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Tema broja:
Žrtve seksualnog nasilja
Theme:
Victims of Sexual Violence

Reflections on the Society's Reaction towards Rape Victims in Delhi City Osvrt na reakciju društva prema žrtvama silovanja u gradu Delhiju <i>Vibha Hetu</i>	3
Victims of Sexual Abuse by Catholic Clerics and Their Needs for Compensation Žrtve seksualnog zlostavljanja od strane katoličkih sveštenika i njihove potrebe za nadoknadom štete <i>Deborah F. Hellmann</i>	27

OSTALE TEME

OTHER ISSUE ARTICLES

Rodne i društvene kontroverze vantelesne oplodnje u Srbiji – diskriminacija žena koje nisu rađale Gender and Social Controversies of In Vitro Fertilization in Serbia – Discrimination against Childless Women <i>Ksenija Kričković Pele</i> <i>Kosana Beker</i>	49
Ženskost u polju zazora: prilog analizi ženske pozicije u fallogocentričnim okvirima jezika i pisma Femininity in the Field of Abjection: the Analysis of the Position of the Female Subject in the Phallogocentric Framework of Language and Writing <i>Dragana Stojanović</i>	69

**Restorative Justice Approaches in Intercultural
Conflict Settings – Findings of a Survey
and Implications for Practice**

Restorativni pristupi konfliktima u interkulturalnom kontekstu – nalazi istraživanja i njihov značaj za praksu

Edit Törzs 87

**PRIKAZI KONFERENCIJA
CONFERENCE REVIEWS**

**Razvoj službi za žrtve u Evropi: kvalitet, standardi
i razvijanje kapaciteta – Godišnja skupština
i konferencija organizacije
Evropska pomoć žrtvama**

Developing Victim Support across Europe: Quality, Standards, Capacity Building – Annual Meeting and Conference of Victim Support Europe

Jasmina Nikolić 103

**PRIKAZI KNJIGA
BOOK REVIEWS**

**J. Temkin, B. Krahe
Sexual Assault and the Justice Gap:
A Question of Attitude**

Seksualno nasilje i „osipanje“ slučajeva: pitanje stava
Ljiljana Stevković 107

**M. Blagojević-Hjuson
Rodni barometar u Srbiji:
razvoj i svakodnevni život**

Gender Barometer in Serbia:
Development and Everyday Life

Ana Pajvančić-Cizelj 113

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Reflections on the Society's Reaction towards Rape Victims in Delhi City

VIBHA HETU*

In general, most people display stronger beliefs in 'aggravated rape' or 'real rape'; including victims of such rape cases who often identify themselves as 'rape victims' than the victims of 'simple rape', where none of the aggravating circumstances are present. Despite myths to the contrary these 'simple rape' cases in fact make up the majority of cases. This article considers the implications of 'real rape' and demonstrates how notions about what a 'typical rape' should be, in the form of rape myths, directly impact on societal attitudes towards rape victims and how the media continue to reinforce and perpetuate the notion of real rape through their selective reporting of 'serial rape', 'stranger rape' or especially 'violent rapes'.

Keywords: attitude, myths, violence, rape, culture.

Introduction

According to Liz Kelly (2008) rape violates personal, intimate and psychological boundaries – what in human rights language is designated human dignity and bodily integrity, and in feminist and critical theory is termed sexual autonomy or sexual sovereignty (Richardson, 2000). The rape is broadly understood as penetration of the vagina and/or anus with a penis without consent. The meaning of rape for women, within gender and generational relations and cultural contexts, underlies its emotional, psychological and social impacts and consequences. Feminist writers have argued that the prevalence of sexual violence contributes to gender

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inequality and supports the status quo of male dominance by keeping all women, including those women who are not directly victimized, in a state of constant fear (Brownmiller, 1975). The fear of rape is a daily reality for many women, limiting their freedom of movement and reducing their quality of life as is confirmed by empirical research (Gordon et al., 1980; Dobash, Dobash, 1992; Mirrlees-Black, Allen, 1998).

Sexual violence against women is deeply entrenched in the feudal, patriarchal Indian society. Sec. 375 of Indian Penal Code (IPC) reads as follows: "The offence of rape is one which is committed 1) by a man who has a sexual intercourse with a woman against her will, 2) without her consent or even with her consent when that consent has been obtained by putting her in fear of death or hurt, 3) when by fraud when he is not her husband, he obtains her consent by making her believe that he is another man to whom she is a wife, or believes herself to be lawfully married, 4) when she is intoxicated or 5) when she is under sixteen years of age irrespective of her consent. Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape". Full penetration is not an essential component of rape. It would amount to penetration if some part of male organ goes within the labium of the pudendum of the woman, no matter how little (Indian Penal Code, 1872).

Sec. 376 of IPC reads: "A man convicted of an offence of rape is punished with imprisonment for a term which shall not be less than seven years but may extend to ten years or for life and shall also be liable to fine". According to Sec. 376 (2) "Whoever, – (g) commits gang rape, shall be punished with rigorous imprisonment for a term not less than ten years but which may be for life and shall also be liable to fine. (Explanation 1. – Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this subsection)".

The aim of the article is to analyse the reaction of the society towards rape cases and its victims. The society is misled by rape myths prevalent on a large scale which affect the attitude of the people in general and the rape victims in particular. The victims of rape tend to withdraw from the social surrounding fearing the reprisals from the neighbours. The research paper covers three case studies which discusses in detail the impact of rape on minor victims with adult men being the perpetrators and the people's overall understanding of the rape cases. Rape myths entail the common beliefs that posit doubts about rape. The magnitude of the problems highlights the

seriousness of the rape crimes. In the end, the common and the antagonistic findings are discussed. The conclusion provides an exemplary think-tank to persuade people to contribute in to the catharsis and closure deemed necessary to heal the victims.

Rape Myths: Social Knowledge and Discourse

Rape myths are defined as “attitudes and beliefs that are generally false but are widely and persistently held, and that serve to deny and justify male sexual aggression against women” (Lonsway, Fitzgerald, 1994). Rape myths are “descriptive or prescriptive beliefs about rape (i.e. about its causes, context, consequences, perpetrators, victims and their interaction) that serve to deny, downplay or justify sexual violence that men commit against women” (Bohner, 1998).

Social knowledge is the resource used by all members of society to formulate their attitudes and all the actors in a rape (victim, perpetrator, police officer, prosecutor and judge) are not immune from their influence in terms of the decisions they make at key points in the criminal justice process. Attitudes are summary evaluations of an object of thought. Attitudes have been defined as consisting of three components: affective (how a person feels about some object or class of person), cognitive (the beliefs, opinions or ideas about the attitude object) and behavioural (what a person does in relation to the attitude object) (Stahlberg, Frey, 1996). There's a bias that operates in the mind of decision makers – stereotyping women, blaming the victim, trying to find out if she played any role in causing the rape. The courts usually set free the accused on the basis that the victims did not raise an alarm, she was not physically injured, and since she was sexually active, she would have “voluntarily” consented to sex. The reality of sexual violence and its harmful effects on the individual and on society are indisputable. The Supreme Court was of the opinion that it is well settled law that absence of injuries on the person prosecuted would not itself be sufficient to discard the prosecution case in *Dastagir Sab and Another vs State of Karnataka*, 2004 (2) SCALE 8. In the case of *Sheikh Zakir*, 1983 Cri.L.J.1285, the Supreme Court observed that the absence of any injuries on the person of the complainant may not by itself discredit the statement of the complainant. Merely because the complainant was a helpless victim who was by force pre-

vented from offering serious physical resistance, she cannot be disbelieved. The Supreme Court has observed that even if the victim has been promiscuous in her sexual behaviour earlier, she has a right to refuse to submit herself to sexual intercourse to anyone and everyone because she is not a vulnerable object or prey for being sexually assaulted by anyone and everyone in *State of U.P. vs Pappu, Yunus and Another*, 2004 (10) SCALE 147. The Supreme Court was of the opinion that even assuming that the victim was previously accustomed to sexual intercourse that was not a determinative question. On the contrary, the question which required to be adjudicated was, whether the accused committed rape on the victim on the occasion complained of. Even if it was hypothetically accepted that the victim had lost her virginity earlier, it did not and cannot in law give license to any person to rape her. It was the accused who was on trial and not the victim.

The Supreme Court further held that it is well settled law that a person complaining of having been a victim of the offence of rape does not mean becoming an accomplice of the crime. There is no rule of law that her testimony cannot be acted without corroboration in material particulars. She stands at a higher pedestal than an injured witness. In the latter case, there is injury on the physical form, while in the former it is physical as well as psychological and emotional.

The Supreme Court observed that sexual violence apart from being a dehumanizing act was an unlawful intrusion on the right of privacy and sanctity of a female in *Dinesh and Buddha vs State of Rajasthan*, 2006 (2) SCALE 734. It was a serious blow to her supreme honour and offended her self-esteem and dignity, it degraded and humiliated the victim and where the victim was helpless innocent child or a minor, it left behind a traumatic experience. A rapist not only caused physical injuries but more indelibly left a scar on the most cherished possession of a woman i.e. her dignity, honour, reputation and not the least her chastity. Rape was not only a crime against the person of a woman; it was crime against the entire society. As noted by the Supreme Court in *Shri Bodhisattwa Gautam vs Miss Subhra Chakraborty*, AIR 1996 SC 922, 'a socially sensitized judge', in the opinion of the Supreme Court was better statutory armour in cases of crime against women, than long clauses of penal provisions, containing complex exceptions and provisions.

The protagonist is every (wo)man as social actors who are subject to social and societal influences that contribute to values, attitudes, social knowledge underpinning beliefs, perceptions and behaviours related to rape. Rape Myth

Acceptance (RMA) influences information processing and behaviour by serving as a cognitive schema. In the 1970s the concept of rape myths became a topic of interest and closer inspection for various researchers (Schwendinger, Schwendinger, 1974; Brownmiller, 1975; Field, 1978). Burt (1980) has defined rape myths as "prejudicial, stereotyped, or false beliefs about rape, rape victims, and rapists". According to Payne et al. (1999) rape myths usually entail: blame the victim for their rape, express a disbelief in claims of rape, exonerate the perpetrator and allude that only certain types of women are raped.

These rape myths paint a distorted picture of the antecedents and consequences of rape and are widely held by the general public (Gergeret et al., 2007) and by those in the criminal justice system (Field, 1978; Brown, King, 1998). Rape myths are also propagated by the media (Franiuket et al., 2008). It affects the offending behaviour of perpetrators, the reporting behaviour of victims, the decision-making behaviour of investigators and prosecutors, and the assessment of guilt or innocence by jurors (Temkin, Krahe, 2008; Wilson, Scholes, 2008).

Research examining why women from South Asian communities, in particular, tend not to disclose rape or sexual abuse have revealed three key explanatory factors. The first factor suggests that the women tend to feel 'betrayed' by the male perpetrators of these acts. These men are often well known to their victims as members of the same community (Uberoi, 1996; Gupta, 2003; Thiara, 2003; Siddique et al., 2008). The second factor suggests that some women do not report sexual violence because they believe that the assault is not violent enough to constitute rape (Gangoli, 2007; Haven, 2008; Rape Crisis, 2008). Rape myth acceptance influences the victims' responses to rape and determines whether they will even label what has happened to them as rape. The third key factor is that these women often fear that they will not be believed, especially since the criminal justice system does not usually prosecute in cases where the only evidence is the victim's testimony (Wilson, 2006; Gill, 2008; Patel, 2008). Researchers have recognized that a major cause of this widening 'justice gap' are pervasive beliefs about rape, or *rape myths* (Brownmiller, 1975; Burt, 1980). The proportion of rapes reported to the police is notoriously low, and within those relatively few cases that are reported, conviction rates have been declining (Kelly et al., 2005; Temkin, Krahe, 2008).

Stereotypical attitudes about rape pose a major obstacle to unbiased and fair decisions of the society. People take their actions with an eye to

the ethical and cultural views of the influential others above them in the institutional hierarchy.

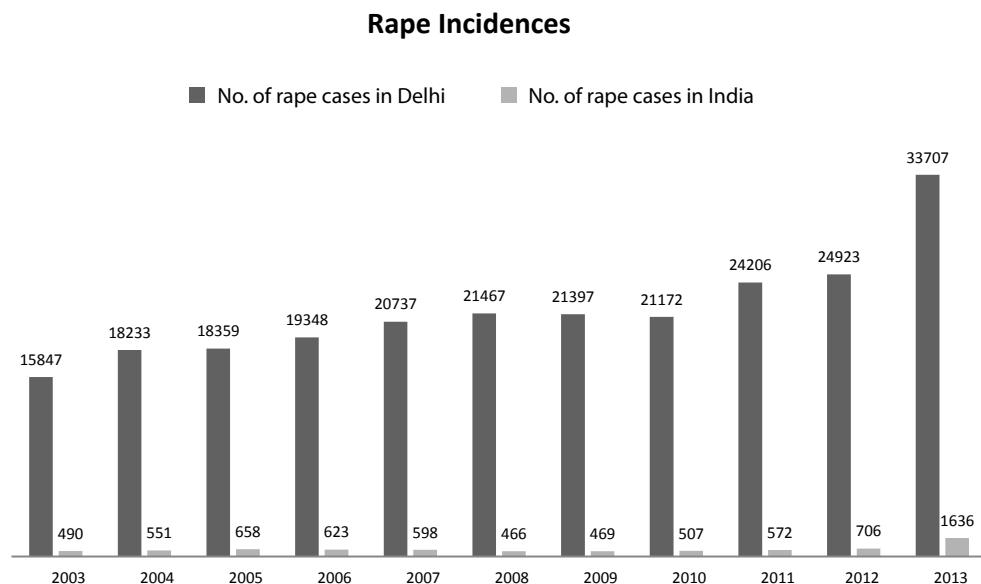
Real Rape

The term 'real rape' (or 'stereotypical rape') confirms to the widely held belief that genuine rapes contain the following elements: the victim and rapist are strangers; the assault occurs in an outdoors location; the victim shows active visible resistance; and the rapist perpetrates violence by using some kind of weapon or threatens to force the victim (Estrich, 1987) whereas 'simple rapes' (Kalven, Zeisel, 1966) mean ambiguous or contested sex between people who know each other. These rapes are also 'real' rapes and should be acknowledged as such. Estrich's (1987) articulation of 'real rape' focuses on reasons and explanations for the huge disparities between the numbers of women estimated to have suffered a sexual assault and those willing to report, the dropping out of cases by police and prosecutors and the apparent reluctance of juries to convict.

Estrich describes the 'jump from the bushes' stereotype in which an unsuspecting woman is forced to have sex without her consent by a man she does not know and who has a weapon with which he threatens or uses to overcome her resistance. She also observes that a 'real rape' victim reports her attack directly to the police without washing away any of the forensic traces of her attacker. She points out that the presence of all these elements in rape is relatively rare. Yet, women themselves, police investigators, prosecutors and judges appear to use the 'real rape' scenario as some notional standard such that deviations seriously undermine a judgment that what occurred was a rape. 'Real rape' is said to be the only kind of assault that the criminal justice system recognizes as being in fact rape: other incidents especially "ambiguous or contested sex between people who know each other" are not considered rape at all. There is significant differences in treatment of victims depending on the 'type' of rape they have experienced; those who have suffered an 'aggravated rape', are more likely to be believed and have their case prosecuted than those, who in fact are victims of 'simple rapes' (Walby, Allen, 2004).

Magnitude of the Problem Figure: Rape Incidences

Rape cases are increasing in the country every year. A total rape cases of 15847 in 2003 has increased to 33707 in 2013. Rape cases have increased more than twice in eleven years (2003-2013). The figure mentioned below shows the trend of rape crime in the period from 2003 to 2013.



It can be seen from the graph that rape cases have reported mixed trend over the last eleven years with an increase of 15% in 2004 over 2003, an increase of 1% in 2005 over 2004, again an increase of 5% in 2006 over 2005, an increase of 7% in 2007 over 2006, a substantial increase of 3.5% in 2008 over 2007, a decrease of 0.3% in 2009 over 2008, an increase of 3.6% in 2010 over 2009, an increase of 9% in 2011 over 2010, 3% increase in 2012 over 2011 and a huge increase of 35% in 2013 over 2012 (Crime in India, 2013).

As per statistics collected by Delhi Police, the total number of rape cases reported shows mixed trend over the last eleven years with an increase of 12% in 2004 over 2003, an increase of 19% in 2005 over 2004, decrease of 5% in 2006 over 2005, decrease of 4% in 2007 over 2006, decrease of 22% in 2008 over 2007, an increase of 0.6% in 2009 over 2008, an increase of 8% in 2010 over 2009, an increase of 12.8% in 2011 over 2010, 23% increase in 2012 over 2011 and a huge increase of 132% in 2013 over 2012 (Crime in India, 2013).

It means that reported rape cases have increased more than three times in Delhi City. Among all the cities in the country, reported rape cases are the highest in Delhi City. There may be more than one victim in few rape cases reported. No separate data were available for gang rapes in terms of number of the accused involved.

Table 1: *Rape Case Disposal by Criminal Justice System*

Year	Area	police		court		Conviction Rate
		% disposal	% pendency	% disposal	% pendency	
2003	India	70.1	29.9	19	81	26.1
	Delhi*					22.1
2004	India	69.1	30.9	19.7	79.4	25.2
	Delhi	61.7	32.3	30.3	69.7	16.4
2005	India	69.1	30.9	20	80	25.5
	Delhi	68.1	31.9	45.5	54.5	15.8
2006	India	63	37	19	81	27.2
	Delhi	89.2	11.8	32.7	67.3	25
2007	India	68	31.9	17.9	82	26.4
	Delhi	82.5	17.5	32.9	67.1	27.7
2008	India	66.6	33.4	17.6	82.4	26.6
	Delhi	87.9	12.1	22.4	77.6	30.6
2009	India	64.6	35.3	16.2	83.6	26.9
	Delhi	87.9	12.1	21.6	78.4	47.3
2010	India	64	35.8	15.9	83.9	26.6
	Delhi	82.4	13.6	22.4	77.6	34.6
2011	India	63.3	36.6	16.2	83.6	26.4
	Delhi	77.4	22.6	23.7	76.2	41.5
2012	India	63.9	35.9	14.9	85.1	24.2
	Delhi	70.1	29.9	30	70	49.3
2013	India	68.5	31.5	16.6	83.4	27.1
	Delhi*					35.7

* 2003 and 2013 Data of Delhi City could not be found.

Percent disposal of rape cases by the police¹ stands to be far better in comparison to the percent disposal of rape cases by court² in India. The same happens to be true for the Delhi City. It shows that the courts are getting piled up with the cases each year and the verdicts are delayed leaving the victim frustrated.

The Aim and the Scope of the Study

The utility of interrogating single case studies in order to test sophisticated theoretical postulations about interlinked and idiosyncratic phenomena has been demonstrated across a range of social scientific fields (Yin, 2009). The case study analysis that follows is offered in this spirit. It focuses on interviews with victims of rape cases that comprise just a small part of my PhD work on "Human Rights Violation of Rape Victims: A Sociological Study in Delhi City".³ 130 unmarried rape victims were studied from the age group of between 3 and 25.

I have concentrated on minor women as victims, survivors or complainants of rape with adult men being the perpetrators, accused, offenders or defendants because this is the most frequently occurring dyad (Greenfield, according to Avakame, 1999). I have chosen to use 'victims': this is because I had taken police data which identifies them as such, and for the victims it was a wish to identify the harm that has been done to them by the perpetrator. If someone has been accused of rape they may simply be referred to as 'the accused'; similarly, if someone is standing trial for an alleged rape they are the 'defendant'. The term 'perpetrator' and 'offender' are used interchangeably and imply those accounts that have yet to be tested in court. However, the accused and the defendant are also alleged rapists. 'Rapist' and 'rape victim' are very emotive and pejorative terms, which can label an individual with a social stigma they are likely to carry all their life and face the consequential shame.

This article aims to analyse the reaction of the society towards rape cases and its victims. The society puts a strong belief in stranger rape than the rapes

¹ Total percentage of cases in which police has filed investigation report in the court of law.

² Total percentage of cases in which court has passed a judgment.

³ Government of India Fellowship Scheme for Doctoral Work in Criminology and Police Science from Bureau of Police Research and Development (vide order No. 32/29/2007-RD). The duration of PhD was from November, 2006 to March, 2011.

where the offender is well known to the victims. The victims of stranger rape cases are ascribed victim status whereas society treats the victims of other rape cases, such as acquaintance rape, with a facet of doubt. Media also reinforces the same belief by choosing and reporting rape cases that incorporate elements of 'real rape' and not the 'simple rape'. This gives rise to the belief that only strangers are committing rape whereas the findings are antagonistic.

Methodology

The pen portrait of Kriya (name changed), Pooja (name changed), and Vimla (name changed) that follows is derived from the four interviews that I conducted with each victim using the Free Association Narrative Interview Method (Hollway, Jefferson, 2000). The article is about rape victim's experiences as an example of particular circumstances under which rape occurs. The focus is on circumstances where the victim is especially vulnerable, being viewed as: (a) an undeserving or stigmatized victim, (b) contributing to her own victimization and/or (c) being incapacitated through mental health issues or intoxication. These case studies focus on rape stereotypes; it confronts existing stereotypes and challenges current thinking with regard to the crime of rape. There are particular difficulties when seeking to engage rape survivors in research, for example gaining access, particularly where this is mediated by gatekeepers, and ensuring ethical concerns and matters of confidentiality and anonymity are adequately addressed.

Case Study I

Kriya (name changed) was a regular school pupil. She was 17 years old studying in 10th class. She became friendly with a man name Manohar staying nearby her school. He used to work in a tailor's shop and was earning Rs. 4,000/month. He was very good in cutting and stitching salwar-kameez, blouses and in embroidery. Manohar was from 'Bhagalpur' in Bihar. It had been three years that he was working as a tailor and a year had passed while staying in Delhi. She always used to cross-by his shop and Manohar started taking notice of her. Her school was in the same direction of the tailor's shop. And from now on, whenever she crossed-by she saw him standing in front of

the shop everyday at the time when she went to school and then going back home after school. He used to hymn a song whenever he saw her.

Slowly, they both began talking to each other and after few days they started meeting at different locations - sometimes in park, nearby stalls, at the back of college, inside someone's private farm, etc. They simply used to sneak out after her school, at times before her school ended when she managed to get out earlier. When they felt that the people around had started taking interest in their affair, on many occasions she actually made an excuse to her parents that she had to learn something from her friend Neema (name changed) who stayed close by during the evening. She would first visit Neema's house in order to ensure that those who must be watching out or must have seen her will think that she went to visit her friend's house. But, just after spending ten minutes with Neema, she would come out and after examining both sides of the road, she would cross the road, walk a while and just ten steps away she would find Manohar waiting. He would take her for a movie or just go somewhere. By this time, they had shared some kind of physical intimacy. After sharing some personal moments, she started putting pressure on him to marry her. She was now compelling him to run away as her parents had started creating trouble for her as putting restrictions on her movements and asking too many questions about her whereabouts. They had heard some rumours about her. One day both of them ran away. They came to a place called 'Meerut' in Uttar Pradesh. He had booked a room in three story building. One of his friends, Amit (name changed) was very helpful. He worked in the same tailor's shop, too.

When Kriya did not return, the parents turned to police. Police did not put any effort in trying to find the girl as Amit was staying in the same place all the time and worked in the same tailor's shop throughout the period Manohar and Kriya went missing. Police otherwise had registered a First Information Report (FIR) but did not call Amit for questioning nor went to his flat or working place to find him. Amit only had advised Manohar to tell Kriya to apply sindoor⁴ from the moment they had started to live together in Meerut so that people in that colony do not suspect that they were unmarried. From that time, she was applying sindoor to look married to all the people around but was not actually married to him.

⁴ Vermillion usually applied by the married women on their head so as to be known to be married.

Manohar had found out from Amit that the kidnapping case was registered against him by Kriya's parents. Although he was a skilled person, he was not able to find a job in that new area. He was running out of money as a month had passed and they both were living on the savings. Now, the relationship was taking an ugly turn. Fights started to occur between them very often. She would ask him everyday as to when will he marry her; and he would make an excuse of whenever he finds a job. Kriya was becoming very restless. Forty seven days had passed by now. One day, Amit came to meet Manohar. Seeing his bad condition, he felt deeply disturbed. That very night, both of them drank alcohol and came to the rented room. Kriya was much tensed as it was already 10 pm. She started hurling bad words at Manohar for coming late. He was in no mood to listen to her; he slapped her across the face.

Amit encouraged Manohar to beat her. He beat her up. Things did not stop at that Manohar ripped her clothes and actually raped her in front of his friend. All the time he was saying that 'she has spoilt his life and he wants to teach her a lesson'. While he was raping her, Amit was holding Kriya's hands. When Manohar was done, he persuaded Amit to rape her. First, Amit refused, but after his friend's encouragement he raped her. Kriya was so exhausted after her first rape that she did not fight back at all when Amit was on top of her. That night, when both of them were asleep in the room, she escaped. She reached her house in the early morning. Her parents were shocked to see her but at the same time very supportive and sympathetic towards her. A section of rape was added in FIR after the girl had returned. Six months after reporting, Manohar and Amit were apprehended.

She is now preparing for her 10th exam which is due in three months. When she returned back, she faced the worst time of her life. She said 'all the people look at me with accusation.' They made her feel like as if she was dirty. The neighbours passed immoral comments against her character. The best thing was her family's great support to her. She also suffered from psychological problems such as fear, anxiety, nervousness, self-blame, anger and shame. She had difficulty in sleeping.

Discussion

Kriya was in a very young age when she had decided to run away with Manohar without thinking of the consequences. Unfortunately, she was gang raped by her boyfriend and his friend. She was more as disturbed as feeling

betrayed, and her self-belief and self-esteem was shaken. The neighbours passed comments such as 'Yeh! Ladkibhaggayithi'.⁵ They always pinpointed to her saying 'Iskesaathbalatkarhuatha'.⁶ Such words were hurled by neighbours, it was meant to humiliate and devalue her. Everyone would look at her whenever she went out as if she was a person different to all others and all enjoyed looking at her.

People have strange thinking about females such as 'they are weak and vulnerable; and can get easily influenced by people.' The words 'ladkikoladkabahlapluslakar le gayaaur rape kardiya'⁷ were used by the victim's parents in order to defend the girl as she had eloped. Parents often spoke these words to defend any compliancy by the girl in the act; they wanted the society not to treat the girl with doubt. Even though she had eloped she was nowhere to be held responsible for her rape. But, she became dirty and impure because she had lost her virginity before marriage and the people did everything to restrict her movement in a way making it so miserable as if trying to shun her from the society. It was not surprising that media did not find this case worth reporting as it was not an 'aggravated rape case' but a contested sex between two people who knew each other from before. She is recovering but the comments of the people around still haunts her and she has spent many nights awake. Many of her school friends do not talk to her. Worst of all, she was asked by the school authorities to leave the school as they felt that all other parents were uncomfortable with the fact that a rape victim was studying together with them.

Case Study II

A girl name Pooja (name changed) had known a man Sudhir (name changed) who was running a shop in the same neighbourhood. He used to see her often whenever she crossed by to go to a college and she always felt that he stared at her. She said that somehow she felt uncomfortable whenever she passed-by his shop. This man was around twenty five years old and had tried to stop her on two to three occasions when she was alone as most of the time

⁵ This girl had run away.

⁶ She was raped.

⁷ The girl was influenced by the boy to come with him and thereby, raped by him.

she was either accompanied by her elder sister Neeta (name changed) or by her friend Seema (name changed) who was studying in the same class. Both of them were studying in the 12th class. She was often telling Seema about feeling uncomfortable and uneasy whenever she came out of her house to go to school as she always had to pass-by his shop. His shop was just three houses away from her house.

She was 17 year old girl and little more bulky and tall in comparison to all other girls of her age. She hated being called fat by her friends, so she remained close to Seema. She was not that friendly with her mother and very apprehensive of sharing her feelings. She was scared of even getting shouted by her parents and to be blamed for whatever was happening to her, particularly with being taken away the opportunity of continuing her studies. She decided to go on by ignoring of whatever was taking place with her with a hope that one day everything will finally end. But, no one wondered that this thing might take a worst turn one day and affect her whole life.

One day, while walking down to her house after school at around 3.00 pm, Sudhir called out to her 'Hey Pooja'. As soon as she heard his voice she looked in that direction and he stepped out of his shop, pulled her immediately within a fraction of a minute and put the shutter down. On that unfortunate day, there was nobody on that road or nearby. The road was a very narrow 'Gali'.⁸ The shop was small; at the back, there was a room and there was an upper floor with one room. Nobody was in the house. He gave her to drink something. She said that she was so intimidated and shocked that she drank. Later on, she started feeling giddy. She does not remember whatever happened after that. She has a vivid memory that when she woke up her upper clothes was messed up and down she had nothing on. When she put on her clothes, she started to knock on the shutter, but it did not open. She went around that small house but there was no one in it. She went upstairs but the upstairs' room was also locked from inside. She came down and started banging the door aggressively. She could hear some voice coming from outside. Someone broke the lock on the shutter and rescued her.

She covered herself with 'duppatta'.⁹ She slowly walked to her house. Many people saw her going and could suspect that there was something wrong,

⁸ A narrow pathway through which barely two people could walk or could be used by two-wheelers only.

⁹ A cloth usually worn over traditional Indian attire called 'Kurta pajama'.

but did not come to help her. When her mother opened the door; she did not understand her condition. Pooja narrated the whole incident to her parents. By this time, the colony people found out about the incident as a neighbour had opened the shutter for her. Neighbours only forced her father to report a rape case. Her parents did not understand the trauma she had gone through. They kept accusing her of what had happened to her by saying her in face that they 'wished she had died then and there; and we would not have to face such a disgrace from the neighbours.' The saddest part is that Pooja has never put her feet outside after that incident. Her house is often surrounded by people; they keep coming to sympathize with her parents.

Pooja hardly talks to anyone because whosoever comes to her usually ask her about the incident. She said that 'people don't realize that the words spoken can bleed the heart of the person hearing it'. They purposely ask such questions as trying to find fault with her statements. She has dropped her studies. Her mother never let her enter kitchen believing her to be dirty as she is deflowered virgin now.

She hates herself. She suffers from suicidal tendencies. At times, she behaves in an abnormal manner that she hardly eats, does not want to take bath and clean herself during her periods. She has developed chronic PTSD (post-traumatic stress disorder).

Discussion

In this case, neighbours were so insensitive to her that even when they suspected that there was something wrong with Pooja; nobody came to help her. Instead, they now keep surrounding her house all the times and more so if any new person is entering her house, the questions they pose are 'are you from media?'; 'are you from the court?' Wonder, what they benefit from asking such questions and what kind of answers they are seeking. Not even for a bit they understand that their behaviour causes misery to the victim. They simply do not relate to other's pain and treat it as a matter of fun and pleasure. The people pose one question again and again to her parents: 'What will you do now about the girl?' as per their belief she has lost her chance of future conjugal relationship. This case was also not reported by any form of media, although the accused was a neighbour to the victim and was also a resident of the same colony but she was in no way familiar with this person and had no interaction with him ever. Definition of 'stranger' as given in Oxford dictionary

is 'a person whom one does not know or with whom one is not familiar'. This was a case of 'stranger rape' but it did not involve extrinsic violence.

Case Study III

This is a story about Vimla (name changed) who used to go to teach a child of seven years in a house which was just two blocks away from her home. She used to go regularly to teach a boy for an hour except for Sunday. That house had five members: mother, father, uncle, one child and grandmother. Every day she entered the house at 7.30 am and left at 8.30 am to go to her own tuition classes. She was 16 years old studying in the 10th class. She took tuitions in four houses of small children to support her own studies. Where other girls of her age spent time in playing and enjoying leisure hours after school; she was in a way different to all her classmates. She was sincere, hardworking and responsible girl. She had a dream of becoming a teacher.

On an unfortunate day; when Vimla was getting ready to go to teach her student of seven years, her mother stopped her as she was in the bed the whole day yesterday; not feeling well. But, she felt better that morning and never wanted to miss any of the tuition classes that she was taking. She got ready and went to the house at 7.30 am to teach the child. When she knocked on the door, an unknown person opened the door. She was a bit surprised to find a stranger at the door. She told him that she has come to teach the child. He let her in. She entered the house and grabbed a chair. Her daily routine was to enter the house at 7.30 am sharp and sit at the hall where she would always find the child sitting and studying. As always she entered the same room. He closed the main gate from inside. Afterwards, he came to the hall and asked her about whether she would like to have a tea or coffee. She refused to take any drink and asked him to call the child. He said that he is going to call him from inside. He obviously knew that there was nobody in the house. He had come on the previous day in the morning and the whole family had left for the village in the afternoon. She was not teaching the boy on that previous day and nobody in the family bothered to inform her about their plans to go to the village.

She was exhausted from staying in the bed the whole previous day; she felt tired and sleepy in the morning. She did not feel that there was something unusual in the house as there was nobody around. In fact, she could not put

her mind to that. He came with two cups of tea. She refused again to take it and asked about the child. He told her that the child is taking a bath. After a while she was ready to go, but he came on her way and she got startled. Fifteen minutes had already passed sitting in the house. She was just five feet tall and very lean and thin. The man was a sturdy and robust man as tall as 6 feet. He grabbed her from back and closed her mouth when she tried to by-pass him.

It was a big fight between them. The more she struggled, the more he tried to control her by hitting her more and more by his fist. She had started bleeding from her mouth while he was actually carrying her in his hands to the room at the back. He raped her in the back room. He had closed her mouth by tying a cloth over her mouth and also her mouth was stuffed with the cloths. She fought till the end to get away from his clutches, but he was too big for her to be won by her physically. He got up from the bed and told her that if she wants to get away alive, she will have to keep her mouth shut. She was already so drained that she was not in her senses to decide as to what to say. Her mouth was also closed. Her eyes were shading tears and she just made some baffling sounds. Her head was swinging and the utmost she could think of was getting to her house and to her mother.

He warned her not to tell anyone about what had happened to her. She said that she found his glimpse very threatening. When he moved the knot of the clothes from her mouth and wanted to leave her at the door, he was shocked to see a neighbour standing at the door when he opened the door from inside. She was just beside him and the neighbour saw both of them together. The girl simply walked away to her house brushing across both of them. It was 8.45 am already. When the mother saw her, she could not believe her eyes. She was shocked to see her face swollen and bleeding. Vimla was so broken that as soon as she got to her bed she fainted. She was put in the hospital ICU (Intensive Care Unit) for five days to recover from shock and sickness. Her case was reported by electronic media as well as printed media. The parents had registered FIR (First Information Report) in the evening, but by this time, the accused had run away fearing the reprisals from the victim's family and the neighbours. The police caught the accused after seven months. The victim suffers from depression, anxiety, flashbacks, shame and persistent fears.

The same happened to her when it came to neighbours' attitudes towards her. Whenever and wherever she went out, people pointed out

saying ‘isskiizzatlutgayi’¹⁰; ‘iskeaath hi balatkarhua’¹¹. Such statements were devaluing in nature and were frequently used by the neighbours towards the victim so that victim felt disgraced and felt lowly as if she was the one who was dishonoured.

Discussion

In this case, when the neighbour had seen the girl at the door, she did not raise any alarm or asked the girl if she needed any help knowing well that the family of that house had gone to another village for some days; she simply took off from there. The neighbour being a female also had seen the culprit going from that house with some luggage, yet she did not spread the word, never thought of going to the police station. She never felt sympathetic towards that girl who was badly bruised or felt the need for asking her if she needed any company to get to her house and/or encourage her to go to police station to report the incident. Thanks to the neighbour, the police had a tough time to catch the accused; this could be materialized only after seven months. The best she could do was to spread the word about girl being raped and she did it with her whole heart and now the whole neighbourhood knows what had happened that day.

The insensitive attitude of the neighbour who saw the victim in a terrible condition but did not put her feet forward to help her in anyway, but, satisfied the fluttering tongue by gossiping about her rape to each and everyone she came across with adding some more lascivious elements to her talks speaks in favour of apathy towards the victim’s condition. It became hot cake news for few months and what the entire neighbourhood could do was to talk about her. Things started spreading all together in a very different manner where neighbours started to discuss on things such as ‘she herself had gone to the room and what was she wearing while coming out of the house’.

This rape case was a typical example of ‘real rape’ (or ‘stereotypical rape’) so it was reported by the media. Since her case was well known to the people around; it added a fuel to the case and people somehow discovered that it was the same case reported by the media because of the details. No doubt that the reporting did have some influence on the police as ultimately the

¹⁰ This girl has lost her honor.

¹¹ This girl is raped.

accused was caught. The society's negative reaction and blameworthiness had made the girl's and her family's life miserable so they decided to move. They even had difficulty finding a buyer for their own house as the people knew that the family was desperate to sell their house. The buyer bargained and got the house at a very cheap rate.

Conclusion

Through exploring these accounts, it is possible to understand the condition of females in Indian society when they are raped and the way the victims cope with the aftermath in their lives. Socio-cultural expectations, reinforced by conservative patriarchal values, often cause women from these communities to feel unable to challenge these norms: silencing their voices, and blaming them for what happened to them and denying opportunities for meeting justice. Rape Myth Acceptance offers insights into how rape is perceived in such communities: this perception plays a major role in both the personal and social effects of rape on victims and their families. The rape victims have felt more aggrieved by the way they were treated by the neighbours and more so, their words left them feeling drenched causing insult to their injuries. Legal provisions on sexual assault have had no effect on the mindset of people as people tend to be driven by the patriarchal norms, which are extremely insensitive towards such victims. Rape cases are on rise in spite of stringent punishments incorporated for sexual assault; it has not deterred potential rapist in indulging rape.

Even media seems to propagate the same. Their reporting is only based on the conception that confirms to the norms of Rape Myth Acceptance. It had not reported two cases discussed earlier in the article but only the last case which has a stranger as a culprit and involves extrinsic violence. Media's selective reporting of 'aggravated rape case' influences the mindset of the people to think in the same way. It is especially important that the media should carry no biasness in terms of reporting but consider giving equal weight to both 'simple rape' as well as 'real rape'. Portrayal of rape cases by media influences the common beliefs of the society that strangers are responsible for perpetrating rape, so, females are unsafe outside the house. The Criminal Justice System (CJS) does not get influenced by media's reporting of rape cases. The system imparts justice on the basis of facts and evidences. It is pertinent to

educate and train agencies to ensure that they go into such communities as diverse as these in order to 'gender' sensitize them to help wipe out rape myths from the people's mindset and teach them to be sensitive towards the needs of rape victims. It can go a long way in healing the victims as well as helping the people connect to them. More flexible and more diverse support systems must be put in place to respond to the needs of victims and facilitate the provision of aid to them. By examining individual stories, research can give voice to the voiceless and provide an impassioned advocacy for those whose experiences are typically ignored ultimately, large-scale change must derive from learning more about the experiences of individual victims.

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Osvrt na reakciju društva prema žrtvama silovanja u gradu Delhiju

Uopšteno gledano, većina ljudi je uverena da je došlo do silovanja u slučajevima kada su prisutne otežavajuće okolnosti, na primer, nasilje, odnosno, kada je u pitanju „pravo silovanje“. Čak i žrtve takvih slučajeva silovanja češće sebe identifikuju kao prave žrtve silovanja nego što je to slučaj kada se radi o žrtvama tzv. „običnog silovanja“ u kojim slučajevima nisu prisutne otežavajuće okolnosti. I pored mitova koji govore suprotno, slučajevi „običnog silovanja“ predstavljaju većinu slučajeva. Ovaj rad analizira implikacije „pravog silovanja“ i pokazuje kako uverenja o tome kako bi trebalo da izgleda „tipično silovanje“ u formi mitova o silovanju, direktno utiču na socijalne stavove prema žrtvama silovanja. Takođe se analizira kako mediji nastavljaju da pojačavaju i održavaju ideju o pravim silovanjima kroz selektivno novinarstvo o „serijskim silovateljima“, „nepoznatim učiniocima silovanja“ i posebno „nasilnim silovanjima“.

Ključne reči: stavovi, mitovi, nasilje, silovanje, kultura.

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Victims of Sexual Abuse by Catholic Clerics and Their Needs for Compensation

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Crime victims hold several expectations regarding the compensation of the harm done to them. In this regard, it is important to distinguish between material (e.g. financial) and immaterial (e.g. emotional support) needs and forms of compensation. To explore the matching between desired and actually awarded compensation, data of a survey with N=104 victims of sexual abuse by Catholic clerics were analysed. Data analyses revealed that the respondents most often required an apology and reparation by the Catholic Church followed by wishes for financial redress. Those were in turn the needs most frequently met. The majority of the victims also desired an apology and reparation by the offender, legal punishment for the offender, and therapeutic help for themselves. However, these forms of compensation were only scarcely provided. Taking into account further victimological research, findings are discussed against the background of restorative justice.

Keywords: victims, sexual abuse, Catholic clerics, compensation needs, restorative justice.

Introduction

According to the German law, victims of violent crimes may be eligible to receive compensation by the state under certain conditions. However, research has indicated that there exists a considerable lack of appropriate information on the eligibility of compensation via the victim compensation act

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(*Opferentschädigungsgesetz*; e.g. Heinz, 2008; Villmow, Savinsky, 2013). For example, in a sample of victims of sexual abuse by Catholic clerics, this lack of information led to an especially low application rate and only a minority of the applications was approved (Hellmann, Bartsch, 2014). Furthermore, victims were overall dissatisfied with the compensation process itself. Among other things, the victim compensation act has been criticised for not matching victims' actual compensation needs (Gal, 2011: 65; Villmow, Savinsky, 2013; Bartsch et al., 2014). The aim of this paper is to analyse the matching between victims' compensation needs and the compensation measures they actually received in a sample of victims of sexual abuse by Catholic clerics regardless of compensation applied for or received via the victim compensation act.

Compensation needs

According to Malsch and Carrière (1999: 239), crime victims hold several expectations regarding the criminal justice system. Such expectations concern *procedural justice* as well as *distributive justice*. However, procedural justice has been found to be more central for the victims than distributive justice (Erez, Bienkowska, 1993). In other words, crime victims do not only wish for a fair outcome, but even more for a fair process. Tyler and Folger (1980), for example, found that participants were overall satisfied with an unfavourable outcome, if it was the consequence of a fair procedure. According to Van Camp and Wemmers (2013: 117), "appreciation of a restorative approach is related to it being perceived as procedurally just". Since crime victims consider procedural justice as particularly important, they might especially value restorative measures following victimisation.

Malsch and Carrière (1999: 240) concluded that generally "victims appear to value a considerate and friendly treatment, which expresses respect and a recognition of their dignity". Other authors refer to this need as a wish for *interpersonal justice* or *interactional justice* (Bies, Moag, 1986; Laxminarayan, Henrichs, Pemberton, 2012). Importantly, crime victims do not necessarily request especially hard punishment for the offender (Erez, 1994), but often esteem restorative compensation like restitution and reparation (Zedner, 1994). Wemmers and Cyr (2006), for example, showed that it is most important for victims to be heard and considered. Victims' high need for participation, for example, is said to be best served in restorative justice procedures

(e.g. victim-offender mediation), because they may take over a more active role and can ensure to be heard (Malsch, Carrière, 1999: 246).

Strang and Sherman (2003) summarised five central needs of crime victims: 1) Information on the development of their cases (also referred to as *informational justice* by other authors, see Laxminarayan et al., 2012); 2) Participation in the processing of their cases (e.g. "voice", Folger, 1977); 3) Emotional restoration and apology (i.e. emotional consequences of the victimisation that need to be compensated); 4) Material reparation; 5) Fairness and respect (see also Achilles, Zehr, 2001; Zehr, 2002). Importantly, meeting the crime victims' needs is associated with higher victim satisfaction (Shapland, Willmore, Duff, 1985; Wemmers, Van der Leeden, Steensma, 1995), which in turn is positively related to emotional well-being (Kunst, 2012).

The importance to distinguish between material (e.g., financial redress) and immaterial (e.g. emotional support) forms of and needs for compensation becomes especially clear regarding victims' overcoming and coping with the (consequences of the) victimisation. Herman (2003), for example, emphasised a strong relation between victims' participation ("victim inclusion, choice, and empowerment", Herman, 2003: 163) and their mental health. Furthermore, financial loss can be more easily determined than immaterial harm (Malsch, Carrière, 1999: 244). It is indeed challenging to objectively and coherently appoint compensation for emotional distress (Shapland, Hall, 2007: 205).

Victims of sexual abuse

Victims of sexual abuse are a prime exemplar for the category of vulnerable victims. Victims of sexual abuse might be particularly vulnerable because of their age, the specific crime they have experienced, or their relationship to the offender/s, for example (Laxminarayan, 2013: 147). The immense physical, emotional, and social long-term consequences of experienced sexual abuse (Whitelock, Lamb, Rentfrow, 2013; Lueger-Schuster et al., 2014) are beyond dispute. However, vulnerable victims appear to have specific (compensation) needs that must be taken into account. Unquestionably, every crime victim needs to be treated respectfully in terms of interactional justice in order to protect them from secondary victimisation by the justice system. However, this may particularly pertain to especially vulnerable victims. To some extent, vulnerable victims' specific needs are already considered in legislation targeting the treatment of victims (Groenhuijsen, Pemberton, 2009).

With respect to differences in crime victims' needs depending on the type of crime, Ten Boom and Kuijpers (2012) systematically reviewed 33 empirical studies and came to the conclusion that particularly victims of domestic and/or sexual violence expressed a desire to repair their relationship with the offender. Additionally, these authors identified typical outcomes for these victims: "whereas most victims wanted, for instance, arrest and punishment by the authorities (...), these victims thought it was important that the community condemned the offence (...) and that the perpetrator's enablers and accomplices made an apology" (Ten Boom, Kuijpers, 2012: 161). Similarly, Laxminarayan (2013) found lower perceptions of interactional justice in victims of sexual abuse in comparison to non-vulnerable victims.

The particular vulnerability of victims of sexual abuse *by Catholic clerics* – and thus their particular compensation needs – can be explained through the specific status of the offender as well as the specific relationship with the offender. As Gavrielides (2012: 624) remarked, sexual abuse by Catholic clerics differs from other child sexual abuse because it does not only contain existential but also spiritual trauma to the victim. This form of sexual abuse "relates to the violation first of an individual's faith and basic human right to dignity, and second to the sacramental culture of Catholicism" (Gavrielides, 2012: 622). Consequently, sexual abuse by Catholic clerics might have specific consequences that go beyond the known impact of sexual abuse by other types of offenders (Farrell et al., 2010) and thus pertains to specific compensation needs.

Compensation needs vs. compensation practice

Scientific research points towards diverse gaps between crime victims' compensation needs and the compensation measures they actually receive. Choi, Green and Kapp (2010), for example, identified a strong need for a genuine apology by the offender in victims of different crimes (see also Dignan, 1992). The authors emphasised that this need was not met in their sample that consisted of cases of victim-offender mediation. Similarly, Herman (2005) obtained in her qualitative interview study with victims of sexual abuse, sexual assault, and domestic violence a strong need for a genuine apology from the offender: "Some [victims] expressed a fervent wish for a sincere apology and believed that this would be the most meaningful restitution the

offender could give" (Herman, 2005: 586). However, only a small minority of the interviewees had actually received such an apology from the offender.

Shapland and colleagues (1985) found in their longitudinal study with victims of violent crimes that victims' compensation needs and expectations (e.g., participation, information, and proper treatment) were largely unmet. In a related vein, Laxminarayan (2013) reported rather low levels of victim satisfaction regarding informational justice implying that crime victims' needs for information and participation are not met. Likewise, Brickman (2003) found such a mismatch with respect to victims' need for information.

These lacks of matching between crime victims' compensation needs and actual compensation measures are important to address, since they may elicit dissatisfaction and may be perceived as some form of secondary victimisation by the victims (see e.g., Landau, 2000). Similarly, Mummert (2014: 17) argues that the criminal justice system should not only acknowledge crime victims' suffering, but more importantly it should address their specific needs in order to prevent re-victimisation. Taking that as a departure point, the following research questions were explored and addressed in the study presented in this paper:

- 1) What are the compensation needs of victims of sexual abuse by Catholic clerics?
- 2) Do victim characteristics (e.g., gender, abuse context) influence their compensation needs?
- 3) Were victims' compensation needs met?

Method

Materials and Procedure

Several calls for participation in the study were distributed through the German media during January and February 2013. Victims of sexual abuse within the Catholic Church were asked to get in touch with the Criminological Research Institute of Lower Saxony. Participants could either receive a questionnaire via snail mail or download a digital version of the document from the research institute's website. Additionally, victim organisations were contacted directly and asked to spread the information regarding this research among their members. The data were collected from March to October 2013.

The questionnaire was designed by an interdisciplinary research team (including academic professionals from psychology, sociology, and law) in cooperation with members of victim organisations. It covered several aspects of the circumstances surrounding the experienced sexual abuse and contained five parts:

- A Respondents' socio-demographic background,
- B Respondent's childhood and youth,
- C Characteristics and context of the sexual abuse,
- D Aspects of the immediate time period following the sexual abuse,
- E Respondents' current condition.

With respect to the aforementioned research questions, particularly respondents' answers regarding their needs induced by the sexual abuse were of interest. In part D of the questionnaire, participants were asked among others "If you could choose a measure according to your wishes: Which of the following measures would you have wished for in retrospect?" The respondents received a set of nine options (e.g., "apology and reparation by the offender" or "therapy for me"; the complete list of predefined response categories is presented in Table 1). Multiple responses were possible, that is, participants could select all applicable and desired measures. Furthermore, they were free to name an additional compensation measure that was not included in the predefined response categories ("other measure", see Table 1).¹

Victims' actual compensation was assessed if they had reported the sexual abuse to the Catholic Church or to the police. In cases where the abuse had been reported to one of these authorities, respondents were asked to select all consequences following the reporting of the abuse that applied to their case out of predefined response categories (e.g., "the offender has apologized" or "the offender was convicted"). Furthermore, respondents' current mental health was assessed using a German version of the Posttraumatic Stress Disorder Checklist (PCL-C) (Weathers et al., 1993; Teegen, 1997) among others. With this self-report measure, 17 symptoms of a current Posttraumatic Stress Disorder (PTSD) are assessed based on the criteria of the DSM-IV (American Psychiatric Association, 2000).

¹ The nine predefined response options included "nothing", implying that there was nothing the victim would have wished for following the abuse. Because none of the respondents chose this response category, it will not be mentioned further.

Participants

In the present study, behaviour is defined as “sexual abuse by Catholic clerics” if at least one of 13 specified forms of sexual behaviour between a minor and at least one servant of the Catholic Church occurred at least once. In this regard, the term “servant of the Catholic Church” comprises priests (including chaplains and vicars), deacons, candidates for the priesthood, as well as both female and male members of religious orders.

The sample consisted of 104 respondents aged 34 to 79 years ($M=56.14$; $SD=10.36$). In line with other research on sexual abuse by Catholic clerics (John Jay College, 2004; Lueger-Schuster et al., 2014), the majority of victims (74.0%) were male. Since the questionnaire was openly available via the research institute’s homepage, no information regarding the response rate can be provided. Accordingly, the present sample is a self-selective convenience sample and does not allow for unconditional generalisations.

The vast majority of respondents (94.2%) were born in Germany, 4.8% were born in other European countries, and one person was born in Canada. Nearly half of all respondents (45.2%) were employed either full or part-time at the time of the survey, the remaining participants were unemployed (11.6%), homemakers (1.9%), or retired/disabled (41.3%). These indications correspond to the rather high proportion of older adults in this sample (e.g., 46.2% of the respondents were older than 60 years).

As to the education, 36.4% of the respondents held a secondary school certificate or less, 23.2% had a high school diploma (German “Abitur”), and 40.4% had completed university and/or college. 41.3% of the respondents were married at the time of the survey and an additional 8.7% were living with someone as a couple. About a quarter of the sample was divorced or separated (26.9%), 19.2% were single and 3.8% of the respondents were widowed. Most of the respondents were living with their partner or children at the time of the survey (43.3%) or on their own (41.3%) (for more information see Hellmann et al., 2014).

Meeting the aforementioned criteria, all 104 respondents had at least once experienced at least one out of 13 specified sexual behaviours (or mentioned an equivalent behaviour in the free text category) by at least one servant of the Catholic Church before reaching the age of 18. Regarding the characteristics of the experienced victimisation, it can be summarised that the majority of the respondents had been victimised by one offender during one

time period (67.6%), 15.7% of the respondents had been abused by different offenders during the same time period, and 16.7% of the victims had experienced sexual abuse by different offenders at different time periods.² In 82 cases, the gender of the offender was reported. 89.0% of these victims indicated that the offender was male, 3.7% of these victims stated that the offender was female, and 7.3% of these victims had been abused by female as well as male offenders. Nearly half of the victimisations (49.0%) happened within an institutional context (i.e., children's homes, boarding schools). 58.2% of the abuse involved vaginal, anal, digital, or oral penetration.³

Regarding their current condition, 64.4% of the respondents had a sum score ≥ 44 on the PCL-C. Accordingly, the majority of the victims were screened positive for PTSD at the time of the survey (for more details see Hellmann, Dinkelborg, Fernau, 2014).

Results

What are the compensation needs of victims of sexual abuse by Catholic clerics?

Regarding their explicit compensation needs, respondents most often required an apology and reparation by the Catholic Church followed by wishes for financial redress (see Table 1).⁴ Additionally, the majority of the respondents wished for an apology and reparation by the offender, legal punishment for the offender, as well as an offer of therapeutic help for themselves. In sum, most victims desired an apology and reparation by the Catholic Church and/or the offender (91.2%). An offer of counselling for themselves was required by nearly a half of the victims, almost three out of ten victims wished for an offer of counselling or therapy for the offender, and only every sixth victim demanded victim-offender mediation. Victims' open responses varied from requests of sympathetic apologies and claims to ban the offender from his profession to "everything to ensure that the offender cannot do this again" and castration.

² Victims who had been abused by several offenders were asked to base their answers on the subjectively most severe offender and the most upsetting incident.

³ For details on the characteristics of the victimisations see Hellmann et al., 2014.

⁴ Percentages of responses exceed 100% because more than one answer was possible.

Table 1. Victims' wishes for compensation following the sexual abuse (N = 102)

"If you could choose a measure according to your wishes: Which of the following measures would you have wished for in retrospect?"	
Apology and reparation by the Catholic Church	81.4%
Financial redress	73.5%
< 5,000 €	4.2% (n = 3)
5,000 to 10,000 €	5.6% (n = 4)
10,000 to 30,000 €	11.3% (n = 8)
30,000 to 50,000 €	12.7% (n = 9)
50,000 to 100,000 €	35.2% (n = 25)
> 100,000 €	31.0% (n = 22)
Apology and reparation by the offender	55.9%
Legal sentence for the offender	53.9%
Prison term	94.3% (n = 50)
Probation	3.8% (n = 2)
Financial penalty	1.9% (n = 1)
Therapy for the victim	53.9%
Counselling for the victim	46.1%
Counselling or therapy for the offender	29.4%
Victim-offender mediation (VOM)	16.7%
Other measure	33.3%

Regarding the amount of desired financial redress, the victims wished for a mean sum of M=157,257.04 € (SD=239,851.99). The majority of those victims who wished for financial redress required more than 50,000 € (Table 1). With respect to the demanded legal sentence for the offender, the vast majority of answers concerned prison term.

Do victim characteristics influence their compensation needs?

Regarding victims' gender, no differences in their expressed compensation needs emerged. Only descriptively, female (65.4%) vs. male victims (50.7%) more often required a legal sentence for the offender, $\chi^2=1.69$, $p=.194$, $\phi=.128$.

Significant differences in victims' compensation needs were detected regarding the context of the abuse: Victims who were abused within an institutional context, required less often an apology and reparation by the offender, $\chi^2=6.49$, $p=.011$, $\phi=.245$, as well as counselling or therapy for the offender, $\chi^2=10.39$, $p=.001$, $\phi=.304$, but they desired more often an apology

and reparation by the Catholic Church, $\chi^2=4.41$, $p=.036$, $\phi=.204$, compared to victims who were not abused within an institutional context (see Table 2).

Table 2. Differences in victims' compensation needs depending on the context of the sexual abuse

	Institutional context (n = 49)	Non-institutional context (n = 53)
Apology and reparation by the Catholic Church	89.8%	73.6%
Apology and reparation by the offender	42.9%	67.9%
Counselling or therapy for the offender	14.3%	43.4%

Taking respondents' current mental health into account, several differences in their compensation needs were revealed: victims with a current PTSD-diagnosis more often required an apology and reparation by the Catholic Church, $\chi^2=5.22$, $p=.022$, $\phi=.221$, as well as financial redress, $\chi^2=6.60$, $p=.010$, $\phi=.247$, in comparison to victims without acute PTSD-diagnosis (see Table 3). Not surprisingly, the former named counselling, $\chi^2=5.40$, $p=.020$, $\phi=.224$, and therapy, $\chi^2=9.49$, $p=.002$, $\phi=.292$, for themselves particularly often as needs following the sexual abuse (see Table 3). The finding that victims with a current PTSD-diagnosis less often wished for counselling or therapy for the offender than victims without current PTSD-diagnosis, was rather unexpected, $\chi^2=6.06$, $p=.014$, $\phi=.237$.

Table 3. Differences in victims' compensation needs depending on their current psychological well-being

	Current PTSD-diagnosis (n = 66)	No current PTSD-diagnosis (n = 36)
Apology and reparation by the Catholic Church	87.9%	69.4%
Financial redress	81.8%	58.3%
Therapy for the victim	65.2%	33.3%
Counselling for the victim	54.5%	30.6%
Counselling or therapy for the offender	21.2%	44.4%

Were victims' compensation needs met?

Whether victims' compensation needs matched the actual compensation outcomes was considered regarding those victims who had reported the abuse to the police (35) and those who had reported the victimisation to the Catholic Church (70).⁵ Comparing the compensation needs of these respondents with the actually obtained material and immaterial compensation showed an overall rather low matching.

a) Compensation after reporting the abuse to the police

60.0% of the victims, who had reported the crime to the police, desired an apology and reparation by the offender. However, only one of the victims who had reported the abuse to the police actually received such an apology (2.9%). More than half of these victims wished for a prison term sentence for the offender (51.4%). Yet, only one of these victims (2.9%) indicated that the offender was convicted with prison term after they had reported the victimisation to the police. Whereas none of the victims who reported abuse to the police had stated that s/he required a financial penalty for the offender, this form of punishment was administered in one case (2.9%). One of the victims, who had reported sexual abuse to the police, would have called a probation sentence appropriate. However, this applied in two cases (5.7%). While five victims wished for victim-offender mediation (14.3%), this measure was administered only in one case (2.9%).

b) Compensation after reporting the abuse to the Catholic Church

While 61.4% of the victims who had reported the sexual abuse to the Catholic Church received an apology by the Catholic Church (82.6% of the victims who reported abuse to the Catholic Church had wished for this compensation measure), only 7.1% received an apology by the offender (56.5% of the victims had wished for this compensation measure). The majority of the victims, who had reported victimisation to the Catholic Church, required financial redress (78.3%), and 60.0% of the victims actually received financial redress following the abuse. 59.4% of the victims who reported sexual abuse

⁵ Overall, 74 respondents had reported the sexual abuse to at least one of these authorities.

to the Catholic Church desired a therapy for themselves and 21.4% of these victims received a therapy financed by the Catholic Church.

c) Met and unmet compensation needs

In a next step, the matching between the reporting victims' compensation needs and their compensation outcomes – that is the proportion of victims who explicitly wished for the respective outcome and actually received it – was considered. Therefore, data from those victims, who had reported sexual abuse to the police, to the Catholic Church, or to both authorities (74), were taken into account.⁶

Table 4. Matching between victims' compensation needs and the actual compensation outcomes ($N \leq 68$)

Compensation measure	Matching
Financial redress	69.8%
Apology by the Catholic Church	62.5%
Therapy for the victim	31.7%
Apology by the offender	10.3%
Prison term	0%
Probation	0%
Victim-offender mediation	0%

The highest match was found regarding financial redress (see Table 4): 69.8% of those reporting victims, who had wished for financial redress, actually received financial redress. However, there was a high difference between the desired ($M=167,578.57$ €; $SD=249,720.57$) and the actually received amount of financial redress for the reporting victims ($M=5,922.86$ €; $SD=3,096.88$), $t(34)=3.85$, $p=.001$, $d=0.93$.

Additionally, a comparatively high match between victims' compensation needs and outcomes revealed regarding an apology by the Catholic Church (62.5%). In almost one third of the cases, victims' wishes for a therapy

⁶ No differences in compensation needs between victims who did vs. did not report the sexual abuse to the Church and/or the police emerged, $p>.099$.

for themselves were met (31.7%). Only 10.3% of those reporting victims, who required an apology and reparation by the offender, had actually received an apology by the offender. Importantly, regarding the ranking of victims' compensation needs, this measure ranked in third place as it was named relatively frequently. Regarding prison term, probation sentence, and victim-offender mediation, *none* of the reporting victims' compensation needs was met by the actual compensation outcome.

Discussion

The study presented in this paper suggests that victims of sexual abuse by Catholic clerics pre-eminently wish for an apology and reparation by the Catholic Church or by the offender. This result is in line with other research showing that victims especially value emotional support compared to financial redress in order to be able to cope with the experienced victimisation in the long run (Umbreit, Coates, Kalanj, 1994; e.g., Sherman et al., 2005; see also Gal, 2011: 82). Other researchers also emphasised the importance of receiving an apology in terms of recognition (e.g. Van Camp, Wemmers, 2013: 135), that is, victims' wish for the harm done to them being acknowledged. Especially the significance of a sincere apology by the offender her-/himself was pointed out, for example, by Strang et al. (2006; see also Shapland et al., 2007).

The need for an apology and reparation by the Catholic Church was especially high in those victims who experienced the abuse within an institutional context (i.e., children's homes, boarding schools) and victims with a current self-reported PTSD-diagnosis. At the same time, significantly fewer victims who had been abused within an institutional context required an apology and reparation by the offender.

Regarding the institutional context, these differences might pertain to the victims' perception of the Catholic Church as bearing the main responsibility – maybe because the authorities (e.g. Head of a Catholic boarding school) knew about the abuse or were even involved. Additionally, one has to consider that victims reported the sexual abuse to the Catholic Church or the authorities of the institution they were living in at the time of the sexual abuse, and that they were not believed or even accused of unjust defamation.

With respect to the relation between victims' current mental health and their expressed wishes for an apology by the Catholic Church, the same

explanations as aforementioned may pertain. Additionally, researchers have indicated a relation between an apology in terms of recognition and crime victims' mental health or "healing" (Regehr, Gutheil, 2002: 430; Allan, 2007: 8). According to these approaches, receiving a sincere apology is necessary to unleash the healing process, for example due to empowering the victim and let him/her know that the offender has chosen him/her randomly (as opposed to specific victim characteristics).

The majority of the victims also required financial redress – in a mean amount that lay far above the sum of 5,000 € that the Catholic Church in Germany grants on average in cases of sexual abuse by Catholic clerics. According to Shapland (1984), victims strongly favour financial redress for the experienced crime by the offender over financial redress by the state. In the present study, victims were not explicitly asked about the desired source of their desired financial redress, be it state, Catholic Church, offender, or another organisation. Thus, it is not clear whether the preference identified by Shapland also pertains to the victims in the present sample. Victims' desires for financial redress may be based on different motivations depending on the respective crime: whereas victims of theft, for example, may wish to receive financial redress for their material loss, victims of violent crimes, such as sexual abuse, may rather wish to receive financial redress for their physical and/or emotional harm. With respect to financial redress as a compensation measure in cases of sexual abuse within the Catholic Church and the concomitant special status of the offender, Gavrielides (2012: 627) points out the danger of abuse cases being settled through financial redress in return for silence.

More than half of the victims in the present study also desired a legal sentence for the offender (mostly in terms of imprisonment). Generally, attitudes on punitivity are comparable between crime victims and the general public (e.g., Malsch, Carrière, 1999: 241). According to Braithwaite and Mugford (1994: 149), victims often prefer restorative measures over a harsh sentence. In line with this research, victims in the present study more frequently indicated a need for restorative interventions in terms of an apology compared to a legal sentence against the offender.

Around half of the victims wished for therapeutic measures for themselves. With respect to the high proportion of victims with a current PTSD-diagnosis, this result is not surprising. Affirming this assumption, the comparison of victims' compensation needs depending on their mental health showed that victims with a current PTSD-diagnosis more often desired therapy or counse-

lling for themselves as compensation measures following the abuse. Additionally, victims with a current PTSD-diagnosis particularly often required financial redress. This might, for example, be explained by the fact that those victims with particularly bad mental health have already borne high financial costs (e.g., due to not being able to work or having to finance therapeutic measures by themselves; but also see "Limitations"). Kunst (2012: 531) argued that bad mental health in crime victims was associated with low satisfaction with financial redress, implying that "satisfaction scores do not necessarily reflect adequacy in terms of meeting victims' needs for recognition through monetary reward and may also be interpreted to indicate which victims (still) suffer from psychological distress, either due to or not due to the act of victimization".

Counselling or therapy for the offender as well as victim-offender mediation, were not among the frequently named compensation needs. Victims with a current PTSD-diagnosis as well as victims, who had been abused within an institutional context, especially seldom wished for counselling or therapy for the offender as compensation measure. Victims with a currently bad mental health wanted their offender to receive therapeutic treatment less frequently. This result may be interpreted by the fact that they would have rather liked to receive such treatment for themselves. This explanation becomes especially likely if one considers that not even three out of ten victims' wishes for therapeutic treatment were actually met.

Regarding the few expressed needs for victim-offender mediation, victims might have feared meeting their offender face-to-face. Daly (2004), for example, concluded that not all victims are able to participate and thus personally gain something in a restorative intervention.

Another explanation might be that victims did not really understand this restorative intervention or had not heard of it before. Shapland et al. (2007), for example, found that only few victims had heard of restorative interventions before (see also Malsch, Carrière, 1999: 246). Additionally, one has to take into account the severity of the victimisations and their impact on the victims: perhaps, many victims not only feared to meet the offender/s, but simply did not feel capable of meeting the offender, or they were not motivated to meet him/her.

Contrasting the compensation needs and the received compensation in a subgroup of victims who had reported the abuse to the police, to the Catholic Church, or to both, revealed that the two most frequently named compensation needs (apology and reparation by the Catholic Church and financial

redress) were the ones that were also most frequently met. However, victims' perceptions regarding the amount of financial redress they should receive and the actually awarded amount of financial redress did not match even closely. With respect to the compensation of immaterial damages, Malsch and Carrière (1999: 245) criticised that the relation between the claimed vs. awarded amount of financial redress in sexual crimes is unclear, and that there is a big difference in awarded amounts of financial redress.

Beyond financial redress and an apology by the Catholic Church the matching between compensation needs and compensation outcomes was rather low: only around three out of ten victims' wishes for therapy were actually met and only one out of ten victims, who desired an apology by the offender, actually received one. The low matching regarding these two compensation needs has to be estimated as particularly significant regarding victims' current mental health. In this regard, one has to consider the importance of receiving a sincere apology by the offender for coping with the victimisation in the long run and the fact that this was the third frequently expressed compensation need.

Furthermore, no matching at all was found for victims' compensation needs in terms of prison term or probation sentence for the offender as well as victim-offender mediation. In other words, none of those victims, who had reported the abuse to the authorities and wished for a prison term or probation sentence for the offender or for restorative justice in terms of victim-offender mediation, actually received such form of compensation. While in direct comparison victims more often wished for "traditional" justice measures in terms of sentencing than for victim-offender mediation as a restorative justice intervention, these compensation needs were both not addressed.

It has already been criticised that the matching between compensation needs and outcomes in cases of violent victimisations is rather low. The findings of the present study confirm this criticism in a subsample of crime victims: to conclude, neither the material compensation needs of victims of sexual abuse by Catholic clerics, nor their immaterial compensation needs following the victimisation (i.e. therapeutic measures, apology by the offender, sentencing, victim-offender mediation) were met to a satisfying extent.

Limitations

Notwithstanding the present study's uniqueness in making quantitative data from victims of sexual abuse by Catholic clerics available in Germany for the first time, there are also some limitations to consider. As mentioned above, for example, the data cannot be considered as representative for the larger population of victims of sexual abuse (by Catholic clerics), since they are based on a self-selective convenience sample. Because no response rate can be calculated due to the fact that the questionnaire was freely available on the internet, the obtained results cannot unconditionally be generalised to a wider population.

Additionally, the reported findings are cross-sectional in nature and only bivariate analyses have been reported. Thus, cause and effect cannot be determined. For example, it remains unclear whether victims with a current PTSD-diagnosis more frequently wished for financial redress (e.g. in order to be able to pay for therapeutic measures) or whether those victims with high financial compensation needs more often developed a PTSD. In this regard, it has to be taken into account that the current PTSD-diagnosis in the present study relied on self-report measures. These measures are certainly less reliable than interview-based assessments of victims' mental health. Regarding the cross-sectional design of this study, the current PTSD-diagnosis cannot unconditionally be interpreted as direct cause of the sexual abuse. Finally, the sample size of the present study and particularly the subsample of victims, who had reported the abuse, was rather small.

Conclusion

Since a high matching between victims' compensation needs and awarded compensation measures relates to victim satisfaction and consequently to their mental health (Kunst, 2012), systematic research in this domain is urgently required. To date, few studies have taken these links into account. The study presented in this paper focuses on a small segment of the whole picture. Especially with respect to the high proportion of victims with a current PTSD-diagnosis in the present study, restorative interventions should be made more publicly known. Strang and colleagues (2006), for example, showed that crime victims who took part in restorative interventions, experi-

enced significantly less fear and anger compared to victims who participated in the criminal justice system. Furthermore, other research has shown that participating in restorative interventions is associated with improved mental health (Rugge, Scott, 2009).

In the present study, recognition in terms of an apology was a central need of the victims. However, crime victims are much more likely to receive an apology for the harm done to them within a restorative intervention compared to the criminal justice system (Shapland et al., 2007: 23; Gal, 2011: 108).

Since victims differ remarkably regarding their compensation needs depending on various factors, it is difficult to develop compensation measures that would be positively approved by "all" victims and to define a benchmark of high matching between needs and outcomes on the group level. Thus, it is important to save the flexibility of restorative interventions to apply to individual needs from the "formalized structure of state-controlled justice processes" (Gavrielides, 2012: 638) on an individual level.

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Deborah F. Hellmann

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Žrtve seksualnog zlostavljanja od strane katoličkih sveštenika i njihove potrebe za nadoknadom štete

Žrtve krivičnih dela imaju nekoliko očekivanja u pogledu naknade štete koja im je naneta. U tom smislu, važno je napraviti razliku između potreba za naknadom materijalne i nematerijalne štete i načina njihove nadoknade – u slučaju materijalne štete to bi bila, na primer, naknada u novcu, a u slučaju nematerijalne štete, na primer, potreba za emocionalnom podrškom. Kako bi se ispitalo podudaranje između očekivane i pružene naknade štete, analizirani su podaci ankete, koja je sprovedena na uzorku od 104 žrtve seksualnog zlostavljanja od strane katoličkih sveštenika. Analizirani podaci su pokazali da su ispitanicima najčešće bili potrebni izvinjenje i obeštećenje od strane katoličke crkve, što je praćeno željom za finansijskom nadoknadom. To su istovremeno i potrebe žrtava koje su najčešće ispoštovane. Većina žrtava je takođe želela izvinjenje i naknadu štete od strane učinjoca, kaznu za učinjoca, kao i terapeutsku (psihološku) pomoć za sebe. Međutim, ovi oblici naknade su samo delimično obezbeđeni. Imajući u vidu dalja viktimološka istraživanja, rezultati istraživanja se tumače u kontekstu restorativne pravde.

Ključne reči: žrtve, seksualno zlostavljanje, katolički sveštenici, potrebe za naknadom štete, restorativna pravda.

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Rodne i društvene kontroverze vantelesne oplodnje u Srbiji – diskriminacija žena koje nisu rađale

KSENIJA KRIČKOVIĆ PELE*

KOSANA BEKER

Uradu su prikazane rodne i društvene kontroverze u vezi sa upotrebom asistiranih reproduktivnih tehnologija u Srbiji i diskriminacijom žena koje nisu rađale. Osnovni ciljevi rada su kritička analiza fenomena novih reproduktivnih tehnologija, diskriminacije žena bez dece i kritička analiza zakonodavnog okvira kojim je regulisana biomedicinski potpomognuta oplodnja u Srbiji sa aspekta rodnih studija i feminističke metodologije, kao i prikaz rezultata istraživanja diskriminacije žena koje nisu rađale. Primjenjene su istraživačke metode anketnog istraživanja i analize sadržaja. Anketa je sprovedena na uzorku od 50 žena koje su učestvovali u programu vantelesne oplodnje na Klinici za ginekologiju i akušerstvo u Novom Sadu, dok su, sa druge strane, analizirani propisi kojima je regulisana biomedicinski potpomognuta oplodnja u Srbiji. Rezultati pokazuju da su propisi kojima je regulisana biomedicinski potpomognuta oplodnja i uslovi za uključivanje u Program vantelesne oplodnje diskriminatori, kao i da se žene koje su uključene u ovaj program osećaju diskriminisano, najčešće na poslu i u svom neposrednom okruženju. Zbog toga je potrebno promeniti propise kojima je ova oblast regulisana, dodatno raditi na otklanjanju diskriminacije žena koje nisu rađale i destigmatizaciji žena i parova koje/i ne mogu ili ne žele da imaju potomstvo.

Ključne reči: asistirane reproduktivne tehnologije, diskriminacija, feminizam, neplodnost, vantelesna oplodnja.

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Uvodna razmatranja

Ideologija materinstva se vekovima konstituiše uz pomoć sistema patrijarhalne kulture, religije i dominantnih sistema vrednosti, morala i normi koji na taj način stvaraju i održavaju poželjni kulturni obrazac koji ženama ne daje mogućnost slobodnog izbora o (ne)rađanju. Alternative, kao što su neplodnost ili nerađanje kao lični izbor, izazivaju sažaljenje i/ili osudu okoline dok generacije žena sazrevaju sa idejom da poseduju materinski instinkt.

Ženama koje nisu uspevale da ostvare visoko vrednovan ideal materinstva, savremena tehnologija podarila je nadu i nametnula brojna etička, pravna, društveno-kulturološka i rodna pitanja u vezi sa asistiranim reproduktivnim tehnologijama. Pravo na (ne)rađanje i društveno (ne)priznavanje važnosti materinstva i resursa koje žena ulaže u porodicu bila su značajna pitanja za feminističke pokrete, nacionalne politike i zakonske regulative ovih oblasti.

Predmet rada su kritička analiza zakonodavnog okvira kojim je regulisana biomedicinski potpomognuta oplodnja u Srbiji sa aspekta rodnih studija i feminističke metodologije i prikaz rezultata istraživanja diskriminacija žena koje nisu rađale. U teorijskom delu rada prikazane su metode asistiranih reproduktivnih tehnologija iz oblasti humane reprodukcije i njihova feministička kritička analiza, te kratak istorijat primene ovih tehnologija u Srbiji. U drugom delu rada prikazani su rezultati istraživanja: analiza sadržaja zakonodavnog okvira i rezultati anketnog istraživanja o diskriminaciji u kojem je učestvovalo 50 žena koje su bile u postupku vantelesne oplodnje na Klinici za ginekologiju i akušerstvo Kliničkog centra Vojvodine u Novom Sadu.

Humana reprodukcija

Fenomen humane reprodukcije spada u vrlo intimnu, privatnu sferu svake žene i muškarca. Ujedno, svako društvo kulturnim obrascima i zakonskom regulativom pokušava da normira sve faze reprodukcije, tako da intervencijom države, privatna sfera reprodukcije postaje javna a samim tim i (ne)rađanje postaje političko pitanje. Nasuprot tradicionalističko-fatalističkom, savremenim medicinskim i rodno odgovoran diskurs planiranja porodice, nalaže proaktivn pristup u odnosu lekar/ka – pacijent/kinja u kojem postoje mogućnosti svesnog odlučivanja pri izboru (rađanje – da ili ne, više ili manje), delovanju i činjenju u smislu donošenja odluka o reprodukciji. Međutim, iako se rađa-

nje deteta smatra „prirodnim odgovorom“ na društveno očekivane roditeljske uloge i zrelo doba, takav ishod nije uvek i lako ostvariv za sve. Postupak *in vitro fertilizacije* (oplodnje van tela – IVF) je u ekspanziji od 25. jula 1978. godine kada je u Velikoj Britaniji objavljeno rođenje Lujze Braun, prve bebe začete van tela majke. Od 1980-ih godina prošlog veka tehnološki sofistичirane metode omogućavaju rađanje deteta koje je biološki povezano sa oba ili bar jednim od roditelja, kako heteroseksualnim, tako i homoseksualnim, transrodnim, transpolnim osobama, kao i ženama u postmenopauzi¹.

Asistirane reproduktivne tehnologije – pravljenje beba u 21. veku

Asistirane reproduktivne tehnologije (u daljem tekstu ART) podrazumevaju grupu terapijskih postupaka za lečenje neplodnih žena i parova koji nisu izlečeni jednostavnijim postupcima. ART su postupci lečenja koji podrazumevaju uzimanje jajne ćelije iz tela žene, njenu oplodnjbu u laboratorijskim uslovima (*in vitro*) i vraćanje oplodjene jajne ćelije ili embriona u matericu nekoliko dana nakon oplodnje. Analizirajući proceduru, Sara Frenklin je primetila da je vantelesna oplodnja nazvana po jedinoj fazi postupka koja se obavlja van ženskog tela (Franklin, 1997: 105). Nakon nekoliko faza postupka, te prenosa embriona u matericu, prati se njegov razvoj, tj. čeka se rezultat vantelesne oplodnje. Ukoliko dođe do trudnoće, ona se razvija kao i svaka druga „prirodna trudnoća“. Uspeh vantelesne oplodnje značajno opada sa godinama starosti žene, a mogućnost pobačaja i drugih komplikacija raste.

Asistirane reproduktivne tehnologije unose promene u medicinski aspekt steriliteta, ali i duboko zadiru u društvene i kulturološke obrasce braka, partnerstva, roditeljskih uloga i rodnu ravnopravnost, pod uslovom da im zakon to dopušta. Futuristička predviđanja po pitanju genetskog inženjeringu i kloniranja za neke autore su samo logične posledice asistirane tehnologije, jer i danas dete rođeno uz pomoć ART-a može da ima pet „roditelja“ (donatora sperme, donatorku jajne ćelije, surrogat majku i par koji ga želi za sebe). Već danas, jednim klikom na internetu, ocenjujući profil, mogu se odabrati potencijalni donatori/ke sperme, jajne ćelije ili embriona, tj. surrogat majka koja će

¹ Omkari Panvar, koja je 2008. godine rodila blizance u 70-oj godini, najstarija je žena koja je rodila sina i čerku uz pomoć IVF. Da bi platili IVF, rasprodali su imovinu i podigli kredit da bi dobili sina (imaju dve odrasle čerke i petoro unučića). Dostupno na: <http://news.bbc.co.uk/2/hi/7491782.stm>, stranici pristupljeno 14.2.2014.

roditи дете. Procenjuje сe да је до краја 2012. године у свету рођено око 5 милиона IVF беба а да се сваке године уради око 1500000 вантељесних оплодњи и роди око 350000 беба.²

Feministička kritika novih reproduktivnih tehnologija

„Medicinska dijagnoza je prosta biološka činjenica, ali njen ishod je proces međusobno isprepletanih bioloških, kulturnih i društvenih činilaca.“

Kirsti Melterud

Raznolikost и значај feminističке literature сnažno je uticao на fenomene које производи ART, што оtežava predstavljanje svih ovih stanovišta из perspektive klasičнog, liberalnog, marksističког, drugog или трећег talasa feminizma. Zato ћemo se fokusirati на centralne kategorije feminističког diskursa umesto да говоримо о sličnostima, razlikama и eventualnim uticajima koji je имao neki od прavaca или рад неких autorki/autora.

Kritika istraživačа/ica најčešće je usmerena на neodgovarajuću зdravstvenu заштиту жене, tj. sve veću medikalizацију женског reproduktivnog живота: од менархе преко steriliteta, периода трудноће, порођаја па све до postmenopauze. Feministička bioetika кritički analizira политичке, идеолошке и medicinske odluke u vezi sa reproduktivnim зdravlјем i комерцијализацију нових reproduktivnih tehnologija стављајући жену u центар анализе (Dickinson, 2009). Истовремено „feministička bioetika деkonструише centralне kатегорије bioetike: општост, autonomiju i poverenje“ (Drezgić, 2012: 31). Centralна тема bioetike су конфликти између државне контроле над рађањем и жениног права да контролише своје тело. Изазовима који су donele ART на individualном и društvenom нивоу, започети су нови diskursi и kontroverze по пitanju majčinstva, materinstva, подизања dece, rodnih uloga, stereotipa i na privatnom i na globalном нивоу.

Kroz историју женских покрета, tokom 1960-ih и 1970-ih година, primećuje сe јединство u pogledу женског reproduktivnog зdravlја u vezi sa pitanjima као што су слобода одлуčivanja o raђању ili neraђању, upotrebi pilule i легализацији abortusa (Parry, 2005). Међутим, 1980-ih и 1990-ih radikalne feminist-

² Evropsko udruženje za humanu reprodukciju i embriologiju, <http://www.eshre.eu/Press-Room/Press-releases-ESHRE-2012/5-milion-babies.aspx>, stranici приступљено 8.1.2014.

kinje snažno kritikuju upotrebu novih reproduktivnih tehnologija ističući da one oduzimaju ženama kontrolu nad njihovim reproduktivnim mogućnostima jer je moć odlučivanja data u ruke medicini, kojom dominiraju muškarci lekari. Liberalne feministkinje veruju da žene imaju pravo i slobodu izbora u pogledu reprodukcije i mogućnost da svojim aktivizmom utiču na liberalnije zakonske regulative u ovoj oblasti i smanjivanje represije nad ženama. One se zalažu za pravo slobodnog izbora žena („Materica je moja!“) i za pomoć ženama koje žele da iskoriste pogodnosti novih tehnologija, stvaranjem udruženja, grupa podrške i slično. Međutim, obe ove struje su zabrinute za istu stvar: subordiniran položaj žene u društvu. Stoga, liberalne feministkinje smatraju da je dobra stvar želeti i imati decu pod uslovom da je to lična, autentična želja žene a ne rezultat pritiska socio-kulturnih obrazaca. Istovremeno se zalažu za destigmatizaciju žena koje nemaju ili ne žele da imaju decu, kao i za druge načine ostvarivanja roditeljstva, kao što su usvajanje ili rad sa decom. One smatraju da majke ipak uzimaju malo moći i za sebe, a istovremeno mogu da izbegnu mušku dominaciju nad njihovim telima i životima i dobiju dete uz pomoć anonimnog donatora.

S druge strane, jedan od najglasnijih radikalnih feminističkih pokreta je FINRRAGE (*Feminist International Network of Resistance to Reproductive and Genetic Engineering*)–internacionalna mreža feministkinja koje kritikuju razvoj reproduktivnih tehnologija i njihov poguban uticaj na žene. One smatraju da savremene tehnologije uključuju brojne oblike reproduktivnih kontrola nad ženama na dva osnovna načina: profertilni i antifertilni. Ženama širom sveta savetuje se da koriste štetna kontraceptivna sredstva, druge žene su subjekti eksperimentalnih metoda kao što su vantelesna oplodnja, štetni lekovi i invazivne hirurške metode, a sve u cilju kontrole rađanja putem ženskih potencijala.

Radikalni feminism u osnovi posmatra ART kao savremeno tehnološko sredstvo za kontrolu nad ženskim telom pod okriljem pronatalitetnog patrijarhalnog koncepta. Tehnike ART su u stvari „tehnička popravka društvenog stanja neplodnosti više nego biološkog stanja infertilite“ (Crowe, 1990: 38). „Zahvaljujući“ ART-u, nastala je fragmentacija materinstva i majke su počele da se dele na „ovarian mothers“ (one koje obezbeđuju jajne ćelije), „uterine mothers“ (one koje iznesu trudnoću i porode se) i „social mothers“ (one koje odgajaju dete). Ovakva podela materinstva dovodi do toga da nove tehnologije odvajaju žene od sopstvenog tela i reprodukciju stavljuju na raspolaganje medicini, tehnologiji, farmaciji. Trgovina jajnim ćelijama, embrionima i matericama koja jača ekonomsku, rasnu i klasnu eksploraciju siromašnih i neobra-

zovanih žena postaje sve prisutnija i potvrđuje da je žensko telo „mašina za rađanje“, jer se odnosi društvene moći i dominacije neposredno nadovezuju na ženska tela (Thorsby, 2004: 60). Isto tako, ART nameću novi pritisak ženama da postanu majke jer obećavaju vrlo brzu i efikasnu metodu biranja načina i pola željenog broja dece (Neyer, Bernardi, 2011: 12).

Nacionalni program lečenja neplodnosti biomedicinski potpomognutom oplodnjom u Srbiji

Srbija je brojnim aktima definisala podsticanje rađanja.³ Borbom protiv „bele kuge“, protiv neplodnosti i zaštitom reproduktivnog zdravlja, kao strateškim ciljevima, politički utiče na reproduktivni potencijal žena a pojedinačnim programima i merama navedenim u ovim aktima definiše planove, koji za cilj imaju smanjivanje svih negativnih efekata koje donosi „izumiranje nacije“. Istraživačice feminističke orientacije oštro kritikuju ove akte, naglašavajući nemogućnost njihovog sprovođenja, nerealna očekivanja i ukazuju na neostvarene mere populacione politike.

Jedna od mera pronatalitetno-populacione politike je i državno finansiranje biomedicinski potpomognute oplodnje kao pomoć parovima koji žele a ne mogu da ostvare potomstvo. U Srbiji se vantelesna oplodnja radi od kraja 1980-ih godina i uglavnom je bila usluga koju su parovi sami finansirali. Ministarstvo zdravlja je u oktobru 2006. godine pokrenulo program jednog besplatnog pokušaja vantelesne oplodnje za 1000 parova u Srbiji koji žele a ne mogu da imaju dete. Republika Srbija opredelila se za politiku podsticanja rađanja i iz budžeta Republičkog fonda za zdravstveno osiguranje (u daljem tekstu RFZO) počela da odvaja određena novčana sredstva za ovu namenu. Vantelesna oplodnja o trošku RFZO obavlja se u pet državnih zdravstvenih ustanova i košta u proseku oko 200000 dinara po pokušaju. Prema podacima Republičkog fonda za zdravstveno osiguranje, od početka programa VTO (vantelesna oplodnja) od januara 2007. do aprila 2013. godine, vantelesnu oplodnju je uradilo oko 7000 parova, ne računajući ponavljanja kod nekih parova. U tu svrhu RFZO izdvojio je preko 2,19 milijardi dinara. Iako ne postoje

³ Strategija podsticanja rađanja (2008), Program demografskog razvoja AP Vojvodine sa merama za njegovo sprovođenje (2007), Nacionalna Strategije za poboljšanje položaja žena i unapređivanje ravnopravnosti polova (2009), Nacionalni program zdravstvene zaštite žena (2009), Zakon o finansijskoj podršci porodica sa decom (2013).

precizni podaci o broju rođene dece uz pomoć VTO, procena je da je do sada rođeno više od 1000 beba.⁴

Donet je i Zakon o lečenju neplodnosti postupcima biomedicinski pot-pomognutog oplođenja (BMPO)⁵, kojim je propisano šta je neplodnost, šta se podrazumeva pod postupkom utvrđivanja uzroka neplodnosti i krug lica koja imaju pravo na lečenje neplodnosti postupcima BMPO.

○ istraživanju

Cilj istraživanja

Cilj istraživanja bio je dolaženje do saznanja o diskriminaciji žena koje se bore sa sterilitetom i kritička analiza zakonske regulative biomedicinski pot-pomognute oplođenje sa aspekta rodnih studija i feminističke metodologije. Pojedinačni ciljevi istraživanja su: istraživanje odnosa žena koje žele da postanu majke uz pomoć vantelesne oplođenje prema braku i deci, njihovi stavlji i etičke dileme u vezi sa lečenjem steriliteta i vantelesnom oplođnjom, te diskriminacija koju osećaju zbog toga što nemaju dece.

Istraživačke metode

U cilju prikupljanja i analize podataka primenile smo istraživačke metode: anketno istraživanje i analizu sadržaja. Anketno istraživanje smo sprovele u cilju prikupljanja i obrade podataka o diskriminaciji žena koje nemaju dece a uključene su u program vantelesne oplođenje na Klinici za ginekologiju i akušerstvo Kliničkog centra Vojvodine⁶. Kvantitativne podatke iz anketnog istraživanja, prikupljene posebno sačinjenim upitnikom, obrađivale smo uz pomoć

⁴ List Večernje novosti, <http://www.novosti.rs/vesti/naslovna/društvo/aktuelno.290.html:456272-Epruvete-nam-dale-cak-1000-beba>, stranici pristupljeno 8.2.2014.

⁵ Službeni glasnik RS, br. 72/2009.

⁶ Klinika za ginekologiju i akušerstvo KC Vojvodine u Novom Sadu, kao metodu lečenja steriliteta, sprovodi postupak vantelesne oplođenje od 1989. godine. Do 2006. godine metode biomedicinski potpomognutog oplođenja (BMPO) su primenjivane pretežno sporadično, sa većim pauzama u radu, usled nedostatka sredstava a od 2007. godine Novi Sad postaje referentni centar za područje Vojvodine za Nacionalni program BMPO koji finansira Ministarstvo zdravljia Republike Srbije. U cilju sporovođenja naučno-istraživačkog rada dobile smo saglasnost za istraživanje od Etičkog odbora Kliničkog centra Vojvodine.

deskriptivnih statističkih metoda, a kvalitativne (odgovori na pitanja otvorenog tipa) metodom analize sadržaja.

Metod feminističke analize sadržaja primjenjen je na drugi izvor podataka, odnosno na deo istraživanja koji se odnosi na zakonske propise kojima je regulisana biomedicinski potpomognuta oplodnja u Srbiji. Analizirani su Zakon o BMPO i Uslovi za uključivanje u Program VTO koje je propisala Republička stručna komisija Ministarstva zdravlja za vantelesnu oplodnju i asistiranu reprodukciju, s obzirom da su to dva najvažnija dokumenta kojima je regulisano pravo na vantelesnu oplodnju, kao i uslovi za uključivanje u program.

Metodologija anketnog istraživanja

Primarni korpus podataka u ovom istraživanju čini 50 upitnika žena koje nemaju dece a koje su bile uključene u program vantelesne oplodnje na Klinici za ginekologiju i akušerstvo KC Vojvodine u Novom Sadu. Sekundarni izvor podataka za istraživanje čine: Zakon o BMPO i Uslovi za uključivanje u Program VTO Republičke stručne komisije Ministarstva zdravlja za vantelesnu oplodnju i asistiranu reprodukciju.

Anketa je sprovedena u periodu od novembra 2013. do marta 2014. godine na Klinici za ginekologiju i akušerstvo Kliničkog centra Vojvodine u Novom Sadu. Ispitanice su popunjavale upitnik u toku različitih faza programa, najčešće u vreme hospitalizacije radi aspiracije jajnih ćelija i na dan embryo transfera, na kraju ciklusa. Ispitanice su upitnike popunjavale u bolesničkim sobama, pošto su prethodno usmeno informisane o istraživanju i nakon davanja pisanih pristanka za učestvovanje u istraživanju.⁷ Tokom ispitanja četiri pacijentkinje su odbile da učestvuju.

Instrument za prikupljanje podatka

U cilju prikupljanja podataka sačinile smo poseban upitnik od 28 pitanja. Prva grupa pitanja se odnosi na opšte sociodemografske podatke i pitanja o odnosima u braku. Sledeća grupa pitanja odnosi se na informacije o lečenju steriliteta, o prethodnim pokušajima vantelesne oplodnje i stavovima veza-

⁷ Iskreno zahvaljujemo ženama koje su, pored toga što su bile pacijentkinje, svesrdno pristajale da budu i ispitanice i učestvuju u istraživanju na temu neplodnosti i diskriminacije žena u Srbiji.

nim za postupak. Poslednja grupa pitanja otvorenog tipa odnosi se na socijalni aspekt steriliteta – diskriminaciju.

Rezultati i diskusija

Rezultate istraživanja ćemo predstaviti parcijalno s obzirom na to da smo u radu primenile dve istraživačke metode. Rezultati anketnog istraživanja će biti predstavljeni u prvom delu dok će rezultati analize zakonodavnog okvira o BMPO biti predstavljeni u drugom delu ovog odeljka.

Rezultati anketnog istraživanja

a) Opšte sociodemografske karakteristike ispitanica

Prema rezultatima sprovedenog anketnog istraživanja, prosečna ispitanica koja je uključena u program vantelesne oplođnje ima 34 godine. Većina ispitanica stanuje u gradu (68%) i ima završenu srednju četvorogodišnju školu (38%). Podatak da više i visoko obrazovanje, i neki oblik postdiplomskih studija, ima 42% ispitanica, govori u prilog tendenciji da žene u Srbiji odlažu sklapanje braka i roditeljstvo za period nakon školovanja i zaposlenja. Ukupno 62% ispitanica je zaposleno (17 u državnom i 14 u privatnom sektoru), a svoje materijalno stanje većina ispitanica procenjuje kao prosečno (58%). Ukupno 82% ispitanica je pravoslavne veroispovesti, 12% katoličke, jedna ispitanica se izjasnila kao pripadnica evangelističke veroispovesti, dok se jedna izjasnila da nije vernica. Srpske nacionalnosti je 80% ispitanica, 10% je mađarske, dok su po 4% hrvatske i slovačke nacionalnosti.

b) Odnos prema braku i deci

Ispitanica je u braku/vezi sa partnerom u proseku 6,88 godina. Najkraće su dvogodišnje veze (5), a najduža 15 godina (1). Od ispitanica je traženo da ocene kvalitet partnerskih odnosa na skali 1–9. Prosek zadovoljstva partnerskim odnosima veoma je visok i iznosi 7,36. Ukupno 48% ispitanica smatra da im se odnosi nisu promenili od kada su se suočili sa problemom steriliteta,

24% da su se pogoršali, 18% nije moglo da proceni, a 10% smatra da su se odnosi poboljšali.⁸

Ukupno 22 ispitanice (44%) smatraju da je idealan broj dece dvoje i to različitog pola. Dva dečaka i jednu devojčicu najpoželjnijim smatra 24% ispitanica. Četvoro dece idealnim smatraju dve ispitanice, a jedno dete njih četiri.

Vrednovanje važnosti rođenja deteta za ispitanicu i partnera ponuđeno je na skali 1–5. S obzirom na to da psiholozi smatraju da je jedan od najvažnijih preduslova za stabilnost partnerske zajednice zajednička odluka o rađanju dece, ovo pitanje pokazuje važan uticaj steriliteta i njegovog lečenja na kvalitet partnerskih odnosa. Ukupno 66% ispitanica je odgovorilo da im je veoma važno da se rodi dete, 32% smatra da je važno, a srednje je važno samo jednoj ispitanici (10 godina u braku, ovo je četvrta VTO na inicijativu partnera). Ukupno 58% ispitanica smatra da je njihovim partnerima veoma važno da dobiju dete, 38% misli da im je važno, a srednje važno 4%.

c) Stavovi o vantelesnoj oplodnji

Ispitanice su u programu vantelesne oplodnje najčešće na predlog lekara (52%), te na ličnu inicijativu (34%). 10% ispitanica smatra da je odluka o postupku VTO doneta zajednički, a 4% su u programu na predlog partnera. Iako statistike govore da je uzrok steriliteta podjednako podeljen između žena i muškaraca, 32 (64%) ispitanice su odgovorile da one imaju problema sa začećem, a njih 10 (20%) da je uzrok neplodnosti subfertilnost partnera. Kod njih šest (12%) uzrok nemogućnosti začeća nije otkriven. U slučaju dva para, oba partnera imaju probleme. Vantelesna oplodnja za prosečnu ispitanicu je veoma stresna (94%) i komplikovana (86%) metoda, ali je nije stid što pokušava da postane majka na taj način i veoma veruje u uspeh biomedicine. Ne brinu je eventualna štetnost, rizici po zdravstveno stanje i nus pojave postupka niti lekova. Oko 80% ispitanica veruje da će uspeti da zatrudni i rodi zdravo dete, a statistika Evropskog udruženja za humanu reprodukciju i embriologiju pokazuje da se ovaj procenat kreće od 30–50%.

⁸ Prosečna starost prvorotki u Srbiji je 27,5 godina (RZS, 2012). Ovaj podatak se slaže sa prosečnom starošću žena iz ispitivane grupe.

d) Etičke dileme

Prosečna ispitanica ima pozitivan stav prema tehnologijama asistirane oplodnje, ali bez uključivanja trećih lica u proces reprodukcije. Želi dete sa svojim partnerom. Na pitanje da li bi pristale na donaciju jajnih ćelija u postupku VTO, 16% ispitanica je odgovorilo potvrđno. Svega 4–6% ispitanica bi pristalo na donaciju semenih ćelija poznatog ili nepoznatog muškarca. Najviše odričnih odgovora (65%) dobila je donacija sperme nepoznatog muškarca. Surogat trudnoću bi ugovorilo 14% žena a isto toliko ispitanica bi pristalo na donaciju sperme (kod svih je zabeležena subfertilnost partnera).

„Etičke dileme su pre svega usmerene u intimnom razjašnjavanju odnosa okoline prema njoj, neizvesnost i zbog budućeg odnosa supruga prema njoj trudnoći, zabrinutosti za ishod trudnoće, kao i njenog, a pre svega suprugovog, odnosa prema detetu koje će biti rođeno“ (Bujas, 1994: 114).

e) Diskriminacija

Etičke dileme žena iz 1990-ih koje je zabeležio Bujas aktuelne su i danas. Diskriminacija žena koje nemaju decu proizlazi iz duboko ukorenjenih patrijarhalnih kulturnih obrazaca i stereotipa o društveno očekivanim rodnim ulogama žena i postojanja mita o univerzalnom „materinskom instinktu“. U tradicionalnim društvima, alternative kao što su neplodnost ili nerađanje kao lični izbor, izazivaju sažaljenje i/ili osudu okoline jer u okviru diskursa obavezujućeg materinstva postoje samo diskursi o dobroj i lošoj majci, kao i diskurs o ženi nerotkinji (Radulović, 2008: 160). Dobru majku društvo nagrađuje, a lošu (majka tinejdžerka, majka starija žena, samohrana majka i majka lezbejka) sankcionise i postavlja na dno hijerarhije majčinstva (Jonston, Swanson, 2003: 22). Neplodnu ženu, koja se nalazi na dnu hijerarhijske lestvice u sistemu srodstva, okolina sažaljeva i osuđuje, poslodavac diskriminiše, dok država finansira njen lečenje u cilju rehabilitacije rađanja pod određenim uslovima.

Prosečna ispitanica u našem istraživanju smatra da je položaj nerotkinje u našem društvu loš, da su manje vredne. Često o nerotkinjama piše u drugom licu, a diskriminaciju oseća i na poslu i u okruženju. Na pitanja otvorenog tipa o diskriminaciji odgovorilo je 20 (40%) ispitanica. Njihovi odgovori predstavljaju dragocene podatke o diskriminaciji. Jedanaest ispitanica navodi da osećaju diskriminaciju na radnom mestu, a devet u svom neposrednom okruženju.

Ispitanice koje su u radnom odnosu navode brojne primere diskriminacije od strane poslodavaca sa jedne strane i kolega/nica sa druge strane zbog toga što nemaju decu. Poslodavci ih dodatno angažuju, u vidu prekovremennog rada i rada vikendom i praznicima, a kolege koje imaju potomstvo, podrazumevaju povlastice zbog toga. U vezi sa diskriminacijom u neposrednom okruženju navode ljubopitljivost u vezi sa rađanjem, sterilitetom, lečenjem, sažaljenje i neuvažavanje njihovog mišljenja u vezi sa odgojem dece.

Primeri diskriminacija na radnom mestu:

- Na poslu, zbog nerazumevanja i namernog emotivnog povređivanja (36, državni sektor);
- Na poslu sam radila duže, i subotom za razliku od žena koje imaju malu decu (35, nezaposlena);
- U obliku neukusnih komentara kolega u preduzeću u kojem sam radila (34, privatni sektor);
- Radim u KC Srbije i unazad par godina me boli što kada pretpostavljeni pravi raspored za praznike, žene koje imaju decu su slobodne dok ja godinama nemam decu i radim za sve praznike (35, državni sektor);
- I ja leti treba da idem na more i u banju (33, privatno preduzeće);
- Često na poslu, pošto nemam decu uvek misle da mogu da radim prekovremeno (33, državni sektor);
- Na poslu su predrasude oko parova koji nemaju dece, komentari, jadni oni nemaju dece (36, državni sektor);
- Na poslu sam često dobijala zaduženja, koja drugi nisu imali, jer imaju obaveze oko dece a ja ih nemam. A i ljudi u razgovoru često znaju da provuku opasku kako je nama lako i nemamo briga jer nemamo ni dece (36, državni sektor);
- Javno ne, u kolektivu za planiranje godišnjeg, kada su paketići za decu, komentari možda je dobro što nemaš ovakvih briga oko dece (37, državni sektor).

Primeri diskriminacije u neposrednom okruženju:

- U komšiluku svi imaju decu koja se igraju na ulici, sve žene me žale (40 god, 15 godina u braku);
- Da, od strane suprugove porodice (36 god, 3 VTO, 10 godina u braku);
- Previše pitanja, sažaljenje (37 god, 7 godina u braku);
- Osećam se inferiorno kad me pitaju zašto nemate dece (37 god, 15 u braku);

- Situacije kada vas drugi ljudi ne razmišljajući povrede rečima (32 god, 14 u braku);
- Više je to lični osećaj u okruženju u kome je materinstvo tema (33 god, 4 u braku);
- Kada se komentariše vaspitavanje dece – ne prihvata se moje mišljenje (36 god, 6 u braku);
- Kada smo u društvu svi uglavnom imaju decu, ne usuđujem se ništa reći jer mi se odmah dobaci „šta ti znaš, još nemaš decu, još nemaš taj osećaj, videćeš kad rodiš“ (30 god, 7 u braku);
- Zato što ljudi tvrde da nisam sposobna da shvatim ozbiljnost obaveze i da ne znam šta je prava ljubav i briga (32 god, 4 u braku).

Rezultati analize zakonodavnog okvira BMPO

Ustavom Republike Srbije⁹ propisano je da svako ima pravo da slobodno odluči o rađanju dece¹⁰, a Republika Srbija podstiče roditelje da se odluče na rađanje dece i pomaže im u tome¹¹. Dakle, svaki pojedinac i pojedinka imaju ustavno pravo da slobodno odluče o rađanju¹², a država se jasno opredelila za pronatalnu politiku usmerenu ka roditeljima. Zbog toga je, između ostalih mera, Republika Srbija donela Zakon o lečenju neplodnosti postupcima biomedicinski potpomognute oplodnje¹³. Odredbom člana 26, stav 1 Zakona o BMPO propisano je da pravo na lečenje neplodnosti postupcima BMPO imaju punoletna i poslovno sposobna žena i muškarac koji vode zajednički život, u skladu sa zakonom kojim se uređuju porodični odnosi (supružnici, odnosno vanbračni partneri) i koji su, s obzirom na godine života i opšte zdravstveno stanje, sposobni da vrše roditeljsku dužnost i koji su u takvom psihosocijalnom stanju na osnovu kojeg se opravdano može očekivati da će biti sposobni da obavljaju roditeljske dužnosti, u interesu deteta. Zajednica života mora

⁹ Službeni glasnik RS, br. 98/2006.

¹⁰ Član 63, stav 1.

¹¹ Član 63, stav 2.

¹² Treba imati u vidu da je odredbom člana 5, stav 1 Porodičnog zakona (Službeni glasnik RS, br. 18/2005 i 75/2011) propisano da žena slobodno odlučuje o rađanju, dok je Ustavom RS ovo pravo priznato svakome.

¹³ Službeni glasnik RS, br. 72/2009.

postojati u momentu unošenja polnih ćelija, odnosno embriona u telo žene¹⁴. Propisano je i da, izuzetno, pravo na lečenje postupcima BMPO¹⁵ ima i punoletna i poslovno sposobna žena koja sama živi i ispunjava propisane uslove, uz sporazumno saglasnost ministra nadležnog za poslove zdravlja i ministra nadležnog za porodične odnose, ako za to postoje naročito opravdani razlozi. Ovim zakonom je zabranjeno u postupak BMPO uključiti ženu koja po godinama života i opštem zdravstvenom stanju nije sposobna da rađa, odnosno, koja je u „starosnom dobu koje nije primereno za rađanje“¹⁶.

Analiza ovih odredaba pokazuje očiglednu nameru zakonodavca da pravo na lečenje neplodnosti BMPO omogući parovima – muškarcima i ženama koji vode zajednički život. Imajući u vidu da Ustav RS propisuje da pravo na slobodno odlučivanje o rađanju ima svako, ne iznenađuje da se ovim zakonom ta odredba operacionalizuje na način da se pravo na BMPO priznaje ženama i muškarcima. Međutim, veoma je problematično određivanje da ovo pravo imaju samo parovi (bračni i vanbračni) koji zajedno žive, s obzirom da želja za potomstvom nije u vezi sa postojanjem zajednice života. Nadalje, propisano je da ovo pravo imaju parovi koji su, s obzirom na godine života i opšte zdravstveno stanje, sposobni da vrše roditeljsku dužnost i koji su u takvom psihosocijalnom stanju na osnovu kojeg se opravdano može očekivati da će biti sposobni da obavljaju roditeljske dužnosti, u interesu deteta. Na ovaj način se žene i muškarci koji ne mogu na drugi način da dobiju potomstvo, stavlju u neravnopravan položaj u odnosu na druge žene i muškarce, s obzirom da im se pravo na slobodno odlučivanje o rađanju ograničava, i to vrlo neprecizno. Naime, osim što takva ograničenja ne postoje (i ne mogu postojati) za druge roditelje, nejasno je ko će, na koji način i u kom postupku procenjivati uticaj starosnog doba i zdravstvenog stanja žene i muškarca na njihovu sposobnost vršenja roditeljske dužnosti, kao i procenu psihosocijalnog stanja. Odredbe ovog zakona su diskriminatorne i prema ženama koje žive same, bez obzira na razlog (nemaju partnera, ne žele da žive u vezi, ne žive u heteroseksualnoj zajednici i sl), kojima je pravo na lečenje neplodnosti BMPO priznato samo izuzetno, uz saglasnost dva ministra, ako za to postoje naročito opravdani razlozi. Naime, nejasno je zašto je ovo pravo priznato samo izuzetno, kao i koji su to naročito opravdani razlozi za ostvarivanje ovog prava. Autorkama

¹⁴ Član 26, stav 2 Zakona BMPO.

¹⁵ Član 26, stav 3.

¹⁶ Član 26, stav 4.

ovog teksta nije poznato da je do sada bilo koja žena koja živi sama uspela da ostvari ovo pravo, ali se nedvosmisleno može zaključiti da je veoma otežano i da će sigurno odvratiti mnoge žene od pokušaja ostvarivanja prava na lečenje neplodnosti BMPO. S druge strane, potrebno je još jednom naglasiti da pravo na slobodno odlučivanje o rađanju ne bi smelo da bude ograničeno, kao i da želja za sopstvenim potomstvom nije nužno povezana sa partnerskim odnosom, sa zajednicom života, niti sa bračnim statusom.

Ministarstvo zdravlja je obrazovalo Republičku stručnu komisiju za vantelesnu oplodnju i asistiranu reprodukciju, koja je zadužena za propisivanje stručnih kriterijuma na osnovu kojih će se obezbediti ostvarivanje prava na vantelesnu oplodnju, kao prava na lečenje steriliteta na teret obaveznog zdravstvenog osiguranja. Komisija je najpre utvrdila Uslove za uključivanje u Program vantelesne oplodnje i propisala, između ostalog, da ovo pravo mogu da ostvare žene koje nisu rađale ili nemaju žive dece do 38. godine života. Brojna udruženja i pojedinci/ke tražili su promenu Uslova za uključivanje u Program vantelesne oplodnje, ukazujući Ministarstvu zdravlja da su ovako propisani kriterijumi očigledno diskriminatori, i to iz nekoliko razloga: neravnopravan položaj žena koje su rađale u odnosu na žene koje nisu rađale, neravnopravan položaj muškaraca u odnosu na to da li su im partnerke prethodno rađale ili nisu, kao i određivanje starosnog doba žene. Pritisici su bili delimično uspešni, pa je Ministarstvo zdravlja promenilo uslove uključivanja za program vantelesne oplodnje 2011. godine i pomerilo starosnu granicu za žene sa 38 na 40 godina, a ujedno je omogućen i drugi besplatni pokušaj vantelesne oplodnje. Međutim, ovo pravo i dalje ne može da ostvari žena koja ima svoje genetsko potomstvo iz ranije partnerske zajednice, sa novim partnerom koji nema sopstveno genetsko potomstvo, a sa kojim na drugačiji način nije mogla da rodi dete, uz obrazloženje RFZO da ne postoje dovoljna finansijska sredstva.

Poverenica za zaštitu ravnopravnosti je u mišljenju sa preporukom br. 1583 od 20. decembra 2011. godine¹⁷, utvrdila da su diskriminatori kriterijumi koje je utvrdila Republička stručna komisija Ministarstva zdravlja za vantelesnu oplodnju i asistiranu reprodukciju za uključivanje u Program vantelesne oplodnje. Naime, propisani su sledeći kriterijumi (indikacije), koji moraju biti ispunjeni kumulativno¹⁸: 1) žene koje imaju neplodnost i pored odgovaraju-

¹⁷ Poverenik za zaštitu ravnopravnosti, dostupno na: www.ravnopravnost.gov.rs, stranici pristupljeno 30.1.2014.

¹⁸ Republički fond za zdravstveno osiguranje, <http://www.rzzo.rs/download/Vantelesna.pdf>, stranici pristupljeno 2.2.2014.

ćeg lečenja, 2) žene koje nisu rađale ili nemaju žive dece, 3) žene do napunjeneih 40 godina u momentu dobijanja odluke o ispunjenosti uslova za uključivanje u proces vantelesne oplodnje, 4) očuvana funkcija jajnika, 5) normalni indeks telesne mase (manji od 30), i 6) svi oblici subfertilnosti muškarca, uz postojanje živih ili morfološki ispravnih spermatozoida u ejakulatu.

U obrazloženju je navedeno da propisani kriterijumi odražavaju opštu tendenciju države po pitanju politike BMPO. Neki od propisanih kriterijuma jesu medicinske prirode, ali na primer, kriterijum propisan tačkom 2 da žena nije rađala i da nema žive dece, nije medicinske prirode i njegova dosledna primena dovodi do diskriminacije jedne kategorije muškaraca – onih koji nemaju sopstveno potomstvo, a u zajednici su sa ženom koja ima svoje sopstveno potomstvo iz neke prethodne zajednice. Naime, ukoliko muškarac ima sopstveno potomstvo, a u novoj je zajednici za ženom koja nema svoje potomstvo, ovom paru će biti omogućeno uključivanje u Program VTO, uz ispunjavanje ostalih propisanih uslova, dok će par kod kojeg muškarac nema svoje potomstvo, a njegova partnerka ima, biti isključen iz Programa VTO iako ispunjava sve druge propisane kriterijume. Poverenica za zaštitu ravnopravnosti je konstatovala da nema objektivnog i razumnog opravdanja da se kriterijum propisan tačkom 2 odnosi samo na žene, kao ni da se isključuju parovi kod kojih žena ima potomstvo iz prethodnih zajednica, s obzirom da želja za potomstvom nije uslovljena polom, odnosno, ne može se prepostavljati da je ženama važnije da imaju sopstveno potomstvo. Dodatno, potrebno je izmeniti kriterijum iz tačke 3 koji se odnosi na gornju starosnu granicu za žene, odnosno, pomeriti što je više moguće, s obzirom na trenutni društveni kontekst – nizak natalitet, starenje stanovništva, sve kasnije stupanje u bračne i vanbračne zajednice, sve kasnije rađanje prvog deteta i slično.

Zaključak

Biti neplodna žena u Srbiji donosi brojne negativne socijalne i psihološke posledice a diskriminacija žena manifestuje se u različitim oblastima društvenog života. Iskustvo ispitanica pokazuje da žene koje nemaju potomstvo osećaju višestruku diskriminaciju – i na radnom mestu i u neposrednom okruženju. Komercijalizacija vantelesne oplodnje putem medija podstiče rodni stereotip da sve žene imaju univerzalni majčinski instinkt i da mogu da postanu majke uprkos godinama, zdravstvenom stanju i životnom stilu.

U Srbiji je upotreba asistiranih reproduktivnih tehnologija regulisana Zakonom o BMPO na tradicionalan i patrijarhalan način za razliku od zemalja u kojima su dozvoljene donacije (sperme, jajnih ćelija, embriona), postoji surogat materinstvo, ART se koriste kod istopolnih partnerskih zajednica i kod žena bez partnera (Kovaček-Stanić, 2010; Bordaš, 2012; Kandić-Popović, 2012). Država se nedvosmisleno zalaže za pronatalnu populacionu politiku, ali ujedno propisuje poželjne načine i modele za njenost ostvarivanje. Propisi kojima je BMPO regulisana su diskriminatori i zbog toga ih je potrebno menjati, kao jedan od važnih koraka ka poboljšanju položaja ove grupe žena.

Veoma je značajno da žene i njihovi partneri, koji su odlučili da pokušaju da se ostvare u roditeljskim ulogama uz pomoć modernih tehnologija, budu edukovani o svim aspektima vantelesne oplodnje, ali i o alternativnim načinima formiranja porodice, što će doprineti promeni diskursa neplodnosti i destigmatizaciji žena koje nisu majke iz bilo kog razloga.

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KSENJIA KRIČKOVIĆ PELE
KOSANA BEKER

Gender and Social Controversies of In Vitro Fertilization in Serbia – Discrimination against Childless Women

This paper analyses gender and social controversies of assisted reproductive technologies and the discrimination of childless women in Serbia. Primary goals of this paper are critical analysis of new reproductive technologies phenomenon, discrimination against women without children and critical analysis of the legal framework regulating biomedical assisted reproduction in Serbia from gender studies and feminist methodology perspectives, as well as presentation of the research results on discrimination of childless women. For the purpose of this research the survey and the content analysis have been used. A survey was conducted of 50 female participants in the in vitro fertilization program at the Department for Gynecology and Obstetrics in Novi Sad. The results indicate that the regulations on biomedical assisted reproduction and the criteria for inclusion in the in vitro fertilization program are discriminatory and that women involved in the program feel discriminated against, usually at work and in their own surroundings. The conclusion is that it is necessary to change the regulations governing this area, further work on the elimination of discrimination against childless women and destigmatisation of women and couples that cannot or do not want to have children.

Key words: assisted reproductive technologies, discrimination, infertility, in vitro fertilisation, feminism.

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Ženskost u polju zazora: prilog analizi ženske pozicije u falogocentričnim okvirima jezika i pisma

DRAGANA STOJANOVIC*

Služeći se tekstualnim platformama psihanalize, teorijske psihanalize, poststrukturalističkim studijama i studijama roda, ovaj rad pruža jedan aspekt analize specifičnosti ženske pozicije u falogocentričnim okvirima jezika i pisma, koji su ujedno i osnovni gradivni i strukturalni elementi koji izvode i konstruišu rodne pozicije subjekata i uspostavljaju falogocentrično-patrijarhalnu dinamiku među njima. Razumeti način na koji ženski subjekt biva izведен u ovom kontekstu prvi je korak u planiranju i izvođenju strategije prevazilaženja ograničenja koje falogocentrično postavlja u odnosu na subjekte jezika/pisma, što je od naročite važnosti u odnosu na žensku subjekatsku i govornu poziciju. Tekst problematizuje pojmove kao što su falogocentrično i zazorno, upućujući na koncept i delovanje ženskog pisma kao na jednu od mogućih strategija rada na resignifikaciji, alterovanju i omešavanju falogocentrizma i svih njegovih represivnih mehanizama.

Ključne reči: žena, zazorno, falogocentrično, jezik/pismo.

Uvod: orodnjeni subjekt kao jezička pozicija

U datom sistemu u kome je Falus (i dalje) primarni, glavni, privilegovani Označitelj i u kome je subjekt subjekt samo u odnosu na njegovu/njenu poziciju u odnosu na Falus (otuda je subjekt *orodnjeni subjekt* – subjekt podređen Falusu – subjekt od koga se nužno traži da organizuje sistem svoje koherentnosti u odnosu na faličku poziciju), ženskost i žena (subjekt koji internalizuje ženskost kao osnovni marker svog orodnjjenog sopstva pred Falusom) sto-

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je na mestu straha i anksioznosti u čijem je centru simbolički proces *kastracije*. Kastracija i, pre svega, strah od kastracije se tako, paradoksalno, ukazuju kao osnovni pokretači falogocentričnog. Zapravo, kako to navodi Jacques Lacan, Falus je Falus – neprikosnoveni Gospodar – samo dok ne može biti posedovan, samo dok ne može pripadati nikome; samo dok svojom pojavnosću ukazuje na svoju *neprisvojivost*. Falus je Falus utoliko ukoliko *kastrira* (svoje) subjekte, odnosno, ukoliko se ukazuje kao autoritet celine u odnosu na subjekte koje strukturonom jezika, bivajući u ulozi privilegovanog Označitelja, ispisuje kao subjekte s manjkom (Lacan, 1999).

Iako je svaki subjekt nezavisno od svoje polno-rodne identifikacije uvek-već subjekt s manjkom, manjak se uspostavlja kao *drugačije* prisustvo ili odsustvo u strukturi maskulinog ili femininog subjektiviteta. U slučaju muške pozicije manjak je *sakriven* (prividno odsutan), i na dатој iluziji sakrivenosti – zakrivenosti manjka zasnovana je fiktivna, no fundamentalno-strukturirajuća premla o maskulinom subjektu kao onom subjektu koji (misli da) *ima* Falus, koji na osnovu izvođenja statusa *vidljivosti* kao statusa *postojanja* penis, kao anatomski deo tela promoviše u Falus, lingvistički i sistemski Označitelj moći i imaginarno ga „kači“ na svoje telo kreirajući privid izviranja faličke moći iz maskulino konotiranog tela. Vizuelno se tako otkriva kao jedan od dominantnih modusa perceptivnog razumevanja falogocentrične kulture, a *videti* (nešto) se svodi na *potvrditi* (da nešto postoji). Vlasnik pogleda, dakle, upisuje potvrdu značenja datog postojanja u falogocentričnoj strukturi istovremeno ga locirajući (fiksirajući njegovu poziciju) u dатој kulturi. Naravno, ne može se govoriti o nekakvoj svesnoj „*odluci*“ subjekta da preuzme ili odbije poziciju onoga ko (misli da) ima Falus, ili poziciju faličkog vlasnika pogleda. Internalizacija date (i svake) subjektalne pozicije vrši se prepoznavanjem subjekta kao subjekta u jeziku, subjekta jezika, pri čemu je, u lakanovskoj terminologiji, jezik strukturiran kao nesvesno, te je tako do zamišljenog korena uzroka date internalizacije nemoguće ili gotovo nemoguće doći. Subjekt, drugim rečima, ulazi u jezik prepoznujući se u njemu kao već gotova struktura umrežena u relacione dinamike jezičkog i, u odnosu na poruku koju prepoznaće kao poruku upućenu njemu/njoj, a u relaciji sa morfološkom interpretacijom sopstvene telesnosti, u dатој mreži izvodi sebe (odnosno, prepoznaće sebe) u liku rodnog/orodnjjenog subjekta. Rodnost i sama pozicioniranost polnorodno-seksualnog subjekta u relaciji sa Falusom tako nije *izbor* u doslovnom smislu te reči, iako nije ni urođena – inherentna ili prirodna stvar ili pojava; strukturiranje subjekta izvodi se u korelaciji tela koje se prepoznaće i proziva

u jeziku i jezika koji ga izgovara i pozicionira u polju subjektiviteta. Zbog toga je subjekt uvek *govoreći subjekt*, subjekt u (re)potvrđivanju bez obzira na njegovu poziciju u odnosu na Falus (Kristeva, 1982).

Međutim, pozicija ženskog subjektiviteta nešto je složenije postavljena u odnosu na mušku u dатoj falogocentričnoj osi, budući da je u kontekstu falogocentričnog poretku ona ta koja je označena kao negativitet, kao mesto nepoznanice kao takve (kako maskulinom subjektivitetu, tako i sebi samoj)¹, te će u tom smislu predmet ovog rada svakako uključivati lociranje i kraću analizu ovakve složene pozicioniranosti ženskog subjektiviteta u okvirima dominantno falogocentrične kulture, jezika i pisma u kojima se ženskost, između ostalog, manifestuje u perceptivnom polju *zazora i nelagode*. Cilj rada fokusiran je na otvaranje pitanja mogućnosti konstruktivnog rada sa poljem ženskosti putem insistiranja na specifičnom *upisu* ženske pozicije u jezik, pismo i kulturu koje bi, kao strategija rada sa pismom (a time i kulturnim porecima i praksama!), ženu potencijalno izmestilo iz pozicije žrtve *falogocentrizma* i ujedno otkrilo mesta moguće resignifikacije falogocentričnog poretku.

Lociranje pozicije ženskog subjektiviteta u falogocentričnoj strukturi: žena kao mesto nelagode

Za razliku od već pomenute situiranosti muškog, maskulinog subjektiviteta u falogocentričnim okvirima, u slučaju ženskog, femininog subjektiviteta pomenuti inicijalni *manjak* je (raz)otkriven, *prisutan*, a odsutnost Falusa je preznačena u *bivanje* Falusom – žena se, naime, uspostavlja kroz takvu relaciju sa Falusom koja se manifestuje u *nemanju* Falusa, odnosno, u *bivanju* Falusom (jer Falus jeste tamo gde nije penis, koji je samo njegov materijalno-pojmovni zastupnik!).

Dakle, iako nije u poziciji potvrđivanja svog (fiktivnog) vlasništva Falusa/Zakona, žena nije izuzeta iz faličke dinamike² – naprotiv, ona se mora suočaći

¹ Ove teza se javlja već u spisima Sigmunda Frojda, da bi dalje bila razrađivana i problematizovana kroz tekstove Žaka Lakana, te naročito u feminističkim kritičko-revizijskim osvrtima na psihanalizu i teorijsku psihanalizu (Soler, 2006).

² Ili, preciznije, ona nije sasvim izuzeta iz faličke dinamike, što po sebi kreira još jednu vrstu anksioznosti koja na svojevrstan način čak prevazilazi anksioznost koju kreira pomisao na kastraciju ili kastriranost: „Pošto je žena ne-cela u faličkom (...) deo nje mora biti lociran negde drugde. Ali, bivajući van jezika ona (...) kao Drugost biva

vati sa Falusom bez prestanka, čak i nakon što je potpuno savladala zadatosti ženskog subjektiviteta putem kojih je naučila kako da internalizuje mesto one kojoj je Falus odrečen (oduzet!). Za razliku od maskulinog subjektiviteta, kome je Falus pridružen (za čije je telo *prikačen* kao zakonodavni *koncept*), feminini subjektivitet se sa Falusom suočava kao sa odvojenošću, odrezanošću (Lacan, 1958–59: 319), stranošću koja je definiše, koja je reprezentuje, koja je, prevlačeći masku/veo preko njenog tela izvodi kao razliku, kao manjak, kao Drugost i kao garant onoga što je *na drugoj strani* u odnosu na maskulini subjektivitet. Žena (u slučaju pune internalizacije subjektiviteta koji joj je društveno namenjen) prihvata svoj manjak (prihvata to da je otvoreno strukturirana kao subjekt s manjkom [Falusom]), prihvata svoju kastriranost i obnavlja je u jeziku/jezikom, bivajući u njemu izgovorena, ali i govoreći taj jezik (iako sa pozicije one koja ga ne *izriče*). Ona izvodi (sviju) kastraciju, dakle, čime simultano zauzima poziciju i one koja je kastrirana i one koja kastrira (Creed, 2001: 111). Dve reakcije se, dakle, u maskulinom subjektu javljaju pri pogledu na žensko telo – naročito ženske genitalije na koje je direktno projektovan manjak (*vidljivog penisa-kao-Falusa*): *zadovoljstvo nadmoći i užas* ne toliko pred osakačenim/manjkavim telom, već pre pred otelotvorenjem kastracije kao takve, otelotvorenjem kastracije kao moguće i potencijalno preteće svakom (pa i maskulnom!) subjektivitetu (Freud, 2000e: 4146). *Strašna* je i pomisao na to da bi ova kvo telo moglo imati i neke druge želje, neke drugačije želje koje njegovo telo ne poznaje i ne bi moglo da kontroliše (Irigaray, 1985: 55). Iako deluje kao onaj koji dominira, onaj koji stoji na mestu reprezenta i imaoca Zakona, maskulini subjektivitet, dakle, nema slobodu. Zapravo, njegov ulog je veći: bivajući urojen u iluziju o imanju Falusa, čitavo njegovo telo postaje ulog, a svako skretanje sa trase zadatosti postaje simptom ukidanja njegovog sopstva pred Zakonom (otuda strah od femininosti, strah od rekontekstualizacije i reformacije maskuline pozicije, homofobija). On se mora odreći svake ženskosti jer je ona *kastratorska, jeziva, užasna*; u tom strahu on se mora odreći i žene same zameđujući je za njen Simbolički supstitut, nazivajući je njegovim imenom (imenom datog supstituta), apstrahujući je i ukidajući u datom supstitutu: „Edip će imati sve majke koje poželi, sve zakone u svoju korist, i pravo da usmeri pogled ka bilo čemu. (...) Edip će biti bogat i neće imati nikakvih kompleksa u vezi sa tim. Jedino čega se odrekao jeste želja za ženom, za ženskim polom/

nemogućnost subjektivizovanja, i time postaje uzrok anksioznosti koju je teže savladati nego kastracionu anksioznost“ (André, 1999: 319).

organom, jer on svakako nije imao *nikakvu vrednost*. Njegov superego obuzet idealima i moralnim pravilima i autorefleksivnim i autoreprezentativnim pogledima će ukloniti ženu od sebe i u zamenu za nju uzeti ideju o ženi, 'ženskost'. Metaforički veo većitog femininog prekriće pol/organ koji je viđen kao kastriran" (Irigaray, 1985: 82).

U datim pokušajima maskulinog subjekta da sebi opravda i objasni iluziju gospodarenja sistemom, mesto žene je, dakle, mesto nelagode – mesto ranjivosti subjektiviteta. Posebno strašna je komplikovanost njene seksualne funkcije, njen klitoris³ koji upućuje na to da ona nije *sasvim kastrirana*, da njeno telo čak i uprkos nametnutosti statusa kastriranosti prevazilazi datu semantičku strukturu svojim *viškom*, bivajući i *tu* i *tamo*, i unutar i izvan zadatosti koja joj je namenjena, čak i kada datu zadatost ispunjava. Strahotnost ženskih genitalija tako nije u onome što one *nisu* (u tome što nemaju penis kao vidljivi simbol/zastupnik moći), već u onome što one i dalje *jesu*. „Zar ne bi najstrašnije bilo, zar nije najstrašnije, uistinu, to da žene uopšte i nisu kastrirane, da samo treba da prestanu da slušaju Sirene (jer su Sirene muškarci) da bi istorija promenila svoje značenje? Samo treba da pogledaš u Meduzu direktno da bi je video. I nije smrtonosna. Ona je prelepa i smeje se" (Cixous, 1976: 885) – reči su kojima Hélène Cixous na krajnje radikalni i remitologizacijski način dekonstruiše mit o ženskosti kao opasnosti portretisanoj kroz prizor Meduzine glave u koju se ne sme direktno pogledati. Dekonstrukcija se ovde izvodi posredno, kroz remitologizaciju mita o Meduzi njegovim izokretanjem i banalizacijom, što svakako reprezentuje jednu od mogućih tehnika resignifikacije kulturnih mitova o ženskosti.

³ Klitoris je, naime, još u perspektivi Sigmunda Freuda posmatran kao ono što ženama daje/obezbeđuje određenu količinu maskuline energije i čini ih uvek delom i u polju maskulinog, čak i nakon što prihvate i internalizuju poziciju ženskog subjektiviteta. Prema Sigmundu Freudu sama esencija internalizacije ženskog identiteta leži u transpoziciji fokusa dominantne genitalne erogenih zona ženskog tela sa klitoralnog područja (koje je kao takvo posmatrano kao paralelno aktivnom, faličkom području tela sa penisom, tela koje je kulturno konotirano kao muško i samim tim kao nešto što žena, da bi se uspešno pozicionirala kao negativitet i Drugost muškarca mora potisnuti; svaka sličnost sa muškarcem mora biti izbrisana; žena mora biti *uklonjena* sa područja koje je rezervisano za [samo]potvrđivanje maskulinog subjektiviteta) na vaginalno područje, odnosno iz područja aktivne (ja uživam [u sebi]; ja sam prisutna) na područje pasivne seksualnosti (on uživa [u meni]; ja sam [u datom uživanju] odsutna) (Freud, 2000a, 2000b).

Teoretizaciju mitološkog aspekta Meduze u telo psihoanalitičke misli uvodi sam Sigmund Freud. Naime, u pokušajima interpretacije i dešifrovanja enigme ženskog subjektiviteta Sigmund Freud u jednom trenutku ženske genitalije vidi kao odsečenu glavu Meduze, povlačeći paralelu između kastracije i dekapitacije – izgubiti penis, dakle, ekvivalentno je gubitku sopstva koje (misli da) ima vlast nad sobom i svetom u kome obitava (ili, lakanovski rečeno, nad jezikom u kome se[be] proizvodi negirajući svoju uvek-već proizvedenost i *gotovost* u jeziku) (Freud 2000d: 3943). Prizor ženskih genitalija nije samo prizor kastriranosti, već i prizor (mogućnosti) kastracije kao takve (na delu). Meduzina glava na kojoj, umesto pramenova kose palacaju zmije *skamenjuje* ukoliko se u nju pogleda, ona je ultimativni tabu jer ukazuje ne na slabost maskulinog subjektiviteta kao takvog, već na slabost subjektiviteta samog. Meduza je ženska glava bez vela, užas absurdnosti iza/posle/bez Falusa, absolutna tišina kao najstrašniji zvuk iz koga izranja slika⁴ koja obrće pravac pogleda – naime, u pogledu na Meduzu samo pitanje pogleda je izmešteno – više nije toliko važno *šta* se gleda, *šta* je objekt pogleda, već *ko* gleda (Sjöholm, 2005: 104). U pitanju je, dakle, izmeštanje *vlasništva* pogleda u kome se podriva sama falička fiksacija pogleda kao pogleda *onog* (maskulinog!) koji *ima* (moć, vlast, jezik, Falus) i, time, falogocentrično samo. Meduzin pogled okamenjuje ne jer je glava odsečena (ne jer je kastracija/dekapitacija izvršena), već zato što podriva samu strukturu falogocentričnog pretvaranjem kastracije u obesmišljenost kastracije kao takve, zato što (raz)otkriva falogocentrično kao simboličku konstrukciju, kao strukturu apsurda, kao Zakon apstrakcije koji nakon uklanjanja vela *ne važi*. Meduza je, stoga, sámo mesto *zazora*.

⁴ Apsolutna tišina u isto vreme predstavlja i suspenziju života. Apsolutna tišina je kao Meduzina glava čiji je glas ostao zaglavljen u njenom grlu; a na mestu neuspelog glasa odjednom izranja *slika* (Žižek, 1996: 93).

Pojam zazornog i zazor u liku destabilizacione i restrukturacijske prakse

Prema postavci pojma *zazorno (abject)*⁵ u teoriji Julije Kristeve (Kristeva, 1982) zazorno je ono od čega subjekt uzmiče, ono od čega se subjekt mora ograditi (doslovno – on ga ne sme dotaći, ne sme imati nikavog posla sa njim i strukturalno-semantički – subjekt ne sme biti doveden ni u kakvu vezu sa njim). Zazorno je ono čega se subjekt *odriče* u procesu postajanja subjektom. U ovom smislu zazorno je pre slično frojdovskom pojmu *potisnutog* nego pojmu *unheimlich* (u prevodu na engleski jezik *uncanny*) sa kojim se često dovodi u vezu u literaturi. Naime, *unheimlich* (doslovno: nefamilijarno, što ne pripada domenu kuće, doma – onoga što je subjektu poznato i u okviru čega se oseća prijatno) je nešto što podseća na nešto poznato, ali u isto vreme postoji znak da ono što gledamo/osetimo/čujemo/dodirujemo nije ono što smo mislili da jeste uprkos inicijalne sličnosti; postoji neki višak, ili neki manjak, ili neki nedredivi deformitet situacije/prostora/vremenskosti koji izaziva osećaj anksioznosti ili straha. Nešto nije *kako treba*. Neki ostatak, neka nesimbolizovanost u poznatom prizoru ukazuje na to da je u pitanju *unheimlich*. *Unheimlich* može biti vezano za neko zaboravljeni ili potisnuto sećanje iz detinjstva i u tom smislu predstavlja *povratak potisnutog*, ali ne referira, ili ne referira nužno na presubjekatsko, preedipalno i prejezičko od koga subjekt *zazire*. Za Sigmunda Freuda i žena i ženske genitalije jesu *unheimlich*, ali ne u smislu u kome su one i zazorne. Žena i ženske genitalije su doslovni *unheimlich* – mesto nekadašnjeg doma, mesta stanovanja/biološkog razvoja čoveka-subjekta i Freud dotiče ovo polje koje se preklapa sa poljem zazora ženskih genitalija, ali Freud u isto vreme uvodi strah od pogleda na kastrirano telo i strah od kastracije kao takve koja izaziva ovaj osećaj (nije, dakle, u pitanju zazor od rastakanja subjektiviteta i povratka u fluid presubjektnog). *Unheimlich* je, kako Freud kaže, „povratak potisnute anksioznosti iz nesvesnog“ (Freud, 2000c: 3691), što ukazuje na povratak potisnutog koje je već bilo formirano u sistemu jezika/razumevanja (anksioznost nastupa onda kada su već uspostavljene relacije pod pretnjom uzdrmavanja). Sa druge strane, zazorno koje teorijski uspostavlja Julia Kristeva

⁵ Od glagola *zazirati*; u originalu *abjection*, u prevodu na engleski jezik *abject/abjection*, u srpskom jeziku koristi se još i pojam *abjektno* (Šuvaković, 2005: 678–679, Petrović, 2010).

referira na mesto bez jezika, van jezika, na mesto pre jezika (i posle jezika!)⁶, na mesto fluida, organskih tečnosti, mesto izlivanja, mesto presubjekatskog koje opстоји тик иза poroznih granica subjektiviteta. Ono je karnalno i pulsira; ono је definitivna pretnja по subjekt (за razliku од *unheimlich*); dok је *unheimlich* ukorenjeno u nesvesnom (pre nego što biva aktivirano u odgovarajućim uslovima, под одговарајућим stimulusom), zazorno је на самој periferiji svesti, potisnuto само u pokušaju, prisutno u svakom momentu.

Zazorno subjektu је, dakле, sve ono što ga upućuje na bezimenu, fluidnu, korporealnu masu bez jezika, која не pozna jezik i која nije и не може бити imenovana njime, из које се subjekt, одричуći је се и препознавајући се у jeziku као чисти и исправни subjekt, уздигао и очврснуо своје границе. Zazorno tako nije ni subjekt, ali ni objekt (Kristeva, 1982: 1) – ono nije нешто што би subjekt могао да има или *savlada* – zazorno има само један квалитет: да буде suprotno од *Ja* (Kristeva, 1982: 1). Међутим, suprotnost у овом смислу nije stvar opozitnosti као позитивистички изведене могућности бивanja suprotnim; nije рећ ни о absolutном negativitetу, jer би он као такав био повучен у подручје mraka, ambisa у коме nestaje sve ono što би deformisalo систем – у slučaju relације subjekta и zazornog suodnosnost је постављена на самој margini subjektiviteta, тик уз njegove никада dovoljno čvrste granice (granice су zapravo neizlečivo krhke и то је razlog neprestanог самообнављања subjektiviteta у jeziku, neumornог rekonstituisanja и repotvrđivanja subjektiviteta jezikom које не prestaje [subjekt је подлоžан rasipanju]). Zazorno је prislonjeno uz ivicu subjektiviteta коју угрожава jer подсећа на све ono što је subjekt bio pre nego što је (spo/sa)znao себе у jeziku, на све у шта subjekt може lako склизнути уколико нека од njegovih barijera oslabи. Zazorno izaziva subjekt(ivitet) – zato га и fascinira: „Оно лежи ту, попрiličно близу, али не може бити asimilовано. Оно прогони, забринjava и fascinira жељу dok, ipak, само не dozvoljava да буде zavedено. Prestrašena, жеља узмиће; zgađена, odbija. Sigurnost је штити од srama – sigurnost које се ponosno držи. Ali у исто време, упрано тако, тај подстicaj, тај грč, тај скок је vodi negde, на место које привлачи исто onoliko koliko је prokletо“ (Kristeva, 1982: 1).

Zazorno је забранјена privlačност; hoću да znam своје korene zahvaljujući čijem odbacivanju sam поčела да govorim (о себи – kakav paradoks

⁶ Drugim rečima, на место у коме је subjekt ukinut, ništav (jer subjekt је subjekt uvek и само unutar jezika, putem jezika као sistema у коме је subjekt predviđen kao место, relacija и поjam).

mog sopstva!). Ovaj tip zabranjene privlačnosti Margarita Petrović definiše na sledeći način, osvrćući se i na uvek rizičnu praksu pokušaja uspostavljanja željenog kontakta sa *zazornim* putem umetnosti: „Ono [zazorno/objektno] je perverzija: pripada gospodarećoj sili koja stvara smisao, ne napuštajući je nego je iskrivljujući, kao strast prema izgubljenom koja se prikriva i zamenjuje fetišima, od kojih je jezik, prema Kristevoj, najiskonskiji. Jezik se svojom proizvodnjom opire stalnoj pretnji rušenja sopstvenih krhkikh granica. Jezik je taj koji prepokriva haos unoseći u njega svoj red, zamenjujući ono stvarno, neiskazivo, sobom – kao prvim i krajnjim fetišom. Objektno je zato dvolično. Ono mami na zaboravljenouživanje, na dodir sa pravom stvari, sa nemogućim, da bi nam se vratilo sa osvetom, jer taj dodir dovodi do bankrotstva i smrti ja: nestanka ekonomije koja subjekt održava u smislu datog poretku. (...) Objektno je zver pred kapijom, nepripitomljiv instrument moći datog simboličkog poretna, koji umetnost koja se njime služi može okrenuti protiv tog poretna i dovesti ga u pitanje“ (Petrović, 2010: 9–10). Zazor je preduslov mog narcisizma (Kristeva, 1982: 13); ono mi pokazuje šta treba da odbacim, čega treba da se odreknem u zamenu za mogućnost života u (za)datom subjektivitetu (Kristeva, 1982: 3). Zazorno je, dakle, moj čuvar, prag mog kulturnog bivstva (Kristeva, 1982: 2). Zazorno je odbačeni objekt koga ne mogu (više nikad) zahvatiti; zazorno je mesto gde je značenje kolabiralo (Kristeva, 1982: 2). Pošto sam ja negde na drugoj strani, ja nisam „Ja“; ja *nisam* – ja (*je*)sam samo u odvajanju, odbijanju, *zaziranju* (Kristeva, 1982: 13). Zazorno otkriva krhkost granica mog subjektiviteta, ono uznemirava moj identitet, sistem i red, ne poznaje, niti poštuje nikakva pravila, pozicije, granice i limite. Ono je znak konstruisanosti svega onoga što znam o sebi (znak da nisam „od prirode“ ovakva; nema ničeg immanentnog u onome što su mi rekli da usvojim [moj subjekt se predstavlja kao ja; moj subjekt me zastupa za Drugog; označitelj zastupa subjekt za drugi označitelj – moje telo se gubi pod slojevima teksta]) (Grosz, 1989: 74).⁷ Zazorno nadire kroz sve pukotine granica mog subjektiviteta istkane mrežama Simboličkog (nikada ne mogu zatvoriti sve pukotine; uvek nešto *iscuri*). Ignorišem svoje telesno, korporealno poreklo, čime ignorisem jedinu stvarnu imanentnost, a to je smrt. Posebno je zazorno mrtvo telo kao konkretizacija izvesne budućnosti svakog subjektiviteta. Pogled na mrtvo

⁷ Već i sam Sigmund Freud primećuje da „nijedna od ovih granica ne postoji od početka; one su postepeno razvijane tokom razvojnog puta individue“ (Freud 2000b: 3332–3333).

telo na čas prekida iluziju besmrtnosti subjektiviteta, osećaj neuništivosti koji potiče od samoobnavljajuće strukture jezičkog u kojoj je subjekt generisan. Subjekt je pojam i kao takav ne može biti ukinut – razmišlja subjekt. I zaista – nekakvi subjektiviteti živeće i nakon mene, bez mene, *jezik će živeti i bez mene*. Subjekt je samo iluzija u tekstualnom telu jezika; odrekla sam se, dakle, čitave svoje telesnosti za jednu iluziju. Pogled na mrtvo telo mi kazuje da više nisam Ja ta koja odbacuje (uspostavljujući sebe) – ovog puta je Ja odbačeno i neminovnost tog trenutka preseca me kao *punctum* slike (Barthes, 1982). Ubod me podseća na moju korporealnost pre i iza jezika. Tako deluje zazorno (Kristeva, 1982: 112; Menninghaus, 2003: 18; Grosz 1989: 73; Shildrick, 2002: 82). Zazorno mi se gadi jer insistira na mojoj relaciji sa smrću, korporealnošću, animalnošću, materijalnošću (Shildrick, 2002: 73) o kojoj ne mogu (nemam ni snage ni jezika čiji bi je kapacitet zahvatio) misliti ni (pro)govoriti. Odbacujem, prekrivam, sakrivam. Glancam granice svog subjektiviteta, vraćam se na njih dok ne otvrđnu; glancam još; gade mi se otpaci mog tela (sve ono što iz njega izlazi i ukazuje mi na to da negde, nekako postoji materijalnost nezahvaćena jezikom, neko Realno koje, u užasu, uvek-već dodirujem i koje ne mogu odvojiti od sebe; koje me neće ostaviti na miru) – oni su *višak* u konцепцији *čistog i ispravnog*. Zazorno me muči: ono me nikada ne uništava; njegova namera je da izaziva, da ukazuje na mesto raspada i da upućuje na granicu mog subjektiviteta kao konstruisanu i fragilnu (Grosz 1989: 82). Zaziranje, dakle, kreira moje granice (nisam to *ja* koja kreiram) (McAfee, 2004: 45). Zazorno je fundamentalno za strukturiranje subjektiviteta, simptom neuspeha subjekta da ocrta svoje granice zatvorenom linijom (Grosz, 1989: 72). Razvoj svesti subjekta o svojim granicama dovodi u fokus sve otvore na telu i sve ono što iz njih ispada i što u njih ulazi negirajući time brižljivo ocrtane granice. Prema Elizabeth Grosz (Grosz, 1989: 74) u ovom smislu postoje tri tipa zazora: zazor od hrane (koja ulazi i izlazi kroz različite, a ponekada i iste otvore [povraćanje]), zazor od otpadaka – telesnih izlučevina i zazor od seksualne razlike. Svi ovi ostaci tela, tragovi korporealnosti i smrtnosti postaju odvratni podsetnici na ono što odaje moje telo kao *prerušeno* u kulturu (Menninghaus, 2003). Svaka fluidnost, ekskrementi, ali i *pogled i glas* kao ono što odlazi iz mog tela istovremeno ga i dalje sadržavajući u vidu njegovog traga (Lacan, 1966–67: 169): „*Fluid* mora da ostane taj tajni *podsetnik*... Krv, no takođe mleko, sperma, limfa, pljuvačka, ispljuvak, gasovi, talasi, vazdusi, vatra... Svetlo. Sve što preti da deformatiše, zagadi, pojede subjekt, da ga iscedi u nešto sasvim drugo čega se

on ne može tako lako držati. 'Subjekt' se identificuje sa/u gotovo materijalnoj konzistentnosti koja nalazi sve što je tekuće odvratnim" (Irigaray, 1985: 237).

Iako naizgled ono što nosi sa sobom atribut destruktivnog, onog što destruira i rastače (čvrstu formu subjektiviteta), zazorno može, kako to vidi Julia Kristeva, biti visoko produktivan element u polju kulturalnog i lingvističko-sistemskog, budući da je glavni simptom zazornosti razaranje i ponovno reuspostavljanje granica (Kristeva, 1982), čime ovakva destabilizacija više ne predstavlja samo destrukciju kao takvu, već mesto prodora novih mogućnosti koje takva kriza može da otvorи (Petrović, 2010: 21). Budući da zazorno u svakom slučaju izaziva, rasipa, vlaži i rastače date granice subjektiviteta dok u isto vreme privlači želju subjektiviteta ka sebi, subjekt mora pronaći način da se sa njim suoči, a da istovremeno ostane unutar date kulture, unutar datog jezičkog kao takvog. Drugim rečima, da bi se subjekt održao, on mora naći mesto susreta sa zazornim; način da ga (skoro) dotakne, a da ga zazorno ne rastopi, ne uništi. On mora pronaći sredstvo *izgovaranja* zazornog, jer samo imenujući uspostavljamo distancu, samo imenovanjem krotimo nepojmljivo jezikom, dovodeći ga do oblika koji možemo nazvati pojmljivim, koji možemo nazvati pojmom, *imenom*. Govoriti o zazornom, prikazivati ga i zastupati u formi intelligibilnog *izraza* tako postaje jedan od načina osiguravanja distance od njega i istovremeno neophodne razlike, odvajanja od njega. U tom smislu nije neobično što Kristeva kao rešenje, odnosno kao vid strategije umirenja tensije između subjekta i zazornog vidi religioznu sublimaciju (izgovaranje polja zazornosti putem jezika; premežavanje zazornosti *višim* textualnim smislom), poetsku sublimaciju (rad sa poetskim jezikom kao jezikom na granici semiotičkog i simboličkog koji sam po sebi i sam za sebe ukazuje na zazorno i radi sa njim; poezija na ovaj način uvodi zazorno u jezik dok ga istovremeno drži u takvoj formi koja ne može naškoditi jeziku kao takvom; poezija isprobava i reformiše granice jezika čuvajući u isto vreme njegovu supstrukturu, orientacione tačke mreže koja ga drži u efektu smisla, u efektu *poruke*), te sublimaciju putem umetničkog prikazivanja zazornog (u vizuelnom ili auditivnom polju) koja omogućava takav susret sa zazornim koji odvratnost pretvara u *estetski kod* i obeležava *ono u čemu se može uživati* umesto onoga što bi u svakom drugom slučaju izazivalo šok, sram ili odvratnost (Menninghaus, 2003: 221). Ludilo u religioznom ili umetničkom zanosu, ili u poeziji, *kodirano ludilo, odobreno ludilo* (ne psihoza!) tako postaje prostor unutar koga se subjekt može suočiti sa zazornim, zadovoljiti svoju želju donekle (želja svakako uvek

ostaje nezadovolj[e]na) i redefinisati svoje granice (potvrditi se u jeziku, jezikom) (Grosz, 1989: 72).

Može se, tako, reći da je umetnost za Kristevu, između ostalog, polje moguće katarze koja subjektu omogućava da se (pr)očisti i rekonstruiše, ne zatvarajući prostor za sopstvenu redefiniciju (Kristeva, 1982: 17). Budući da rašiva i ponovno zašiva ne samo granice subjektiviteta samog, već i granice poimanja datog subjekta, aktivnost koja omogućava redefiniciju (u ovom slučaju umetnost ili poezija ili religija) ne mora biti samo puko reuspostavljanje granica u vidu njihovog kopiranja na mestu na kome su ranije postojale; redefinicija takođe može značiti i reformisanje i rekontekstualizovanje datih granica u procesu transgresiranja, subvertiranja ili izmeštaja datih granica. Zazorno je tako i reformativno – pogled na njegovu strahotu može nas, prilikom povratka u izgovorivo, vratiti u jezik ne kao u okamenjenu strukturu, već kao u (katkad vrlo inovativnu) interpretaciju koja postaje nova polazna tačka tako restrukturiranog značenja u jeziku.⁸ Isto kao i pogled na Meduzu.

Zazor ženskosti i otvaranje pitanja strategije intervencije iz domena ženske pozicije: zaključna razmišljanja

Od teorijskih postavki Sigmunda Freuda (Freud 2000c; 2000b), preko interpretacija koje daje Jacques Lacan (Lacan, 1999), pa do restrukturacija datih teorija posebno od strane teoretičarki francuskog postlakanovskog teorijsko-psihoanalitičkog poststrukturalizma (Kristeva, 1982; Irigaray, 1985; Cixous, 1976) polje najvećeg zazora locirano je u diskursu femininog – u onom delu datog diskursa koji falogocentrično/jezik/kultura/Zakon ne zahvata, ne (pre)poznaje i ne odslikava. Žensko je ono neuhvatljivo, ne(pre)poznato, ono što beži jeziku i beži iz/preko/iza jezika, ono što je nekako uvek i izvan jezika, čime je potencijalno na drugoj strani jezika, Simboličkog, Zakona, subjektiviteta: „Trebalo bi da naglasim da, striktno rečeno, nema simbolizacije ženskog pol(nog organ)a kao takvog. (...) Sve je to zbog toga što on odaje samo odsustvo na mestu gde bi inače trebalo da bude dominirajući simbol“ (Lacan, 1993: 176).

⁸ Jezik, dakle, jeste definisan konstantnošću svoje strukture i postoji samo uz uslov date konstantnosti, ali signifikacije koje se unutar njega dešavaju stalni su procesi menjanja suptilnih, ali i fundamentalnijih relacija odnosnosti njegovih čvorista. Jezik je tako, iako uvek mapiran datim čvoristima, uvek potencijalno živ i otvoren transgresiji/subverziji/promeni.

Ženskost je, dakle, zazorna – uvek potencijalno preteća. Kastrirana i istovremeno kastratorka, žena je ta koja poznaje i onu realnost čija suština može obezvrediti, obesmisliti, apsurdizovati subjekt). Ona je ona(j subjekt) koja ima i taj dodatni fluid koji ističe iz njenog tela nekontrolisano (Young, 2005; Kristeva, 1982); ona je ta koja sebe ne može kontrolisati, koja se izliva pod zahtevima i inatima svog karnalnog tela. Ona je nedopustiva za integritet subjekta – pogled na nju izaziva zazor. Ona je sama inkarnacija zazora. O relaciji ženskog parasubjektiviteta, tela, uživanja kroz tumačenje pojma zazornog Miško Šuvaković govori sledeće: „Zazorno (*abject*) je termin kojim se opisuje, po Juliji Kristevoj, nešto odvratno i odbačeno, što siječe samu materiju i vodi do užasavajućeg kaosa koji je prije jezika i prije uređenog kozmosa. (...) U svakom simboličkom poretku poretku zazorno se naslućuje kao nešto što izmiče simbolizaciju, što je užasno i prijeteće za svaki sistem ili cjelinu, kao i za pojedinačnu ljudsku egzistenciju. Ono je odvratno, nepojmljivo, što je kao smrt, granica, žena, ženske genitalije, kao nešto što treba preraditi. Zazorno je na jedva zamisliv način i moćno, i to u onoj mjeri u kojoj je, na primjer, ženska moć (genitalna, uživalačka, prokreacijska) potisнутa i otklonjena iz značenja ali ipak djelujuća na njega. Zazorno je moćno u onoj mjeri u kojoj ženska moć (uživanja) stvara jedan neprikaziv, neizraziv i neiskaziv višak u jeziku i simboličkom, u onoj mjeri u kojoj stvara mogućnost melankolije“ (Šuvaković, 2005: 678–679).

Feministička teoretičarka Barbara Creed ističe da žensko telo nije po svojoj prirodi (imanentno) zazorno, već da ga sam sistem patrijarhata (dakle, falogocentrični sistem jezičko-Simboličkog!) konstruiše kao takvo (Creed, 2001: 83). S obzirom na to da simbolizovano – sublimirano zazorno pomaže subjektu da se susretne sa svojim strahovima, sa užasom zaziranja i da se u isto vreme na bezbedan način pomoći tako simbolizovanog – estetizovanog zazornog reuspostavi, Creed vidi fetišiziranje (prizora) ženskog tela i čitavu dinamiku muškog pogleda (*gaze*)⁹ upravo kao stilizovanu, jezički/vizuelno

⁹ Za razliku od pojmova *look* ili *glance*, gde pogled samo nehajno prelazi preko prizora iščitavajući informaciju iz njega, *gaze* je duboki, zureći, penetrirajući pogled koji se(b) upisuje u dati prizor, koji prisvaja prizor za sebe istovremeno se ulazući u dati prizor i konstituišući se putem/pomoći njega. Ovakav, privilegovani penetrativni pogled u strukturi falogocentričnog pripada muškom subjektivitetu – vlasniku Pogleda, što u isto vreme pogled ženskog (para)subjekta čini problematičnim, nedovoljno razumljivim i generalno upitnim elementom teorije pogleda. Žena je, dakle izuzeta i iz ekonomije pogleda/gledanja, baš kao i iz ekonomije jezika/pisma/reprezentacije (Mulvey, 1975).

prevedenu sublimaciju ultimativnog zazora kakav pružaju žensko telo i ženske genitalije koje su u izvođenju ženskog tela kao fetiša uvek brižljivo zakrivene velom odeće, šminke, pudera, glatkoće tela bez dlaka, bez otvora, bez pukotina, bez ikakve reference na njegov *dug* prirodi (Creed, 1999). Zazornost ženskog tela tako biva pacifikovana u prizoru čistog Falusa i opasnost od rušilačke moći zazornog (i ženskog) je na čas otklonjena. U sublimiranom zazornom se može uživati bez opasnosti po subjektivitet; subjekt se sa sublimiranim zazornim može boriti kao na filmu (kao u imaginaciji, kao u svetu koji zapravo nije pravi, a omogućava i izaziva intenzivne reakcije subjekta istovremeno ga čuvajući od *realne* povrede) i preživeti – baš poput filmskog junaka. Žensko telo, onaj zazor raspuknutih ženskih genitalija koje pokazuju samo odsustvo je za to vreme potisnuto duboko ispod fetišiziranog, konstruisanog lika ženskosti, živo sahranjeno negde ispod/iza Simboličkog, ispod/iza naslojenih draperija jezika i njegovih tekstualnih maski, pritisnuto stegama falogocentrizma (Irigaray, 1985: 143–144).

Kako bi pomerila ili makar omekšala tvrdnu rešetku falogocentrizma, žena mora govoriti *svojim* telom, *svojim* jezikom, radeći sa sopstvenom izgovornom i stvaralačkom pozicijom, izvodeći sebe kroz sisteme jezika i pisma (institucije, politike, umetnosti, *govora* kao takvog). S obzirom na paradoksalnost njenog mesta u pismu (ona je uvek-već izgovorena u falogocentrično strukturiranom jeziku koji je izvodi kao objekt govora bez moći izjavne pozicije), njen zadatak je složen. Kako govoriti, kako pisati, a načiniti neophodan pomeraj koji bi doveo do izmeštanja ženske subjektske pozicije iz mesta žrtve falogocentrizma? Otkrivanje i razumevanje paradoksalne (zazorne!) pozicije ženskosti u strukturama falogocentričnog upravo upućuje na donekle paradoksalnu strategiju: naime, negde u govoru samom, u izmeštajima (i izmaštajima!) jezičkih struktura krije se i sama mogućnost restrukturacije jezika, i ovo je aspekt u kome ženski subjekt može (p)ostvariti *izmenu* pišući *drugo* pismo, žensko pismo, izvodeći *drugu* prostornost, *drugu* naraciju, *drugo* vreme: „Kada smo prisiljene na fuziju, da pronađemo procep. Gde nas jezik ujedinjuje na fiktivnom nivou, da se vratimo svojoj razlici. Kada nas drugi asimiluju, da čuvamo svoju autonomiju“ (Irigaray 2000: 15).

Strategije intervencije iz domena ženske pozicije tek otvaraju dubine svojih potencijala koje mogu voditi značajnim resignifikacijama i alteracijama falogocentričnog poretka, što bi istovremeno dovelo i do resignifikacije pozicije ženskog subjektiviteta u sistemima govora, pisma i ukupnog društvenog poimanja.

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DRAGANA STOJANOVIC

Femininity in the Field of Abjection: The Analysis of the Position of the Female Subject in the Phallogocentric Framework of Language and Writing

Using the platforms of psychoanalysis, theoretical psychoanalysis, poststructuralist studies and gender studies, this paper gives one possible aspect of analysis of the specificity of female position in phallogocentric framework of language and writing, which are the main elements that form and interpellate the gender positions of the subjects, as well as the phallogocentric-patriarchal dynamics between them. To understand the way in which the female subject is formed in this context is in the same time the first step towards the planning and performing the strategy of overcoming the borders that phallogocentric imposes on the subjects of language and writing, which is particularly seen in the case of the female subject and speaking position. The paper problematizes the terms as *phallogocentric* and *abject*, pointing towards women's writing as of one of the possible strategies of resignification and alteration of phallogocentrism and its repressive mechanisms.

Key words: woman, abject, phallogocentric, language/writing.

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Restorative Justice Approaches in Intercultural Conflict Settings – Findings of a Survey and Implications for Practice

EDIT TÖRZS*

This article is written in the framework of a European research project called "ALTERNATIVE: Developing alternative understandings of security and justice through restorative justice approaches in intercultural settings within democratic societies". After explaining the role culture may play in conflict and conflict resolution, the part of the research presented in this article examines different understandings of the intercultural aspect related to conflicts as well as its implications for restorative justice practice. Presenting results of a survey mapping existing restorative justice practices in intercultural conflict settings in Europe, the paper draws a picture on European realities in the field.

Key words: restorative justice, intercultural conflict settings, practice.

Introduction

Within the well-developed field of restorative justice (RJ) in Europe, some areas, such as the cultural aspect of restorative practices have not yet been sufficiently explored. This article is written within the framework of a four year European research project, entitled "ALTERNATIVE – Developing alternative

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understandings of security and justice through restorative justice approaches in intercultural settings within democratic societies", funded by the European Commission's 7th Framework Programme¹. One of the main questions of the ALTERNATIVE project is whether RJ has the potential, both theoretically and practically, to address conflicts in intercultural settings. The project focuses both on the phenomenon of conflict and RJ approaches to conflict in intercultural settings, especially where differences in ethnicity, religion, language, nationality, traditions and life-styles are present. The project in four action research sites addresses various levels of conflicts ranging from the micro-level (conflicts at an interpersonal level), meso-level (conflicts at a local community level), and macro-level (conflicts involving the whole society or occurring between larger groups). Combining theoretical research on justice and security with empirical outcomes from these local action researches, the project aims to open up the scope of RJ beyond the formal criminal justice sphere and to include a wider set of practices within restorative justice approaches than its most prominent practice models used. Within this large-scale project, a small-scale survey study was done to map existing practices of mediation services in Europe in using restorative justice in intercultural settings. After presenting the role culture may play in conflict situations and its implications for restorative justice practices, the paper presents the most important outcomes of this survey.

How culture plays a role in conflict situations

The need for reflection on the relation of culture and restorative conflict resolution is not new. In her article on mediation and multiculturalism, LeBaron (1998: 1) reveals that there is a lack of cultural awareness in theory and practice development of mediation in North America. According to her, when a conflict is interrelated with culture, every dimension of analysis and intervention is affected, such as what constitutes a conflict, the identity of the parties, the appropriate approach for the conflict and for the process of intervention and resolution. She refutes the monolithic understanding of culture, highlighting that each individual has multiple identities. As she and Zumeta formulate in another article: "All of us have multicultural identities in the sense

¹ More information on the project ALTERNATIVE is available at: www.alternativeproject.eu.

that we belong to various groups connected by generation, socioeconomic class, race, sexual orientation, ability and disability, political and religious affiliation, language, gender, and discipline or work role" (LeBaron, Zumeta, 2003: 464). According to LeBaron (1998), a culturally appropriate process design for conflict resolution invites these multiple dimensions of meaning into the forum and can "address significant power imbalances and traumatic histories that contributed to a focus on particular aspects of cultural identity" (LeBaron, 1998: 5). Frameworks of cultural differences in communication and conflict style such as individualist/collectivist cultures (LeBaron, 1998; Wright 2000; Hammer 2005), traditional/modern societies (LeBaron 1998), high context and low context cultural perspectives (LeBaron 1998; Hammer 2005) or emotionally expressive and restraint conflict styles (Hammer, 2005) are useful tools to frame implications of cultural differences in general to the differences in the understandings of conflicts, communication and conflict resolution methods. While these frameworks can help to assess the possible differences between conflicting parties and design RJ processes, they do not guide the actual conflict resolution practice in the individual case, taking into consideration the existing multiple identities of the parties as well as the fact that intra-group differences are also present (LeBaron, 1998). Therefore, all types of conflict resolution processes need to be designed according to the different cultures and the different persons involved. As LeBaron and Crocker (2000: 58) state: "In this case, one size definitely does not fit all."

Within the framework of the ALTERNATIVE project, restorative justice approaches are understood as any method which offers a facilitated dialogue between conflicting parties (within and beyond criminal justice) based on restorative values and principles, such as non-domination, voluntariness, respect, empowerment and restoration. Although these values seem to be universal and humanistic, Brigg (2003) argues that mediation – the most prominent practice model of RJ – as a conflict resolution method is based on a Western understanding of concepts of power, conflict and selfhood, operating in favour of those who accept or share these understandings, therefore not responding ethically to cultural differences. He does not claim that the use of mediation is inadequate in intercultural settings, but suggests that awareness of this power operation as well as further research and analysis of practice are important to ethically value cultural difference in mediation (Brigg, 2003: 23). Concerning cultural appropriateness of dialogue in restorative processes, suggestions from Umbreit and Armour are in line with LeBaron

(1998): "To repair or restore relationships, personal or communal, damaged by criminal or delinquent acts is a challenging goal in any circumstance. When participants – including victims, offenders, family members, support people, and program staff – are of differing cultures, typical patterns of communicating and expressing values can lead to confusion if not complete disruption of the process. In order to arrive at a just and healing response to the crime by those most directly affected by it, the views of all involved parties need to be considered. However, the likelihood of repair and restoration of relationships is increased by the extent to which facilitators take the time to know and understand the differing communication styles and worldviews of the participating individuals" (Umbreit, Armour, 2010: 274).

RJ and intercultural conflict settings

Pali (2014) analysed the rather scarce literature on cultural issues related to RJ and identified the most important topics present in the RJ literature as (1) the inspiring roots of RJ in different cultural and religious traditions, (2) the application of restorative justice in cases of 'hate crime', interracial violence and conflicts, (3) the application of RJ to cases involving immigrants and refugees and, finally, (4) the cultural responsiveness of restorative justice. This paper concentrates mostly on the last topic. After giving an explanation of the term intercultural setting, it brings together recommendations from the literature on application of restorative practices within intercultural settings.

The ALTERNATIVE project consciously and deliberately decided to conceptualise its scope as the application of restorative justice approaches in conflicts in *intercultural settings* rather than using the formulation 'intercultural conflicts'. According to Foss et al. (2012: 24) "'Intercultural settings' is the broader concept – it includes conflicts around issues other than those pertaining to 'culture', and does not presuppose that difference in 'culture' is a primary problem in itself." They state that "ideas about 'culture' are often mobilised during the escalation of a conflict between people from different backgrounds and perceived as a representative of 'cultural differences', whereas the root of the conflicts may not have anything to do with differences in culture in itself" (Foss et al., 2012: 24). Although people in conflict may frame their conflict as intercultural, in reality the conflict may have very different roots, like differences in gender, class, generation, economic situation, values etc.

Restorative justice approaches are usually needed when the conflict escalates to a level at which parties are unable to resolve their own conflict with dialogue anymore. As Foss et al. (2012: 34-35) explain: "A further escalation of conflict normally implies that the dialogue between the parties ends at a certain level, hence the need of a neutral third party facilitator/mediator. Further up the 'conflict escalator', polarisation and enemy images come into play, legitimising violence and destruction of 'the other'. Here 'culture', religion, ethnicity and other identity markers are mobilised as legitimising means in physical, psychical, cultural or structural violence. People mobilised into a polarised conflict on a higher conflict level may be unaware of the former 'root-conflict', hence adopting the enemy images and concerns of the conflicting groups". In these cases a restorative dialogue might help to reveal and resolve the root conflict of the parties. Going through a restorative process might enable parties to realise that their root conflict is independent from the perceived cultural differences.

Some practical implications of using RJ approaches in intercultural conflict settings

When offering RJ approaches in intercultural conflict settings, one question is whether any special method or approach is needed or a general restorative approach is convenient. Albrecht (2008) presents research conducted in Norway and Finland by interviewing mediators about their experiences mediating cases involving immigrant or refugee parties. In general, mediators agreed that mediation is an effective means of conflict resolution in intercultural cases. In line with Foss et al. (2012) this research found that interpretations of concepts such as justice, guilt, shame, reconciliation and forgiveness, as well as the grade of significance of these, does differ according to different cultural backgrounds of disputants. Albrecht argues that restorative justice might be an appropriate tool for conflict resolution for immigrants or refugees in contrast with legal procedures for more reasons. First, in some cases it is closer to the traditional conflict resolution methods of some cultures when compared to the traditional legal process. Second, mediation is more understandable and flexible than legal conflict resolution possibilities. Third, it aims to balance differences in power.

Concerning cases when cultural difference itself appeared to be a cause of conflict, Albrecht (2008: 73) mentions cases when the participants had motivation to resolve their specific conflict, in spite of ongoing or historical violent conflicts between their nations or countries of origin (e.g. between Serbs and Albanians, or between Kurds and Iraqis). It appears that individual motivation of the parties to resolve the conflict had an important role in successfully mediated cases.

As we have presented above, LeBaron (1998) also supports the idea of the need for a specific approach. Writing about how cultural differences influence the practice of mediation, she points out that mediation practiced without attention to the cultural values of the parties will unconsciously reflect the values of the system from which it is conceived. She argues that parties' values are more than just interests, they are complex worldviews. Furthermore, she suggests that the exploration of these values should be a legitimate part of the mediation process as in this way "they become part of the discourse out of which a solution comes rather than an invisible part of the fabric subject to delegitimation by those who have the most resources or those who can fit their narrative best into a culturally-bounded mediation process" (LeBaron 1998: 11). She advocates for effective multicultural mediation practice, which consists of flexible models and also practitioners who are responsive, creative, innovative, and who have a deep awareness of culture (both of the self and of others). Brigg (2003: 20) suggests some divergences from standard facilitative mediation to fit better intercultural contexts, such as eliminating technical and analytical language, reflecting on the importance of poetic, affective, metaphorical and non-linear understandings and stories, integration of emotional and spiritual spheres in the mediation, inclusion of "external" political and social contexts into the mediation process, omitting the expectation that parties will act during the whole process consistently and disputes have to be finalised, and transcend the traditional neutrality principle.

There are also some implications for the third party – mediator or facilitator – when dealing with conflicts within intercultural settings. First, mediators/facilitators have to be aware of their own cultural lenses through which they look, as well as they need to develop a special awareness to the needs of different cultural identities they deal with (LeBaron, Zumeta 2003: 465-466). It implies the need for appropriate training, preferably having culture as an integral topic rather than a stand-alone module. Reflection on cultural aspects at mediators' internal dialogue with colleagues is equally necessary.

Many scholars argue (e.g. Gunning 1995; Izumi 2010: 136; Mason, Kassam 2011) that the model of co-mediation (when two mediators work together as a team during the restorative process) is also helpful to avoid biases, especially in intercultural conflict settings. According to Gunning (1995: 89) "the diverse mediation team by having mediators who have shared some personal experiences increase the likelihood that the mediators will possess a broader range of both negative and, more importantly, positive interpretive frameworks about the identity groups involved from which to choose in understanding the parties' narratives". The practice of race-matching co-mediation, when mediators mirror the cultural background of the parties involved, is, however, criticised based on empirical findings about its effectiveness, on reference to existing biases within groups and for implying reductionist assumptions about individuals (Izumi, 2010: 137-139).

The above is not independent from one of the most important characteristics of a mediator or facilitator, namely being 'impartial' and 'neutral'. Neutrality means that the mediator does not give advice, does not take any decision, and does not judge the parties or the case itself. Impartiality means that the mediator has to be objective, unbiased and cannot have a stake in the conflict itself. Practices where the mediator has a hierarchical or other power-based relationship with any of the disputants in a conflict are criticised as not being impartial. Being neutral does not exclude that the mediator seeks to balance between the parties in the case power or communication imbalances appear between them. This is the reason why the concept of impartiality/neutral is challenged and many suggest to omit it (see for example Astor, 2007 or Bagshaw, 2001: 21). One suggestion is to use the approach of multi(directed)-partiality (Boszormenyi-Nagy, Krasner, 1986) or equidistance instead. In the field of conflict resolution, multi-partiality differs from impartiality in that the mediator 'favours all' instead of 'favouring none' by tending to diverse needs, so that all stories may be told and trust may be built first between the parties and the mediator. This implies Cobb and Rifkin (1991) concluded their analysis on third-party neutrality of dispute resolution cases stating that multi-partiality or equidistance might be a more appropriate standard for third parties than neutrality.

Another possible approach offered by Mason and Kassam (2011) is the culturally balanced co-mediation. In this model – based on experiences with religion motivated political conflicts – two mediators, both close to one of the conflicting parties co-mediate. "The cultural proximity of the mediators to the

parties allows for deeper understanding between the parties and the mediators" (Mason, Kassam 2011: 69). They argue that it is almost impossible for a mediator to be equally close or equally impartial to all conflict sides, therefore the culturally balanced co-mediation creates this balance on the level of the mediator teams, while allowing for greater acceptability by the parties based on cultural proximity.

Even if the mediator was aware of the above described multiple layers of influence of culture, the question of explicitly addressing the topic of cultural difference during the restorative dialogue remains. While LeBaron (1998) argues for including dialogue on possible differences of values in the restorative justice processes, Albrecht (2008: 75) mentions some arguments against it: "(...) interviewees at the mediation offices agreed that it would be wrong to make cultural differences a matter of discussion since all people are supposed to be equal in the mediation, regardless of their cultural background". Interviewed mediators saw it as a potential danger of emphasising 'otherness' and possibly creating a wider gap between participants. On the contrary, in the context of hate motivated conflicts, Walters and Hoyle (2011: 16) see the discussion of the causes and effects of prejudice as crucial both for repairing the harms as well as for generating more tolerant attitudes.

Existing practices in Europe – outcomes of a survey in the ALTERNATIVE project

In order to explore existing RJ approaches to conflicts in intercultural settings, within the framework of the ALTERNATIVE project, the European Forum for Restorative Justice (EFRJ), in cooperation with KU Leuven, distributed a survey to mediation services and restorative justice related organisations, mostly within Europe. The aim of the survey was to map existing experiences and opinions about applying restorative justice approaches in intercultural conflict settings in Europe. In the survey, we included a general and broad definition of restorative justice in order to explain the term to the respondents:

"Restorative justice is mainly considered to be a way of responding to crime/conflict/harm, by bringing together – whenever possible – all stakeholders (victim, offender and/or members of the community). Affected persons in a conflict are invited to meet voluntarily in a neutral forum offered by a

mediator(s) (or facilitator(s)), in the form of mediation, conferencing, or peace-making circle. During this meeting, there is a great focus on dialogue, on the empowerment of the participants, on the reparation of the harm towards the victim, on the restoration of balance in relationships and on the reintegration of the offender into the community”.

The survey addressed 131 restorative justice organisations and practitioners, mostly in Europe, but also beyond. The core of the addressed group consisted of the membership of the EFRJ. Through this survey, we could collect 33 responses (25% response rate) from RJ organisations in 18 different countries. Compared to the response rate for recent questionnaires by the EFRJ addressing European RJ practitioners, there did not seem to be a very large interest towards the topic of intercultural conflict settings and RJ from the organisations we have contacted. In the meanwhile, it might be because there is not a well-developed practice for intercultural cases that people had the feeling they could not answer the questionnaire. The answer rate might have been higher had we addressed professionals and services dealing with intercultural issues and not necessarily RJ organisations, but that was not the intention of the survey in this specific project. Through this part of the research, we aimed to map the engagement of RJ and mediation services in Europe with intercultural issues, as well as to learn more about specific methods or techniques that are used to resolve conflicts with an intercultural dimension.

Nevertheless, our sample was not limited to RJ applied in criminal cases. A large variety of settings were identified where respondents use RJ practices, such as the field of criminal justice, schools, neighbourhood, family or workplace. A large number of respondents are active not only in using RJ approaches for conflict resolution, but also in offering trainings, consultancy or doing research in RJ.

To help respondents reflect on the issue, as well as to know how they understand the term conflict in an intercultural context, first, we asked respondents to indicate conflicts that have an intercultural aspect (e.g. *differences in ethnicity, religion, language, nationality, traditions, life-styles, etc.*) in their neighbourhoods, city, region or country. The answers do not show a common understanding or uniformity: the conflicts mentioned vary from micro- to meso-levels and relate mostly to differences in nationality, religion, ethnicity or language. Racism, immigration, life-styles and traditions were also mentioned as potential reasons for conflict. Looking at the conflict examples given

by the respondents, the term *intercultural* was mainly understood as *interethnic* or *international*.

Out of the 33 respondents, 24 said they apply restorative conflict resolution in intercultural settings. What is important to note is that few organisations work explicitly within the framework of 'intercultural conflicts', while the absolute majority work within the framework of 'general conflicts which, due to different backgrounds of stakeholders, might have intercultural aspects'. In fact, out of the 24 respondents, only 3 answered that the focus of their organisation was especially on intercultural conflicts: two deal with international child abduction or other cross-border family cases, and one is specialised in religious as well as immigration related conflicts.

We were curious about what are the most important aspects of conflicts in intercultural settings the respondents deal with (e.g. *language, economic aspects, religion, ethnicity, gender, age, profession, way of living, prejudice, stereotypes, etc.*). Most pointed to either the barrier of language, or prejudice and stereotypes. The main assumptions are that these kinds of misunderstandings can be closed off through dialogue. For some respondents, the most important aspects of these conflicts were differences related to ways of living or substantial cultural perceptions. It is very interesting that for many respondents, rather than the cultural differences, imbalances of power (like age and gender) or economic differences seem to be more important aspects in a conflict.

Only two respondents explicitly stated that there are some culture-based differences in the way parties take part in restorative processes. They mentioned that, according to their experiences, in some cultures, the offender never confirms guilt explicitly and some cultures are more comfortable in negotiation processes than others.

Out of the main restorative justice practice models used in Europe (such as direct or indirect mediation, conferencing and peacemaking circles) most of the respondents prefer to use direct mediation in intercultural cases. When offering indirect mediation, respondents explain this choice with reasons such as parties not agreeing to meet, high risk of a face-to-face meeting or parties living too far from each other. These reasons are in line with reasons found in literature (Liebmann, 2000: 131; Aertsen et al., 2004: 19; Raye, Roberts 2007: 219) for using indirect mediation in general, so it seems to be unrelated to cultural matters. However, the risk of a face to face meeting is usually assessed by the mediator during the preparation process; therefore mediators' perceptions can play a role here. The same conclusion can be made with

regards to the model used: using mediation, conferencing or peacemaking circles is not associated with the intercultural element of a conflict. However, five respondents emphasised that they find any direct, face-to-face meeting the most efficient in cases when parties need to sustain their relationship in the future. One respondent also explained that he uses conferencing only when the community is affected by the conflict. In general, respondents seemingly do not take into consideration the specific culture-related needs of parties when deciding about the practice model used.

When inquiring about any special programmes focused on intercultural issues, except for the respondents whose focus is explicitly intercultural, respondents did not report having specific programmes that deal with intercultural aspects. However, most of them included the topic of interculturality in their general training programmes. Some respondents see capacity building of minorities or members of different cultural groups as an important first step to empower them to be able to participate in restorative processes. Those respondents focusing explicitly on intercultural (international) cases stressed working with culturally mixed mediator teams². One respondent highlighted that their co-mediation model is bi-national, bi-lingual, bi-gender, bi-professional. While mixed co-mediation teams were mentioned as desirable by other respondents as well, there generally seemed to be a lack of mediators with a special cultural background. In two cases, respondents mentioned the necessity to train mediators from within the community itself, as is the case of the Roma community in the Czech Republic or in Croatia. Others referred to difficulties finding mediators with different cultural backgrounds. In one country, cooperation with other 'intercultural' organisations was mentioned as a special practice.

Although the literature suggests a need for specific approaches towards intercultural cases, most respondents do not see any differences in the restorative justice practice compared to dealing with conflicts in non-intercultural settings. It seems that most use a generic approach, in combination with a cultural sensitivity or cultural 'knowhow'. Some respondents consider measures to be taken on a case-by-case basis, based on the needs of the parties – which is a general approach within RJ³. One respondent tries to involve a

² See: <http://www.mikk-ev.de/wp-content/uploads/wroclaw-declaration.pdf> in international child abduction cases.

³ See for example Zernova, Wright (2007: 99) or the UNODC Handbook on Restorative Justice Programmes (2006: 43).

community member as a support person in cases of cultural differences. One respondent emphasised that in his point of view, cases cannot be differentiated according to the intercultural character of the conflict. As he formulated it: "the most important aspects of ALL cases are that they are looked at on an individual basis. We would not assume that these cases would be treated differently from best practice..."

In many cases, the real difficulty in intercultural cases – according to the respondents' understanding of the term intercultural as international – was considered to be language. The main measure taken to tackle this difficulty was translation, but this slows down the dialogue process and involving a translator was difficult in general. The need for special competences beyond language and translation and knowledge on the restorative process of the translators were also mentioned. One respondent organisation offers specific training for the translators they work with. Looking at the topic of culture as part of the restorative dialogue, respondents affirmed that during the restorative dialogue, the topic of cultural difference is generally not part of the discussion, unless the participants bring it in, or unless it is really the reason or root cause of the conflict.

Conclusions

Culture undoubtedly has an influence on conflicts as well as how these conflicts are understood and dealt with. Offering RJ approaches in intercultural conflict settings raises the questions of appropriate and adequate RJ practice and requires reflection from research as well as from RJ practitioners. As the outcomes of this small-scale survey revealed, in Europe we can witness a certain level of awareness towards this issue, but still a lack of self-reflection, as well as elaborated and tested methods within RJ organisations' practices.

Most of the respondents of the survey presented had some experience in applying RJ in intercultural conflict settings. However, they tended to identify "intercultural" with "international" or "inter-ethnic" cases. Many respondents pointed out that these cases need special approaches and mediators need to know culture-related specificities as well as being clear about their own biases. In this respect specific training modules seemed to be the most used instruments. We could not identify preferences to particularly apply mediation, conferencing, peacemaking circles or other practice models in these cases.

Moreover, through this survey we could not identify any best practices in applying RJ in intercultural conflict cases, although the use of mixed mediator-teams applying co-mediation is an available approach. The difficulty of this type of co-mediation seemed to be the fact that respondent organisations lack diverse teams and it tends to be difficult in general to hire/engage mediators from different cultural backgrounds. As another practical implication for RJ practices, intercultural cases seemed to cause challenges because of different languages spoken by the parties, to which involvement of (trained) translators is the most common answer, even if this slows down the dialogue. Cooperation with organisations having experience in working with people from different cultural backgrounds was also mentioned several times.

Summarising the survey results, we can affirm that although RJ is not yet widely used in case of intercultural conflicts in Europe and specific RJ practice methods for intercultural conflict settings only exist sporadically, the topic is addressed at the level of professional trainings and a general awareness to the topic of interculturality is present in the respondent RJ organisations.

However, literature suggests that a constant reflection on power imbalances and cultural diversity seems to be important to be incorporated from mediation trainings thorough service and process design to mediators' self-reflection. This kind of awareness seems to be still weak at most of the organisations we contacted for this survey. However, the statement of LeBaron and Zumeta (2003: 471) might be encouraging in a more and more diverse Europe: "As cultural awareness infuses mediation process and practice, the promise of mediation comes within reach. More than a place where problems can be resolved with more speed and efficiency than in a court, mediation offers the ground on which the ideals of a multicultural society can be translated into reality".

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EDIT TÖRZS

Restorativni pristupi konfliktima u interkulturalnom kontekstu – nalazi istraživanja i njihov značaj za praksu

Ovaj rad je nastao u okviru evropskog istraživačkog projekta „ALTERNATIVE: Razvijanje alternativnog razumevanja bezbednosti i pravde kroz primenu restorativnih pristupa u interkulturalnim kontekstima demokratskih društava“. Nakon razmatranja uloge koju u nastajanju konflikata i njihovom rešavanju ima kultura, predstavljen je deo istraživanja, koji ispituje različito razumevanje interkulturalnog aspekta vezano za konflikte, kao i kakve to ima implikacije na razvijanje praktičnih programa restorativnog karaktera. Kroz predstavljanje rezultata istraživanja, koje je za cilj imalo mapiranje restorativnih praksi u reagovanju na konflikte u interkulturalnim kontekstima u Evropi, ovaj rad nastoji da pruži sliku evropske realnosti u ovom domenu.

Ključne reči: restorativna pravda, konflikti u interkulturalnom kontekstu, praksa.

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Developing Victim Support across Europe: Quality, Standards, Capacity Building – Annual Meeting and Conference of Victim Support Europe

(Razvoj službi za žrtve u Evropi: kvalitet, standardi i razvijanje kapaciteta – godišnja skupština i konferencija organizacije Evropska pomoć žrtvama)

Varšava, Poljska 14–17. maj 2014. godine

Konferencija *Razvoj službi za žrtve u Evropi: kvalitet, standardi i razvijanje kapaciteta* i 28. godišnja skupština organizacije *Evropska pomoć žrtvama* održani su 15. i 16. maja 2014. godine u Varšavi (Poljska). Organizator i domaćin ovogodišnje konferencije po prvi put je bila Poljska, odnosno Služba za pomoć žrtvama Poljske (Subvenia Victima). Konferencija je održana u veoma važnom trenutku za žrtve kriminaliteta, u momentu kada je počela da se primenjuje *Direktiva Evropske unije o uspostavljanju minimuma standarda o pravima, podršci i zaštiti žrtava kriminaliteta*, koja je pripremana uz učešće poljskih eksperata.

Na konferenciji je bilo prisutno oko 160 učesnika. Ovogodišnju konferenciju otvorio je poljski ministar pravde gospodin Marek Biernacki, predsednik poljske službe za žrtve (Subvenia Victima), gospodin Tomasz Piechowiak, načelnik pravne saradnje u Evropskoj komisiji, gospodin Olivier Tell i predsednik *Evropske pomoći žrtvama* gospodin David McKenna.

Radni deo konferencije odvijao se kroz četiri plenarne sesije i četiri grupe radionica. Prva plenarna sesija pod nazivom *Evropska perspektiva vezana za žrtve kriminaliteta* imala je za cilj da predstavi napore Evropske unije u cilju poboljšanja pozicije žrtava u Evropi. Izlaganja u okviru ove sesije imali su: Ioannis Androulakis, profesor prava na Univerzitetu u Atini, koji je u svom izlaganju dao osvrt na pomake na polju zaštite žrtava tokom grčkog predsedavanja EU. Istim se bavila Olimpia Monaco, tužiteljka, ali govoreći o periodu kada

je Italija predsedavala EU. Svoje viđenje prava žrtava u Evropi dali su i Hans G. Nilsson, načelnik Odeljenja za osnovna prava i krivično pravosuđe Saveta Evrope i Oldrich Martinu, zamenik direktora Europol-a. Druga plenarna sesija imala je za temu *Prava žrtava: pravne i političke perspektive*. Na ovoj sesiji su iz perspektive organizacija i institucija u kojima rade govorili: Albin Dearing iz Agencije za osnovna prava (Fundamental Right Agency), Jago Russell, izvršni direktor Međunarodne organizacije za pravično suđenje (Fair Trials International) i Wojciech Wegrzyn, državni sekretar Ministarstva pravde Poljske. Sledеća plenarna sesija se bavila decom i medijima: *Deca i nasilje: žrtve u medijima*. Izlaganja u ovoj sesiji su imali Gizela Mayer, direktorka Fondacije protiv nasilja u školama, Maatu Arkio-Lampinen iz Službe za žrtve Finska i Joshua Rozenberg, pravni analitičar i novinar. U svojim izlaganjima, uz puno primera medijskog izveštavanja, izlagači su dali svoje viđenje i etičke dileme vezane za medijsko izveštavanje o nasilju nad decom. Četvrta, završna sesija imala je naziv *Nacrt zaključaka: budućnost organizacije Evropska pomoć žrtvama*. U ovoj sesiji predstavnici službi za žrtve iz različitih zemalja članica dali su svoje viđenje daljeg razvoja ove organizacije, koja okuplja službe za žrtve iz 23 zemlje Evrope. Izlaganja su imali: Victor Jammers, izvršni direktor holandske službe za žrtve (Slachtofferhulp i član uprave organizacije *Evropska pomoć žrtvama*), John Hayward-Cripps, lokalni direktor za jug zemlje u okviru Službe za žrtve Engleske i Velsa, Leena-Kaisa Aberg, izvršna direktorka Službe za žrtve Finske i Bianca Biwer, izvršna direktorka nemačke organizacije za žrtve *Beli krug (Weisser Ring Germany)*.

Drugi deo konferencije odvijao se u manjim grupama, odnosno u četiri tematski različite grupe radionica.

Tema prve grupe radionica bila je *Kvalitet i standardi u službama za žrtve*, i u okviru nje rad se odvijao u sledećim radionicama: *Akreditacija i minimalni standardi; Kvalitet podrške i alati za evaluaciju i Prava žrtava: između teorije i prakse*. Cilj napred navedenih radionica bio je unapređenje rada službi za žrtve putem uvođenja akreditacije i minimuma standarda. Radionice su dale priliku učesnicima da u malim grupama saslušaju uvodna izlaganja i zatim diskutuju na teme sa radionica.

U okviru radionice pod nazivom *Prava žrtava: između teorije i prakse*, Sue O'Sullivan, Federalni ombudsman za žrtve kriminaliteta, Kanada, u svom izlaganju je dao opis uloge ovog nezavisnog tela, koje ne postoji u Evropi, ali može poslužiti kao primer dobre prakse za formiranje novog nezavisnog tela koje bi imalo ulogu zaštitnika žrtava.

U okviru druge grupe radionica *Dobre prakse u primeni prava žrtava, pojedinačne radionice imale su sledeće teme: Primena EU direktive o pravima žrtava; Saradnja u cilju primene Direktive u stvarnosti; Dobre prakse u primeni prava žrtava.* U okviru druge napred navedene teme, Frederico Marques iz portugalske službe za žrtve (APAV) predstavio je projekat *Info za žrtve*. Imajući u vidu važnost pružanja informacija za žrtve, što je ujedno i jedan od osnovnih postulata *Direktive EU za uspostavljanje minimuma standarda o pravima, podršci i zaštiti žrtava*, izlaganje se bavilo mogućnostima davanja informacija različitim ciljnim grupama u različitom kontekstu i upotreborazličitog jezika i komunikacionih metoda. Portugalska služba za žrtve je uključena u kreiranje i razvoj informacionih alatki za promociju informacija značajnih za žrtve kriminaliteta i javnost uopšte. U tom cilju, kreirana je specijalna internet stranica,¹ koja sadrži sledeće podatke: Kako pretrpljeno krivično delo utiče na žrtve; Kako se žrtve bore sa time; Koja prava imaju; Kako krivično-procesni sistem funkcioniše i drugo. Internet stranica je posebno dizajnirana za odrasle i za mlade. Isti dizajn, ali sadržaj prilagođen nacionalnim zakonodavstvima, je korišćen za internet stranice službi za žrtve u Češkoj, Austriji i Švedskoj. Kao prateći proizvod napravljena je i android aplikacija pod istim imenom i sa istim ciljem.

Treća grupa radionica imala je temu *Razvoj službi za žrtve: unapređenje resursa*. Rad se odvijao u okviru sledećih radionica: *Usluge prema potrebama žrtava; Izbor i trening volontera; Saradnja među akterima; Partnerske organizacije i njihov pristup žrtvama*. U okviru radionice *Usluge prema potrebama žrtava*, izlaganje je imala, između ostalih, Kathleen O'Hara, specijalistkinja za podršku žrtvama iz SAD. U svom izlaganju ona je naglasila potrebu permanentne obuke zaposlenih u službama za žrtve. Obuka treba da obuhvati instrumente za procenu rizika, vođenje intervjeta sa žrtvama, veštine komunikacije, uspostavljanje specijalizovanih vrsta pomoći, ali i načine za prevazilaženje sindroma sagorevanja na poslu. U okviru radionice *Saradnja među akterima* zanimljivo izlaganje je imala Sonja Leferink, iz holandske Službe za žrtve (Slachtofferhulp). Njeno izlaganje pod nazivom *Model medijacije okrenut ka žrtvi u krivično-pravnom sistemu* pokušalo je da pruži odgovore na najčešće postavljana pitanja – šta su faktori uspeha i rizika u slučajevima medijacije. Jedan od stavova koje je izlagačica iznела je da proces medijacije može biti veoma osnažujući za žrtvu. Tokom „klasičnog“ krivičnog postupka uloga žrtve je marginalizovana. Nasuprot tome, medijacija žrtvu stavlja u prvi plan i daje joj mogućnost da

¹ www.infovitimas.pt/pt_en/005_direitos/paginas/005_011.html

ispolji emocije, uspostavi dijalog sa učiniocem, nagodi se, preuzme kontrolu, odgovornost i drugo. Stav holandske službe za žrtve je da je osnovno da žrtve budu dobro informisane o samoj medijaciji i nezavisne u odluci da li da prihvate medijaciju ili ne. Pitanja koja se nameću i koja su i dalje diskutabilna, a koje je izлагаčica naglasila, su sledeća: Ko može odlučiti da li je neki postupak pogodan za medijaciju?; Da li neka krivična dela mogu biti izuzeta iz medijacije i po kom osnovu?; Da li mogu neke žrtve – ili učinioци – biti izuzeti iz procesa medijacije zbog njihove osetljivosti, godina, patologije ili sličnog?; Kako balansirati između različitih interesa žrtve, učinioca i krivičnopravnog sistema? Napred navedena pitanja su bila osnov diskusije koja je usledila posle uvodnih izlaganja. U okviru treće grupe radionica, radionica na temu *Partnerske organizacije i njihov pristup žrtvama* bavila se sličnim temama u okviru sledećih tematskih celina: *Kako napraviti da holandski zatvorski sistem bude više orijentisan ka žrtvama i Medijacija kao usluga za žrtve.*

Četvrta grupa radionica sa temom *Razvoj kapaciteta: otvaranje novih servisa* odvijala se kroz sledeće radionice: *Podrška žrtvama u prekograničnim slučajevima; Podrška žrtvama sa specifičnim potrebama; Podrška mladima kao žrtvama; Podrška žrtvama zločina iz mržnje.* U okviru jedne od napred navedenih radionica, domaćini su imali priliku da predstave mrežu organizacija koje pomažu žrtvama u Poljskoj. Tomasz Piechowiak, Jacek Blaszczyk i Roman Wojnar iz Službe za žrtve Poljska (Subvenia Victima) su pored predstavljanja značajnih organizacija koje pomažu žrtvama predstavili android aplikaciju „Pomoćnik“. Ova aplikacija, koja je besplatno dostupna, omogućava korisnicima sve neophodne informacije za pomoć, uključujući i mape sa najbližim organizacijama za pomoć.

Konferencija je, pored veoma bogatog radnog dela, bila propraćena društvenim dešavanjima, koja su dala priliku učesnicima da se upoznaju sa bogatom poljskom istorijom i istorijom Varšave, ali i da u opuštenoj atmosferi uspostavljaju nove poslovne kontakte i unapređuju dosadašnje. Za razliku od dosadašnjih konferencija organizacije *Evropska pomoć žrtvama*, ovogodišnja konferencija je okupila veliki broj sudija, tužilaca i probacijskih službenika iz svih delova Poljske. S obzirom da je Ministarstvo pravde Poljske bilo jedan od suorganizatora konferencije, oni su omogućili svojim stručnjacima da podele svoje iskustvo sa stručnjacima iz Evrope, ali i pojedinim gostima iz SAD i Kanade.

Jasmina Nikolić

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JENIFER TEMKIN I BARBARA KRAHE

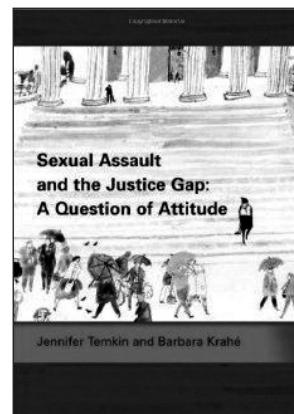
Sexual Assault and the Justice Gap: A Question of Attitude

(Seksualno nasilje i „osipanje“ slučajeva: pitanje stava)

HART PUBLISHING, OXFORD AND PORTLAND, 2008, STR. 256

Seksualno nasilje predstavlja globalni društveni problem koji, bez obzira na kulturološke i razlike u kričnopravnom pristupu, odlikuju univerzalne zajedničke karakteristike, koje su svojstvene kako razvijenim, tako i nerazvijenim društvima savremenog doba. Mala stopa prijavljivanja ovih nasilnih kriminalnih ponašanja, problemi prepoznavanja sopstvene viktimizacije u okolnostima kada se u ulozi nasilnika javlja žrtvi bliska osoba, stereotipi i predrasude, koji vrlo često impliciraju krivicu žrtve i minimiziraju krivicu nasilnika, samo su neki od problema koji „prate“ seksualno nasilje. Iako bi bilo za očekivati da neki od ovih problema, poput stereotipa i predrasuda o seksualnom nasilju, ne opterećuju krivični postupak i krajnji ishod procesuiranja slučajeva seksualnog nasilja, istraživanja i zvanični statistički podaci ukazuju da to nije slučaj.

Jennifer Temkin i Barbara Krahe u knjizi *Sexual Assault and the Justice Gap¹: A Question of Attitude* kroz svojevršnu pravno-psihološku analizu ukazuju na neophodnost sistematičnijeg i šireg sagledavanja problema seksualnog nasi-



¹ Pod justice gap autorke podrazumevaju „osipanje“ slučajeva, odnosno raskorak između broja prijavljenih i broja osuđenih slučajeva seksualnog nasilja, u smislu znatno manjeg broja prijavljenih slučajeva koji završavaju pravnosnažnom osudom izvršitelja. Jedan od bitnih razloga takve situacije autorke vide u znatnom uticaju predrasuda i stereotipa, odnosno stavova predstavnika sudskog procesa, o izvršiocima, žrtvama i kontekstu seksualnog nasilja.

Ija, sa stavljanjem akcenta na „osipanje“ slučajeva kojem u znatnoj meri doprinose upravo stereotipi i predrasude na koje nisu imuni ni predstavnici pravosudnog sistema. Knjiga je podeljena na tri tematske celine, od kojih su u prvoj prikazani rezultati postojećih istraživanja o osipanju slučajeva i ulozi stereotipa o silovanju u procesu donošenja odluke u ovim slučajevima. U drugoj tematskoj celini prikazani su rezultati istraživanja o stavovima o silovanju, koja su autorke realizovale primenom kvantitativne i kvalitativne metodologije na uzorku različitih učesnika sudskog procesa. Treća tematska celina sa svojim poglavljima problemu silovanja i „osipanja“ slučajeva pristupa sa aspekta preporuka za reformu zakonodavstva, poboljšanja kvaliteta suđenja i, u vezi sa tim, edukacije tužilaca, advokata, porotnika i sudija sa ciljem eliminacije predrasuda i pogrešnih stavova.

U prvom poglavlju pod nazivom *The Justice Gap in Sexual Assault Cases* autorke, na osnovu prikaza statističkih podataka o broju prijavljenih i osuđenih lica u Engleskoj i Velsu i drugim zapadnim zemljama (poput SAD i Nemačke), potkrepljuju svoju tezu o postojanju „osipanja“ u slučajevima silovanja, koji se manifestuje u porastu broja prijavljenih slučajeva za krivično delo silovanja, uz istovremeni nagli pad broja prijavljenih slučajeva koji su rezultirali osudom učinilaca. Temkin i Krahe ovo poglavlje završavaju pregledom promena zakonodavstva u Engleskoj u slučajevima seksualnog napada, za koje smatraju da su dobar put reforme, ali same po sebi nedovoljne da bi se prevazišao problem osipanja slučajeva.

Druge poglavlje pod nazivom *Stereotypes, Myth and Heuristics in the Perception of Sexual Assault* ukazuje na ulogu stereotipa i mitova u presuđivanju u slučajevima silovanja. Na osnovu rezultata postojećih istraživanja, autorke posebno analiziraju uticaj stereotipa o tzv. pravom silovanju (silovanje ženske osobe izvršeno primenom nasilja od strane stranca, napolju, u večernjim satima) na to kako javno mnjenje, policajci, advokati, sudije i porotnici percipiraju žrtvu, silovatelja i okolnosti u kojima dolazi do seksualnog nasilja. Pozivajući se na socijalno-psihološka i kriminološka istraživanja seksualnog nasilja i stereotipa i predrasuda u vezi sa tim, Temkin i Krahe ukazuju na rodne razlike u percipiranju silovanja. Prema autorkama, rodne razlike se ogledaju u tome da su gotovo bez izuzetka muškarci ti koji su, pod uticajem stereotipa o tzv. pravom silovanju, skloni da okrivljuju žrtvu za njenu viktimizaciju i da minimiziraju krivicu silovatelja, kao i posledice silovanja koje odstupa od tog stereotipa. Takođe, utvrđeno je da istom stereotipu podležu i predstavnici policije, koji u slučajevima koji odstupaju od ovog stereotipa znatno manje podnose

krivične prijave, što, prema mišljenju autorki, deluje obeshrabrujuće na prijavljivanje silovanja od strane žrtve.

Proces donošenja odluke, kao i faktori koji utiču na odlučivanje porotnika u slučajevima silovanja, analizirani su u poglavlju pod nazivom *The Problem of the Jury in Sexual Assault Trials*. Prikazani su različiti modeli procesa donošenja odluke od strane porotnika u slučajevima silovanja i različiti faktori koji utiču na kvalitet procesa odlučivanja, poput empatije porotnika, kognitivnih pristrasnosti i emocionalnih reakcija. Polazeći od toga da žrtve silovanja viktimizacijom doživljavaju traumu koja je identična posttraumatskom stresnom sindromu, Jenifer Temkin i Barbara Krahe su posebnu pažnju posvetile analizi značaja veštačenja u procesu donošenja odluke od strane porote. U vezi sa tim, autorke ističu da od načina izlaganja i stručnosti veštaka, kao i stavova porotnika i njihovih emocionalnih reakcija u vezi sa tim, u velikoj meri zavisi da li će porota usvojiti mišljenje veštaka kao dokaz koji ide u prilog žrtvi silovanja. Imajući u vidu subjektivnost u tumačenju i percipiranju sindroma traume silovanja, što je osnov procesa dokazivanja i veštačenja u ovim slučajevima u Engleskoj i Velsu, autorke poglavje zaključuju pozitivnim primerom SAD gde se u slučajevima silovanja veštaci ne izjašnjavaju o sindromu traume silovanja, nego o posttraumatskom stresnom sindromu, koji je šire shvaćen i znatno lakše dokaziv, sa jasno utvrđenim dijagnostičkim kriterijumima.

U poglavljiima *A Question of Attitude: Prospective Lawyers* i *A Question of Attitude: the General Public* prikazani su rezultati tri kvantitativne studije koje su autorke realizovale na uzorcima studenata pravnog fakulteta, diplomiranih pravnika koji su na obuci za advokate/tužioce i javnog mnjenja (odakle se biraju porotinici), a sa ciljem utvrđivanja da li je i u kojoj meri presuđivanje u slučajevima silovanja pod većim uticajem stavova zasnovanih na stereotipima o silovanju, a znatno manje na materijalnim dokazima o slučaju. Ispitanicima su ponuđeni scenariji hipotetičkih slučajeva silovanja. Na osnovu rezultata istraživanja autorke su zaključile da na presuđivanje studenata prava, diplomiranih pravnika i predstavnika javnog mnjenja (potencijalnih porotnika) u scenarijima silovanja u velikoj meri utiču stereotipi o tzv. pravom silovanju. Svi ispitanici su u hipotetičkim scenarijima silovanja u kojima je žrtva jasno verbalno iskazala svoje protivljenje seksualnom odnosu, bili skloni da više okrivljuju žrtvu, uz istovremeno minimiziranje odgovornosti silovatelja, u slučaju kada je silovatelj žrtvi poznata osoba ili bivši/sadašnji partner, zatim ukoliko je žrtva bila pod uticajem alkohola, te zbog toga nije mogla da pruži otpor, ili se ponašala „rizično“ (provokativno obučena, kreće se sama noću u nesigurnim

delovima grada). Pri tome, upotreba alkohola od strane žrtve se pojavljuje kao faktor njenog okrivljavanja u scenariju silovanja u kome je silovatelj stranac, ali ne i žrtvi poznata osoba. Razlog tome autorke vide u inhibitornom dejstvu alkohola koje sputava žrtvu da se odbrani u slučaju napada stranca, ali istovremeno joj se opršta „opuštanje“ u poznatom okruženju sa poznatom osobom kada ne očekuje napad.

Bazirano na rezultatima dubinskih intervjua u poglavlju *Rape, Rape Trials and the Justice Gap: Some Views from the Bench and Bar* prikazano je gledište sudija i advokata o razlozima osipanja u slučajevima silovanja. U vezi sa tim autorke iznose zaključak da su, uprkos pozitivnim reformama procesnih procedura u slučajevima silovanja, još uvek prisutni brojni problemi koji rezultiraju time da se znatno manji broj prijavljenih slučajeva silovanja okončava pravnosnažnom osudom silovatelja. Kao ključne razloge tome sudije i advokati su naveli nestručnost policije i njihovu opterećenost stereotipima, nestručnost predstavnika tužilaštva, kao i loše i bezobrazno ponašanje advokata okrivljenih. Kao posebno gorući problem u slučajevima silovanja naglašen je uticaj stereotipa na porotnike i njihovo odlučivanje.

Poglavlje pod nazivom *Judges, Barristers and the Evidential Law in Action in Rape Cases* bavi se analizom dokaznog postupka kod silovanja. Prikazani su rezultati istraživanja na istom uzorku sudija i budućih pravnika kojim je ispitivano njihovo viđenje ključnih aspekata dokaznog postupka u slučajevima silovanja, a koji mogu doprineti pojavi i uticaju stereotipa u odlučivanju učesnika sudskog postupka (poput iznošenja činjenica o seksualnom životu žrtve). Autorke su istraživanjem potvrdile da nevoljnost sudija da se oslobode uticaja stereotipa o silovanju, naročito u pogledu ključnih elemenata dokaznog postupka, doprinosi „osipanju“ slučajeva kod silovanja, i uopšte, seksualnog nasilja.

Poslednja tri poglavlja knjige se bave mogućim načinima poboljšanja pravosudne prakse u Engleskoj i Velsu u slučajevima silovanja, a sve u cilju smanjivanja „osipanja“ slučajeva. Polazeći od prikazanih rezultata istraživanja o nedostacima dokaznog postupka i sudskog procesa u slučajevima silovanja, koji, prema mišljenju Jenifer Temkin i Barbare Krahe, mogu doprineti i doprinose pojavi „osipanja“ slučajeva i učinilaca, u poglavlju *Law Reform* autorke su analizirale moguće načine reforme zakona, sa aspekta njihove primene u praksi. Pri tome, posebna pažnja je posvećena potrebi edukacije predstavnika pravosudnog sistema u cilju eliminacije predrasuda i stereotipa o doprinosu konzumiranja alkohola i seksualnog života žrtve njenoj viktimizaciji.

Mogući načini „oslobađanja“ porotnika od predrasuda i stereotipa u slučajevima silovanja prikazani su u poglavlju pod nazivom *Improving Rape Trials*. S obzirom da se porotnici biraju iz reda „običnih“ građana koji u procesu suđenja ulaze sa svojim ličnim stavovima i predrasudama, autorke predlažu pažljivu selekciju porotnika u slučajevima seksualnog nasilja, kao i načine pomoći porotnicima kako bi se u procesu odlučivanja fokusirali samo na materijalne činjenice koje su iznete i potvrđene u sudskom postupku. Takođe, analizirajući trenutnu situaciju u Engleskoj i Velsu u odnosu na druge razvijene zemlje (poput Severne Amerike), Temkin i Krahe predlažu edukaciju tužilaca, sudija i advokata koji su angažovani u suđenjima za seksualno nasilje u cilju eliminacije uticaja stereotipa.

U poglavlju *Changing Public Attitudes* autorke su ukazale na potrebu menjanja stavova javnog mnjenja o silovanju i seksualnom nasilju uopšte. U tom smislu, one su istakle značaj edukacije na ranom uzrastu, još u okviru redovnih školskih i studentskih nastavnih programa, kao i medijskih kampanja koje su usmerene na eliminaciju stereotipa o žrtvi, učiniocu i okolnostima u kojima i pod kojima dolazi do seksualnog nasilja. Na kraju ovog poglavlja polazeći od rezultata istraživanja koji su potvrdili da su upravo muškarci ti koji su podložni uticaju predrasuda i stereotipa, koji mogu dovesti do pogrešnog percipiranja ponašanja ženske osobe i pogrešnog sagledavanja njenog doprinosu sopstvenoj viktimizaciji, Jenifer Temkin i Barbare Krahe su naglasile značaj javnih inicijativa muškaraca, koje su usmerene protiv seksualnog nasilja.

Knjiga *Sexual Assault and the Justice Gap: A Question of Attitude* završava se zaključnim razmatranjima autorki o svemu što je na prethodnim stranicama knjige izneto, uz vrlo osvećujuće navođenje trenutne situacije u slučajevima seksualnog nasilja, koje je prisutno u većini razvijenih zapadnih zemalja. Nai-mje, prema Jenifer Temkin i Barbari Krahe, kada je u pitanju seksualno nasilje, situacija ne može biti jasnija: „Žena mora jasno da postavi granice kada je u pitanju njeno ponašanje, ne sme nikom da veruje i ne sme da se ponaša rizično. I, kako ni ovo nije garancija njene sigurnosti kada je u pitanju seksualno nasilje, jednom kada postane žrtva mora da nauči da živi sa silovanjem i svim traumama koje ono nosi“ (Temkin, Krahe, 2012: 209). Na samom kraju, autorke još jednom naglašavaju mogućnosti i potrebu pozitivnih promena u cilju poboljšanja utvrđivanja odgovornosti na strani silovatelja, uz istovremeno poštovanje ljudskih prava žrtve i obezbeđivanja podrške i zaštite, kao i razvoja njenog poverenja u pravosudni sistem. U tom svetlu, Temkin i Krahe, ističu značaj edukacije sudija, advokata, tužilaca i javnog mnjenja, kao i

potrebu implementiranja ekspertskega mišljenja, kako u samoj edukaciji, tako i tokom sudskog procesa. Za sam kraj autorke su ukazale na potrebu isticanja pozitivnih osobina žrtve silovanja, umesto prikazivanja njenog prethodnog seksualnog života, koje može imati i ima negativni uticaj na proces donošenja odluke u slučajevima seksualnog nasilja.

Publikacija *Sexual Assault and the Justice Gap: A Question of Attitude* predstavlja vrlo iscrpnju pravno-psihološku analizu pravnog položaja žrtava seksualnog nasilja, kao i pravnog tretmana ovog oblika nasilnog kriminaliteta, baziranu na empirijskim dokazima kvalitativnog i kvantitativnog istraživanja. Lako je prikazana analiza fokusirana samo na Englesku i Vels, vrlo lako može biti primenljiva na pravosudne sisteme većine zemalja sveta, uključujući i Srbiju. Kroz uporednu analizu, navodeći pozitivne primere postupanja u ovim slučajevima u SAD, knjiga može poslužiti i kao svojevrstan praktikum, kako za istraživanje razloga male stope prijavljivanja i osuđivanosti u slučajevima silovanja, tako i za poboljšanje postojeće sudske prakse i, uopšte, postupanja predstavnika pravosudnog sistema i položaja žrtve u ovim slučajevima. Stoga, knjiga autorki Jenifer Temkin i Barbare Krahe, može biti od izuzetne koristi kako istraživačima različitih naučnih disciplina, tako i predstvincima pravosudnog sistema i svima onima koji su usmereni na pružanje pomoći i podrške žrtvama seksualnog nasilja. Takođe, knjiga bi mogla biti od izuzetne koristi i svima onima koji imaju mogućnost lobiranja za promene i/ili su direktno uključeni u procese predlaganja i usvajanja zakonodavnih reformi. S obzirom na usmerenost na stereotipe i predrasude o silovanju, knjigu bih svakako preporučila i široj čitalačkoj publici, kao „instrument“ za razvoj šireg sagledavanja viktimizacije seksualnim nasiljem i negativnih aspekata stereotipa.

mr Ljiljana Stevković

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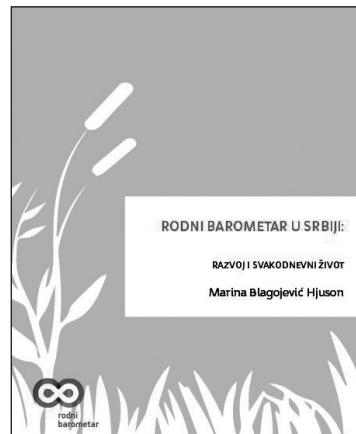
MARINA BLAGOJEVIĆ-HJUSON

Rodni barometar u Srbiji: razvoj i svakodnevni život

PROGRAM UJEDINJENIH NACIJA ZA RAZVOJ, BEOGRAD, 2013, STR. 280

Evidentan porast interesa za rodne studije u Srbiji, na žalost, nije uvek praćen njihovom adekvatnom naučnom konsolidacijom. Mnoštvo aktivističko-istraživačkih studija, koje obično nastaju van akademskog okvira, nude korisna, ali parcijalna znanja u ovoj oblasti. Teorijska koncepcionalizacija se, pak, često kreće u vrlo složenim, konfuznim i obično nerazumljivim postmodernim okvirima pa je kao takva obično neprimenjiva na razumevanje stvarnih rodnih odnosa u našem društvu. Društvene nauke (na prvom mestu sociologija), već tradicionalno zatvorene za rodne teme, na nagli uspon rodnih studija reaguju još većim zatvaranjem, a često i jačanjem konzervativnih i patrijarhalnih ideja i ideologija. Sociološki nja Marina Blagojević – Hjuson godinama uspešno prevaziđa navedene probleme, gradeći sopstvenu, originalnu, poziciju, pa je svaka njena nova studija, poput Rodnog barometra, veliki korak napred u jačanju teorijskih i praktičnih znanja o rodnim pitanjima u Srbiji i regionu.

Prvo istraživanje pod nazivom „Barometar rodne jednakosti“ sprovedeno je 1998. godine u Finskoj. Po ugledu na to originalno istraživanje u svetu se pojavljuje mnogo sličnih, longitudinalnih istraživanja od kojih je u našem regionu prvo sprovedeno 2003. godine u Bosni i Hercegovini. Srbija je svoj prvi Rodni barometar dobila 2006. godine, nakon čega je usledio *Rodni barometar u Srbiji: Razvoj i svakodnevni život* koji se prikazuje u ovom tekstu. Marina



Blagojević-Hjuson je učestvovala u više sličnih istraživanja u regionu te je, u odnosu na to iskustvo i svoje polazne teorijske pozicije, ovu studiju smestila u opšti kontekst „poluperiferije“ (str. 40) i izradila metodologiju i instrumentarij prilagođene našem društvu.

U samom uvodu, autorka kritikuje dominantni pristup rodu u okviru kog se položaj žena prati putem kvantitativnih indikatora u javnoj sferi (participacija na tržištu rada i političkom životu) i tako razvijaju smernice za društvene promene u pravcu jednakosti. Takav pristup je posebno zastupljen u rigidnim neoliberalnim ideologijama koje razvoj sagledavaju kroz ekonomski rast, a položaj žena u razvoju svode na njihove ekonomske i političke performanse. Nasuprot tome, autorka se zalaže za novu koncepciju razvoja koja bi bila „postmaterijalistička, postkonfliktna, postindustrijalistička i postneoliberalna“ (str. 227), gde bi se razvoj merio prema kvalitetu života, a rodnost bila uvažena, ali istovremeno i dekonstruisana i prevaziđena.

Autorka se zalaže za inkluzivan pristup rodu, gde se ovaj koncept ne bi tretirao kao ekskluzivno feministički i izdvojen od opšтиh društvenih problema. Time se istovremeno kritikuju kulturne rodne studije, koje zanemaruju opštost na račun bavljenja specifičnim grupnim interesima, i sociologija, koja rodnost ne vidi kao integralni deo društvene stvarnosti. Rodni režimi se, shodno tome, posmatraju u širem društvenom kontekstu, kroz način na koji utiču na društveni razvoj i njime bivaju transformisani. U skladu sa ovakvim teorijskim pristupom, autorka pažnju usmerava na mikro nivo i, pomalo zaboravljenu, sociološku kategoriju svakodnevnog života gde posebno ispituje *konstrukcije rodnosti (diskurs analiza) i ekonomiju staranja*.

Knjiga se sastoji iz uvoda i pet delova. U prvom delu („Razvoj, svakodnevica i rod“), izlaže se teorijski, metodološki i hipotetički okvir istraživanja. U ovom kontekstu, posebno je važno istaći primenu temeljnog sociološkog pristupa, koji stoji nasuprot aktuelnom trendu multidisciplinarnosti rodnih studija, što se obično svodi na proizvodnju znanja koja su odvojena od svakodnevnog iskustva žena i muškaraca u Srbiji. U sklopu teorijskog okvira, autorka nudi određenje ključnih pojmoveva kao što su: društveni razvoj; rodni režim; svakodnevica; poluperiferija; samo/žrtvujući mikromatrijarhat; tranzicija; raz-razvoj; staranje. Ovom prilikom se opredeljujemo da prikažemo pojam „samo/žrtvujući mikromatrijarhat“ (str. 42) koji Marina Blagojević-Hjuson razvija na osnovu svog dugogodišnjeg istraživačkog iskustva u Srbiji i regionu i vidi ga kao glavnu karakteristiku rodnih režima na poluperiferiji. Žrtveni mikromatrijarhat počiva na ideji da roditelji treba da se žrtvuju

za dete, naročito majka. Žrtvovanjem za bližnje žene osvajaju moć na mikronivou (u porodici) i time kompenzuju evidentan manjak moći i uticaja u javnoj sferi. Unutar „ideološkog poretka koji kodifikuje žrtvu kao smisao života“, žrtva postaje „heroina“ a njeni se resursi crpe do maksimuma (str. 42). Poređenjem podataka iz 2006. i 2012. godine, autorka dolazi do zaključka da ideja o žrtvi postepeno nestaje jer su najmlađe žene „svedoci iscrpljivanja svojih majki i odbijaju žrtveni model“ (str. 107). Tako se, polako, formira stav da roditelji (i majka i otac) imaju prava na sopstveni život.

U drugom delu („Anketa Rodni barometar: stanje i trendovi“) su izloženi rezultati kvantitativnog, anketnog, dela istraživanja na uzorku od 1026 ispitanika iz 68 opština u Srbiji, uz komparaciju sa odgovarajućim podacima iz 2006. i 2001. godine. Komparacija podataka omogućila je da se sagleda generalni pravac društvene promene u ovoj oblasti. U ovom delu studije do izražaja dolaze njeni praktični doprinosi u razumevanju rodnih dimenzija društvene stvarnosti u našem društvu. Podaci dobijeni putem ankete pokazuju da rodni režim u Srbiji prolazi kroz bitne transformacije. Dok se, sa jedne strane, održava postojeća asimetrija rodnih uloga, uočavaju se i izvesni pomaci ka izgradnji jednog egalitarnijeg modela odnosa između muškaraca i žena. Transformacija rodnih uloga, međutim, dovodi i do jačanja patrijarhalne ideologije koja se javlja kao reakcija na „ispraznjenu i uzdrmanu“ ulogu muškarca (str. 134).

U trećem delu knjige („De/konstrukcija rodnosti u diskursima svakodnevice“) prikazani su rezultati kvalitativnog istraživanja diskursa koji konstruišu rodnost na nivou svakodnevice. Podaci su dobijeni putem fokus grupa i dubinskih intervjuja. U skladu sa inkluzivnim pristupom rodu, u istraživanju se ne traga za osvešćenosti o rodnoj ravnopravnosti, niti se pojedini diskursi karakterišu kao više ili manje progresivni (što bi odgovaralo dosta zastupljenom pristupu spolja ili od gore), već se ispituje kako se rodni diskursi formulišu u okviru svakodnevice, te u kojoj meri, kada i kako rod predstavlja relevantnu društvenu činjenicu. Jedan od važnih nalaza analize diskursa rodnosti jeste da se patrijarhalni model u okviru svakodnevnog života sve manje podrazumeva i da se šire egalitarnost i razmena između muškaraca i žena. Rodni identiteti su, takođe, u procesu transformacije koja vodi njihovoj relativizaciji, pa tako oni, na nivou svakodnevnih praksi, igraju sve manju ulogu. To otvara prostor za veću mogućnost individua da prave sopstvene izvore pregovarači o sopstvenoj rodnosti. Autorka, međutim, konstatuje da se rodnost, uprkos ovakvom trendu, i dalje reprodukuje na nivou metadiskursa, odnosno kao

„prenaglašena muškost“ i „prenaglašena ženskost“ (str. 173), posebno u medijima i javnom životu.

U četvrtom delu („Mikrouniverzum staranja: rodna perspektiva“) autorka razrađuje koncept staranja. Staranje (o deci, starima i slično) u ekonomskom smislu spada u neplaćeni rad u kući pa se kao takvo zanemaruje iako čitava ekonomija zapravo zavisi od njega. Značaj staranja kao društvenog resursa je znatno lakše uočljiv, jer na njemu počiva društvena reprodukcija. Ipak, staranje ostaje nedovoljno problematizovano u nauci i javnosti, što autorka objašnjava svojevrsnim paradoksom da su nevidljive upravo one stvari koje su nam bliske pa se kao takve podrazumevaju. Rezultati istraživanja pokazuju da se staranje (i kao privatna i kao profesionalna delatnost) u Srbiji doživljava kao dominantno ženska praksa, što se obično pravda putem naturalizacije roda (kao prirodno stanje stvari), te posebnom ulogom majke, odnosno, materinstvom.

U petom delu („Lekcije i izazovi“) se vrši sinteza istraživačkih rezultata i, u skladu sa aktivističkom dimenzijom istraživanja, nude preporuke za izradu rodnih politika. Nalazi istraživanja mogu se čitati i kao kritika rodnih razvojnih politika, koje se baziraju na metadiskursima rodnosti, a ne na konkretnom i kontekstualizovanom iskustvu muškaraca i žena, koje se oblikuje u okviru svakodnevnog života.

Doprinos ove studije ogleda se na (barem) dve ravnih: teorijsko–metodološkoj i praktično–aplikativnoj. Autorka ulaže poseban napor da istraživanje postavi na jasnu teorijsko–metodološku osnovu. Studijom se, autorkinim rečima, uspostavlja temelj za „jačanje ozbiljnog argumentovanog naučnog diskursa o problemima rodnih nejednakosti, kako bi se izbegle veoma raširena vulgarizacija i trivijalizacija ovog polja“ (str. 19). Zauzimanje ovakve pozicije zahteva intelektualnu i svaku drugu smelost, jer se njome istovremeno kritikuju dominantne rodne politike, određeni aspekti multidisciplinarnih rodnih studija i konzervativna sociologija slepa za rodne probleme. Ovaj aspekt predstavlja trajni zalog za društvene nauke i buduća istraživanja u ovoj oblasti. Za razliku od mnogih socioloških studija, Rodni barometar je, posebno u svom praktičnom, empirijskom smislu, otvoren i razumljiv za širok krug aktera zainteresovanih za rodne probleme. Konačno, njegova posebna vrednost leži u aplikativnoj dimenziji gde se nude konkretne preporuke za dalji razvoj rodnih politika koji bi proizilazio iz konkretnih društvenih uslova, a ne iz gotovih, uniformnih razvojnih modela.

Ana Pajvančić-Cizelj

Poziv na saradnju i preplatu

TEMIDA je časopis o viktimizaciji (stradanju), ljudskim pravima i rodu. Časopis objavljuje naučne i stručne radove koji za svoj predmet imaju problem žrtava kriminaliteta, rata, kršenja ljudskih prava i drugih oblika stradanja (sa posebnim naglaskom na probleme žena, dece, manjinskih grupa, osoba sa invaliditetom i drugih kategorija koje su posebno izložene viktimizaciji), strah od kriminaliteta, kršenje ljudskih prava u zatvoru i u krivičnom postupku, prevenciju viktimizacije i slično. Svaki broj je tematski koncipiran, ali se objavljuju i tekstovi van određenih tema.

Teme za 2014. godinu su: broj 4 – **Nevidljive žrtve** (rok za predaju radova je 1. novembar 2014. godine). Članci van ovih tema mogu biti predati Redakciji bez obzira na navedene rokove.

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Svi brojevi naučnog časopisa Temida u 2015. godini predstavljajuće doprinos obeležavanju 30 godina od usvajanja Deklaracije Ujedinjenih nacija o osnovnim principima pravde za žrtve kriminaliteta i zloupotrebe moći, pa se autori i autorke pozivaju da u svojim radovima učine vidljivom Deklaraciju i njenu implementaciju vezano za pojedinačne teme.

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Primer: Petar PETROVIĆ*

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Ukoliko se navodi više radova različitih autora u istoj zagradi potrebno ih je razdvojiti znakom tačka i zapeta (npr. Dokmanović, 2011; Nikolić-Ristanović, 2012). U tom slučaju radove bi trebalo poređati hronološki prema godini kada su objavljeni.

- 4.1. U fusnotama davati samo propratne komentare, članove zakona i Službene glasнике.

- 4.2. Strana imena pisati izvorno.

5. Ukoliko se u tekstu nalaze slike ili tabele, na odgovarajućem mestu u tekstu uputiti na njih, npr. (Tabela 2).

Naslove dati iznad slika i tabela.

Primer: **Tabela 1.** Struktura viktimizacije prema polu

6. Obavezno priložiti popis **literature** na kraju teksta. Navesti sve citirane bibliografske jedinice abecednim redom, prema prezimenu prvog autora. Bibliografska jedinica treba da sadrži:

za knjige: prezime i prvo slovo imena autora, godina izdanja u zagradi, naslov knjige (kurzivom), mesto izdanja, naziv izdavača.

Primer: Milutinović, M. (1977) *Penologija*. Beograd: Savremena administracija.

za poglavlja u knjizi: prezime i prvo slovo imena autora, godina izdanja u zagradi, naslov poglavlja, u: prvo slovo imena (urednika), prezime (urednika), skraćena oznaka uredništva (u zagradi), naslov knjige (kurzivom), mesto izdanja, naziv izdavača, broj prve i poslednje strane poglavlja.

Primer: Benton, T. (2006) Do we need rights? If so, what sort? U: L. Morris (ur.) *Rights: Sociological perspectives*. New York: Routledge, str. 21-36.

za članke u časopisima: prezime i prvo slovo imena autora, godina izdanja u zagradi, naziv članka, naziv časopisa (kurzivom), broj i broj prve i poslednje strane članka.
Primer: Christie, N. (2005) Restorativna i retributivna pravda u kontekstu rata i ratnih zločina. *Temida*, 4, str. 27-32.

za dokumenta preuzeta sa interneta: pored web strane upisati datum pristupa internet stranicama sa kojih su preuzeta.

Primer: <http://webrzs.stat.gov.rs/WebSite/Public/PageView.aspx?pKey=2>, stranici pristupljeno 5.10.2012.

Pre web strane može stajati i ime autora (ako je poznat) kao i naslov teksta. U tom slučaju ispred web strane dopisati – dostupno na:

za zakone: pored imena zakona napisati u kom je Službenom glasniku objavljen.
Primer: Zakon o krivičnom postupku, Službeni glasnik RS, br. 58/04.

za saopštenja sa naučnih skupova: prezime i prvo slovo imena autora, godina u zagradi, naslov rada, naziv konferencije (kurzivom), broj strane u knjizi apstrakata u zagradi, mesto izdanja, naziv izdavača.

Primer: Kelly, L. (2011) Violence against women and children in the national legislations of the EU member states: an overview of the research results. *Druga godišnja konferencija Viktimološkog društva Srbije – Žrtve kriminaliteta i žrtve rata: međunarodni i domaći kontekst, knjiga apstrakta* (str. 13). Beograd: Viktimološko društvo Srbije i Prometej.

za članke iz novina: prezime i prvo slovo imena autora, godina i dan u zagradi, naslov teksta, naziv novina, broj strane.

Primer: Jovanović, A. (2012, 5. decembar) Otkriveni plagijati naučnih radova, Blic, str. 5. Moguće je navesti i web izdanje novina, kada se umesto strane stavlja – dostupno na: a zatim web adresa stranice i datum pristupa stranici.

Dodatna napomena: U popisu literature ne sme biti bibliografskih jedinica koje se ne navode u tekstu rada, a moraju biti sve jedinice koje se pominju, uključujući zakone, izveštaje, ali i web strane (koje idu u sekciju Internet izvori u okviru Literature).

7. Obavezno priložiti na kraju rukopisa: naslov rada, apstrakt i ključne reči na engleskom jeziku.

Svi članci se anonimno recenziraju od strane dva kompetentna stručnjaka/stručnjakinje, na osnovu čega Redakcija donosi odluku o štampanju. Rukopisi se ne vraćaju.

Molimo Vas da vodite računa i da pravilno koristite intelektualnu svojinu drugih autorki i autora prilikom iznošenja navoda, rezultata istraživanja, ali i grafičkih prikaza iz njihovih tekstova. Temida podleže **kontroli na plagijarizam** i nalazi se u **DOI (Digital Object Identifier) bazi i u Srpskom citatnom indeksu (SCIndeks)**.

Promena nekoliko reči iz rečenice originalnog autora ili autorke, kao i promena redosleda reči u njihovim rečenicama predstavlja plagijarizam ukoliko se taj autor ili autorka ne citiraju.

Kada se parafrazira neki deo teksta drugog autora ili autorke trebalo bi reprodukovati tačno značenje njihovih ideja, ali ih izraziti kroz sopstvene reči i drugačiju strukturu rečenica:

Npr. Nedovoljno dobri mehanizmi prepoznavanja su najverovatniji razlog malog broja zabeleženih žrtava starosti ispod 18 godina (Nikolić-Ristanović, 2009).

Isto pravilo važi i za slučaj da se pozivate na navode nekog istraživanja:

Npr. Istraživanje nasilja u porodici u Vojvodini pokazalo je da skoro svaka druga žena trpi psihičko nasilje (Nikolić-Ristanović, 2010).

Ukoliko je jedini način da izrazite navode drugog autora ili autorke doslovno citiranje njihovih reči, neophodno je da te rečenice stavite pod znake navoda, a da u zagradi pored imena autora/autorke i godine u kojoj je rad objavljen, navedete i broj strane na kojoj se te rečenice nalaze u njihovom tekstu:

Npr. Autorka navodi da „manji broj maloletnih žrtava verovatno više govori o slabim mehanizmima prepoznavanja“ (Nikolić-Ristanović, 2009: 255).

Tehnička uputstva autorkama i autorima prikaza

Prikaz treba da bude obima do 6 strana kucanog teksta duplog proreda, font Times New Roman 12.

Naslov prikaza treba da sadrži sledeće podatke:

Prikaz knjige: naziv u originalu, prevod naziva na srpski jezik u zagradi (ukoliko je naziv na stranom jeziku), naziv izdavača, mesto izdanja, godina izdanja i broj strana.

Prikaz skupa: naziv u originalu, prevod naziva na srpski jezik u zagradi (ukoliko je naziv na stranom jeziku), mesto i datum održavanja skupa.

Radovi ne smeju biti već objavljeni, niti predati za objavljivanje na nekom drugom mestu.

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Cena pojedinačnog štampanog primerka naučnog časopisa Temida iznosi 750 dinara. Preplata na štampani primerak za 2015. godinu iznosi 3.000 dinara za pojedince i 10.000 dinara za institucije.

Cena pojedinačnog štampanog primerka naučnog časopisa Temida za inostrans-tvo je EUR 30. Za inostranstvo preplata na štampani primerak za 2015. godinu iznosi EUR 60 za pojedince i EUR 120 za institucije.

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Godišnja preplata za pristup elektronskim izdanjima Temide preko internet stranice Viktimološkog društva Srbije za inostranstvo iznosi EUR 40 za pojedince i EUR 100 za institucije. Pristup pojedinačnom broju u elektronskoj formi za inostranstvo iznosi EUR 5.

Časopis Temida će u 2015. godini biti dostupan u elektronskoj formi na internet stranici Viktimološkog društva Srbije www.vds.org.rs i preko EBSCO istraživačke baze podataka **samo za pojedince i institucije koji plate preplatu.**

U vezi preplate na štampano izdanje ili pristup elektronskim izdanjima naučnog časopisa Temida, molimo Vas obratite se redakciji časopisa.

Call for papers and subscription

Temida is the peer reviewed journal on victimization, human rights and gender, which is accredited as an academic journal by Serbian Ministry of Science. Papers are mainly published in Serbian. Papers written in other languages are either translated in Serbian or published in the language they are written in.

Topics for 2014 are: No. 4 – **Invisible victims** (submission deadline: November, 1, 2014).

Contributions not specifically dedicated to these themes, as well as conference and book reviews, may be submitted irrespective of the indicated terms. Manuscripts should be submitted by e-mail: vds@eunet.rs.

Topics for 2015 are: No. 1 – **Victims' protection: International law, national legislations and practice** (submission deadline: March 1, 2015), No. 2 – **Secondary victimisation and victim support** (submission deadline: June, 1 2015), No. 3 – **Positive victimology** (submission deadline: September, 1, 2015); No. 4 – **Restorative justice, safety and victims** (submission deadline: November, 1 2015). Contributions not specifically dedicated to these themes, as well as conference and book reviews, may be submitted irrespective of the indicated terms.

All issues of Temida in 2015 will present a contribution to the 30th anniversary of the United Nations Declaration on the Rights of Victims of Crime and Abuse of Power; therefore, we call authors to make the Declaration and its implementation visible in their papers in connection to the specific topics.

Manuscripts should be submitted by e-mail: vds@eunet.rs.

All articles will be peer reviewed anonymously by two competent scholars. Afterwards, the Editorial Board will decide about its publishing. The manuscripts will not be returned.

Technical instructions for authors of articles

1. Contributions should not exceed **20 pages** typed in double line spacing. The recommended font type is Times New Roman 12.
2. First page should contain: **the title, the author's name, abstract** (up to 150 words) and **4-5 key words**.
 - 2.1. After the author's surname put the footnote that should contain the name of the institution where the author works, academic title, and e-mail. In case of multiple authors, specify data for each co-author separately.
 - 2.2. The abstract must clearly state the problem and the purpose of the paper, as well as the main topics that will be covered.
Example: Petar PETROVIĆ*
3. Subheadings should be written in the following way:
Paragraph heading (Times New Roman, 12, Bold)
Sub-Heading 1 (Times New Roman, 12, Italic)

* Dr Petar Petrović is docent at the Faculty... in Belgrade. E-mail: petar@example.

Sub-Heading 2 (alphabet letter in the bracket, Times New Roman, 12, Regular)

Example: **Victim support services**

Categories of the users

a) Women and children

4. Please use the Harvard referencing system. At the end of citation you should open a bracket and give the author's surname, the year of publication and page number.
Example: (Christie, 2005: 28).

When there are two or three authors they should be separated with a comma (e.g. Boom, Kuijpers, 2012).

When there is more than three authors, after the surname of the first author add "et al." (e.g. Shapland et al., 2009).

In case that two authors share the same surname add the first letter of their first name (e.g. H. Jones, R. Jones, 2003).

When a secondary source is cited, add "according to" (e.g. Ćopić according to Nikolić-Ristanović, 2011).

If there are multiple papers of different authors in the same bracket, they should be separated with a semicolon (e.g. Dokmanović, 2011; Nikolić-Ristanović, 2012).

In that case the papers should be mentioned chronologically according to the year of publishing.

- 4.1. Footnotes should contain only brief accompanying comments, law articles and Official Gazzetes.
- 4.2. Foreign names should be written originally.
5. If the pictures and tables are included, please make a reference to them at the proper place, E.g. (Table 2)
Please give the titles above the pictures/tables.

Example: **Table 1.** Structure of victimization by gender

6. It is necessary to enclose the list of the **literature** at the end of the paper. List all the references in alphabetical order, according to the first author's surname. A list of references should contain:

For books: surname and initials of the author, year of publication (in the bracket), title of the book (italic), place of publication and publisher.

E.g. Milutinović, M. (1977) *Penologija*. Beograd: Savremena administracija.

For book chapters: surname and initials of the author, year of publication (in the bracket), chapter title, In: initial, surname of the editor followed by ed. in the bracket, title of the book (italic), place of publication, name of publisher and the page numbers of the chapter.

E.g. Benton, T. (2006) Do we need rights? If so, what sort? In: L. Morris (ed.) *Rights: Sociological perspectives*. London and New York: Routledge, pp. 21-36.

For journal articles: surname and initials of the author, year of publication (in the bracket), title of the article, title of the Journal (italic) and page numbers of the article.

E.g. Christie, N. (2005) Restorativna i retributivna pravda u kontekstu rata i ratnih zločina. *Temida*, 4, pp. 27-32.

For documents accessed by internet: give the electronic address and the date you accessed the source.

E.g. <http://webrzs.stat.gov.rs/WebSite/Public/PageView.aspx?pKey=2>, page accessed 5. 10. 2012.

Prior to the web page there can be the author's name (if known) and the title of the text. In this case, in front of the web page write – available at:

For laws: next to the name of the law, mention the Official Gazette in which it was published.

E.g. Zakon o krivičnom postupku, Službeni glasnik RS, br. 58/04.

For conference papers: surname and initials of the author, year of publication (in the bracket), title, name of the conference (in italics), page number in the book of abstracts (in the bracket), place of publication, name of the publisher.

E.g. Kelly, L. (2011) Violence against women and children in the national legislations of the EU member states: an overview of the research results. *Druga godišnja konferencija Viktimološkog društva Srbije – Žrtve kriminaliteta i žrtve rata: međunarodni i domaći kontekst, knjiga apstrakta* (str. 13). Beograd: Viktimološko društvo Srbije & Prometej.

For magazine articles: surname and initials of the author, year and day of publication in the bracket, headline, newspaper name, page number.

E.g. Jovanović, A. (2012, 5. decembar) Otkriveni plagijati naučnih radova, *Blic*, p. 5.

It is possible to specify the web edition of the newspaper, when instead of the page you can write – available at: and then web site address and the date of accessing the site.

Additional note: In the reference list there must not be bibliographic items that are not mentioned in the text, and should be all the items that are mentioned in the text, including laws, reports but also web pages (which go into a separate section called Internet sources within the Bibliography).

7. Be sure to attach the title, abstract and keywords in English at the end of the manuscript.

All articles will be peer reviewed anonymously by two competent scholars. Afterwards, the Editorial Board will decide about its publishing. The manuscripts will not be returned.

Please be sure to properly use the intellectual property of other authors during the presentation of statements, research results, and graphics from their texts. The journal *Temida* is a subject of plagiarism control and is located in the **DOI (Digital Object Identifier) database** and in the **Serbian Citation Index (SCIndeks)**.

Changing a few words from the sentence of the original author, as well as changing the order of words in their sentences is plagiarism if the author is not cited.

When you paraphrase a text of another author you should reproduce the exact meaning of their ideas, but express them through your own words and with a different sentence structure:

E.g. Lack of good mechanisms of recognition is the most probable cause for the small number of identified victims under the age of 18 years (Nikolic-Ristanović, 2009).

The same rule applies in the case when you wish to refer to the assertion from another research:

E.g. The survey of domestic violence in Vojvodina has shown that almost every second woman suffered psychological abuse (Nikolic-Ristanović, 2010).

If the only way to express the assertions of another author is to quote their words, you must put these sentences in quotation marks, and indicate the page number on which these sentences are located in their text in the bracket next to the names of the authors and the year in which their paper was published:

E.g. The author states that "a smaller number of minor victims probably speaks more of a poor mechanism of identification" (Nikolić-Ristanović, 2009: 284).

Technical instructions for authors of reviews

The review should not exceed 6 pages typed in double line spacing. Recommended font is 12 point Times New Roman.

Title of the review should include:

Book review: title of the book in original, translation of the book title in Serbian in the bracket (if the title is in foreign language), name of the publisher, place of publication, year of publication and number of pages.

Conference review: title of the conference in original, translation of the conference title in Serbian in the bracket (if the title is in foreign language), place and date of conference.

Papers should not be already published neither submitted for publishing at some other place.

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