

EDITORIAL

Dear Readers,

The second issue of the scientific journal *Facta Universitatis: Law and Politics* for the year 2017 is a thematic issue including scientific articles on the topic: “**Law and Bioethics**”.

Ante Čovič, submitted an article titled “*The Europeanization of Bioethics: Opportunities for Integrative Ethical Reflection on the Basis of Intra-Cultural Differences in Europe*” (translated by **Krešimir Babel**). The author provides “a reconstruction of theoretical framework in which the concept of integrative bioethics has been developed, as well as a verification of the idea of Europeanization of bioethics which has been sketched and postulated at the beginning of the comprehensive international project of establishing and institutionalizing the bioethical cooperation, mainly in the region of Southeast Europe. This idea found its firm foothold in the concept of integrative bioethics and in the discovery of the work of Fritz Jahr, which contributed to establishing the concept of European bioethics.” In terms of structure, “this article is the result of synthesis of programmatic ideas presented in the initial phase of the abovementioned bioethical project, and ideas which represent its final point of it.”

Dragan M. Mitrović submitted an article dealing with “*Virtual Reality and Ethical Neutrality of the Virtual Subjects of Law* (translated by **Silva Mitrović**). The author asserts that “the existence of legal reality implies the existence of the subjects of law as the creations of that reality”, stating that “the law cannot even exist without its subjects. They are *conditio sine qua non* for the law. First, natural persons had become the subjects of law – although not all of them and not at the same time, and thereafter their creations - legal (moral) persons, also became the subjects of law. In both cases, it is about traditional virtual legal creations. However, as the information and technological developments could not have bypassed contemporary law, more and more frequently and intensively it is being thought about the third type of the subjects of law – virtual characters as the new subjects of law (law avatars).” The author emphasizes that that “Today, this is not done out of curiosity, but for very practical reasons – i.e. for promoting business communication that is rapidly migrating to the area of computer virtual reality. Such a change requires reconsideration of traditional beliefs and theories about what a subject of law is. It also requires determining the possible legal nature of virtual characters, irrespective of whether it is about virtual natural or legal persons.” Hence, “When it comes to the explanation of their essence, it seems that at this moment the fiction theory is more acceptable than the reality theory, which might prevail sometime, as it had happened with the subjectivity of the legal person at some point in time in the 17th century.”

Hrvoje Jurić submitted an article on “*The Footholds of and Integrative Bioethics in the Work of Van Rensselaer Potter* (translated by Ana Janković). The author states that, “regardless of the still persistent tendencies to narrow the concept of bioethics down to (bio)medical or even clinical bioethics, it is clear that today’s bioethics integrates discussions of a much wider range of issues – from bio-medical to global-ecological ones”. Therefore, “The broadening of the field of bioethics is the result of the insight that the issues of the techno-scientific era humanity faces are interwoven with the issues that regard other living beings and nature as a whole. This insight into the interweavement of the issues

involved (and the interweavement of the relationships themselves within the living world) has brought about the networking of various sciences, professions and non-scientific views, which we know under the names of multi-, inter- and trans-disciplinarity, and pluri-perspectivism.” In that context, the author considers that “bioethics should not be satisfied with a mere mechanical gathering of various disciplinary views and worldviews, but should aspire after real integration, the shaping of a unified platform for discussion of the ethical problems regarding life in all its forms, shapes, degrees, stages and manifestations. Developing the starting premises of this platform is the task of “integrative bioethics”. In order to do so, taking account of the work of Van Rensselaer Potter cannot be avoided, since his idea of bioethics and the development of his bioethical thought extensively coincide with what bioethics generally means, as well as with its historical transformations: from the moment he coined the term ‘bioethics’, through having founded so-called “bridge bioethics” to the reformulation and expansion of the contents of bioethics into so-called “global bioethics”. After pointing to the coined nature and elaborating on the genesis of the concept of bioethics, the author emphasizes that “the aim of this paper is to examine the extent to which Potter’s work can serve as a stimulus and be the foothold of the goal to establish bioethics as integrative bioethics.”

Ivana Tucak discusses the issue of “*Legal and Ethical Justification of Compensation Regarding Compulsory Vaccination Injuries* (translated by **Krunoslav Pavlović**). The author asserts that, “although vaccination as a modern public health measure has been accompanied with controversies since its very beginning, today medicine has no doubts with respect to its benefits for individuals and whole communities.” The author notes that “vaccination has significantly decreased the incidence and mortality rate of a number of infectious diseases.” Yet, “When propagating vaccination, scientists point not only to its effectiveness but also to its efficiency. It is believed that preventive national mass vaccination programmes have saved billions of euros considering treatment and other medical costs which would be incurred due to the outbreak of a disease.” However, “Vaccination and other medications may imply certain unwanted reactions. Although severe side effects of vaccination are rare, in such cases compensation of injuries bears great relevance for the success of immunization policies and maintenance of the public trust.” For this reason, “This paper attempts to clarify why traditional tort litigation is not convenient in this view. The injured parties often face long-lasting judicial proceedings with an uncertain outcome. What is even worse is that such cases often concern children who are likely to need lifelong care. On the other hand, vaccine manufacturers are also vulnerable. Vaccine production is expensive and subject to strict supervision. High costs cases are particularly discouraging for manufacturers, which jeopardizes public health goals.” The author underscores that the aim of this paper is to “demonstrate that the Republic of Croatia should introduce the so-called “no-fault” compensation programme which would bind the state to compensate for the damage done to its citizens in the name of the principles such as solidarity and justice.”

Ivana Zagorac, poses the question: *What (kind of) Vulnerability? Whose Vulnerability? Conflict of Understandings in the Debate on Vulnerability* (translated by the author, proofreading by **Tamara Budimir**), in an endeavour “to explore the apparent difficulty in communication between two understandings of vulnerability: one that claims that vulnerability is a part of *conditio humana*, a feature closely connected to the facts of (human) embodiment and mortality, and the other which argues for the exclusivity of vulnerability and wishes to limit it to only those who are “more than ordinarily vulnerable”. In that context, “the first part of the paper outlines the main sources of disagreement

between these two perspectives as may be read from scholarly literature and relevant ethics documents. The thesis of this text is that the conflict between the two perspectives can be resolved if the concept of vulnerability is understood in its complexity rather than as reduced to its negative aspects. In order to set grounds for the thesis, the second part of the paper examines what would constitute the concept of invulnerability. In the last part, three attempts at resolution of the conflict are examined. That which advocates for the redefinition of the conventional understanding of vulnerability is favored.”

Marija Selak, discusses the issue of *Informed Consent Between Bioethical Theory and Medical Practice: A Call for Active Vulnerability* (translated by the author, proofreading by *Tamara Budimir*). The author asserts that “the emancipation of bioethics from new medical ethics is a result of the awakening of the role and the rights of patients.” Hence, “the appearance and realization of informed consent can be seen as an example of the mode in which the contemporary attitude towards medical practice has developed, starting from paternalism and ending in recent attempts for the establishment of a dialogue. A more detailed analysis of the informed consent practice, with emphasis on the situation in Croatia, shows that this progress is more theoretical and less related to everyday procedures with patients – encounters with physicians. In view of this, in his PhD thesis “Respecting Patients' Right to Information Regarding Medical Procedure during Hospital Treatment in Croatia”, Luka Vučemilo shows that during their stay in hospitals patients do not fully realize their right to be informed.” For this reason, the author of this article emphasizes “the asymmetry in the physician’s and the patient’s perception of the concept of informed consent and its formal self-sufficiency”, which only confirms the fact that “informing of providing information for the purpose of giving the patient’s consent to particular medical treatment is not being implemented properly.” In the concluding remarks, in order to provide for a better understanding of “the problems concerning the realization of informed consent, in the conclusion of the paper, the same as in the beginning, in order to observe its appearance”, the author observes this concept in an “extend context and take into consideration the contemporary world-historical situation”.

A number of scientific articles on “**Law and Bioethics**”, published in this thematic issue of *Facta Universitatis*, have demonstrated/indicated/underscored that the rule of law is “a variant of ethical order”.¹ We hope you will enjoy reading the results of theoretical and empirical research on the **Law and Bioethics** issues that contributing authors have chosen to discuss in their papers.

The multidisciplinary nature of the submitted papers and the authors’ choice of current legal, political and other inter-disciplinary issues indicate that our scientific journal *Facta Universitatis: Law and Politics* is open to different approaches to the legal and political matter under observation and committed to publishing scientific articles across a wide range of social sciences and humanities. In that context, we invite you to submit research articles on topics of your professional interest.

Editor-in-Chief

Prof. Miomira Kostić, LL.D.

Niš, 16th June 2017

Guest Editor

Prof. Marko Trajković, LL.D.

¹ S. Kovačević, *Tranzicija u Demokratiji: Transformacija društva i konsolidacija demokratije*, (*Transition into Democracy: Society Transformation and Democracy Consolidation*), Pravni fakultet, Univerzitet u Nišu, Niš, 2015, 32.