpful to transfer some of the key findings of the well-developed approach of "political and civic culture" (Almond and Verba 1980) to the concept of human rights culture. All the more we

may learn from the political culture approach as human rights have a strong political dimension: the state's obligations to respect, protect, and promote human rights and the claims of those whose rights have to be fulfilled.

First lesson learnt: The experience of the breakdown of democracies, especially the Weimar Republic, and the recognition of the vulnerability of democratic institutions led to the "political culture approach" and to the idea that the overall political structures need the backing of political cultures. Different from enlightened expectations that citizens would support or at least accept their democratic freedoms, the collapse of some democracies demonstrated the problems of democracies without democrats. The stability of democracies depends on the support of the citizens and the political elite. A lack of support makes institutions vulnerable and unstable. The political culture is understood as a set of values, orientations, and ways of behaviour towards the political system, and its various parts, and attitudes toward the role of the self in the system." They should be widespread in society and deep rooted in the minds of its citizens (Almond and Verba 1963, p. 12).

In the light of this insight we see an important similarity: The strength of human rights institutions and the progress of implementation of human rights norms depend on the acceptance and support of the humans and on the understanding of the role of the rights holders and duty bearers within the human rights system. This dimension can be called "human rights culture."

However we should not overlook an important difference: Human rights culture has to be recognized as a multi-dimensional culture that contains at the same time a political and a moral and a legal dimension. It is highly debated which dimension has and should have the lead. Currently there are many criticisms of the perceived hegemony of the legal dimension.

Second lesson learnt: The support that is needed for the establishment of stable democratic institutions is not the support of every citizen. Not everybody has to be involved and supportive. According to Almond and Verba a "civic culture" that fits best with the stability of democracy is a mixture of different patterns of attitudes and sub-cultures. It is possible that uninvolved citizens coexist with opponents and supporters. However, the amount of opponents should not transcend a certain amount. The best mixture for a civic culture has always been debated.

The transfer of the idea of civic culture to the concept of human rights culture reads like this: It is not necessary that everybody becomes a human rights advocate in a living human rights culture. However, a certain amount of acceptance and support is needed.

Third lesson learnt: The "political culture approach" has a normative orientation. At the same time this approach takes an analytical perspective and has developed strong research interests: What kind of patterns of orientations can we empirically identify in the political cultures, what are the sub-cultures of which a national culture consists? As the approach was influenced by the historical experience of the emergence of anti-democratic attitudes, activities, and movements, research on these social and political challenges has been influenced by this approach.

The transfer to the concept of human rights culture reads like this: The concept of human rights culture combines a normative and an analytical dimension. It integrates the goal of successful support of human rights with the ongoing question: To what extent have human rights already been accepted and supported by the citizens and the political elite. As the acceptance and the support of human rights are not ensured at all, research on the obstacles to developing a human rights culture is requested.

Not everybody welcomes human rights. On the way to a flourishing human rights culture we are confronted with competing positions, patterns of attitudes and values, and with activities that contradict or challenge the development of a human rights culture:

– Indifference of those who do not feel concerned about human rights;
– Divided support of those who do not accept the indivisibility of human rights;
– Rejection of those who do not accept the universality of human rights;
– Dislike and reluctance of those who see their privileges challenged by human rights;
– Hostility of those who follow ideologies of inequality and dominance.

However, we also meet initiatives and movements that are dedicated to the protection and promotion of human rights and which strongly criticize or even combat the opposition positions. The crucial question is: How are the supportive and competing positions distributed within a society?

Fourth lesson learnt: The political culture of a democracy is fragile and not yet solid if it introduced top down from outside. It may come to competing value orientations between sustainable traditional values and new introduced values of democracy.

The human rights culture will be fragile too, if human rights norms are introduced from outside, or the implementation is seen as something from outside. It can come to a conflict of values: Have a look at the difficulties of rooting human rights in post-communist societies or in societies with strong traditional values and particular religious orientations.

Fifth lesson learnt: Political cultures are also strongly affected by crises and especially by economic crises. This involves the research question: How the level of satisfaction with democracy is affected by the economic situation? How deeply rooted are democratic attitudes? Can they withstand times of insecurity?

The support of human rights is also influenced by political and economic crises. The aftermath of the 9/11 terrorist attacks has demonstrated the readiness of citizens to devaluate human rights for the sake of security. The possible impacts of economic crises on the support of human rights are still waiting for in-depth analysis. But not only in times of crises the economy and the economic "way of life" have been more or less unexplored, competing impacts on the values of human rights.

2. Education for Democratic Citizenship Meets HRE

After these five lessons learnt from a transfer of the political culture approach we turn now to the mutual relationship between civic education and human rights education (HRE). Civic cultures need education, especially civic education in order to foster democratic values, attitudes, and competencies. Until the 1970s the practice of civic education was a mixture of institution learning, history, and value education. In Germany civic education was shaped by the imperative "never again." In this imperative lies a common ground of civic education and human rights education. Due to new challenges in the 1990s for political participation in new and old democracies of Europe an innovative approach of "Education for Democratic Citizenship" (EDC) has been developed. Under the broad term of "citizenship" competencies have been identified that help citizens manage their lives in the political, social, and even the economic sphere. Social and intercultural learning of living together and involvement for the community became acknowledged as key competencies of democracy that should be

fostered by education. EDC aims to prepare the learners for a democratic culture. For over two decades this approach of EDC is going to be coupled with human rights education under the official label of EDC/HRE. The process of mutual shaping and of learning from each other leads to remarkable changes: Citizenship education has broadened from a national to a regional and even global perspective (global citizenship), and HRE became more attentive for the objectives of living together and community involvement. Especially in the German debate on "learning democracy" and "democracy as a way of life" we find bridges that lead to the idea of "human rights as a way of life."

3. The Contribution of HRE to the Development of Human Rights Cultures

José Ayala Lasso, the first United Nations High Commissioner for Human Rights, stated:

"A culture of human rights can only be achieved by educating people of all ages, in positions of influence and positions of vulnerability, about what human rights are and what is required for their continued protection […]." (in Fritzsche 2013, p. 1050)

HRE has already developed a variety of professional approaches for raising awareness and the development of competences for different target groups. In the light of the discussion on human rights culture new initiatives are recommended. However, HRE does not intend to establish a new culture top-down, but enables the learners to participate in building a human rights culture, it fosters a "capacity to culture."

– HRE needs research and sound information about the state of human rights awareness and the structure of cultural (political, social, economic) patterns in societies. It also needs research efforts about the impact of HRE.
– HRE becomes more sensitive to the political, moral, and legal concerns and the (pre) conceptions of learners (freedom, equality, wealth, success, fairness), which work as prerequisites for learning human rights and which serve as bridges to the everyday life of the learners.
– HRE strengthens the idea that human rights are more than individual entitlements: Human rights create an order of rights and responsibilities for the whole community.
– HRE must distinguish between those attitudes they can change (indifference, dislike) and those they cannot change (but prevent) like hostility. In order to argue with hostile positions HRE has to impart conflict competencies.
– HRE aims at preventing hostile values by establishing human rights based "school cultures." These inclusive school cultures make it possible to learn values and rights through daily experience of rights and responsibilities. Examples of good practise are the "Human Rights Friendly Schools" supported by Amnesty International.
– HRE starts as early as possible in order to shape the value orientation of the learners ("Children's rights education"). HRE should continue as long as possible (lifelong learning) in order to have sustainable impact. HRE should ensure the education of the educators.
– HRE strengthens ties with the neighbouring approaches of EDC and global learning (education for sustainable development) and it begins to engage in dialogue with economic education.

– HRE should work on a concept of an "human rights based citizenship" with the following tasks: (*a*) The integration of the political, moral, and legal dimension of human rights; (*b*) The shaping of the relationship of the citizens and the state; (*c*) The development of relationships within a community on the basis of equal human dignity and rights.

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Human Rights and New Media

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Human Rights and the Internet – Online Mental Health Care for Victims of Severe Human Rights Violations

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Initially, human rights on the Internet were almost exclusively discussed with regard to how human rights can be preserved and respected on the Internet. Phenomenon such as cyberbullying and deviant sexual behaviour are just some examples of how human rights might be specifically violated on the Internet. The question was primarily how a code of conduct could be established and maintained on the Internet. Only recently the Internet itself has been recognized as a catalyser of human rights. Essential human rights such as freedom of expression and assembly, access to information, documentation and publicizing human rights violations can be facilitated and reinforced through the Internet. This is especially applicable for repressive countries where empowerment through access to information and the potential to connect and participate hold great potential. New technologies have played a crucial role in support of democratic developments in North Africa and the Middle East (i.e. collection of evidence and dissemination of images of human rights violations). However, despite the fact that the Internet and social media were credited with an essential role in the Arab Spring, and although the Internet is increasingly accessible in many Arabic-speaking countries, e-mental health services are hardly applied in the region. The escalation of violence threatening the civilian population on a day-to-day basis has had devastating effects on the physical and mental health of the people. A large number of the population in the region suffers from Post-Traumatic Stress Disorders (PTSD), anxiety disorder, and depression. At the same time, the security situation, the lack of an adequate institutional framework, and serious staff shortages have left the mental health systems in disarray. Physicians and mental health professionals are often the targets of kidnappings and persecution as has been reported from Syria; many have been killed or left the country. In Syria where the current violence is reflected in dramatic damage to 35 % of the hospitals, 10 % of the health centres, and 40 % of the country's available ambulances (United Nations Office for the Coordination of Humanitarian Affairs' delegation). In major cities such as Aleppo, Ham, and Homs the public health systems totally collapsed.

Recent developments in communication technology have dramatically expanded the treatment possibilities in clinical psychology and offer great potential to improve treatment provision in the area of humanitarian aid (Knaevelsrud et al. 2007). Internet-based psychotherapy conducted by native-speaking psychiatrists and psychologists who are locally independent of their clients can provide a unique treatment alternative in underserved post-conflict areas. Another advantage is the anonymity of the Internet, which offers new treatment possibilities

in crisis and post-conflict countries. Traumatic experiences are often associated with stigmatization and intense feelings of shame and guilt. The Internet provides a protected environment where participants can easily control and regulate the degree of intimacy they want to share without the fear of real-life judgment, rejection, or devaluation. This way of communicating lessens social risks and inhibitions and encourages the disclosure of painful experiences or shameful thoughts.

A highly effective Internet-based treatment approach has recently been developed for Post-Traumatic Stress Disorders (PTSD, Lange et al. 2003). The treatment consists of structured writing assignments facilitated through a database implemented on the Internet. Communication between therapist and patient is exclusively text-based and asynchronous. The treatment manual is based on cognitive-behavioural therapy approaches that have proved effective in regular face-to-face-settings. This approach has been evaluated in numerous randomized controlled trials in Europe (Knaevelsrud and Maercker 2006, 2007, 2010, Wagner et al. 2005). These studies found substantial, significant, and enduring improvements in post-traumatic stress symptoms, anxiety, and depression. For its application in the Arabic region, the initial treatment approach was translated and culturally adapted. The www.Ilajnafsy.org website ("Ilajnafsy" means "psychological help") has a multilingual interface and provides information about PTSD and the treatment programme. Potential patients can log in and complete the screening questionnaires online. The screening consists of a set of standardized clinical questionnaires covering all relevant disorders. Inclusion criteria are a history of torture or war trauma, knowledge of Arabic, between 18 and 65 years of age, and an absence of serious suicidal intent, psychosis, or severe dissociation. Patients are set two weekly 45-minute writing assignments over a 5-week period (10 essays in total). The treatment includes elements of cognitive-behavioural therapy: (*a*) imaginary exposure to the traumatic event, (*b*) cognitive reappraisal, and (*c*) social sharing. *Ilajnafsy* is provided by native Arabic-speaking psychotherapists living in Iraq or neighbouring countries (e.g., Palestine, UAE, Egypt) or in Europe. All therapists are specifically trained and participate in weekly supervision sessions and contribute to an online supervision forum implemented on the website. Randomized, controlled studies indicated the efficacy of this approach with large effect sizes and stable effects (Wagner et al. 2012, Knaevelsrud et al. 2014). These results also indicate that this treatment approach is applicable and acceptable in Arabic cultures. Although substantial reductions in psychopathology were observed, it is impossible to predict long-term outcomes. The ongoing violence in the region may influence post-treatment stability. Moreover, Internet-based treatments in this setting are challenged by various issues, such as the security situation, problems with the technical infrastructure (power supply, Internet connectivity), and a high level of mistrust. Flexibility in handling the writing schedule is therefore essential. Additional phone calls between the writing sessions have frequently proved necessary: some clients dropped out early because of concerns that the programme may have been initiated by foreign secret services (CIA, Mossad).

Even under ideal conditions, it will take decades for mental health care services in the Arab region to recover to a level at which it can provide adequate mental health care for all those in need. Information and communication technologies present unique opportunities to enhance the provision of mental health care and to advance human rights. At the same time, the technology poses risks to essential human rights though the potential for mass surveillance, censorship, monitoring, tracking, and tracing of dissidents. Political, legal, and technical aspects need to be considered. For a responsible usage of the Internet we always need

to have both questions in mind: How can the Internet help to facilitate human rights, but also how can human rights be protected on the Internet?

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Some Remarks on Freedom of Expression Standards in the Internet Era

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The topic I am going to address is very broad. Having limited print space for this contribution, I focus on some islands in the huge and complex archipelago of Internet-related legal issues.

1. Political and Social Mobilization

Over the past few decades the Internet has become an important part of many people's lives, providing not only access to a wide range of information and services, but also allowing expression and producing civic mobilization.

Let me start with civic mobilization. The role of the Internet is especially crucial for people living under authoritarian regimes. Where other media are under the state control, the Internet – due to its global character – has the potential to expose citizens of authoritarian states to critical and dissenting views about their governments and develop aspirations for democratic changes. Illustrations are numerous: "Twitter revolution" in Moldova in 2009, "Facebook gatherings" in Iran in 2009 after the contested presidential elections, "snow revolution" in Russia in 2011 following the presidential elections in December 2011, street protests arranged by use of Facebook by such groups as "Суббота на Болотной площади" ("Saturday at Bolotnaya Square"), and recently the Maidan revolution in Ukraine. Some leaders of civic protests are also bloggers who distribute their criticism of the government on the Internet. Alexei Navalny is one recent example. Blocked from the traditional media channels controlled by the state he communicated with his followers on the Internet, and in the mayoral race in Moscow in September 2013 he came in second with almost 30 % of the votes.

Not only in authoritarian or semi-democratic states do people mobilize protests over the Internet. In winter 2012 Poland experienced a huge wave of street actions against the ACTA legislation (Anti-Counterfeiting Trade Agreement). Young people arranged for spontaneous manifestations making use of social networking websites such as Facebook. In this context it is worth stressing the powerful strength of such electronic tools. Spontaneous manifestations, a specific kind of gathering which should be tolerated in democratic societies, are usually limited to small groups of protesters acting in a particular place. In the case of the manifestations against ACTA legislation those spontaneously protesting counted thousands.

Development of technology also provides access to information to global society at large. In September 2007 we could see a set of shocking and powerful pictures taken during the anti-government demonstrations of Buddhist monks in Burma (Myanmar). These pictures were

mostly shot by local bloggers with cell phones, and they were the only information coming out of the country completely isolated from the international scene by the military regime. At that point there were only two state-controlled Internet providers in the country. The pictures from the Twitter revolution in Moldova had same effect. And what is more, some people, even Europeans, heard at that point that there is Moldova, a tiny state on the EU's eastern flank that fervently aspires for freedom.

Authoritarian governments have become aware of the power Internet communication has, both domestically and internationally. Chinese authorities are notorious for creating and operating the so-called Fifty Cent Party, a squad of pro-government online commentators who trawl the Web in search of interesting political discussions and leave anonymous comments on blogs and forums. Similarly, the Russian government often relies on private Internet companies, such as the prominent New Media Stars, which advance the government's views online (by posting recently comments on the events in and around Ukraine on the websites of such newspapers as *The Guardian*). While the new digital public spheres may be getting more democratic, one should be aware of the fact that they are also heavily polluted by government operators.[1]

But the biggest Internet corporations "from the free world" have also started co-operating with authoritarian regimes in order to have access to lucrative markets. To give only a few examples: Microsoft took down a blog that was critical of Chinese policies at the request of the Chinese authorities; Yahoo disclosed confidential account information of a Chinese journalist to the Chinese authorities after he had provided details of a censorship order to the Asia Democracy Forum and the website Democracy News. As a result, this journalist was sentenced to ten years in prison for "providing state secrets to foreign entities."

2. Access to the Internet

In many countries access to the Internet is strongly restricted. This can come in the form of a direct ban on access as in Cuba and North Korea, but more often by requiring Internet users or Internet service providers to obtain a licence or to register. In other countries, due to high prices, Internet access is effectively reserved to some groups.

Internet access must not be considered as entertainment for the rich. The right to free expression goes further than simply prohibiting interference with the means of communication. It includes also a positive obligation on the state to make important means of communication available to the broader public. This includes not only lifting any regulations limiting access, but also working towards the elimination of other obstacles such as poor infrastructure, high costs of telecommunication, and monopolies. This doctrine of positive obligation is broadly referred to and applied by such international bodies as the European Court of Human Rights.

3. Content Regulation

Several democratic governments have voiced criticism against the free availability of harmful content on the Internet. That debate usually concerns access to pornography, and the starting assumption is that what is obscene offline must also be obscene online. But while access to

1 More illustrations can be found in a paper prepared by the London-based non-governmental organization Article XIX (Freedom of expression and the Internet).

offline pornography is regulated by numerous restrictions as to the distribution channels, such restrictions do not function on the Internet. Everyone can easily find pornographic materials on the Internet.

To protect vulnerable Internet users, first of all children, from pornography, different filtering systems have been proposed. Recently, the British government of Ian CAMERON declared a war on pornographic materials available on the Internet and came up with the idea that all households should have their access to pornography blocked unless they choose to "opt in" and allow Internet porn access. By the end of 2014, households will have to accept or reject an automatic porn filter that the government will require Internet Service Providers (ISPs) to deploy. Each subscription holder will be prevented from reaching explicit sites unless he affirmatively opts in and says "yes" – I want to watch pornography.

I do not think that free access to pornography serves as a test of our liberty. But CAMERON-like plans are subject to strong criticism. First, as a rule, all filtering mechanisms should be end-user controlled. It must be responsibility of each end-user to decide whether they want to switch a filtering device on, not to switch it off. Any regulation based on the assumption that filtering is the principle and access is an exception forms a dangerous precedent. Second, many of the software packages filter indiscriminately all content branded with such words as "sex" or "gay". For example "sex education" is treated in the same way as "adult sex movies".

4. Some Specific Legal Problems

Our traditional legal frameworks are not adequate for Internet communication. Our laws have been enacted in a completely different media environment. "Spoken defamation" committed by an individual has, as a principle, only very limited negative impact on the defamed's reputation or good name. But once it is disseminated by the media, it becomes much more harmful. Traditionally individuals had to find access to the media and convince them that their story is worth printing or broadcasting. But nowadays individuals may post their speech on the Internet and make it broadly available on their own. The "defamation landscape" has radically changed.

Second, in general, newspapers are printed in a certain language and are distributed in a particular country. If there is defamation, a lawsuit starts in the publication country. Only exceptionally may a legal process be instituted in another state when two preconditions, called the newspaper rule, are met: a copy of the newspaper actually reaches the jurisdiction and is read there; and the publisher had reason to know that the newspaper would probably be read there.

Publication on the Internet is different from publication by newspapers. Unlike the typical newspaper, the Internet makes virtually every person with Internet access within the distribution network of any Internet publisher. Application of the newspaper rule to Internet publications subjects an Internet publisher to liability in virtually every jurisdiction in the world.

Third, there is a lot of controversy about what the adequate liability rule should look like for Internet publications. Very often allegedly defamatory or offensive speech is posted as information or a comment on a website that is not owned by the speaker. Who is then legally responsible for that speech? The owner of the website or the speaker? The newspaper rule points to the publisher. But again the Internet world is different from the traditional print media world. The newspaper's personnel controls what is going to print. The website's operators cannot monitor what is posted on their site, especially when the number of posted messages

is enormous. Thus, a specific mechanism is needed. In principle it is based on the so-called "notice rule". The website owner becomes responsible for defamatory contents only when he has been given a notice of that content but has not reacted the content. The notice rule has been adopted in the EU Directive on electronic commerce.[2]

But the notice rule is sometimes criticized as it switches responsibility to the speaker, exonerating the service provider. It is alleged that the defamed person is not sufficiently protected and compensated. Recently the Polish Constitutional Court accepted for further consideration a constitutional complaint with such allegations. The case is also interesting because it relates to the question if and when domestic courts may decide on constitutionality of secondary EU law.

Fourth, if basically only speakers are legally responsible for posted materials, is there an obligation of Internet service providers to reveal to defamed individuals information needed for the identification of the speaker? The answer is likely to be in the positive, but at the same time the obligation in question should not be framed in absolute terms.

Fifth, if a material harmful to individual's interests is published in a newspaper, it is basically available as long as the newspaper issue with that material is on sale. Later, that material can be found only by those who go to archives. The Internet is different. Once posted, material becomes available at any time. Therefore, in the context of reputation protection, the question of a "right to be forgotten" has been raised. If a young person posts just for fun a foolish picture of himself must he tolerate forever that this picture is on the net, commented on, and ridiculed? In a recent judgment the Court of Justice of the European Union stated that such a right to be forgotten exists under the EU Charter of Fundamental Rights. (Google Spain SL an Google Inc. v. Agencia Española de Protección de Datos and Mario Costeja González).

Sixth, courts and law enforcement agencies do not possess sufficient knowledge about the new Internet environment. To give only one example: In Poland there was recently a private lawsuit instituted by a popular singer against another member of the music industry. The court decided the case in favour of the defamed singer and awarded – besides a very moderate compensation – an apology, seeking for a proportionate sanction not likely to produce the so-called chilling effect. The apology was to be published on several Internet information platforms. The court seemed to have assumed that the cost of such an apology would be low in comparison to the print and/or broadcast media. However, the posting cost was as high as 8 million Euro. The reward was reversed on appeal.

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2 Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), Official Journal L 178, 17.07.2000, p. 1. However, the European Court on Human Rights in its recent judgment of 10 October 2013 in *Delfi AS v. Estonia* (no. 64569/09) found that the directive does not make immune Internet service providers from liability. Currently the case is pending before the Grand Chamber.

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Online Free Expression in the Corporate Realm: Corporations' Policies and Practices Shaping Private Speech on Communication Platforms

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1. Introduction

In March 2013, Jürgen Domian, a German radio and TV host, posted a message on his Facebook profile[1] blaming the popular online social network for censoring his critical posts about the Catholic Church and the Pope's attitude toward same-sex marriage. Reportedly, he had received an automated notification from Facebook stating that his posts violated the platform's Community Guidelines and had been deleted. Attracting greater public attention, Facebook responded and publicly apologized for the deletion. It did not, however, clarify the rationale behind the deletions, nor did it offer the possibility to restore the post (Kulow 2013).

The example described above does not seem to be an isolated case. Apparently, a growing number of Internet users are reporting that they have been the victim of so-called 'corporate censorship'.[2] These cases offer evidence of new forms of content regulation practices based on corporate terms of service, which take a growing place in the way private speech is governed online. In the absence of globally shared free speech norms and rules toward user-generated content, private ordering has become a dominant source in governing freedom of expression online. Companies do so by means of corporate policies, and intervening practices often based on technical arrangements (DeNardis 2012).

These observations lead to the question of what has made private entities, especially social media platforms, such a dominant source for governing freedom of expression online? Thereby, three aspects seem to be relevant:

– What is the importance of social networks for free speech online?
– Which modes of 'private censorship' are applied on their platforms?
– How do these private enterprises justify interventions?

The aim of this article is to shed light on content-related regulatory processes as they can be observed on commercial social networking sites so as to explore what modes of intervention potentially shape the informational flow of user-generated content.[3]

1 Facebook profile of Jürgen Domian: https://www.facebook.com/Domian.Juergen.

2 While the term "censorship" is commonly used for state-led suppression of citizens' free speech, "corporate censorship" in social media is mostly noted by civil society actors and affected users. See for example https://onlinecensorship.org/, see also McNamee 2011 and Richet 2013.

3 Providing insights at this stage has an explorative character based on initial questions about companies' practices, and yet has to be subject of further (empirical) research.

2. Normative Framework: Principles on Free Speech Online and Businesses

Freedom of Expression has been recognized as a fundamental principle, offline as well as online. The most symbolic endorsement can be found in Article 19 of the *Universal Declaration of Human Rights*, which provides for a right to freedom of opinion and expression, regardless of borders and the chosen medium. In June 2012, the UN Human Rights Council affirmed in a resolution that "the same rights that people have offline must also be protected online, in particular freedom of expression" (*UN Human Rights Council* 2012). Regional Human Rights Charters, such as the European Convention on Human Rights, as well as state constitutions at the national level, have also widely enshrined a fundamental right to freedom of expression (Nash 2013).

Linked to the role of corporations, former UN Special Representative, John Ruggie, developed the *UN Guiding Principles on Business and Human Rights* in 2011 (Ruggie 2011). At the core of the guidelines, which are often jointly referred to as the 'Ruggie-Report', lies the distinction of three responsibilities:

- The state's duty to protect against human rights abuses by third parties;
- The corporate responsibility to respect human rights;
- Access to remedy as both the state's responsibility to provide access through judicial, administrative, and legislative means, as well as the corporate responsibility to prevent and remediate any infringement of rights that they contribute to.

Regardless of these widely agreed principles, many actors at different levels are (in)directly restricting free speech online, with or without coercion. Research studies on Internet freedom and censorship are most often concerned with state-level censorship. Restrictive Internet filtering systems in authoritarian regimes, especially in China or the Arab world, have been examined with much greater emphasis (e.g. Deibert et al. 2008, MacKinnon 2012). While government-backed censorship may be the most obvious threat to free speech online, content regulation is practiced by a wide range of actors including the private sector pursuing diverse and sometimes conflicting policy goals (Feick and Werle 2010, Nash 2013). Intermediary platforms like Facebook, Twitter, YouTube (owned by Google), and Flickr (owned by Yahoo), are both party and judge when it comes to the regulation of user-generated content on the Internet.

3. The Role of Online Social Networks in Balancing Free Speech Online

The right to Freedom of Expression has exceptions and legal limitations and as such must be balanced with other rights. The balancing of competing principles and interests is meant to be a duty of law. The decision and judgment of when and how free speech is restricted is naturally made and carried out by public and political authorities. Judicial and legislative regulation with regard to freedom of speech is first and foremost based on national law, and the enforcement is limited by national boundaries. Furthermore, such rights and their inherent values tend to be hierarchically arranged and as a consequence are balanced differently in different countries.

Yet in multiple Internet-related policy domains private ordering, instead of public ordering, has become a dominant source for governance (Elkin-Koren 2012). This becomes particularly relevant to the principle of free speech if we look at the sheer number of social network users.

Large percentages of Internet users depend on privately owned and operated online social networks. Those offer genuine profile and network features, which enable the interaction of an otherwise disperse audience, including divergent use cases and communicative behaviours. According to latest figures, Facebook, an online social network less than a decade old, dominates the field, operating its service in 127 out of 137 countries analyzed (Cosenza 2013). As of June 2013 the network counts 1.15 billion monthly active users;[4] Twitter, the micro-blogging service, announced that it has well over 200 million active users creating over 400 million Tweets each day.[5] Google's networking platforms YouTube and Google+ are almost ubiquitously available on the web. Especially in developing countries Internet intermediaries have become powerful information gatekeepers. They created so-called "walled gardens" (Talbot 2013) by offering free or cheap access to very basic versions of their online services, but not without consequences. In developing countries, using social network services turns out to be the functional equivalent of accessing the wider Internet (*PEW* 2012).

Given the problems regarding the enforcement of national law, and the fact that most online platforms are controlled by private (corporate) entities, it is even harder to get a clear view of how information is regulated. The idea of principled self-regulation of the ICT-sector industry linked with higher standards of transparency on the prevalence of intervening practices has been proposed as the preferred governance approach (Feick and Werle 2010, Benesch and MacKinnon 2012). Notably, increasing transparency has become a standard response of companies and regulators to these issues.[6]

While a general commitment to respecting human rights is a central idea of good governance, putting such principles into everyday corporate practice when making decisions about content generated by billions of users is a complex endeavour. Companies enjoy the privilege of private autonomy in free economic markets, and as such not only have the power but also the legitimate authority to decide on the design of contracts and services. Terms of service (TOS) and accompanying policies have to be considered as a legal policy with regard to the platform owner, and as a social policy with regard to users (Burk 2012). These two inherent aspects are not free from conflicts. TOS are functionally used by platforms as the central rational for legitimizing interventions with regard to user-generated content. But whereas society widely agrees to (legally) ban some kinds of content, such as child pornography, the situation becomes controversial when platforms classify certain videos, comments, posts, or images as 'harmful' or 'inappropriate' and remove them. As such from the user perspective, corporate policies shape the user's expression of opinions and ideas by defining what is acceptable speech, what kind of social behaviour is permitted, and what is prohibited.

4. Practices of Content Regulation on Private Platforms

Concerning private regulatory arrangements, the question remains how companies behave toward their own policies and how they manage the informational flow of user-generated content circulated on platforms. This section, while not exhaustive, emphasizes five key steps.

4 Facebook Figures via http://newsroom.fb.com/Key-Facts.

5 Twitter's Corporate Blog: https://blog.twitter.com/2013/celebrating-twitter7.

6 Following Google a number of other major ICT companies, including Twitter, Dropbox, LinkedIn and Microsoft are publishing so-called "Transparency Reports" concerning their policies and practices regarding government requests to take down content.

4.1 Access Control

Access regulation is important mainly for two reasons. *First*, popular online social networks offer a free service and present the platform as open to all people, anytime and anywhere.[7] Success depends on the company's ability to persuade users to take specific actions, first and foremost to register, invite other people to join, and create and share content of various kinds (Fogg and Eckles 2007). These activities drive networking value for users, but also increase the value of the platform as a commercial entity.

Second, in contrast, platform providers also define access limitations in order to avoid reverse network effects that may occur when spam, noise, and unsolicited user behaviour increases (Choudary 2012). Facebook, as the most popular example, explicitly states that it is not open to convicted sex offenders. It also restricts the number of accounts to one per person and uses social reporting tools to identify fakes.[8] Groups of people are being excluded with regard to age.[9] Age information is also being used to determine if someone is allowed to see classified content. Other measures are also imposed to limit access to certain content or features. For instance, based on one's IP-address Flickr determines what kind of content one is or is not able to view.[10] The barriers to access networks have to be described as rather low or can easily be circumvented. On the other hand it seems that some policies are basically unenforceable.

4.2 Upload Filtering

Many platforms use upload filtering systems in order to prevent unwanted material from being distributed on the platform. Upload filtering, while needed to maintain platform security, essentially means censoring information before publication. So far, two forms can be distinguished. *First*, filtering is broadly distributed on platforms through algorithmic-controlled systems that allow an automated and ongoing monitoring of a vast amount of information. As such, content can be blocked with regard to its size, the format or file type. Incidents became known showing that Facebook issues warnings preventing users from publishing comments or posts because they do not contribute to the discussion in "a positive way" (Rashid 2012). In order to automatically detect videos that potentially infringe copyright, YouTube implemented an upload filtering system, called Content ID.[11]

Second, besides technical arrangements, users in general are being put in charge of exercising control over their own content and the content of others (Peterson 2013). Flickr asks users to categorize their own material before uploading it to the platform by choosing between safety levels and types of content.[12]

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7 A few examples: Tumblr: "Post anything (from anywhere!), customize everything, and find and follow what you love. Create your own Tumblr blog today." YouTube: "Share your videos with friends, family, and the world." Facebook: "Facebook helps you to connect and share with the people in your life."

8 Facebook Statement of Rights and Responsibilities, No. 4.2 and 4.3, https://www.facebook.com/legal/terms; see also: Facebook help page: How do I report a fake account?, https://www.facebook.com/help/167722253287296.

9 For most of the platforms users must be at least 13 years old, for others 18 years.

10 Flickr help page: http://www.flickr.com/help/filters/.

11 Youtube content ID: http://www.youtube.com/t/contentid.

12 Flickr help page: http://www.flickr.com/help/filters/.

4.3 Judgment Devices and Curation Tools

Once the content is published, a combination of content curation tools may be deployed. Companies rely on those tools and devices to learn about unsolicited user-generated content in the first place. Tools can be distinguished as either platform- or user-induced. Platform-induced tools include spam or URL filters, blacklisted terms, or image filtering, but also community moderation. Algorithmic filtering mechanisms have a tendency toward excessive blocking and have been criticized for being overly zealous at filtering content caused by aggressive spam classification filters.[13] Alternatively, community-induced tools allow users to report and flag inappropriate content of others for providers to remove.[14] Finally, state and public authorities or third parties influence what can be seen online by requesting platforms to take down content or by claiming copyright violations.

4.4 Reviewing and Decision Making

Reported and flagged content undergoes internal review processes.[15] While this is generally beyond public scrutiny, a few indicators have been revealed. The duty to review complaints is often outsourced to subsidiaries or service contractors. Under what conditions content reviewers are working and what kind of policies these teams are following was revealed due to a leak of Facebook's Abuse Standards (Chen 2012). Former employees have also reported that they "optimize for half a second" to decide what content is appropriate or not (Madrigal 2013). *Facebook* (2012) has given some insights to its review process showing User Operations Teams on three continents and thereby indicating the challenging need to deal with vast amounts of content 24/7, a diversity of reported content-related issues in multiple languages. Currently, some Internet companies are optimizing algorithmic systems for predicting and identifying content likely to provoke violence (Rosen 2013). Given the fact that platforms scale globally, crossing continents and cultural backgrounds, creates an ongoing challenge to make content-related judgments.

4.5 Enforcement Practices

The enforcement of content-related decisions is based on corporate TOS and accompanying policies. As the introductory example has already indicated, users typically receive automated notifications simply stating that the content in question has violated the TOS. TOS provisions generally include a range of sanctioning mechanisms corporations are entitled to enforce, like imposing warnings, deleting content, blocking access to services, and suspending or permanently deactivating accounts. Critique has been raised indicating a lack of predictable procedures, clear rules, limits that may be applied, and which are aware of the consequences they might cause, as well as an explanation of the rational behind the decision (e.g. Tufekci 2010, York 2010, Burk 2012).

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13 For a collection of cases cf. Open Net Initiative, https://opennet.net/filtering-types/overblocking.

14 Twitter, for instance, has just recently introduced a 'report abuse button', after incidents of threats against women happened to be circulated on the platform.

15 A different process is being followed when requests from public authorities and for instance child protection groups demand taking down illegal content. Corporations generally have legal review teams manually checking every single piece of content requested to be removed.

5. Conclusion

Corporate entities play a crucial, yet ambiguous role in governing freedom of expression online. They do so by defining what is or is not acceptable speech by means of content regulation through corporate policies and intervening practices. The latter are often based on platform governance technologies and algorithmic arrangements. Dominant online social networks in particular shape how user-generated content is being mediated, since they offer features that facilitate information and opinion seeking, sharing, and disseminating for a disperse group of users, potentially on a global scale.

The previous pages have demonstrated that the human rights framework appears to have a rather weak weight in evaluating corporate practices on the impact they have on free speech principles. Instead, it needs a more granular understanding of the empirical realities of corporate governance arrangements and technical modes of intervention, beyond a normative judgment.

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Statements from Representatives of Academies

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Human Rights and Science Academies

Yves Quéré (Paris, France)[1]

The necessary freedom (to think, to write, to travel […]) and the intense moral responsibility which scientific research demands creates a strong link between scholarly societies (of which the Academies of Sciences are among the most important) and the issue of respect for human rights. Thus, since the 1970s, Human Rights Committees have been created within a certain number of Academies. These Committees have been working tirelessly since then on behalf of scientists, engineers, technicians, health personnel, and others who are subjected, around the world, to arbitrary arrest, show trials, unjust conviction, and sometimes even torture or assassination. The functioning of the CODHOS (the French such Committee) will be described as a typical example.

The Interacademy Network, created in 1993 by three Nobel laureates, which as of 2013 includes some seventy Academies of Sciences, coordinates these actions, and, by virtue of its commitment and its effectiveness, is able to achieve results far better than expected or hoped for.

1. Science and Freedom

The history of thought, and in particular that of scientific research, is indissolubly linked to the acquisition of freedoms. There can be no new discoveries, no new breakthroughs in knowledge, while the human mind restrained either by old ideas or by the various powers that are troubled by novelty or threatened by the freedom of men.

It is therefore no surprise and completely natural that the development of human rights (as they began to spread in the eighteenth century, broadly associated with the theme of freedom) has found support and encouragement from men and women of science. Their record may not always have been perfect, in that some of them, here and there, may have paid lip service to dictators or provided the censors with arguments. However, in so doing, they have scorned their own discipline and contradicted it, thereby destroying with one hand what they were constructing with the other. In any case, over the past decades, it is in the sciences – including medicine – that a real international solidarity has most naturally become established, which

1 Y Q, a physicist, is a member of the French *Académie des sciences*. He co-chaired, from 2000 to 2006, the *Inter-Academy Panel* (IAP) which is the Assembly of Science Academies worldwide.

often revolves around the Academies and is fostered by the constant involvement of researchers in cross-border collaborations.

2. Freedom: A Necessary Condition for Scientific Adventure

Science owes everything to this spirit of adventure, to openness to the world, to delight in shattering false or outdated images, to the fervour of the human mind which go together to define freedom and nourish the spirit of research. Here, one may think, among thousands of other examples, of Ibn el Haytham, establishing against the beliefs of the period (tenth century), the truth about our vision of objects; of Copernicus, rocking the ancient and venerable image of a world that was assumed to be centred on our Earth; of Haüy deducing the idea of an order which reigns at microscopic scales from the observation of a fragmented stone, thus creating crystallography; of Darwin imposing the concept of evolution against prejudices; of Pasteur reducing to nothing the idea of spontaneous generation which was very common in his day; of Einstein overturning our old perception of space and time; of Lemaître deducing the concept of an expanding universe and of a Big Bang from Einstein's equations, in spite of the latter's disagreement. In all these cases we see the free exercising of thought faced with an earlier truth tirelessly called into question even when the earlier truth had been established by science itself. In all these cases we see the courage to confront the supporters of the dominant idea, to face their possible mockery, censure or condemnation. And in all cases we see (for without this the benefits of the aforementioned freedom are called into question) an awareness that the new idea will one day itself become old, and that a subsequent free thought will one day emerge to contradict or modify it, by way of a warning that freedom is only admirable if it knows its own limits, and that its brutal and lawless application can lead to worse wrongdoing and excesses.

3. Andrei Sakharov: An Absolute Role Model

It is doubtless, because freedom is so consubstantial to their work, that scientists have such strong feelings, in general, about the price that is attached to its respect and the penalty which its mutilation incurs. It is also doubtless because they perceive the ambivalence of their autonomy that they so often associate the idea of freedom with that of responsibility, and that they often find themselves stating duties while at the same time talking of rights.

In this respect, what Andrei Sakharov had to say is completely exemplary. And if his words carry so much force, it is both because (unlike so many others) they gain their weight, their gravity, from the risks incurred and the suffering undergone, and furthermore because they urge us not just to demand a right but also to exercise a duty in equal measure, and to give as well as to receive. The progression is well known, from those distant years when the physicist alerted Kruschev (in vain) to the extremely harmful effects of nuclear tests, when he launched his celebrated appeal for a convergence of the efforts of the East and of the West towards disarmament and peace,[2] and then, when having become the conscience and confidant of an entire people, he sided increasingly firmly with the latter against the iniquity, the

2 1968 "Reflections on progress, peaceful coexistence and intellectual freedom".

injustice, and the lies of a regime which had once honoured him, but which now insulted him, threatened him, and finally sent him into exile.

It was following this exile that the French Physical Society invited him to its annual congress in Lyon, in October 1989 – two months before he died, exhausted, in Moscow –, where he had given a memorable lecture on the subject of "Science and Freedom". One could tell, upon hearing him, that this voice, frail that it was, had been able to shake the walls of an empire by the force of conviction alone and through the crystal-clear demands which it laid down: That men are born to live with dignity, to know a peace which is not just a shaky suspension of fighting, but a state of mutual respect and generous cooperation; that they have the right to receive the truth, and, by the same token, the duty to discover it and to tell it; that their freedom must be recognized and, by the same token, they must take on the obligation to build up the freedom of others. This voice that, from the depth of exile, simultaneously raised both the need for reference points and the vanity of the systems, brought to mind of the disorientated man that – as he wrote – "only moral criteria, coupled with mental objectivity, can serve as a compass".

Clearly the stature of this man played a major role in the European Parliament's decision to attach his name to the Human Rights Prize it created.

4. Science and Human Rights

We perceive here some basic elements – extending well beyond science – of a doctrine of human rights which begins with the freedom of men as an essential foundation for their rights, and ends with their duties, without which unrestrained freedom may come with obvious dangers. In terms of scientific research, this translates as both the right to announce any hypotheses or new theories, and also the duty to expose them to inspection by peers, contemporary or future, and to accept that they may at some stage be contradicted.

It comes as no surprise to us, under these conditions, that the world of science is particularly sensitive to this ideal of freedom, and that it is perhaps more offended than others by the attacks to which this ideal is subjected. This was, in particular, the case during the years 1960–1990, when the severe restrictions or attacks to which a number of scientists were subjected (*a*) in countries pledging allegiance to the USSR and (*b*) in various other dictatorships, notably in Latin America, became abundantly clear. Credit is due to those such as (among others) Joël Leibowicz in the USA or Alfred Kastler, the French Nobel laureate for physics, for alerting public opinion to these matters of bans on thinking outside the party line (Lyssenko affair, and others), serious restrictions on movement, imprisonment, gulag, and abusive detentions, ill treatment, torture, and even summary executions.

5. The Growing Role of the Academies: The Example of CODHOS

The Academies of sciences, which are in principle (or should be) places of freedom of thought, independent from authorities of all types, had a duty to react to these serious human rights violations. This led to the creation of the first academic Committees for Human Rights: in 1976 within the US National Academy of Sciences by Lipman Bers, and in 1978 within the French Academy of Sciences by André Guinier. The latter committee, the CODHOS (*Comité des Droits de l'Homme de science*, Committee for the Defence of Scientists'

Rights) would never cease to exercise its mission. Chaired initially by the physicist André Guinier, then by the Nobel laureates François Jacob, Jean Dausset, and currently, Claude Cohen-Tannoudji (where the high stature of these scientists attests to the importance the Academy attaches to this Committee), the CODHOS has worked – with one meeting per month – on various fronts over the past 35 years. First there were numerous letters of support or invitations to Russian, Polish, Bulgarian, and other scientists who wished to take part in scientific meetings in "the West" but were denied a visa by their home countries. Then there were, sadly numerous, telegrams sent to presidents, dictators, prime ministers, ambassadors, prison or camp directors, judges, presidents of Academies and the like, protesting against particular cases of torture, particular trials, particular sentences, particular arrests, particular instances of harassment followed by visits of protest to particular ambassadors in Paris. These were followed by meetings in the 1970s and 1980s of "refuznik" Jewish scientists in Moscow, Leningrad, Odessa, and other cities. It is comforting to have received proof, in a certain number of cases, that these actions had had a positive effect in the form of the issuing of visas, the release of prisoners, etc.

Since the political changes of the 1990s, the interventions of the CODHOS have had a broad geographical range, directed towards a growing number of developing countries in the Middle East (Iraq, Iran, Syria, etc.), in Africa (Ethiopia, Sudan, etc.), or in Asia (Iran, China, Sri Lanka, India, etc.) and also, with lesser frequency, towards several developed countries (France, Switzerland, etc.). The violations for which it is decided to take action relate to people in the scientific world in the broad sense (researchers, engineers and technologists, health personnel, and others), whence the reference to "scientists" in the name of the CODHOS. The only reason for this limitation, or apparent discrimination, is the desire to act effectively on cases in which we know and understand the professional environment, not to mention the obvious impossibility for a committee of limited means to deal with all human rights violations throughout the world.

Soon, other Academies of sciences joined the movement (Netherlands, Italy, etc.), amplifying the action initiated on each occasion. This soon led to the idea, proposed in 1993, for the establishment of an International Human Rights Network of Academies and Scholarly Societies (HR Network). In 1993, three Nobel laureates (from France, the UK, and the US), and a judge serving on the Council of State in the Netherlands, agreed to become founding members of the "HR Interacademy Network" and work to raise the consciousness of national academies around the world regarding science and human rights.

6. The Interacademy Network: Role and Missions

The HR Network is an international non-governmental alliance of national academies and scholarly societies, dedicated to the promotion and defense of the fundamental freedoms promulgated by the *Universal Declaration of Human Rights* (UDHR). It defends, diplomatically and largely behind the scenes, unjustly detained or imprisoned scientists, engineers, and health professionals who have never advocated or practiced violence. It would use the prestige of the affiliated scientific institutions and the distinction and international name recognition of the prominent individuals actively involved in its work. Other Nobel laureates and prominent scientists soon joined the Executive Committee's founding members. Very quickly they all became devoted supporters of the HR Network and deeply involved in its work.

7. The Interacademy Network: Organization

The HR Network is based within the *US National Academy of Sciences* (*NAS*), in Washington DC, and its Executive Director is a remarkably generous and efficient lady, Carol Corillon. Working in close collaboration with the Network's member Academies (some sixty), the Network's missions are:

- To collect case files of requests for intervention. These come from individuals or key figures (in general from the country concerned) who are aware of a serious Rights violation, or from specific Organizations, such as *Amnesty International*.
- To set up, if necessary (i. e. when the information is imprecise, or open to doubt), an enquiry which generally involves sending a delegation (for example, two academicians) to the country concerned in order to shed light on the reality of the alleged facts.
- To issue the corresponding information to the whole network so that all the Academies can react (messages, telegrams, meetings with the Ambassador of the country concerned, etc.) in a coordinated and relatively simultaneously manner.
- To organize every two years a meeting to which all the members of the Network are invited. These meetings provide an opportunity to examine the methods and ways of working of each Academy and to define certain "doctrinal" points concerning the actions to be undertaken (last meetings in Sri Lanka, Morocco, and Taiwan in May 2013).

8. A Few Typical Actions in a More Difficult and Dangerous World

Many scientists, engineers, and health professionals around the world are unjustly imprisoned. Most have done nothing more than express their opinions in a nonviolent manner; others are simply doing their jobs. Many are held without trial; others are serving harsh sentences and are confined under deplorable conditions, often in solitary confinement. Some have been tortured, most have been mistreated, and many are in poor health. Some die without gaining their freedom, such as Libyan engineer and former Provincial governor from Benghazi, Fathi al-Jahmi, and others disappear, such as the brilliant Chadian mathematician and opposition leader, Ibni Oumar Mahamat Saleh, who was arrested by the presidential guard, glimpsed lying on the prison floor covered in blood, and then never seen again.

The world increasingly is complicated – morally, ethically, scientifically – and human rights for scientists and the responsibilities they bear are thus, necessarily, more complex. For instance, the cases undertaken by the HR Network involve a wide array of scientists, engineers, and health professionals. For example:

- Anthropologists, sociologists, and medical doctors are murdered or imprisoned for writing or speaking about the miserable plight of indigenous peoples. In the case of those who are murdered, we insist that those responsible face justice.
- Forensic anthropologists are menaced daily with all too credible death threats for exhuming the bodies of the disappeared or opening mass graves, thereby helping the victims tell their grizzly stories through forensic evidence.
- Mathematicians, physicists, astronomers, geologists, and biologists who decry governmental corruption, exploitation, or neglect at the expense of the environment are threatened, arrested, and imprisoned.

– Medical researchers who expose health hazards and injuries that the government has tried to hide meet the same ends.
– Psychologists and physicians face imprisonment because they speak out in support of HIV/AIDS prevention education or reveal statistics of infection rates far higher than those admitted to by governments. Medical doctors are imprisoned for talking to the press about avoidable or purposeful civilian deaths in war zones, for documenting torture, and for treating torture victims. Moreover, as the world has seen in Bahrain recently, they are murdered or arrested, tortured, and put on trial for treating injured peaceful protesters in hospitals, clinics, and directly on the streets where they fall when they are shot.
– Engineers languish in prison for revealing that earthquake damage to buildings and the resulting deaths could have been mitigated if government corruption and neglect had not allowed shoddy building construction.

9. Conclusion

The search for the truth and the need for freedom predispose scientists to the defense of human rights. In particular, Academies' members must use their access to influential and high-level officials and their reputations for seeking and speaking truth, to address and redress grievous human rights situations related to science and scientists.

An increasing number of Academies should comprise an efficient human rights Committee, and join the actions of the Interacademy Network. Even though it is often difficult to know the result of interventions, quite a number of them have had a positive conclusion (Cf.: www7.nationalacademies.org/humanrights/Cases/index.htm).

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Report of the National Committee of Academies for Human Rights in Sweden

Erling Norrby (Stockholm, Sweden)

The Swedish Academies Committee of Human Rights originally involved two academies, The Royal Swedish Academy of Sciences and the Academy of Letters, History and Antiquity. For three years now it also includes the Swedish Academy (of Literature). Representatives of these three academies meet twice a year, chaired by one of its members, presently the author of this report, and receive secretarial help from the Royal Swedish Academy of Sciences. The committee has been a member of the International Human Rights Network of Academies and Scholarly Societies (IHRN) since 1995. It actively involves itself in many of the cases identified by the secretariat of IHRN and also aims at initiating activities by its own initiative.

During the three years between the meetings of the network in Morocco (2009) and in Taiwan (2012) a total of 915 letters were sent from twenty different academies participating in IHRN to heads of states concerning various unjustly incarcerated fellow scientists. The Swedish Academy was involved in sending 140 of the letters.

The committee meets once each semester and reviews the initiatives taken. It also discusses a selected area of problems. At the spring meeting of 2012, Bengt Gustafsson, at the time the chairman of the International Council of Science (ICSU:s) Committee for the Responsibility of Science, presented the philosophy of this committee and discussed problems of particular timeliness. Special problem areas also discussed at the meeting were the situations in Syria, Iran, and Turkey. At the autumn meeting the same year the invited person giving a thematic introduction was Stig Fredriksson, a well-known author and journalist with deep insights into the particulars of the former Soviet Union and present day Russia. In addition, the situations in Iran and Turkey were reviewed again at the meeting along with the problems in Bahrain. The "Arab Spring" was discussed after an introduction by a member of the Committee, Jan Hjärpe at the faculty of Theology at Lund University. Hjärpe is the foremost Swedish expert on Islamic religions and has a particular involvement in issues of human rights. At its meeting in May 2013 the invited guest was Jonas Lovén, employed at the Swedish Ministry of Foreign Affairs with a special responsibility for Middle and South Americas. The situations in Ecuador, Mexico, Guatemala, and Argentina were discussed in particular in relation to specific cases earlier considered by the secretariat of IHRN. Other countries specifically discussed were again Bahrain and Turkey and also Italy. The subject of the latter discussion was the situation of scientists condemned to imprisonment because of the advice they had given in connection with the earthquake at L'Aquila.

At present the committee follows with a particular interest the recent developments regarding the situation of state influence over the governmental-sponsored academies in Turkey

and in Russia in the perspective of the recent proposals for political interventions. A letter of support was recently written to the leadership of the Russian Academy.

Presently the Swedish committee has a particular focus on the possibilities for scientists in a broad sense to participate in the development of a more peaceful world. This involves their responsibility to further quality of life and to protect human rights. Its chairman is involved in writing about natural scientists who have received the Nobel Peace Prize. This allows a broad discussion on science and ethics in many different contexts. Historically science and technology have been subservient to means of accentuating war efforts. It is time to change this. There are many examples of leading science personalities, who have become spokespersons for peace in general and for furthering the advance towards a better global civilization; the role in securing food for everyone on Earth by application of modern scientific technology; the role in peace movements of personal involvements of concerned scientists in the dismantling of nuclear weapons and the use of modern science to secure that new even more powerful weapons are not developed and tested; eradication of infectious diseases as a means to foster global interaction of countries, eliminate systemic vaccination and enhance peace and finally securing a global control over the development of conditions of communal living with general effects on the global climate, again a global peace project transgressing all national borders. A new IPCC report is imminent.

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Freedom of Speech at the Academy in Finland – Some Worrying Tendencies

Jukka Kekkonen (Helsinki, Finland)

Freedom of speech and a sufficient autonomy from societal power holders are among the basic principles of the Academy (the universities). This is self-evident in democratic societies, based on the principle of rule of law. As a legal historian, however, I know better than well how the historical and societal context in the last instance determine the limits of basic rights and freedoms, the fundamental principles on which the science is based.

During the last several years the development in this field has not been positive – quite the opposite. This holds true even in wealthy and democratic countries such as Finland. In this short text I give some recent examples of Finnish developments.

The tendencies I will address can be seen most clearly in the public administration in general. And within the terrain of research this holds true especially if we are looking at the state-funded research institutes. But there are also certain worrying tendencies within the traditionally autonomous nuclei of the Academy, the universities.

Here I will present only a couple examples of these tendencies, and after that I try to focus the basic issue: Why so, does it seem evident that the same fundamental principles of the academic world are in danger – at least to a certain extent?

During the last few years there have been several cases where researchers who have been critical of the dominant policies in the field of energy and environmental politics have been "silenced".

In one case silencing meant giving a sanction of warning to a researcher who was publicly outspoken. In another case the critical researcher was moved to another position. These kinds of policies may have the effect that in the future there will be fewer critical voices questioning important policies that should – in theory – be widely debated in a democratic society. Once more I underline that these cases have taken place outside the universities, in state run research institutes. But the universities are not immune to these kinds of developments.

There have – to take one example – been plans in some universities to introduce a centralized system of delivering information on the issues, including research results. In this system the professors of the academy could give public statements only after coordinating the message with the official policy of the university. This is so far only a wild plan, but it represents the kind of thinking that has gained ground during the last few years in Finland. Luckily enough this is not reality today, and professors and other researchers have the possibility to go to the media without this kind of filtering.

Even though the issues I raised are minor and some of my colleagues might say that I am exaggerating the dangers, it is important to be sensitive enough in this kind of matter. Looking back, history often shows that major changes in legal and cultural practices are often preceded by minor signs that were not taken seriously enough.

There are evidently many background factors in these new tendencies. Some of them have long roots and some can be traced in recent political developments in Finland and Europe. The trend has clearly been towards the centralization of power in the public administration.

To go straight to the point in the Finnish case, the new university legislation (2010) is evidently one central background factor. It was one of the most important reforms planned by the previous Finnish government (in which the conservative coalition party and central party where the dominant forces) even though it was already in the agenda before this period.

The reform was adapted following – explicitly – models from UK, Japan, Austria, and Denmark. It gave – in theory – more autonomy to the universities in the field of economy and also in other issues. However, the reality is another story. It should be noted that 60 % of the budgets of the universities come from public funds, and in practice the Ministry of Culture and Education is still strongly guiding the universities on what to do and how. The Ministry determines the indicators by which the universities get their funding. Many experts doubt whether the real – *de facto* – autonomy has expanded.

The universities judicial status was renewed in the reform mentioned and as a result they are no longer state offices. They are now called "public institutes" – something in between private companies and public administration. Additionally, professors are no longer civil servants but employees having the same legal positions as workers in private enterprises. They can be discharged from their position much more easily than before.

At the same time a straightforward managerial model was introduced to the universities. A relative democracy, where the members of the academic community had some influence, was abolished.

Similar to private companies, boards (electing the rectors) were introduced, and the head of the board generally comes from outside the university. Forms of traditional self-governance have been weakened and the leaders (rectors, deans) have more power.

In the same process the "new" universities have altered their organizations. The guiding principle has been the abolishment of small units and centralizing power with the leaders of the bigger units that function under the command of the rector. All this has been considered necessary to make the administration more efficient and also to save money (ironically the salaries of the rectors and also lower managers rose significantly in the new system).

A large majority of the staff resisted these reforms. The deans of the law faculties even proposed an alternative legislative package without success. It was very important for the government to carry out this reform ("a fantastic reform"), and they succeeded in convincing the rectors of the universities of the necessity of this reform.

This change has caused several problems (discontent has grown), and it has also been – at least partly – a cause of why critical debate has nearly totally vanished. Where are the young intellectuals? To exaggerate only slightly it seems to that the most important thing is to have good relations with the superiors – not to develop innovative and critical thinking.

I also see dangers from the point of view of freedom of thought and speech in growing criticism towards researchers who are interested in certain topics of high political relevance.

I don't want to be too pessimistic, but as the reader can see, the situation is not very promising from the point of view of the traditional values of the Academy. This situation is especially worrying from the point of view of social sciences and humanities.

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Report of the Committee for Freedom of Scientific Pursuit (CVW) of the Royal Netherlands Academy of Arts and Sciences (KNAW)

Pieter J. D. Drenth (Amsterdam)

During the preceding year the Committee for Freedom of Scientific Pursuit (CVW) has again advised the Board of the Royal Netherlands Academy of Arts and Sciences (KNAW) to take action (write letters of protest) regarding scientists and scholars around the world who are subjected to sometimes severe repression solely for having non-violently exercised their rights as promulgated by the Universal Declaration of Human Rights (UDHR), the right to have and to express one's opinion (Article 9) and to associate (Article 20). Suggestions for dealing with such cases are almost always prepared by Carol Corillon (National Academies of Sciences, Washington DC, USA, and secretary of the International Human Rights Network of Academies and Scholarly Societies).

Further attention was paid and action undertaken with regard to European cases of (potential or actual) violations of the principles of freedom of science. These include the developments and changes within the Montenegrin, the Turkish, and the Russian Academies of Sciences. Letters of concern and protest have been sent to the authorities in question.

Change of composition CVW: By January 1, 2014, Nico Schrijver, professor of international law at Leiden University, will replace Pieter Drenth as chairman of the CVW. Prof. Schrijver is the present secretary of the committee. A new secretary will be elected. In addition, two new members will replace the present members Zandbergen and Reneman. Erik van de Linde will remain executive secretary.

In addition two main issues have received attention:

1. Scholars at Risk

Scholars at Risk (SAR) is an international network of hundreds of higher education institutions in a great many countries dedicated to promoting academic freedom and defending the human rights of scientists and scholars worldwide. SAR protects scientists and scholars suffering grave threats to their lives, well-being, and liberty, primarily by arranging positions of sanctuary at institutions in its network for those forced to flee. In most cases this is a one semester or one-year position as a visiting scholar at a higher education institution in a safe location anywhere in the world.

In the Netherlands the responsibility for the organization of a partner network for SAR has been taken up by the University Assistance Fund (UAF), a private organization that since its foundation in 1948 has helped thousands of refugee students with their study and employment. Every year hundreds of UAF students receive a diploma and find a job in the Nether-

lands. As far as the SAR programme is concerned, UAF invites universities to take active part in the programme and to offer a (mostly temporary) position to a 'scholar at risk'. The CVW has advised the Board of the KNAW to reserve one position every year within its 'visiting professors programme' for a SAR client. The Board has reacted favourably and has delegated the task of identifying and selecting a suitable candidate and to find a 'hosting' institute or university to the CVW. Last year professor Felix Kaputu, a persecuted scholar from Congo, spent a year at Leiden University. For the coming year another candidate has been nominated.

The CVW is grateful to the KNAW to support in this way the important work of the SAR programme. This programme deserves wide support, and other academies in Europe are invited to make a similar or other contribution to this laudable SAR initiative.

2. Risks of International Scientific Collaboration

Secondly, the CVW has worked on a brochure on risks of international scientific and education cooperation. The Social Science Council of the KNAW had asked the Board of the Academy to develop rules and directives for cooperating with students, researchers, and professors from countries with dubious or repressive regimes. The Board requested the CVW to formulate a stance and possibly write an advisory brochure on this sensitive matter.

The Social Science Council was stimulated to pose this question because of a number of controversial or harmful experiences, including:

- A Pakistani researcher Abdul Khan studied nuclear physics in the Netherlands and is now the main researcher behind the development of a nuclear bomb in Pakistan.
- The Dutch government implemented UN Security Council Resolution 1737 and as a result, students with Iranian passports were refused nuclear science and rocket engineering studies at Dutch Universities. After protests from the KNAW, ICSU, and the IHR Network the rules were amended.
- The Board of Wageningen University was offered a project to grow cattle fodder in Mozambique. It raised a conflict with a number of researchers who were of the opinion that this would be harmful for small farms. How to resolve this conflict?
- A discussion on boycott initiatives: a rather successful boycott of South Africa during apartheid, but recently a more controversial proposal to boycott Israeli universities and researchers from 'occupied Palestinian territory' (Stephen Hawking).
- Saudi Universities are offering highly paid positions with little or no official work to professors from prestigious Western universities (e.g. the KNAW President Hans Clevers) in order to boost their output scores and international ranking. Is it allowed to accept these positions?
- A recent article in the *Guardian* "Science diplomacy works, but only if it is genuine" points to harmful effects of hidden political objectives of scientific collaboration with developing countries.

It is clear that with respect to collaboration with scientists and students from countries with a dubious or repressive regime various (often conflicting) scientific, political, moral, economic, and security elements play a role. Of course, there is the fundamental conflict between the scientific ideal of transparency, sharing and open discussion, freedom of discussion and exchange of ideas on the one hand, and reserves and restrictions if scientific values are violated, quality of research is impeded, or persons or national security are endangered, on the other.

Furthermore, do we always know with whom we are collaborating? What is the real threat of scientific and technological espionage? Who is ultimately responsible for the cooperation if something goes wrong? Are we morally obliged to help a researcher from an authoritarian state? How should this moral obligation be weighed against the scientific relevance of the cooperation? What (political) statement do we make if we decide to collaborate or not to collaborate?

These and other questions brought the Council, and consequently the Board of the KNAW, to consider this issue a sincere point of concern deserving serious attention. This conclusion is all the more convincing since there is a stark increase of international collaboration within all universities and research institutes, but hardly a formulated, well-considered strategy with respect to the issue in question available within those universities or institutes.

The CWV took up this task and has prepared a brochure to offer a framework to identify risks of international scientific collaboration. The objective will explicitly not be to advise on countries with which one can or cannot collaborate. Instead the brochure intends to open the subject for discussion and to create awareness within the scientific community about the relevant considerations and arguments that can influence the decision to engage in collaboration with students or researchers from countries with questionable regimes or practices.

The brochure offers an analytical framework that can be used for the weighing of considerations and arguments for each particular case. It suggests three dimensions for such an evaluation:

– *First*, the organizational level. This could be individual, institutional (university, institute), or national.
– *Second*, the regime of the country (or institution) concerned. Within this dimension there are four possibilities: (*a*) not repressive, (*b*) restriction of freedom of science (for instance through political pressure, industrial interests, or safety of the researcher), (*c*) violation of human rights, and (*d*) political/military threat of using the results for the development of unacceptable or evil purposes.
– The *third* dimension focuses on the risk level. This can be low (neutral subject, no personal danger), moderate (sensitive research subject, research on interesting, innovative developments, or products that are in demand), or high, such as the possibility to use the information for the development of weapons for mass destruction, dangerous viruses, etc.

These dimensions create a three dimensional matrix in which each case can be categorized. The nature of the case and seriousness of possible reservations can then help to make the proper decision. A number of actual cases are added as illustration.

The brochure will be written in English. It will appear by the end of 2013 and be made available for all interested parties and individuals.

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Human Rights and Human Dignity in the Context of Bioethics: Some Remarks in Light of International Law

Janusz Symonides (Warsaw, Poland)

1. Introduction

The rapid development of modern biotechnology – understood as the use of genetic manipulation and recombinant DNA technology in human beings, plants, animals, and microbes – started in the last century opens a new, unprecedented ability to protect human health and life. Progress is not limited to medicine and pharmacology, but also covers industry and agriculture, as well as genetic resources. There are new and often surprising possibilities for the production of raw materials and goods. Agricultural biotechnology can improve the quality and productivity of animals and plants. However, these new opportunities offered to humankind are not free from serious threats and challenges to human dignity and human rights if offered in an unregulated way. Mass production of genetically modified organisms and introducing them into the environment poses a serious challenge to biosafety and human security and health.

In the field of bioethics, most countries have at least partial legislation. In the adoption of this legislation, ethics and bioethics committees play a very important role.[1] National laws are influenced by deontological principles and regulations adopted by professional associations.

Attempts to regulate the rules of conduct in the field of bioethics have been undertaken by non-governmental organizations since the mid-twentieth century. In 1949, the *Nuremberg Code* was formulated, which can be regarded as a pioneering document of contemporary bioethics law. In 1964, the World Medical Association (WMA) adopted the *Declaration of Helsinki*, ethical principles for medical research involving human subjects (amended in 2006). The International Organization of Medical Sciences (CIOMS) in 1991 adopted the *International Ethical Guidelines for Epidemiological Studies of Problems*, and in 1993 (modified in 2002) *International Ethical Principles for Biomedical Research Involving Humans*. The Forum of Europe adopted in 1995 and 1997 the principles and recommendations for European ethics committees.

In the era of globalization, domestic laws alone cannot solve problems which are far from being limited to national borders. They require for their effectiveness global solutions. This

1 Deutsch 1996, p. 176; *Les Comités d'éthique* 1990. The first national ethics committee was established in France in 1983: Consultative Comité national d'éthique pour les sciences de la vie et de la santé. The Council of Europe to promote cooperation among these committees established the European Conference of National Ethics Committees (cometh), composed of representatives of national ethics committees or their counterparts in the Member States.

means that the need to take up and pursue the activities for the development of international law of bioethics and biotechnology is obvious.[2]

2. Human Dignity and Human Rights and New Challenges of Science and Technology

In the twenty-first century, the breathtaking advances of science and its applications raise serious questions concerning its impact on human rights, human dignity, and integrity.

This question has been tackled in human rights instruments from a positive point of view. As proclaimed by the *Universal Declaration of Human Rights* (Article 27): "Everyone has the right […] to share in scientific advancement and its benefits". The *International Covenant on Economic, Social, and Cultural Rights* (Article 15) confirms the right of everyone to enjoy the benefits of scientific progress and its applications, adding that full realization of this right should include: "[…] the development and diffusion of science," by the States Parties as well as respect of "[…] the freedom indispensable for scientific research."

The question of the possible effects of scientific and technological developments upon the enjoyment of human rights and fundamental freedoms was for the first time discussed in greater detail during the Teheran International Conference on Human Rights. The *Proclamation of Teheran* adopted on May 13, 1968 noted that: "While recent scientific discoveries and technological advances have opened vast prospects for economic, social and cultural progress, such developments may nevertheless endanger the rights and freedoms of individuals and will require continuing attention".[3]

As the follow-up to Resolution XI of the Teheran Conference, which recommended that the United Nations undertake a study of this problem, the General Assembly invited the Secretary-General[4] to study in which ways the impact of development in science and technology could guaranteed: "(a) respect for privacy in the light of advances in recording and other techniques; (b) protection of the human personality and its physical and intellectual integrity, in the light of advances in biology, medicine and biochemistry; (c) uses of electronics which may affect the rights of the person; (d) the balance between scientific and technological progress and the intellectual, spiritual, cultural and moral advancement of humanity."

In the first half of the 1970s, the Secretary-General and the specialized agencies presented a series of reports on the positive and negative impacts of scientific and technological developments on human rights. Consideration of these reports prepared the ground for the elaboration of a draft instrument designed to strengthen respect for human rights in the light of developments in science and technology. In November 1975, the General Assembly proclaimed the *Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind.*[5]

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2 Even a rudimental international bioethical or biotechnological order must include three elements: a system of values; norms and principles governing action on this area and institutions, bodies and procedures to ensure its implementation and monitoring. This paper attempts to answer how far by adopting international instruments and both conventional and customary norms the international community is advanced on this road.

3 Final Act of the International Conference on Human Rights, United Nations, Sales No E.68.XIV.2, p. 3.

4 Resolution 2450 (xxiii) of 19 December 1968.

5 Reports analyzed, inter alia, the impact of scientific and technological developments on economic, social and cultural rights (the right to food and clothing, equal pay for equal work, housing, rest and leisure), the beneficial consequences of the application of electronic communications techniques, as well as the benefits which will be derived from advances in biology, medicine and biochemistry. The report presented in 1975 endorsed the harmful

The Declaration, in its preambular paragraph, noted that scientific and technological progress has become one of the most important factors in the development of human society and that it may deprive individuals and peoples of their human rights and fundamental freedoms.

The General Assembly proclaimed that all States shall take appropriate measures to prevent the use of scientific and technological developments to limit or interfere with the enjoyment of the human rights and fundamental freedoms of the individual, as enshrined in the *Universal Declaration of Human Rights*, the *International Covenants on Human Rights* and other relevant international instruments. They shall co-operate in the establishment, strengthening, and development of the scientific and technological capacity of developing countries. In order to ensure that scientific and technological achievements are utilized to promote the fullest realization of human rights and to prevent and preclude their use to the detriment of human rights, States shall take effective measures, including legislation.

The implementation of the Declaration was inscribed on the agenda of the Commission on Human Rights, its Sub-Commission on Prevention of Discrimination and Protection of Minorities and the General Assembly which deals with it regularly, under the item "Human Rights and Scientific and Technological Progress". In the resolutions on this subject, the General Assembly and the Commission call upon all States, appropriate organs of the United Nations, specialized agencies and international organizations, governmental and non-governmental organizations to take the necessary measures to ensure that the results of scientific and technological progress are used exclusively in the interests of international peace, for the benefit of humankind, and for promoting and encouraging universal respect for human rights and fundamental freedoms.

Despite repeated calls by the United Nations for measures to be applied by States and international organizations to ensure that scientific and technological developments are utilized exclusively for the reinforcement and not the endangering of human rights, the situation cannot be seen as fully satisfying.

Though the progress can be observed in all areas of science and technology, it is uneven and its impact on human rights also differs. As stated by the *Vienna Declaration and Programme of Action* (1993): "[…] certain advances, notably in the biomedical and life sciences, as well as in information technology, may have potentially adverse consequences for the integrity, dignity and human rights of the individual, and calls for international cooperation to ensure that human rights and dignity are fully respected in these areas of universal concern."[6]

3. International Instruments on Bioethics

So far, the international instruments relating to the biological sciences and medicine applicable to human beings have been adopted by UNESCO, the United Nations, and the Council of Europe. Though the terms "law of bioethics" and "law of biotechnology" are often viewed as synonyms and used interchangeably, but in fact there is a far reaching and profound difference between these two sets of principles and norms. In the case of bioethics human beings

effects of automation and mechanization of production on the enjoyment of the right to work, the harmful effects of scientific and technological developments on the enjoyment of the right to adequate food. It also presented the deterioration of the human environment as a result of scientific and technological development, the problem of increasingly destructive power of modern weapons and the public health problems linked with atomic reaction.

6 Paragraph of 11 of Vienna Declaration and Programme of Action.

are agents and objects of action, whereas in biotechnology objects are different, humans are replaced by genetically modified organisms (GMO). Both branches of international law deal with genetic engineering, but the scope of regulations in bioethics is much broader because it covers not only questions linked with genetic manipulations but also "addresses issues related to medicine, life sciences and associated technologies as applied to human beings."[7]

Law of bioethics is closely related and influenced by international human rights and human dignity whereas law of biotechnology is intimately linked with international environmental law. Last but not least, all elaborated and adopted by international community instruments – declarations and conventions – either deal with bioethics or with biotechnology *tertium non datur*. Therefore, separation of these two fields in research and analysis seems fully justified.

Declarations adopted by UNESCO and the United Nations do not have a formally legally binding character. They form so-called soft international law. The only fully binding international law instrument in the field of bioethics is the *Convention on Human Rights and Biomedicine* and its additional protocols, which have been adopted by the Council of Europe.

3.1 The Universal Declaration on the Human Genome and Human Rights

The *Universal Declaration on the Human Genome and Human Rights*, adopted unanimously by the 29th session of the UNESCO General Conference on November 11, 1997, is the first international instrument in the field of bioethics accepted by the entire international community.[8] However, it does not deal with all the issues of bioethics and in accordance with the title focuses on the human genome, which in Article 1 is proclaimed in a symbolic sense, the common heritage of humanity. Article 2 states that everyone has the right to respect for their dignity and rights, regardless of genetic characteristics, it requires respect for the uniqueness and diversity of people. The human genome in its natural state should not bring financial benefits. Examination, treatment, or diagnosis of the genome should be undertaken only after rigorous assessment of the risks, benefits, and after obtaining the consent, freely expressed, of the interested individual. No one can be subject to discrimination based on genetic characteristics (Article 6).

No research or research applications concerning the human genome, especially in the fields of biology, genetics, and medicine, can be considered as more important than human rights, fundamental freedoms, and human dignity of individuals. Article 11, unequivocally states: "Practices which are contrary to human dignity, such as reproductive cloning of human beings, cannot be permitted."

3.2 International Declaration on Human Genetic Data

The *International Declaration on Human Genetic Data* was adopted by acclamation by the General Conference of UNESCO during the 32nd session.[9] The Declaration sets out the ethical principles to be followed in the collection, processing, and use of genetic data, the use of

7 UNESCO, Universal Declaration on Bioethics and Human Rights, Article 1, http://portal.unesco.org/en/ev.php-URL_ID.

8 Text: Symonides and Volodin 1999, p. 130.

9 The Declaration was adopted October 16, 2003.

which increases over time, both in medicine and in criminal law and criminology. This raises concerns about the violations of human rights and fundamental freedoms.

Purpose of the Declaration is clear. It aims to prevent discrimination and stigmatization, ensure respect for human dignity, and protection of human rights in accordance with the requirements of equality, justice, and solidarity, and in respect for freedom of thought and expression, including freedom of research. It formulates rules to be followed by States in their legislative activities and practice. The requirement to obtain prior consent, freely expressed, for the collection of genetic data and the obligation to respect the privacy and confidentiality of individuals is of particular importance. Article 3 states that although each individual has a particular characteristic genetic make-up, nevertheless, a person's identity cannot be reduced to genetic characteristics.[10] The Declaration provides that its implementation will be monitored by the International and Intergovernmental Bioethics Committee on the basis of reports submitted by Member States of UNESCO.

3.3 The Universal Declaration on Bioethics and Human Rights

The *Declaration on Bioethics and Human Rights* was adopted by the General Conference on October 19, 2005. Its preamble emphasizes that ethical issues due to rapid advancement of science and its technological applications should be examined with due respect for the dignity of the human person and in the universal respect for and observance of human rights and fundamental freedoms. It also states that it is necessary and timely for the international community to declare universal principles that will provide a foundation for humanity's response to the ever-increasing dilemmas and controversies that science and technology present to humankind and the environment.

In the part dealing with the principles, the Declaration mentions respect for human dignity, human rights, and fundamental freedoms and stresses that the interests and welfare of the individual should be placed over the sole interest of science or society. It further underlines that direct and indirect benefits to patients, research participants, and other interested persons should be maximized, and any possible harms should be minimized.[11]

In subsequent Articles it emphasizes the autonomy of decision-making, the need for the prior, free and informed consent to any intervention of preventive, diagnostic, and therapeutic character, the obligation to respect the privacy and confidentiality of information relating to individuals, the demand of equal and equitable treatment, the prohibition of discrimination and stigma. Respect for cultural diversity and pluralism may not be invoked to violate human dignity, human rights, and fundamental freedoms.[12]

The Declaration underlines that benefits resulting from scientific research and its applications should be shared with society as a whole and with the international community. The impact of life sciences on future generations, including on their genetic structure, should be given due regard. Article 17 speaks about interconnection between human beings and other life forms and the importance of appropriate access and utilization of biological and genetic resources. It also mentions the need to respect traditional knowledge of indigenous peoples

10 Person's identity involves complex educational, environmental and personal factors and emotional, social, spiritual and cultural bands with others and implies a dimension of freedom.

11 Article 4.

12 These rules are set out respectively in Articles 5 – 13.

and the role of human beings in the protection of the environment, the biosphere, and biodiversity.

In the discussion that took place after the adoption of the Declaration, some specialists expressed criticisms indicating that the wording is too general, that there is a lack of specific definitions, that it does not add a lot of new ideas, and that by adopting such an instrument UNESCO has gone beyond its mandate.[13]

This criticism cannot be considered as justified. The decision to develop a non-binding declaration, instead of an international agreement, was fully justified and right. The chance to develop and adopt by states a binding agreement was rather minimal. Similarly, an attempt to adopt a number of specific definitions could totally eliminate any possibility to quickly elaborate and adopt this document. The thesis of exceeding the mandate of UNESCO can be qualified as a misunderstanding in the light of its mandate formulated in the Constitution, as well as long-term rather successful practice of development and adoption of numerous international instruments in the fields of science and human rights.

Certainly, the *Universal Declaration on Bioethics and Human Rights* is not a perfect instrument. Nevertheless, its contribution to the consolidation of international standards on bioethics is rather obvious and beyond any doubt. Many developing countries have pointed to its importance for the formation and development of their own domestic law. Last but not least, it should be noted that the *Declaration on Bioethics* is the only universal instrument accepted by the entire international community and dealing with the bioethics from the point of view of human rights.

3.4 United Nations Declaration on Human Cloning

During its 59th session the General Assembly of March 23, 2005 adopted the *Declaration on Human Cloning*.[14] The Declaration recalls that the General Assembly on December 9, 1998 endorsed the UNESCO *Universal Declaration on the Human Genome and Human Rights* that stated, *inter alia*, that practices contrary to human dignity, such as reproductive cloning of human beings, are not allowed. It stresses that scientific and technological progress in life sciences should ensure respect for human rights and benefits for all.

Aware of the urgent need to prevent potential dangers of human cloning for human dignity, the General Assembly solemnly called on Member States to: (*a*) to adopt all measures necessary to protect adequately human life in the application of life sciences; (*b*) to prohibit all forms of human cloning; (*c*) to prohibit the application of genetic engineering techniques that maybe contrary to human dignity; (*d*) to prevent the exploitation of women in the application of life sciences; (*e*) to adopt and implement without delay national legislation to bring into effect the obligations mentioned above.

The Declaration is the result of several years' work of the Legal Committee (VI) of the General Assembly held in open working group negotiations. In August 2001, France and Germany requested the inclusion in the agenda of the General Assembly of the point, which provided elaboration of a convention banning reproductive human cloning. During the discussion two positions were articulated. Several countries stressed that the proposed scope of the Convention is not sufficient and there is a need for a ban on all forms of cloning, including

13 On this subject, see Andorno 2007, Wolinsky n. d.

14 United Nations, General Assembly, A/RES/59/280. Declaration is attached as an annex to this resolution.

a ban on stem cell cloning. The position postulating a broader ban was presented by Costa Rica, while the narrower limited only to the prohibition of reproductive cloning was proposed by Belgium.

In view of the continuing impasse, in November 2004 the Legal Committee decided to change the direction of the work. It was agreed that instead of the elaboration of the draft convention the General Assembly could adopt a declaration banning human cloning. Unfortunately, the work carried out in the working group in February and March 2005 has not led to the adoption of the declaration by consensus. The adopted text speaks about the prohibition of human cloning, but does not clearly explain whether or not it bans therapeutic cloning. The prohibition on "all forms of human cloning" and the obligation to protect "adequately human life" leave possibilities for a broad interpretation. The *Declaration on Human Cloning* was adopted with 84 votes in favour, 34 votes in opposition, 37 abstentions, and 35 absent. Chances to unanimously adopt the prohibition on reproductive cloning, as advocated by many states and NGOs, have been wasted by the international community.[15]

3.5 Convention for the Protection of Human Rights and Dignity of Human Beings with Regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine[16]

Among the reasons which led to the adoption of the Convention, signatories speak about their conviction of the need to respect the human being both as an individual and as a member of the human species and the importance of ensuring the dignity of the human being. They underline on the one hand that misuse of biology and medicine may lead to acts endangering human dignity, and on the other hand that it should be used for the benefit of present and future generations. The Convention sets out the principles and rules of conduct, which prevent such use of advances in biology and medicine, which could in turn violate human dignity and human rights.[17]

The purpose and object of this instrument is formulated in Article 1 which states: "Parties to this Convention shall protect the dignity and identity of human beings and guarantee everyone, without discrimination, respect for their integrity and other rights and fundamental freedoms with regard to the application of biology and medicine." Article 2 declares primacy of the human being proclaiming: "The interest and welfare of the human being shall prevail over the sole interest of society or science."

With respect to the human genome it is worth noting that Article 13 provides that an intervention seeking to modify the human genome "may only be undertaken for preventive, diagnostic or therapeutic purposes and only if its aim is not to introduce any modification in genome of any descendants." The use of techniques of medically assisted procreation shall not be allowed for the purpose of choosing a future child's sex, except where various hereditary sex-related diseases are to be avoided. Research in the field of biology and medicine shall

15 Although one could argue that the earlier site, and then the General Assembly endorsed the already prohibited reproductive cloning formulated in Article 11 of the Universal Declaration on the Human Genome and Human Rights.

16 Text: Council of Europe, European Treaty Series – No 168.

17 It should be noted that the Convention consisted of 38 articles is much broader and more precise than those adopted by the UNESCO and UN declarations, although this is a framework agreement. According to Article 31 the parties may agree to conclude protocols to develop in specific areas the principles contained in the Convention.

be carried out freely in accordance with the Convention and other legal provisions ensuring the protection of human beings. The Convention leaves to the Parties regulation of the research on embryos *in vitro*. However, if national legislation allows for such research it should "ensure adequate protection of the embryo."[18] The creation of human embryos for research purposes is prohibited. The human body and its parts, as stated in Article 21, cannot, in themselves, be a source of profit.

The Convention is a regional agreement. The Council of Europe Member States and countries which were not members of the Council but participated in the drafting of the Convention might be among its signatories. After the entry into force of the Convention, the Council of Ministers may invite any non-member of the Council of Europe to accede to it. As of June 2014, 29 countries of the 47 members of the Council of Europe are the parties to the Convention. It is worth noting that important European countries such as Germany, Italy, and the United Kingdom are among 18 countries that are not bound by the Convention.

The principles formulated in the Convention have been developed in four additional protocols. Additional Protocol on the Prohibition of Cloning Human Beings of 1998[19] came into force in 2001, binding 21 states in 2014. Additional Protocol on Transplantation of Organs and Tissues of Human Origin in 2002,[20] entered into force in 2006. It has been ratified by 12 countries. Additional Protocol Concerning Biomedical Research, 2005[21], entered into force in 2007. In 2014, among its parties were 9 members of the Council of Europe. Fourth Additional Protocol Concerning Genetic Testing for Health Purposes adopted in 2008,[22] but as of 2014 has only three ratifications and has not yet entered into force.[23]

4. The Road to Consolidation of International Bioethical Law

In the situation when among the international instruments relating to bioethics, only the *European Convention on Bioethics* and its additional protocols are legally (though regionally) binding, whereas declarations adopted by the United Nations and UNESCO as resolutions are without obligatory character, a question arises whether there is any chance to adopt universally biding standards. To answer this question one needs to recall that international agreements are not the only source of rights and obligations determining the behaviour of states. International law apart from conventional also knows customary norms. Setting up such customary norms is common and universally recognized standards on bioethics have already come into being.

International custom, as stated in Article 38 of the Statute of the International Court of Justice, is evidence of general practice accepted as law. For the emergence of a customary norm there are necessary two components: general international practice and the conviction that this practice is a law and therefore mandatory.

18 Noteworthy Article 4 of the Convention, which requires that any intervention in the health field, including research, must be carried out in accordance with relevant professional obligations and standards.
19 Text: Council of Europe, European Treaty Series – No 168.
20 Text: Council of Europe, European Treaty Series – No 186.
21 Text: Council of Europe, European Treaty Series – No 195.
22 Text: Council of Europe, European Treaty Series – No 203.
23 The entry into force of the Additional Protocols requires ratifications by 5 countries.

A general practice means that subjects of international law – states and international organizations – are acting in same way and that their laws, administration practices, and judgments of their courts are identical, and that their statements and declarations do not differ. In determining of States' practice important role is also played by civil societies, corporations and business as well as by academia. In providing answers to various questions linked with bioethics, an important role is played by bioethics committee, which are all created by States and by international organizations, in particular, by UNESCO and WHO.

Positions taken by regional organizations, the Council of Europe, and the European Union have proven to influence States positions. Dozens of recommendations on bioethics have been adopted by the Parliamentary Assembly and the Committee of Ministers of the Council of Europe. Biotechnology issues are not only dealt with by European organizations, but also other regional organizations. For example, in 1996 the Organization of African Unity adopted a resolution on bioethics.

Detailed analysis of the practices of national and international actors is neither easy nor simple, nevertheless, it allows the identification of several universal standards which maybe qualified as new, emerging customary norms. This list includes:

(*a*) The right to express prior consent for actions taken or medical intervention;
(*b*) The right to information, as well as the refusal of information;
(*c*) The right to privacy and confidentiality, particularly in relation to information on genetic characteristics;
(*d*) The prohibition of discrimination on grounds of genetic characteristics (as well as of age, sex, health status or social status);
(*e*) The prohibition of reproductive cloning;
(*f*) The prohibition of non-therapeutic eugenic practices;
(*g*) The prohibition of the use of human tissues and organs for financial gain.[24]

The general, fundamental principle adopted in the emerging bioethical customary law is the obligation to respect and protect human dignity and human rights. Whereas the majority of the above mentioned norms are linked with human rights, the prohibition of reproductive cloning, eugenic practices, and the use of human tissues and organs for financial gain can be derived from the protection of human dignity.

24 Polish legislation does not have a comprehensive regulation of bioethics, but partial regulations are consistent with these principles. And so the Law of 1996 on the profession of medical details the consent of the person to participate in a medical experiment. Article 21 of the Law states that such consent shall be expressed in writing or, if this is not possible, made orally in the presence of two witnesses. The participation of a minor in the experiment is only permissible with the consent of his legal representative. As regards the obligation to respect the confidentiality related to medical experiments, Article 40 of the Law states that the doctor has a duty to respect the confidentiality related to medical experiments, while provision is made for the repeal of confidentiality of patient information with the consent of his legal representative. The problem with the trade of cells, tissues and organs is regulated by the Law of 1995 (Law of October 26 for transplantation of tissues and organs) (Official Journal 1995, No. 138, item. 682). It provides in Article 18 that taken from a living donor or cadaver human cells, tissues and organs cannot be used to obtain payment or other financial benefit. Additional protection of medical confidentiality brings the Law on Personal Data Protection (Official Journal, 1997, No. 133, item 883).

5. International Regulations on Access to and the Utilization of the Genetic Resources in Modern Biotechnology

5.1 Agenda 21

In June 1992, during a conference in Rio de Janeiro (known as the Earth Summit), 178 countries adopted Agenda 21, a holistic and comprehensive plan of action for governments and international organizations in areas relating to the environment and sustainable development. Its sixteenth chapter is devoted to biotechnology, which is presented as a very important area of activity and means to strengthen sustainable development and environmental protection to the degree impossible to achieve using conventional technology.[25]

Agenda 21 defines modern biotechnology as a set of techniques for changing the DNA or genetic material in plants, animals and microbial systems, leading to the creation of useful products and processes. This definition excludes the use of biotechnology, genetic engineering to humans.

5.2 The Convention on Biological Diversity

The *Convention on Biological Diversity* adopted at the conference in Rio de Janeiro on June 5, 1992, is the first global, legally binding instrument addressing the issues of biotechnology. Global and binding, because with 194 ratifications, it can be regarded as having a fully universal character. In fact it involves the entire international community with one surprising exception of the United States, which until 2014 had not yet decided to join it.[26]

The Convention, in Article 1, in addition to the main objective – the conservation of biological diversity, also speaks about "the fair and equitable sharing of benefits arising from the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding."

According to the explanations of terms used in the Convention, Biotechnology is "[…] any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes."[27]

The Convention repeats the fundamental principle of international law that States have the sovereign right to exploit their resources (and hence genetic resources) and are responsible for ensuring that their activities do not cause damage to the environment of other States or of areas beyond national jurisdiction.[28]

Article 15 of the Convention is dedicated to access to genetic resources. It acknowledges the right of the Contracting States to specify in their legislation rules on access to genetic resources and for their rational use from the point of view of the environment.

25 Text: http://www.un.org/esa/sustder/documents/agenda21/english/agenda21toc.htm.

26 In force since December 29, 1993.

27 Article 2 of the Convention shall also apply: biological resources, the country of origin of genetic resources, the country providing genetic resources, genetic material, and explains that the technology is biotechnology.

28 Article 4 of the Convention.

5.3 The International Treaty on Plant Genetic Resources for Food and Agriculture

Adopted in November 2001, after seven years of negotiations, the Treaty entered into force on June 29, 2004, with Poland ratifying it on October 15, 2004.[29] The aim of the treaty is the protection and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of benefits arising from their use. It creates the Treaty on Plant Genetic Resources as the institutional framework for international cooperation in this field.

Part IV is devoted to the multilateral treaty system of access and sharing benefits. It is based on the recognition of the sovereign rights of states to their own genetic resources, including their rights to determine the extent of access to these resources. Parties to the Convention have established a multilateral system that is an efficient, effective, and transparent method to provide both access to plant genetic resources, as well as fair and equal sharing of benefits arising from their utilization. The Convention also speaks about the rights of farmers. The Parties (in Article 13) underline that facilitated access to plant genetic resources is the main value of this system as well as agreement concerning a fair and equitable sharing of benefits.

5.4 Nagoya Protocol

Adopted on October 29, 2010 in Nagoya, Japan the Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Use[30] is the latest agreement addressing this issue. In 2014, it entered into force.[31] The Protocol applies to all genetic resources, including those not covered by the previously discussed treaty, which referred only to agricultural genetic resources.

Biotechnology is defined as any technology using biological systems, living organisms, or derivatives thereof, for the manufacture or modification of products or processes. The use of genetic resources involves the use of biotechnology. The main aim of the Protocol is to ensure the fair and equitable sharing of benefits arising from the utilization of genetic resources. It more likely provides the conditions for access to genetic resources and the sharing of the benefits when genetic resources leave the territory of origin. It creates incentives for conservation and sustainable use of genetic resources.

6. International Instruments on Biosafety

The progress of biotechnology leads to the possibilities of creating organisms that could not in a natural way come into existence. They are called genetically modified organisms (GMOs) as their genome containing foreign genes is introduced by genetic engineering. When genes are transferred it is referred to as "transgenic" and hence the term transgenic organisms. They are now widely used in medicine, pharmacy, agriculture, and industry, and their use brings many benefits.[32]

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29 Text: Official Journal of 2006, No. 159, item. 1129.

30 Text: http://www.cbd.int/cop10/.

31 The Protocol entered into force 90 days after the deposit of 50 instruments of ratification. In 2014, it was ratified by 54 countries.

32 Genetically modified plants are resistant to various diseases, pests and herbicides, to adverse climatic conditions, weather, characterized by higher productivity and improved quality and new, positive qualities. Genetically

However, it is impossible to ignore the dangers that may result from the widespread introduction of GMOs into the environment and the consequences of the consumption of genetically modified food for human and animal health.[33] These concerns led to the actions taken by FAO, WHO, UNEP, UNESCO, and WTO, with a view to create a biosecurity system based on the precautionary principle. Biosecurity is a strategic, integrated approach to the analysis and management of threats for the life and health of humans, animals, and plants associated with risks for the environment. Biosafety framework and elements are created by international standards adopted by international organizations and international legal instruments.[34]

Cartagena Protocol on Biosafety

The *Cartagena Protocol* was adopted as a supplementary agreement to the *Convention on Biological Diversity* in 2000 and entered into force in 2003. Its goal is consistent with the precautionary principles and aims at ensuring an adequate level of protection in the field of the safe transfer and use of living modified organisms resulting from modern biotechnology. These organisms may have adverse effects on the conservation and sustainable use of biological diversity, in particular they also can create risks to human health. The Protocol specifically focuses on trans-boundary transport. Living genetically modified organisms (LGMOS) are defined as living organisms that possesses a novel combination of genetic material obtained through the use of modern biotechnology.[35]

The provisions of the Protocol governing issues of transit and transport of LGMOS establish a procedure for obtaining consent. The main element of the agreement is to assess and manage risk. Article 11 in Section 8 gives an interpretation of the precautionary principle by stating: "Lack of scientific certainty due to insufficient relevant scientific information and scientific knowledge regarding the extent of the potential, the negative impact of living modified organism on the conservation and sustainable use of biological diversity in the Party of import, taking also into account threats to human health, shall not prevent that Party from taking a decision, as appropriate, regarding the import [...]". Article 15 further requires that a risk assessment should be carried out in a scientifically sound manner, in accordance with the Annex and taking into account recognized risk assessment techniques to identify and evaluate possible adverse effects of a living modified organism on the conservation and sustainable use of biological diversity, also taking into account risks to human health.

modified animals allow for the production of proteins, antibodies, antibiotics and vaccines. Serve as donors for transplantation, characterized by higher productivity and nutritional value, and new features. Microbial genetic modification creates opportunities for their use in medicine and pharmacy and food industry, and even the production of plastics, detergents and to combat environmental pollution.

33 This indicates that the consumption of foods derived from GMOs can cause allergies and digestive disorders and cancer growth. Feed may negatively affect animal health and productivity.

34 See WHO / FAO, Biosecurity: An integrated approach to manage risk to human, animal and plant life and health, INFOSAN, Information Note No. 1/2010 – Biosecurity, 3 March 2010.

35 The Protocol also contains in Article 3 of the definition of modern biotechnology, which means the application: *In vitro* techniques for nucleic acids, including recombinant DNA and direct injection of nucleic acid into cells or organelles, or – merge cells invading beyond the taxonomic family, that overcome natural physiological reproductive barriers recombination and that are not techniques used in traditional breeding and selection.

7. Concluding Remarks

Enumeration and analysis of the international legal instruments relating to bioethics and biotechnology leads to the conclusion that these fields are now governed not only by domestic law, but also by international law. Does this mean that one can already speak about fully developed new branches of the law of nations? Such a thesis appears to be premature. These branches are under creation. The absence of conventions codifying the entire field of biotechnology is obvious. Moreover, exegesis of existing international agreements leads to the conclusion that they address biotechnology issues rather incidentally in the agreements devoted to other problems, or regulate only some of the questions. This is understandable. The attempt to cover in one international convention of the entire field of biotechnology is an impossible task. The speed of development of science and technology as well as differences and disputes arising among various interests articulated by various groups of States exclude such possibility. Discrepancies exist in particular between developed and developing countries (North and South),[36] and between those with the modern technologies inferred mainly in access and those aiming at participation in the benefits.

Existing disputes and discrepancies do not exclude the possibility and necessity of the adoption of binding international agreements and norms. In the area of bioethics, as it was already mentioned, one can talk about binding international customary norms such as the requirement to consent to the intervention and medical experiments, the right to privacy and confidentiality, the right to refuse medical information, non-discrimination and non-stigmatization, prohibition of eugenic practices, prohibiting the use of organs and parts of the human body to obtain financial benefit, and a ban on human reproductive cloning. These standards are now the norms of customary law. They are articulated by States, by international, intergovernmental, and non-governmental organizations, by international tribunals, by all actors of civil society, by professional organizations, and by research centres. This fully justifies the thesis that such practices recognized as binding and are mandatory for all members of the international community.

The declarations concerning bioethics adopted by UNESCO are usually qualified as having a non-binding character. Does it mean that they have no role to play in the development of international law of bioethics? In order to answer this question one should take into account that: (*a*) Binding rules of international law contained in the non-binding resolutions do not lose their legally binding character,[37] and (*b*) by the passage of time increased acceptance and recognition of these declarations they have a chance to acquire a binding character. The best example of such a transformation is demonstrated by the *Universal Declaration of Human*

36 The issue of patenting products and processes resulting from the use of biotechnology is in particular the subject of tension and disputes between developing countries and developed countries. This was reflected in the discrepancies that exist between TRIPS and the Convention on Biological Diversity and International legal regulations on access to genetic resources and the fair and equitable sharing of benefits from their use. While the developed countries, possessing advanced biotechnology tend to make the most rigorous protection of intellectual property, and thereby achieve the maximum financial benefit from the development of the biotechnology industry, many developing countries, possessing genetic resources point to the unequal distribution of benefits and the lack of compensation for the use of these resources. This applies to the protection of traditional knowledge of indigenous peoples and local communities, also from exploitation and patenting by foreign corporations and the protection of genetic resources of local communities, compensation for the use of those resources and technology transfer.

37 One can also point out that some of the standards are not only derived from human rights, but they are literal repetition of such human rights as the right to information and to non-discrimination.

Rights which at present has a fully binding character. Though in the field of bioethics universal conventions do not yet exist, nevertheless, the adoption of the *European Convention on Bioethics* and its Protocols allows us to speak about the existence of regional European standards.

Can we point to the existence of generally accepted standards for industrial, agricultural, as well as fast-growing marine biotechnology? No doubt, such universal standards have been adopted. One of the best examples of a universal agreement setting up such standards is the *Convention on Biological Diversity*, binding at present 194 countries. It may also be noted that the United Nations system (in particular FAO, WHO, UNEP, WTO) plays an important role in the development and consolidation of international law of biotechnology.

Certainly a major achievement in the field of biotechnology is the development of a system of international cooperation designed to ensure bio-security linked with the cross-border transit and trade of GMOs. The system is already established and operating on national and international levels, with institutions and organs involved in the prevention, assessment, and risk management. An important role in this system is played by the precautionary principle. It is also worth noting that a number of agreements concerning biotechnology formulate the principle of protection of traditional knowledge of indigenous peoples, as well as the protection of farmers' rights and recognize the responsibilities of the present generations to future generations.

While in the case of bioethics a branch of international law that had a profound impact on the existing standards is the protection of human dignity and human rights in relation to biotechnology, international environmental law and international economic law play such a role. Their main objective is not to safeguard respect for human dignity and human rights, but to protect the biodiversity and sustainability of the environment.

The situation in which international law of biotechnology (as opposed to international law of bioethics) does not take into account and does not refer to human rights cannot be considered as normal and understandable. It seems that the present situation raises reasonable doubts and is open to criticism. It is so because many of the issues arising in biotechnology can and should be looked upon through the lens of human rights. In fact one can speak about the emergence of new human rights directly linked with biotechnology as for example a human right to protection of biological diversity. The right to human security now embraces bio-safety law. The debates concerning the protection of intellectual property in biotechnology cannot be conducted without taking into consideration both the human right to the protection of the moral and material interests resulting from any scientific discovery, as well as the right of everyone to enjoy the benefits of scientific progress and its applications.

Modern biotechnology must have a human face. The human dimension is often overlooked in an era of globalization. The expansion of multinational corporations and the pursuit of profit must be taken into account in international instruments relating to biotechnology. This is the task facing the specialists, professionals, and practitioners, as well as states, governmental, and non-governmental organizations dealing with human rights, the environment, and international law.

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Violations of Ethical Principles in Psychotherapy

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Abstract

In this paper it will be discussed how ethical principles are in danger of being violated in the field of adult psychotherapy as an independent field of health care. It starts with the duty of confidentiality (1), moves on to the influence of third parties (2), and then illustrates with the example of art therapy (3) how therapists should act in an ethically reflective manner. Next the issue of limits and transparency (4) will be addressed, before posing the question of social justice with the concrete example of the allocation of treatment spaces (5). Finally, by discussing the question of sexual identity (6) it will be elaborated in more detail a central part of human existence, which is of importance in the field of psychotherapeutic work and which poses significant ethical questions. At every turn one can observe that ethical principles are breached in the daily routine of psychotherapy, which in the end puts human dignity at stake.

Zusammenfassung

In diesem Aufsatz wird gezeigt, wie im Bereich der Erwachsenenpsychotherapie als eigenständigem Bereich gesundheitlicher Versorgung ethische Prinzipien verletzt werden können. Ich gehe vom Gebot der Schweigepflicht aus (1), leite zur Frage nach der Einflussnahme von Dritten über (2) und erläutere dann am Beispiel der Kunsttherapie (3), wie ein Therapeut ethisch reflektiert handeln soll. Hieran schließen sich Überlegungen zu Grenzen und Transparenz an (4), bevor ich an einem konkreten Beispiel bei der Vergabe von Therapieplätzen die Frage nach der sozialen Gerechtigkeit stelle (5). Schließlich komme ich abschließend mit der Frage nach der sexuellen Identität (6) auf einen zentralen Bereich des Menschseins zu sprechen, der für die psychotherapeutische Arbeit bedeutend ist und wichtige ethische Fragen birgt. Im psychotherapeutischen Alltag werden häufig ethische Prinzipien verletzt. Damit ist nicht zuletzt die Menschenwürde gefährdet.

1. Introduction: Ethics are a Much Discussed Topic

Ethics. Not a day goes by without having to find normatively substantiated answers to questions arising from ethical conflict situations (Schöne-Seifert 2007). One need only think of the current issues of prenatal medicine, be it in the scope of discussions on preimplantation genetic diagnosis (*Leopoldina-Stellungnahme* zur PID 2011), or be it in matters of ethical questions concerning non-invasive prenatal diagnosis. Human rights are constantly addressed in the discussion. Attention also has to be paid to the discussions in medical ethics which basically concern religious questions like circumcision. Let us also not forget the questions related to euthanasia which have occupied us since the beginnings of cultural history.[1] Final-

1 Frewer and Eickhoff 2000, Steger 2008.

ly, there is transplantation medicine, which poses central ethical questions due to the lack of available organs and which is currently faced with what seems to be the most serious scandal in German history.

It is also not surprising, in view of technical progress and the lack of public resources, that particularly in the practical science of medicine, ethical questions are raised and answers are sought on a daily basis. Accordingly, the increase in institutionalized ethics (Steinkamp and Gordjn. 2009), in the forms of task forces, committees, boards, or any other body, can be easily explained in an anthropological manner by the human need for explanations, affirmations and, ultimately, security. However, one should always be aware of the fact that the founding of an institution by no means ensures that human rights will be observed; such institutions can however contribute substantially to raising sensitivity to this matter and guaranteeing that essential information necessary for ethical assessment is passed on to the public and that this information is of a certain standard of quality.

In Germany, adult psychotherapy – as the area to which I shall refer in this paper – lies in the area of responsibility of both physicians and psychologists. I will try to highlight how ethical principles are in danger of being violated in the field of psychotherapy. I will begin with the duty of confidentiality (1), move on to the influence of third parties (2), and then illustrate with the example of art therapy (3) how therapists should act in an ethically reflective manner. Next, I will address the issue of limits and transparency (4), before posing the question of social justice with the concrete example of the allocation of treatment spaces (5). Finally, by discussing the question of sexual identity (6) I will elaborate in more detail a central part of human existence, which is of importance in the field of psychotherapeutic work and which poses significant ethical questions. In all of these questions, human dignity is at risk. But what are we actually talking about when we discuss ethical questions in psychotherapy?

2. The Duty of Confidentiality – Medical Confidentiality

First of it all, one must mention the duty of confidentiality, medical confidentiality, which is to be respected in any diagnostic and therapeutic situation. In a psychotherapeutic setting, however, this duty deserves special protection due to the strong alliance between the therapist and his patient and the environment of trust this alliance promotes (Steger 2011). Only when the therapist promises to absolutely respect his duty of confidentiality in the therapeutic relationship is the patient able to open up and – in accordance with the therapeutic idea – to also share intimate details of his life.[2] But how is a therapist supposed to proceed when those intimate details reveal situations the therapist no longer wants to keep to himself? Just think of situations in which the safety of a third party is in danger, for example when another is at risk of being infected with a communicable disease. Let's take this thought one step further: How is the therapist supposed to react if a patient reveals abuse? And when and how is the therapist supposed to draw the line? And how is this breach of confidentiality to be justified – particularly in terms of ethical aspects? In such cases, the therapist's action does not comply with the will of the patient; from the patient's point of view the therapist's action is not regarded as beneficial but harmful. From an outside perspective, however, the course of action might be seen as perfectly beneficial as the therapist prevents the patient from future harm,

2 Faden and Beauchamp 1986, Vollmann 2008.

though at the expense of the patient's wishes. To quote Arthur Schopenhauer (1788–1860) it is easy to preach morality but it's difficult to justify it ("To preach morality is easy, to found it difficult"). In this context, I want to note the methodical approach of justification that is most common in today's clinical practice. I am referring here to the so-called coherence approach of justification or 'four principles' approach of Beauchamp and Childress (2008). Instead of a theoretical ethical principle, like reason, this approach is based on ethical basic assumptions of universal validity which places the safeguarding of human dignity as the highest priority. These are the four so-called middle-level principles of autonomy, beneficence, non-maleficence, and justice. In this context, it is essential to repeatedly emphasise that the 'four principles' approach does not constitute a ready-made theory (Rauprich et al. 2005). Instead, it attempts to put ethical considerations in order. The principles are vague norms that have to be specified and interpreted according to the respective context.

3. Influence of Third Parties

The duty of confidentiality leads to the question of how to handle the influences of third parties within the therapeutic dyad that the therapist enters into with the patient. How, for example, is the therapist supposed to react to enquiries made by the medical services of health insurance providers? In accordance with transparency, the enquiry is to be openly discussed with the patient. But is it really to the benefit of the patient when the therapist reveals facts gained from the intimate details of the therapeutic work? Or does this harm the patient more than actually being beneficent? But does not social justice compel the therapist to reply to these kinds of enquiries in a health system financed on the principle of solidarity? And does the patient really want the therapist to act this way? In other words: What should the therapist do when the patient does not want him to reply to enquiries of third parties? If the therapist refuses to respond this might cause even more harm to the patient. And what about the therapist's self-determination with regard to the patient's behaviour?

4. How to Act with Ethical Awareness as a Therapist – Art Therapy as an Example

In the next step, these considerations result in the general question of how the therapist can guarantee that he acts with ethical awareness. We have established inspectorates for the best clinical practice, but recent news coverage on German transplantation medicine shows how these actually prove their worth *in praxi*. In my opinion, it is more important that psychotherapeutic work is provided with general conditions, which are phrased under ethical aspects and always take human dignity into consideration. In this respect, the occupational stress of psychotherapists, as well as preventive measures to avoid this kind of stress, are as much to be considered as the ethical problems of dealing with challenging patients.

Let me illustrate my thoughts with an example. In art therapy artistic forms of expression are considered for their significance for the therapeutic process.[3] It could be said that the patient's artworks are made fertile for therapy and are analysed or regarded as such. In psychotherapy, the therapist has to respect the dignity of the patient whose rights are to be advocated

3 Steger 2010, 2012a.

and who himself is to be valued. In practical terms, the therapist has to be open towards the patient. In art therapy, this openness comprises valuing and accepting the patient's artwork, even when it does not correspond with the therapist's aesthetic concepts. It is about nothing less than the patient's dignity and the appreciation the therapist has to show the patient and the patient's artwork. In psychotherapy, information ought to be treated as confidential. This includes both verbal and non-verbal information. In respect to art therapy, this means that next to the patient's spoken word one has to consider the artwork itself as a form of non-verbal expression which is to be treated with the same confidentiality as verbal communication. Thus, on no account should an artwork be exhibited or even published without the patient's permission. Under ethical aspects, both the patient and their artwork have to be respected and taken care of. It goes without saying that the patient owns the creative act he produced out of materials which might have been provided by the therapist. However, there may be situations in therapy when it is not wise to give the artwork to the patient, to third parties, or to make it public in general, because for example there still is a lot to be talked about in therapy or because the patient is at risk of harm if the artwork leaves the protected setting of art therapy. Think of traumatized patients who were only able to find a non-verbal form of expression but are still cannot find the words for their self-created artwork. In these cases, the therapist has to take care that his actions are to the benefit of the patient; furthermore, he has to show great sensitivity in matters of publishing or safekeeping the artwork. Therapeutic work with paintings poses questions of clinical significance and, therefore, of ethical relevance. As a young discipline, art therapy is in a process which continuously distinguishes and develops itself; in this process questions of ethical dimensions also deserve closer attention. In this context, it is the respect of human dignity that has to be taken into account.

5. Limits and Transparency

One of psychotherapy's particularly great challenges is to set and maintain clear and transparent limits for the patient. Time and again there are cases of sexual assault in psychotherapy and clearly these cannot be tolerated. But also narcissistic abuse and forms of economic abuse are reported in psychotherapeutic settings. Often there are still no clear and transparent criteria for the ending of psychotherapy, especially in cases of psychoanalytic therapy. One has to bear in mind that evidence-based methods exist like cognitive behaviour therapy and schema therapy with a shorter duration, and, as a result, lower costs. In short: In these cases the patient is made dependent on the therapist by well-targeted psychotherapeutic techniques; the patient virtually regresses to a child-like state. But to whom can the patient turn when he recognizes such patterns? Can he muster the courage to complain about the therapist? Such types of contact points can hardly be found. To address yet another aspect: Obviously, the specific setting of psychotherapy promotes the risk of frequent assaults. Hence, we need systematic preventive measures that obviate such abusive tendencies in order to prevent them from developing in the first place.

In questions of authenticity, psychotherapy demands transparency to the patient, both externally and internally. By way of example, the therapeutic agreement which legitimates the framework of psychotherapeutic treatment consistently raises questions about not only moral justifications but also transparency. It is transparency that both creates the basis for efficient psychotherapeutic work and ensures that therapeutic offers are successfully put into practice.

This requires the therapist making the indication transparent to the patient. This is followed by the patient's desire to gain insight into the patient file. Of course, this does not cause great problems when regarding findings that can be put objectively. But what about private notes, about fantasies the therapist has put on paper? Doesn't this cause even more harm to the patient when the therapist makes these kinds of notes transparent to others and allows insight into them against the patient's will? Would not it then be advised to transparently discuss with the patient right from the start, that is to say from the beginning of therapy, that the patient file will contain subjective statements which should not be seen by the patient? Would not it be better if the patient had to agree to this in writing? If this is not the case, therapists may refrain from this documentation which does not necessarily benefit the treatment quality.

6. Social Justice in Allocating Treatment Spaces

Finally, to recall a quite significant ethical conflict, the question arises as to how a therapist can allocate treatment spaces according to social criteria. Especially in cases of elderly, multi-morbid, and severely mentally ill persons, one can observe a shortage of psychotherapy spaces which is also caused by psychotherapists. After all, it is the therapist who allocates the spaces at hand according to criteria he sets. But one must also bear in mind that there are also patients who use psychotherapy with the help of the therapist as a form of enhancement for increasing their cognitive efficiency even though there is no medical indication – and this at the expense of the solidarity society. It is to my knowledge that this is not true *de iure* as psychotherapy is only supposed to take place when it is medically necessary and when the prognosis gives hope for improvement. But aside from this restriction, it is *de facto* in the hands of the therapist to decide on the allocation of treatment spaces. Personal values also play a role in the therapist's decision. It is doubtful, though, whether such a course of action can be ethically justified. This is of great importance in times in which limited resources are to be fairly allocated.[4] This applies even though one can understand that the number of patients with the same type of personality disorder who are treated in parallel ought to be limited for the good of the therapist's own psychological hygiene. It is actually an implicit limitation of efficiency when the therapist excludes particular patients from treatment. But only explicit rationings, which are set at a level above the concrete patient-therapist relationship, are transparent, consistent, and thus treat patients equally and relieve the therapeutic relationship. We need a predetermined prioritization matrix like Finland, Sweden, or Great Britain, all countries which have successfully established vertical and horizontal prioritizations. As a reminder: Vertical prioritization sets priorities within a distinct group of patients of the same disease, for instance coronary disease, and each measure has a rating on a scale from 1 to 10, with 1 being the highest priority. Horizontal prioritizations, in contrast, set priorities among different groups of diseases or patients, which are prioritized in decreasing order according to a four-level-model:

(*1*) Protection of life and prevention of severe harm and pain;
(*2*) Protection against failure or damage of central organs and bodily functions;
(*3*) Protection against less severe or only temporary impairment of well-being;
(*4*) Improvement and strengthening of bodily functions.

4 Marckmann 2008, Schöne-Seifert et al. 2006, Strech and Marckmann 2010.

As the limitation of efficiency is a question of the highest relevance in a health system that is financed on the principle of solidarity, I would like to look at a concrete case situation in the context of this subsection:[5] A German psychological psychotherapist approved by health insurance funds has a free treatment space. The first initial consultation is held with an unemployed man of 57 years of age with an immigrant background who speaks broken German but is able to sufficiently communicate with the therapist. The patient is in urgent need of ambulatory psychotherapy. He was recently released from a psychiatric facility where he had been hospitalized for a ten-day crisis intervention after a serious suicide attempt. The patient report increased alcohol consumption due to marital problems, in which he also becomes violent. He had already tried in vain to make an appointment for an initial consultation with 16 other therapists; however, all of them had told him that there were not any spaces available in the foreseeable future. Three months before, he had terminated an ambulatory psychotherapy after six sessions as he had not got along with the therapist. The patient does not seem likeable to the therapist, who feels an aversion to him. On the same day, the therapist holds another initial consultation with a female patient of 24 years of age, a verbally sophisticated student of German. She has no history of psychotherapy and wants to come to grips with her panic disorder, an agoraphobic avoidance behaviour. Who gets the free treatment space? How can the decision be justified, not least in ethical terms? Or, in other words, which arguments can be raised against the first patient that can sustain a normative argumentation? I have difficulty in finding a good reason as to why the first patient should not get the free treatment space. One could point to the aspect of prognosis, and also the factor of compliance certainly has to be considered. But it seems obvious that the first patient is in more need of assistance than the second. And how do I justify rejecting him – especially in a health system obliged to the principle of solidarity? I can hardly do this, and even less when considering the safeguard of human dignity.

7. Human Dignity and Sexual Identity

To conclude, I would like to address a topic of psychotherapeutic work which is of the highest relevance in the context of human dignity. In medicine, understanding and handling human sexuality and individual sexual identity constitute a basic area of medical ethical considerations. In this respect, the discussions are particularly centred on the respect of human dignity, namely in the context of the medical handling of individual sexual identity. From the medical ethical point of view, respecting human dignity is one of the main tasks of psychotherapy. In concrete terms, this comprises the safeguard and protection of human dignity. In the following, I will dig deeper into the question of respect of human dignity in connection with sexual identity with the example of homosexuality (Steger 2012b).

In history, the medical and social handling of homosexuality was characterized by a discriminating and stigmatising attitude. About 5–10 % of the population worldwide are homosexual and discriminated against as a minority. One speaks of homophobia to which homosexuals are exposed to by society or of so-called internalized homophobia to which homosexuals expose themselves. Even today, homosexuality stands by no means equally and without prejudice aside heterosexuality. Although in many places a positive development with

5 I am very grateful to Dr. Jürgen Brunner (Munich), who provided me with this excellent example.

regard to the legal standing in life can be ascertained this is not tantamount to acceptance in society at all. For instance, since 2001, same-sex sexual relationships among adults are legally recognized in Germany by the Law in Registered Partnerships (*Gesetz über eingetragene Lebenspartnerschaften*); relations or marriages between homosexuals, though, continue to cause discrimination and rejection in many areas of life – e.g. in searching for housing and in some workplaces. The latest foray of the Justice Ministry to equate same-sex unions with heterosexual marriage comes against up against harsh criticism in conservative circles. At the same time discrimination – at the base of homophobe confrontations – can be psychically and somatically violent and, with respect to this, be perceived traumatically (Plöderl 2005). With respect to social discrimination it can moreover be noticed that in places where public verbal attacks on homosexuals occur less often, homosexuality is increasingly not talked about. This silence, though, must not be misinterpreted as an expression of acceptance and impartiality; rather it is appropriate to remain sceptical with respect to an occurring change of attitude towards an impartial and esteeming encounter with homosexuals.

From the point of view of medicine and psychology homosexuality was for a long time considered to be a psychological disorder and was described pathologically as a 'perversion', 'deviation', and 'sexual deviance' (Brunner et al. 2008). Psychoanalysis supported the position that homosexuality was a fixation of psychosexual development at an early stage.[6] On the basis of this general pathocentric understanding of homosexuality different therapeutic approaches – hormone treatments and so-called aversion therapies – were developed which aimed at an alteration in the same-sex orientation of homosexuals or at a negative connotation of same-sex sexual behaviour. The efficacy of such therapeutic approaches could neither be proven in examinations nor – as a rule – led to the aspired change in sexual orientation; the subjects were in most cases psychically and physically traumatized to a considerable extent. Many of the treated patients showed symptoms of fear and depression culminating in an increase of suicidal tendencies. It was only in the course of general efforts of depathologization that homosexuality was seen as an individual sexual orientation and no longer as a psychic disorder and removed from operationalized diagnostic classification systems (DSM-III-R, 1987 and ICD-10, 1992). However, still today psychopathological approaches of explanation partly determine the understanding of homosexuality. Evidence for this can be found in the area of psychoanalysis (Lellau 2009). The IPA analyst Lellau reports a homosexual client who does not practise his homosexuality and – according to Lellau's interpretation – evades to a 'creation of perverse fantasies'. The report hardly takes into account the homosexuality of the subject as such and contains no reflections on the social circumstances; rather is it dominated by a pathocentric view which moreover is presented as a modern psychotherapeutic perspective. Instead of an understanding therapeutic attendance in order to strengthen self-esteem and to support the development of a sexual identity (Fiedler 2006), the point of view here – once again – is a pathocentric one when a 'creation of perversions' is described and moreover is ascribed to an 'inhibition'. A therapeutic handling of this kind shows a conception of man that is offending and degrading from an ethical point of view because it does not respect the right to self-determination and the equal rights of the individual by stigmatizing him as 'ill'.

Stigmatizations of homosexuals, however, are not limited to the area of medicine; they are rather a general phenomenon. Again and again homosexuals are exposed to structural discrimination by exclusion or attacks; this frequently is subject of media coverage – e.g.

6 Socarides 1968, 1995.

in context with venues like professional soccer. Thus, it was really good to hear that before the semi-final of the European Championship 2012 both the German and the Italian captains read out corresponding messages. The German captain Philipp Lahm (*1983) said: "The past three weeks have shown how football can bring together people who share the same passion. Nationality, religion, gender or sexual orientation have nothing to do with it. My team-mates and I, as captain of the German national team, ask you to join us in rejecting all types of discrimination and in supporting UEFA's Respect Diversity message."[7] In spite of the growing commitment of the German Football Association in favour of more acceptance, verbal attacks and homophobia still are everyday phenomena in German stadiums. Although this probably rarely reflects the actual opinion of individual fans, the fear of exclusion is essentially co-determined by it. Consequently, it does not always seem to be advisable for a player to admit his homosexuality, because market value, career prospects, and the relationship with fans and colleagues could be severely damaged. Similar examples for exclusion and discrimination can be described for many other areas of life.

Under such social conditions it is a great challenge for many homosexuals to hold their ground and to express themselves fully along the long road to their coming-out in their respective social and professional environments. This limitation of self-determination is in a basic conflict with the safeguard of the human dignity of homosexuals (Isay 1989) since it is fulfilled by a respectful, unprejudiced, and valuating interaction with the counterpart; an interaction which concedes the right of self-determination of the individual regardless of his sexual identity.

Many homosexuals are in conflict with internalized – family, social, or religious – values and norms in the initial phase of the development of their sexual identity in the context of the confrontation with their homosexuality. The wish to live one's life fully with one's own emotions and inclinations is confronted with the fear of being expelled from one's family or community. This conflict can lead to a self-attribution of guilt for being different, up to a 'self-stigmatization' in the sense of an internalization of homophobe attitudes (internalized homophobia). In this context it is important to retain that any form of homophobia and discrimination – be it individual, structural, or directed against oneself ('self-stigmatization') – has grave consequences for the self-esteem and the subjective well-being of the discriminated person. In the course of this conflict with their environment many homosexuals look for coping strategies or for therapeutic support. Some – predominantly religious – groups and organizations and some therapists offer so-called 'conversion therapies' or 'sexual repair therapies' (Brunner 2007). These therapeutic approaches are methodologically different procedures that try to combine antiquated and not validated psychoanalytic theories with interventions from behaviour therapy. With regard to the contents these procedures are based on the assumption that homosexuality is not an innate sexual orientation but a 'developmental disorder' or rather an 'illness'. No health-improving effects of conversion therapies can be shown whereas harmful consequences in the sense of a reinforcement of the initial psychic problem are documented in many cases. This makes conversion therapies ethically unacceptable or at least highly debatable in so far as the ethical principles for therapeutic action, according to which it should not cause harm but benefit, are not respected. In this context followers of these views indicate that the desire, or rather the therapeutic aim, of heterosexualization is uttered by the persons affected themselves. To this it must be critically added that these kinds of therapeutic

7 http://www.uefa.com/uefa/socialresponsibility/respect/news/newsid=1835760.html (Zugriff: 2. 9. 2012).

motivations cannot be seen as voluntary, because they are based on social discrimination and constraints which have led to the internalization of homophobia. Thus, instead of exploring the desire of the client for therapy with respect to its basis in internalized homophobia, conversion therapies continue the discrimination and stigmatization of homosexuality already experienced in the environment and reinforce the tendency of the persons affected to develop a negative relation to their own sexuality. The right to self-determination of the affected is limited by this to a considerable extent and under acceptance of grave psychic traumatization. For this reason it seems to be questionable to speak of conversion therapies as therapies in the proper sense, because ultimately, from an ethical point of view, they have to be repudiated as inhumane (*WMA* 2013). In contrast to conversion therapies affirmative therapeutic approaches (gay affirmative therapy) have been developed in the last few years (Fiedler 2006). They aim at the handling of conflicts in the framework of the development of sexual identity. Hereby the specific needs and life circumstances of the people affected are taken into account and a positive and accepting attitude with respect to homosexuality is shown. Apart from maintaining the old principles of benefit and avoidance of harm, this implements an ethics of dealing with being different which makes it possible to realize self-determination and thereby guarantees the upholding of human dignity. Against the background of the question of safeguarding human dignity when dealing with homosexuals one must, thus, plead for such an accepting attitude in society as well as in medicine and psychology.

To summarize: I had aimed to demonstrate with the example of psychotherapy as an independent field of health care, covered by both physicians and psychologists in adult psychotherapy, how frequently questions of ethical relevance are posed which in the end all concern the respect of human dignity. At every turn one can observe that ethical principles are breached in the daily routine of psychotherapy, which in the end puts human dignity at risk. This may once more gain importance when it becomes apparent that more and more people suffer from mental disorders, oftentimes as early as childhood and adolescence, the workforce suffers from mental illness and that therefore also economic consequences for health have to be taken into account. Both here and in other fields of medical ethical considerations, it is once more imperative to advocate prevention. Prevention in patient care that is moreover open to being ethically aware and integrates such an awareness in the course of practice. By doing so, ethical awareness can become of high practical importance and can itself have a preventive effect.

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Neuroscience and Human Rights

Gert-Jan Lokhorst (Delft, The Netherlands)

Nearly fifteen years ago, the first publications began to appear about neuroscience and Human Rights. In an article with the ominous title "Advances in neuroscience may 'threaten Human Rights'," which appeared in 1998 in *Nature*, we read:

"Neuroscience is being increasingly recognized as posing a potential threat to human rights, just as another area of biology – research in human genomics – may lead to an excessive focus on genetic determinism and raises the spectre of genetic discrimination. This was one of the conclusions to emerge from the annual public meeting of the French national bioethics committee held last week in Paris on the theme of 'Science and Racism.' Jean-Pierre Changeux, the chairman of the committee and a neuroscientist at the Institut Pasteur in Paris, told the meeting that understanding the working of the human brain is likely to become one of the most ambitious and rich disciplines of the future. But neuroscience also poses potential risks, he said, arguing that advances in cerebral imaging make the scope for invasion of privacy immense. Although the equipment needed is still highly specialized, it will become commonplace and capable of being used at a distance, he predicted. That will open the way for abuses such as invasion of personal liberty, control of behaviour and brainwashing. These are far from being science-fiction concerns, said Changeux, and constitute 'a serious risk to society.' Denis Le Bihan, a researcher at the French Atomic Energy Commission, told the meeting that the use of imaging techniques has reached the stage where 'we can almost read people's thoughts.' The national bioethics committee is taking such threats so seriously that it is launching a study to consider the issues and recommend possible precautions. The study will also cover more immediate issues such as the legal question of whether criminals are responsible for their actions; Changeux predicts an increase in defence arguments based on irresponsibility due to a genetic predisposition to certain types of behaviour." (Butler 1998.)

Fifteen years is a long time – sufficiently long to assess to what extent the warnings in *Nature* were appropriate. Let us begin with the most startling claim, the claim that we can almost read people's thoughts. Has anything happened in the last fifteen years to justify this claim? Not really. There is considerable literature on this topic (Richmond et al. 2012) and also about its legal implications (*New York City Bar Association* 2005), but we may largely ignore this literature for the very simple reason that mind-reading on the basis of brain scans is *a priori* impossible on purely *philosophical* grounds. There are several simple reasons that support this claim.

First, many mental states are *intrinsically relational*: they do not only depend on a person's internal properties, but also on the rest of the world. Knowledge is perhaps the simplest example. Knowledge implies truth, as the ancient Greek philosopher Plato already knew: One cannot know that A is the case unless A is indeed the case. This implies that knowledge cannot be read from a brain scan: A brain scan might indicate that someone believes that it is raining, but this belief cannot be knowledge if it has stopped raining. Knowledge is intrinsically relational in the same way as "being an orphan" is intrinsically relational: orphanhood

does not depend on one's internal state, but on one's parents. Just as orphanhood cannot be read from one's anatomy, knowledge cannot be read from one's neuroanatomical or neurophysiological constitution.

There is much more to be said about this. According to various kinds of Externalism in the philosophy of mind, "meanings (of thoughts, for example) are not in the head," but depend on the environment and communal linguistic practices, with the consequence that brain scans can only tell a very limited part of the whole story (see Lau and Deutsch 2008 and Lokhorst 2011). Even if we knew all that there is to know about the contents of the brain, this still would only give us a piece of the puzzle and not the whole story that we need to have in order to decipher the content of a person's mental state. These claims can safely be made without having to know anything at all about contemporary or future neuroscience, just as I can safely say that 1 + 1 = 2, or that I am hungry, or that I feel grief, or that I seem to have a free will, without having to know anything at all about neuroscience.

Second, according to the currently popular "extended mind thesis" in the philosophy of mind, the mind is not confined within the brain but extends into the environment (Clark and Chalmers 1998). Perhaps the best illustration of this thesis is Turing's classic model of computation (Barker-Plummer 2012). A Turing machine is a finite automaton (an automaton that has only a finite number of internal states) with an unbounded tape. The finite automaton can read and write symbols from a finite alphabet on the tape, one by one. Now where does the machine's computational activity occur? Where is the machine's memory? It is obviously not confined to the finite automaton, but extends to the tape. Similarly, a man's mental activity is not confined to the brain but extends into the man's environment, and a man's memory is not confined to the brain but is partially implemented in the man's environment. To a certain extent, it is even arbitrary where we draw the line between "inside" and "outside." This is a second reason for questioning the possibility of mind-reading on the basis of brain scans. Brain scans can only provide a part of the story.

There is an important ethical lesson to be learned here, namely that there is a certain danger in focusing our attention exclusively on the brain. The environment may be just as important. As the philosopher Daniel Dennett wrote:

> "It is commonly observed – but not commonly enough! – that old folks removed from their homes to hospital settings are put at a tremendous disadvantage, even though their basic bodily needs are well provided for. They often appear to be quite demented – to be utterly incapable of feeding, clothing, and washing themselves, let alone engaging in any activities of greater interest. Often, however, if they are returned to their homes, they can manage quite well for themselves. How do they do this? Over the years, they have loaded their home environments with ultrafamiliar landmarks, triggers for habits, reminder of what to do, where to find the food, how to get dressed, where the telephone is, and so forth. An old person can be a veritable virtuoso of self-help in such a hugely overlearned world, in spite of his or her brain's increasing imperviousness to new bouts of learning [...] Taking them out of their homes is literally separating them from large parts of their minds – potentially just as devastating a development as undergoing brain surgery." (Dennett 1996, pp. 138–139.)

Conversely, social measures which enable elderly persons to continue to live at home for a longer stretch of time may be just as effective as any brain-based anti-Alzheimer treatment.

There is one area which is mentioned in the 1998 *Nature* publication that we have not yet addressed: neuroscience and the law. This area is currently in full swing. We cannot discuss it extensively, but we do want to point out that some of its practitioners betray the same shortsightedness that we noticed above, namely an undue focus on the brain. This is often accompanied by an insufficient appreciation of the enormous gap between the neuroscientific

view of man (synapses, axons, and so on) and the ordinary view of man (reasons, hopes, fears, desires, plans, and so on). As Stephen Morse writes:

"Criminal law presupposes a 'folk-psychological' view of the person and behavior. This psychological theory explains behavior in part by mental states such as desires, beliefs, intentions, willings, and plans. Biological and other psychological and sociological variables also play a causal role, but folk psychology considers mental states fundamental to a full causal explanation and understanding of human action. Lawyers, philosophers, and scientists argue about the definitions of mental states and theories of action, but that does not undermine the general claim that mental states are fundamental. Indeed, the arguments and evidence disputants use to convince others presuppose the folk-psychological view of the person. Brains do not convince each other; people do. Folk psychology presupposes only that human action will at least be rationalizable by mental state explanations or will be responsive to reasons – including incentives – under the right conditions." (Morse 2011, pp. 839–840.)

The law is folk-psychological through-and-through. Even if it adopts a view of man that has been proven false by science, this does not really matter, because in the law everything depends, not on *what we are*, but on *how we want to be treated* and *how we want to treat each other*. In the context of human rights, this is an important point to keep in mind. Whatever neuroscience may tell us, "We the People" (to quote the Preamble to the United States Constitution) have the last word with respect to the topic of human rights.

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Human Rights and Science

Leopoldina-Symposium
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Viele Organisationen und Institutionen beschäftigen sich mit den Menschenrechten, zu denen das Recht auf Entwicklung, auf eine saubere und gesunde Umwelt sowie Frieden gehören. Gerade für Wissenschaftler und ihre Institutionen ist die Freiheit von Lehre und Forschung ein hohes Gut. Der Band berichtet über ein Symposium, organisiert vom *Human Rights Committee* (HRC) der Deutschen Akademie der Naturforscher Leopoldina – Nationale Akademie der Wissenschaften, das dem wichtigen und aktuellen Thema *Menschenrechte und Wissenschaft* gewidmet war. Es vereinte Repräsentanten von Akademien und Universitäten aus 12 europäischen Ländern. In den Beiträgen wird die Bedeutung der Menschenrechte u. a. in der Gesetzgebung, im alltäglichen Wissenschaftsbetrieb, in der Forschung am Menschen sowie in der internationalen Kooperation in Wissenschaft und Entwicklungshilfe aufgezeigt. Die akademische Gemeinschaft sollte nicht nur Menschenrechtsverletzungen anklagen, sondern Menschenrechtsaspekte auch in nationalen und internationalen Forschungsprojekten beachten. Um die Bedürfnisse von bedrohten und marginalisierten Bevölkerungsgruppen zu berücksichtigen, ist eine Neuausrichtung der Forschung erforderlich. Die Beiträge berichten über die Menschenrechtssituation in verschiedenen Ländern und die vom *International Human Rights Network of Academies and Scholarly Societies* (IHRN) koordinierten weltweiten Aktionen zugunsten von Personen aus dem akademischen Bereich, die Menschenrechtsverletzungen ausgesetzt sind. Große Besorgnisse werden über Verletzungen der Menschenrechte in verschiedenen Teilen der Welt, inklusive Europa, geäußert, vor allem auch über Folter, die noch in vielen Ländern praktiziert wird. Alle Beiträge sind in englischer Sprache verfasst.

Wissenschaftliche Verlagsgesellschaft Stuttgart

Rolle der Wissenschaft im Globalen Wandel

Vorträge anlässlich der Jahresversammlung
vom 22. bis 24. September 2012 in Berlin

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Gesellschaftliche Probleme verlangen heute sehr häufig eine Widerspiegelung im Bereich der Wissenschaften. Als Nationale Akademie der Wissenschaften ist die Leopoldina in zunehmendem Maße gefordert, auch Beratung bei Fragen zu liefern, die über Länder und Kontinentgrenzen hinausgreifen: Klimawandel, der Einsatz erneuerbarer Energien, Fragen der Gesundheitsversorgung, die Einrichtung einer effektiveren Landwirtschaft zur Bekämpfung von Hunger in Krisengebieten und die sich wandelnde Altersstruktur von Bevölkerungen in vielen Staaten sind nur einige Beispiele für entsprechende Gebiete mit dringendem Forschungsbedarf. Sie bilden Herausforderungen für die Gesellschaften, die nur in internationaler, oft globaler Zusammenarbeit zu bewältigen sein werden. Daher wählte die Leopoldina 2012 das Thema „Rolle der Wissenschaft im Globalen Wandel“ für ihre Jahresversammlung. Der Band umfasst Beiträge zu den Themenkomplexen „Die Erde im Globalen Wandel“, „Herausforderungen des Globalen Wandels“ und „Lösungswege von Problemen des Globalen Wandels“ sowie zu den gesellschaftlichen und politischen Implikationen der mit dem globalen Wandel verbundenen Prozesse.

Wissenschaftliche Verlagsgesellschaft Stuttgart

Geist – Gehirn – Genom – Gesellschaft
Wie wurde ich zu der Person, die ich bin?

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Die Frage „Wie wurde ich zu der Person, die ich bin?“ betrifft jeden ganz unmittelbar. Der Band zeigt die Bedingungen, Prozesse und Einflussfaktoren auf, die uns in der Interaktion mit unserer Umwelt zu einzigartigen Individuen werden lassen. Er behandelt unser gegenwärtiges Wissen über die natürlichen und kulturellen Wurzeln menschlicher Individualität aus verschiedenen Perspektiven, die von der Humangenetik und Neurobiologie über die Psychologie und die Verhaltens- bzw. Kognitionswissenschaften bis hin zu Philosophie, Wissenschaftsgeschichte und Ethik reichen. In der Sicht der klassischen Bio- und Gesellschaftswissenschaften determiniert die im Genom des Menschen gespeicherte Information im Laufe der frühen Ontogenese den Aufbau des Gehirns, das so entstandene Gehirn schafft den Geist, und durch die Interaktion von Individuen entstehen gesellschaftliche Strukturen. Diese lineare Kausalitätskette ist aber nach unseren heutigen Erkenntnissen keineswegs vollständig. Gesellschaftliche Strukturen wirken auf das Denken von Individuen zurück, sodass sich Geist und Gesellschaft reziprok beeinflussen. Unser Denken beeinflusst auch unser Gehirn. Neuronale Prozesse wirken auf die Aktivitätsmuster des Genoms zurück. Genom und Gesellschaft interagieren. Geist und Genom stehen ebenfalls in einem Wechselspiel. Der Komplexität dieses Netzwerks aus Geist – Gehirn – Genom – Gesellschaft spürt der Band in vielen Facetten auf aktuellem Wissensstand nach.

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