

RELIGION IN CONTEMPORARY SOCIETY  
International scientific meeting almanac

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# RELIGION IN CONTEMPORARY SOCIETY

(Религия в современном обществе)

*International scientific meeting almanac*

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## NEW REPRODUCTIVE TECHNOLOGIES AND RELIGION IN SERBIA AND CROATIA\*

**Abstract:** The paper focuses on the Orthodox and the Catholic bioethical perspectives on assisted reproduction in Serbia and Croatia. Different positions are discussed in the chapter: theological positions, the official Church teachings, political agendas, and views of the general population and population interested in infertility. The paper argues that regulation of assisted reproduction and the prevailing social norms are influenced by the teachings of the two dominant religions in Serbia and Croatia. The Orthodox Church has more liberal attitudes towards new reproductive technologies than the Catholic Church. These differences are reflected in public discourse and legislations of Serbia and Croatia.

**Key words:** assisted reproductive technology, reproductive rights, religion, Eastern Orthodoxy, Catholicism.

### Introduction

Before modern reproductive technologies were invented, people had very few options for treating infertility: formal and informal adoption or primitive quasi-surrogacy/donor methods.<sup>1</sup> Childlessness is not necessarily a destiny any more. Modern *assisted reproductive technologies (ARTs)*<sup>2</sup> are far more effective than any traditional methods. At the same time, many bioethical

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<sup>1</sup> For example, the Old Testament story about Sarah and Abraham as “intended parents” and Hagar, the handmaid of Sarah, who was a “surrogate” and “egg-donor”.

<sup>2</sup> We are using different terms depending on the context (*ART*, *ARTs*, *assisted reproduction*, and *new reproductive technologies*). In this paper, the concept has a comprehensive meaning, referring to old techniques (a less invasive artificial insemination) and more invasive new techniques (IVF); both homologous (biological parents are intended parents) and heterologous methods (biological parent or parents is/are not the same as intended parent/s), and surrogacy (gestational mother is not

and biopolitical issues are entangled with modern ARTs. For example, surrogacy is not always embraced as a manifestation of women's reproductive rights. The European Parliament has strongly opposed to gestational surrogacy, aligning with conservatives and radical feminists (Ignjatović and Bošković, 2017).<sup>3</sup> Also, the available options for excess embryos – freezing, disposal, and donation – have raised many ethical questions. Even more debatable is embryo reduction in multi-fetal pregnancies, and pre-implantation genetic screening is not beyond ethical dilemmas.

Bioethics of ART is even more complicated in theological debates. Christian bioethics is based on a common set of principles, but there are also differences across Christian denominations. Some positions are elaborated in the official Church teachings, while other aspects of ARTs are implicitly considered as un/acceptable. In this paper, we look at the ethical debates in the two dominant religious denominations in Serbia and Croatia, the Serbian Orthodox Church, and the Roman Catholic Church. Even though Serbia and Croatia are secular countries, reproductive rights seem to be still influenced by religion.

### **Bioethics of ART in the teachings of the Roman Catholic Church and the Eastern Orthodox Church in Europe**

The modern Catholic and Orthodox (bio)ethics is based on the Christian “perception about man and their relationship to God” (Koios, 2009: 362). Infertility was mentioned in many places in the Holy Bible. There is a strong patriarchal background of the Old Testament's interpretation of the causes of infertility. Female infertility was predominantly identified as the reason for childlessness (Aničić, 2007).<sup>4</sup> For example, in the New Testament (The Gospel according to Luke: 1, 5–7), Elisabeth and Zecharia “had no child, because that Elisabeth was barren” (The Holy Bible, 1611: 2150). All these biblical women became mothers either with the assistance of another woman or by giving birth at a very old age “by the grace of God”. There are many anticipations of modern ART techniques in the Bible. For example, surrogacy and egg donation are found in the biblical story of a childless couple, Sarah and Abraham. Hagar, the handmaid of Sarah, was a “surrogate” and “egg-donor” who gave birth to Ishmael, a son of Abraham (Radan et

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the same as biological mother); genetic screening, freezing, reduction or destruction of embryos.

<sup>3</sup> Feminism has condemned surrogacy as a patriarchal exploitation of women (both the surrogates and women using their services). Paradoxically, their position is in line with a conservative perspective, although for different reasons (Ignjatović and Bošković, 2017).

<sup>4</sup> Six women were mentioned in the Old Testament, and one in the New Testament. Male infertility is rather tacitly implied (for example, the story about a childless widow who had a child with another man) (Aničić, 2007).

al. 2015). This is a rudimentary form of surrogacy and semi-heterologous fertilization, in which only the father is genetically related to the child, but not the intended mother.

However, the Old Testament and the New Testament have substantially different positions on in/fertility. Unlike the Old Testament, which emphasizes procreation (“And God blessed them, and God said unto them, be fruitful, and multiply”), the New Testament focuses on marriage as a spiritual unit: “Then said Elkanah her husband to her, Hannah, why weepest thou? and why eatest thou not? and why is thy heart grieved? *Am not I better to thee than ten sons?*” (The Holy Bible, 1611: 7; 620, italics mine; Aničić, 2007). Here we can see a subtle indication that marriage dyad is a unit *per se*, unifying the emotional and spiritual domain, thus transcending the traditional role of procreation. This position can be translated into the modern Christian views of infertility.

The modern Catholic bioethics is elaborated in the Donum Vitae Instruction (1987) and the update of the Instruction (2007). A strong ethical criticism of ARTs is based on the “*life is a gift*” postulate:

The gift of life which God the Creator and Father has entrusted to man calls him to appreciate the inestimable value of what he has been given and to take responsibility for it: this fundamental principle must be placed at the centre of one’s reflection in order to clarify and solve the moral problems raised by artificial interventions on life as it originates and on the processes of procreation (Donum Vitae Instruction, 1987, Introduction 1, as cited in Bauzon, 2008: 45).

Within this ethical framework, parenthood should not be conceptualized as a project, but as God’s gift. There is a certain degree of theological fatalism in the Catholic understanding of human procreation. Instead of a pro-active, medically driven project, a new life should be accepted as a gift: “the woman should accept her *child as a gift from God*, rather than *claim it* (...) Giving and accepting a gift establishes a relationship of sharing, whereas fulfilling one’s desire is a one-sided act” (Bauzon, 2008: 45, italic mine).

Another ethical proposition that comes into play here is the concept of marriage as an *inseparable spiritual and physical unity* and the only legitimate framework for expressing natural laws of procreation. The criticism of assisted reproduction has a long tradition. The Catholic Church had even disapproved of a less invasive method of artificial insemination, before modern ART methods were introduced in reproductive medicine (Kešina, 2003). The critical point was a separation of physical and spiritual side of human procreation (Kešina, 2003).<sup>5</sup>

Modern techniques of assisted reproduction are viewed through the same lens: “*Donum Vitae* teaches that if a given medical intervention *helps*

<sup>5</sup> First in 1897, then in the mid-20<sup>th</sup> century (Pope Pius XII), and in 1983 (Pope John Paul II) (Kešina, 2003).

or assists the marriage act to achieve pregnancy, it may be considered moral; if the intervention *replaces* the marriage act in order to engender life, it is not moral” (Haas, 1998). However, it is difficult to find a technique that would not interfere with a natural process. Even the less invasive GIFT technique<sup>6</sup> is ethically disputable. The Catholic Church was divided over GIFT: “Some theologians consider this to be a replacement of the marital act, and therefore immoral. Other theologians see it as assisting the marital act, and therefore permissible” (Haas, 1998). Evidently, almost all techniques of assisted reproduction interfere with marriage unity by separating the physical and spiritual (and emotional) component of marriage. Only the methods of microsurgery or other nonsurgical procedures (for example, in the case of blocked fallopian tubes) are acceptable.<sup>7</sup>

What follows from the above statement is that a wish to have a child is limited by ethical principles. *Human dignity* is the most important ethical postulate and a precondition for any consideration of ART techniques. Ethical justification of methods used to fulfill a human desire for parenthood rests on “the fundamental principle... the respect for the human being from the first moment of his or her existence” (Bauzon, 2008: 44). The principle of dignity applies to the process of conception, and from the ethical point of view, it is not only the question what happens to the existing embryos, but also *how* they are created. The key point here is that biological and spiritual side of human conception must not be separated. Human life is an intrinsic value, incorporating biological and intellectual life (Bauzon, 2008). The process of conception is not only biological, but also an emotional and spiritual process, like marriage is both physical and spiritual unit.

The concept of human dignity applies to every stage of human existence, from the very beginning of the conception, through all stages of embryo development. Any separation of these two components in the process of creation is a violation of human dignity. Child’s existence is conceptualized as complex, bio-spiritual process, from the early stage of embryo formation. ART techniques have introduced the separation of two processes – the conception and parenthood, the biological and emotional dimension – and it is morally doubtful. Since a (hypothetical) child has the same rights as adults, there is no such thing as a right to a child (Bauzon, 2008). It has the right to be born in a “proper way” – “the child’s right to be conceived and brought into the world of marriage” (Bauzon, 2008: 45). Being married does not legitimize separating the biological and spiritual part of the conception.

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<sup>6</sup> Gamete Intra-Fallopian Transfer (GIFT) is less popular today compared to IVF which is much more common. After hormonal stimulation, eggs are first removed and then placed with sperm in Fallopian tubes. Technically, the process of fertilization takes place in Fallopian tubes and not in the laboratory as in IVF procedure.

<sup>7</sup> These methods are effective only in the treatment of some infertility issues.

Within the Catholic ethical framework, all ART techniques are more or less problematic, some of them spurring more ethical criticism than the others. Surrogacy, with its evident physical and symbolical interference with a holy dyad of marriage (another person is involved), is probably the most criticized technique. However, even though Catholicism disapproves of any form of artificial intervention in human reproduction, there is still a tacit gradation of ART techniques. Artificial insemination and GIFT are not as problematic as IVF and surrogacy. Also, there is a difference between (heterosexual) married couples and other biologically and socially infertile groups (single women, gay couples). ART techniques “are perhaps less reprehensible, yet remain morally unacceptable” if used as a treatment for heterosexual married couples (Colliton, 2007: 14). There is a degree of tolerance for artificial insemination today, because this method mimics the natural conception, with a minimal medical intervention (Maros, 2015).<sup>8</sup>

The Catholic Church published another document – *Dignitas Personae* – 25 years after *Donum Vitae* (Mallia, 2013). The key issue remains the fact that reproductive technologies (such as ICSI) are replacing a conjugal act, “as ‘such fertilization is neither in fact achieved nor positively willed as the expression and fruit of a specific act of conjugal union” (Mallia 2013: 386). As Mallia has noted, *Dignitas Personae* “does not say anything new in this regard other than acknowledge existence of new technologies such as cryo-preservation of oocytes” (Mallia 2013: 387). The focus is still placed on the immoral side of assisted reproduction. Different issues related to ART (frozen or destroyed embryos, surrogacy related issues, etc.) are regarded only as consequences of unethical procedures that have replaced the natural act of procreation (Mallia 2013).

The Orthodox churches of Russia, Greece, and Romania are following the same basic principles as the Catholic Church. They have based their views of artificial reproduction on a general theological concept of human being and its status<sup>9</sup>:

(...) the rights of an embryo emanate from the fact that the embryo is a person under development... From the very beginning of conception, the embryo is not simply a fertilised egg; it is a perfect human being as far as its identity is concerned, and is constantly being perfected during its phenotypic expression and development (Koios, 2009: 361).

The Orthodox theology has a clear negative view of certain ART procedures, such as destroying, selecting or freezing embryos at any stage of development: “In every embryo, from the very moment of conception, along with the cellular multiplication, the birth and development of its soul is

<sup>8</sup> Artificial insemination is a minimally invasive, *in vivo fertilization* technique. Medical assistance consists of placing sperm into the uterus or cervix around the time of ovulation.

<sup>9</sup> The same principles are used to condemn abortion as ethically wrong.



carried out. Both these inseparable elements, the birth and growth of body and soul constitute the human person-hypostasis” (Koios, 2009: 361). Following the theological premise of human dignity and body-soul unity, the Orthodox Church opposes to pre-implantation embryo testing (genetic screening) with a purpose of genetic selection (to prevent genetic disorders) and embryo freezing (every embryo should have an equal chance to develop). The same applies to other procedures, like embryo reduction in multi-fetal pregnancies or destruction of frozen embryos. Once the embryo is created, it should be treated with dignity and given adequate conditions to become a fully developed human being.

The Russian Orthodox Church holds an ambivalent position on assisted reproduction. It “sympathizes with childless spouses, blessing them to pray for the gift of offspring, to seek medical treatment for infertility, as well as to adopt children” (Pravmir, 2014). Unlike the old Catholic position, artificial insemination is accepted as a method which “does not violate the integrity of the marital union and does not differ basically from natural conception and takes place in the context of marital relations” (Pravmir, 2014). However, the Russian Orthodox Church has condemned surrogacy because it violates the concept of human person as a unique individual by reducing it to a biological specimen (Pravmir, 2014). The Church has debated about the consequences of surrogacy and whether it should deny the Baptism to the child born in such circumstances or not. The Church may refuse to perform the act of Baptism only if “the parents do not bear explicit repentance for their deed, and the sponsors in fact concur with the sinful act that has been performed” (Pravmir, 2014). Otherwise, children born to a surrogate mother have the right to the Baptism because they should not be held responsible for their parents’ deeds.<sup>10</sup>

In a secular Europe, social norms are still influenced by religion (at least indirectly). For example, Italy and Greece have quite different approaches in the regulation of ART. Clearly, these regulations are influenced by the main religions in these countries, the Roman Catholic Church and the Greek Orthodox Church. Leon and colleagues (2011) compared the Italian and Greek legislations in five domains of ART (homologous artificial reproduction, heterologous fertilization, post-mortem fertilization, surrogate maternity and surplus embryos) and found that the only common regulation includes the homologous artificial reproduction. In all other cases, Greek legislation is far more liberal, while Italian legislation completely forbids the other four ART techniques. Moreover, Greek regulation of gestational surrogacy is far more liberal compared to many other EU states (Leon, Papetta, Spiliopoulou, 2011).<sup>11</sup> It was mentioned before that the European Parliament

<sup>10</sup> The issue of surrogacy was discussed at the meeting of the Holy Synod of the Russian Orthodox Church that was held in December 2013 (Pravmir, 2014).

<sup>11</sup> There is no common EU framework in this area (Leon, Papetta, Spiliopoulou, 2011).

has condemned surrogacy because it “(...) undermines the human dignity of the woman since her body and its reproductive functions are used as a commodity” (European Parliament, 2015: 29). In Greece, gestational surrogacy is legal if there is no genetic relation between the surrogate mother and the baby, only the uterus is “rented” (the surrogate mother should be married). Traditional surrogacy (the surrogate is also genetically related to the baby) is prohibited. As we shall discuss later, Greek legislation is more liberal than Serbian regulation of assisted reproduction.<sup>12</sup>

Recent legislative changes have been criticized by the Greek Orthodox Church, especially some extreme cases (IVF for post-menopausal women). The main criticism of the Orthodox Church was aimed at heterologous fertilization, single motherhood, post-mortem fertilization, surrogate maternity and embryo experimentation (Leon, Papetta, Spiliopoulou, 2011). However, the Orthodox Church was not against the use of ARTs in specific circumstances – a married couple facing infertility should be allowed to utilize assisted reproduction. This means that the Church approves homologous artificial reproduction.<sup>13</sup>

### The Catholic Church and ART in Croatia

The Croatian public is divided over the regulation of assisted reproduction. Reproductive rights are very important policy issues the political debate and election campaigns. Compared to Serbia, there is also a much more vigorous debate about ART in theological and academic circles. The general public shows much concern about political agendas aiming at reproductive rights and these issues are widely discussed on the Internet (for example, the Forum Roda). However, the general population in Croatia is rather liberal than conservative towards assisted reproduction technologies. According to recent public opinion surveys, around two-thirds of respondents supported the right to ART for single men and women, and the same percentage did not support state protection of the embryo against the will of a woman (Galić, 2011).

Before 2012, Croatia used to have a very restrictive regulation of medically assisted reproduction: “In Croatia, the Medically Assisted Reproduction Act allows freezing of reproductive cells, but not embryo freezing; instead, all fertilised cells (no more than three) are transferred into the uterus” (Roksandić Vidlička et al, 2012: 46). The law was supported by the Catholic

<sup>12</sup> Ukraine or Macedonia also have a liberal legislation of assisted reproduction.

<sup>13</sup> An opposed, conservative position is found in the teachings of the Metropolitan Nikolaos, who is very close to the Catholic understanding of assisted reproduction. He does not support any kind of assisted reproduction, but recommends adoption as a solution for infertility: “Biological sterility may become the cause of rich spiritual fertility for the spouses, when they accept humbly God’s will in their life” (Metropolitan Nikolaos, 2008).

Church and it was prepared in consultations with the Church (Galić, 2011). Due to the very restrictive legislation, the couples struggling with infertility had to get abroad to get a proper treatment (Galić, 2011).

The Assisted Reproduction Act from 2012 is much more liberal, but it still has many elements of the conservative/Catholic position. It is obligatory to use two natural cycles without stimulation (out of six cycles funded by the State Health Fund). A controlled stimulation is allowed to create a maximum of 12 oocytes; all of them can be fertilized, and a maximum of two embryos transferred (Zakon o medicinski pomognutoj oplodnji, 2012). This means that mild stimulation is still preferred.

Immediately after the new law was enacted in 2012, the Croatian Democratic Union (HDZ in Croatian), started a campaign against it.<sup>14</sup> The law was compared to the “biggest tragedies in Croatian history” – the concentration camps from the WWII, Jasenovac and Bleiburg (Vuković, 2012). During the 2015 election campaign, the Croatian Democratic Union started once again a public ethical debate about embryo freezing. Being asked if he intended to support “more natural methods of family planning which respect human dignity”, a HDZ health board member said: “Yes, (I would support) natural cycle (IVF)”. The reason for his preference for natural cycle over stimulated IVF, was that, in his opinion, “one third of (frozen) embryos do not survive the unfreezing process, which is unethical since each of them is a new human life. (It is best) if a natural cycle is stimulated with a low dose of drugs, and two embryos are fertilized and transferred” (Kovačević Marišić, 2015).<sup>15</sup> Embryo cryopreservation was also targeted by the Catholic Church and the bishops strongly opposed to the 2012 law (Kovačević Marišić, 2015).

In a regular medical practice, the choice of IVF procedure depends on a woman’s hormonal status and other factors. In the above interpretation, it is presented as a one-size-fits-all approach. Using protocols for natural cycle and mild IVF has the aim to control the number of produced eggs (and consequently, embryos). The idea is that all embryos should be transferred in a fresh cycle to avoid embryo freezing. The main argument is that using cryopreservation does not provide equal conditions for all embryos. As one of the HDZ representatives said: “In order to have one child, ten of his siblings must be sacrificed” (Index, 2012). It is believed that a minimal stimulation (preference for natural cycle IVF) will produce an optimal number of embryos. The “optimum” implicitly refers to parental fertility preferences (the number of desired children), and the reasonable number of embryos that can be transferred to the uterus in the same IVF cycle.

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<sup>14</sup> The Croatian Democratic Union was the opposition party in 2012.

<sup>15</sup> Mild IVF is a procedure based on a low stimulation drugs compared to the standard IVF (for example, clomiphene citrate). In a (modified) natural cycle IVF, no drugs are used to stimulate ovaries to make more eggs; drugs are used to induce ovulation (Aanesen et al. 2010).

What does it mean in practice? A minimal stimulation is often used in order to stay within the limit of 12 oocytes, which is not effective for many women. Sometimes the production of small number of eggs and even smaller number of embryos results in low quality embryos and failed cycles. These women are forced to go through many IVF cycles, which paradoxically may have further implications of “life waste”. Evidently, relying on medical indications and protocols to produce “the best embryos” is in a collision with the theological principle of spontaneity and fatality of human reproduction (the “child as a gift from God” axiom emphasized by the Catholic church). Two principles, utilitarianism and the natural law ethics are completely opposed in the case of assisted reproduction.

Furthermore, the principle of “life preservation” which is based on avoiding cryopreservation of embryos is not supported by scientific evidence. Recent studies have shown that embryo freezing success rates are now very close to those in a fresh embryo transfer (Wong, Mastenbroek and Repping, 2014). If preserving life and providing equal chances for all embryos is the goal, then focusing on fresh embryo transfer is not necessarily the best and the only acceptable option. On the contrary, there is some evidence that frozen embryo transfer is even associated with better perinatal and obstetric outcomes (Maheshwari et al. 2012).

In spite of the lack of scientific evidence for their arguments, the opponents of ART techniques in Croatia still have a strong impact on normative and legislative regulation in this area. Resentful men and women struggling with infertility are fearful that the pendulum will swing back to even more strict regulations that prohibit embryo freezing (Forum Roda, 2016). Conservative politicians have been advocating for more prohibitive regulations of reproductive rights in their political agendas, including the right to assisted reproduction and abortion.<sup>16</sup> These ideas are supported by the Catholic Church which offers an alternative to medical procedures. The approach called NaProTechnology is supposed to be the “Catholic alternative to IVF”. The model focuses on obstacles that prevent fertilization (blocked Fallopian tubes, etc.) and avoids any methods that separates conjugal act and fertilization (Centar za skrb plodnosti, 2014).<sup>17</sup> Yet, some infertility

<sup>16</sup> During the nineties, there were several legislative proposals to introduce a restrictive regulation of abortion in Croatia. The conscience clause was introduced, allowing medical professionals to refuse to perform an abortion on moral grounds (Galić, 2011). In 2015, the protest was organized against the restrictions in exercising the reproductive right to abortion. The reason was a 24 year old request, submitted to the Supreme Court in 1991 to determine the unconstitutionality of the right to abortion. Right-wing political options and the Catholic conservatives re-initiated this request (Telegram, 2015).

<sup>17</sup> NaProTechnology and FertiltyCare are developed at the The Pope Paul VI Institute for the Study of Human Reproduction. They are based on the natural family planning methods.

issues are more complicated. In that case, the only solution is acceptance. Aničić has elaborated pragmatic implications of infertility, offering a practical advice to infertile couples. Married couples should be encouraged to strengthen their relationship through their difficult experience of infertility (or rather, in spite of it) (Aničić, 2007: 199). They can devote their life to other children, orphans, their cousins, etc.

We have mentioned some of the authors who have written about ARTs in Croatia from theological perspective (Kešina, Aničić). Their anti-ART position is based on the teachings of the Catholic Church. There are even more extreme positions in Croatia. Tonči Matulić, a bioethicist and theologian, holds a radical view, aiming his criticism at “libertarian eugenics” of ART:

Namely, if the practice of *laissez-faire* – libertarian – eugenics is guided in accordance with the assumed principle of the maximum freedom of the individual, that is, their desires and demands (...) what is the substantial difference between the desires and demands of Hitler to eradicate the hundreds of thousands of innocent human beings using eugenic methods, on the one hand, and the desires and the demands of any modern individual to practice eugenics, on the other (...) (Matulić as cited in Polšek, 2006: 181).

Matulić draws on the Catholic understanding of assisted reproduction as an epitome of narcissism, egoism and person-centeredness. However, his conclusions are much more extreme because he compares modern eugenics (including ARTs) with Nazi eugenics (Polšek, 2006).

### **The Serbian Orthodox Church and ART**

The Serbian legislation of ART is based on utilitarian ethics. For example, according to the previous Act on Assisted Reproduction, the goal of ART was “birth of a child” (Malešević, 2016). At the same time, the principle of integrity was clearly emphasized: “the protection of individuality of human beings and the embryo or fetus integrity” (Zakon o lečenju neplodnosti postupcima biomedicinski potpomognutog oplodjenja, 2009, Art. 5). Also, in the recently adopted legislation: “the protection of individuality and integrity of the embryo” (Zakon o biomedicinski potpomognutoj oplodnji, 2017, Art. 5). However, the secular concept of integrity applies primarily to the existing human beings. It does not have a theological meaning. Contrary to the strict Christian (especially Catholic) postulate that adults (intended parents) and unborn children have the same rights, the law gives priority to adults. A wish to have a child has priority over ethical consideration of procedures applied to that end (Malešević, 2016). Of course, there are strict regulations for ART procedures, and the law is not very liberal in many aspects (couples are privileged over singles, prohibition of surrogacy).

The 2017 act is similar to the previous law in two sections: surrogacy is prohibited and homologous and heterologous ARTs are allowed. The sections

about heterologous IVF were defined in 2012, but the necessary preconditions for heterologous procedures have not implemented yet (national bank of reproductive cells). There are new regulations for embryo donation, which is now legal. Also, the law permits importing and exporting of reproductive cells. The section about personal data and individual protection is elaborated. According to this regulation, donor’s identity is protected, but the child born with the assistance of donor cells has the right of access to limited information about the donor (medical information) at the age of 15, and it is allowed only for medical reasons.

The 2017 law continues to insist on the family context for assisted reproduction. The right to ART procedures is given to men and women being married or cohabiting (partners living together) (Zakon o lečenju neplodnosti postupcima biomedicinski potpomognutog oplodjenja, 2009, Art. 24; Zakon o biomedicinski potpomognutoj oplodnji, 2017, Art. 25).<sup>18</sup> The Croatian law is even more strict because embryo/cell transfer is allowed only if partnership (marriage or common-law marriage) is confirmed by valid personal documents (Zakon o medicinski pomognutoj oplodnji, 2012, Art. 11). Serbian and Croatian legislations allow embryo freezing (and reproductive cells as well), and also their destruction. In Serbia, conservation of cryopreserved cells and embryos is limited to five years (Zakon o lečenju neplodnosti postupcima biomedicinski potpomognutog oplodjenja, 2009, Art 58; Zakon o biomedicinski potpomognutoj oplodnji, 2017, Art. 51). The Croatian law has the same limit, but embryo owners can choose to pay for continued freezing after five years.

The Serbian Orthodox Church has a more liberal attitude towards assisted reproduction than the Catholic Church in Croatia. The position of many Serbian Orthodox theologians is based on *the natural law*, which is the same nature-related argument that has been used to delegitimize ART in the previously mentioned Catholics views: “If ART is the only solution to get offspring, then it is unacceptable to avoid this solution with a justification that it violates natural relationship between spouses, not only from the biological but also from the theological perspective” (Peno as cited in Maros, 2015: 56). From the Orthodox perspective, ART is rather seen as “enabling continuity of a disrupted natural energy flow” (Maros, 2015: 56). Another Orthodox priest, Petar Dabić, argues that bio-medically assisted reproduction (under certain conditions) is not against the principles of Christian ethics (Pravoslavlje, 2011).<sup>19</sup>

Zdravko Peno, an Orthodox theologian is very critical of the Catholic position that assisted methods of reproduction are detrimental to the marital

<sup>18</sup> The right to assisted reproduction is also given to single women, but under very limited conditions, which are not precisely defined by the law.

<sup>19</sup> There is one position which follows the hard-line Catholic position on assisted reproduction (Svetosavlje, 2011).



relationship because they bypass the natural act of procreation (Peno, 2017). Even though he believes that general criteria based on the Bible and the Church Fathers should be applied here, his position is more flexible. Peno argues that natural fertilization is preferred, but “if assisted reproduction is the only chance for a couple to have a child, denying them this possibility under the rationale that it will disturb the natural relationship between a husband and wife, would be completely unjustified, both from the biological and theological point of view” (Peno, 2017).

Another key point stands in stark contrast to the Catholic idealization of the natural act of procreation. Peno argues that it is not morally justified because human procreation is based on Original Sin which is inherent to all humans born by any method, natural or artificial (Peno, 2017). In other words, both assisted reproduction and natural reproduction are sinful acts in the Christian eschatology. Assisted reproduction mimics the natural laws and it not unethical in a way that the Catholic Church has argued in *Donum Vitae* and other ecclesial documents. According to Peno, the postulate of natural procreation as ethically superior is not grounded in the Christian doctrine, because “our physical birth is not the beginning nor the end of our existence; it should be transcended by spiritual birth, so that we can overcome the law of necessity and enter the field freedom” (Peno, 2017). From the Orthodox Christian perspective, being born in this world by any method is “agreeable to God”, because physical birth is a precondition that “the whole world becomes the Church or the Christ (...) God wants that people exist in eternity as His children” (Peno, 2017).

The critical remark about the Catholic idealization of the natural conception is supported by Dahl’s argument that Catholic ethics is based on the Natural Law Theory and not on the Divine Command Theory: “According to this theory, we are to respect the natural order created by God and to follow the Natural Law that the creator has placed in us. The Natural Law is (...) written and engraved in the soul of each and every man. It is immutable and eternal and it tells us what we ought to do in the sense that it identifies the goods toward which we are inclined by nature and which perfect us” (Dahl, 2010: 835). By extending his explanation of the Orthodox bioethics of ART to Christian eschatology, Peno has provided a strong argument to support the Orthodox doctrine on that matter. However, he insists on the family context and does not support single parenthood and heterologous IVF methods.

Both the Orthodox and the Catholic position emphasize the rights of the prospective human being. Since physical and spiritual development are present from the very beginning, any differentiation between pre-embryo and embryo stages is not acceptable. The optimal scenario is similar to the Croatian conservative position: up to three eggs should be fertilized and up to three embryos transferred to the uterus. The position on cryopreservation of embryos is more flexible compared to the Catholic (or conservative

Croatian) views. If parents decide to have their embryos frozen, they should be responsible. A frozen embryo is a potential life or delayed life, and all embryos should be given the same chance to exist/develop. Interestingly, Peno has mentioned also that embracing the postulate of life as the biggest value will contribute to overcoming the issue of low birth rate (Peno, 2017). A strong familism is confirmed as a strong cultural pattern in Serbia (Tomanović, Ignjatović, 2010). It is no surprise that assisted reproduction is often associated with pro-natalist policies in the public discourse, and it is therefore reflected in the above Orthodox position. The financial support to infertile couples is sometimes justified by the necessity to overcome Serbia's low birth rate and population aging, in spite of the fact that the number of births by ART methods has minimal effects on the long-term demographic trends (Mondo, 2017). Finally, as for the general public opinion on ART, there are no such debates as in Croatia about the violation of reproductive rights, even though some segments of the population are practically denied the right to assisted reproduction (gays, singles).

### Conclusion

In tracing the main points of the Christian positions on assisted reproduction in Europe, we have argued that theological doctrines of the predominant national/local Christian denominations are reflected in the prevailing social norms in this area. There is a clear difference between the Christian and secular (or mainstream) bioethics of ART. The former is based on theological principles of human dignity, proper methods of human procreation (conjugal act), and acceptance of God's will (accepting the child as a gift or childlessness as a given). The modern, medical and mostly secular bioethics of ART is based on utilitarianism. The aim is to deal with infertility in the most efficient way, respecting the preferences of patients about the number of embryos/children and applying state-of-the-art pre-natal diagnostic tools to produce healthy offspring. However, the two analysed Christian denominations show different levels of tolerance for the secular, utilitarian ethics. The Orthodox Church of Serbia and other national Orthodox Churches are more tolerant about the utilitarian inclinations of their flock. The Orthodox position is more compatible with utilitarian bioethics and secular legislation.

Modern Catholic positions prioritize the bio-spiritual model of human conception over any particular interest of husband and wife. The main axiom is that parenthood should not be a narcissistic endeavor, but a gift, and people should accept that gift (or lack thereof). Parenthood should not be forced but accepted, and the process should be guided by God's will instead of artificial methods. Unlike the Catholic Church, the Orthodox theology has more compassion for the “narcissistic” wish to have a child.

The Catholic position has moved beyond a traditional role of the family by giving priority to spirituality instead of procreation. The Orthodox



Church is much closer to the Old Testament position which focuses on a procreative role of marriage, rather than its spiritual side. Assisted reproduction has separated procreation (biological parenthood) from marriage (conjugal act) and the social and psychological dimensions of parenthood. Hence the Catholic claims that ARTs are detrimental to marriage. On the contrary, ART techniques are embraced by the Orthodox Church because they can resolve marriage problems caused by infertility. However, according to the Orthodox teachings, assisted reproduction should be limited to married couples, which prevents many other socially or biologically infertile men and women from using ARTs. Marriage and common-law marriage (cohabitation) are also privileged over single intended parents in both Serbian and Croatian legislations of ART.

What does it mean in practice for believers struggling with infertility in different religious contexts, like Serbia and Croatia? The Orthodox Christians have more options, because assisted reproduction is practically acceptable under certain conditions. On the contrary, the Catholic Church is offering two options: either using some alternative solutions instead of assisted reproduction (NaProTechnology, adoption, turning to children of their cousins) or accepting the state of childlessness as God's will. Even though Serbian and Croatian legislations are quite similar (now), the ongoing lobbying activities of a conservative-Catholic camp could have a strong influence on the regulation of reproductive rights.

Even in a secular context, religion plays a role in mundane issues. The religious cleavage remains relevant in secular societies (Todosijević et al. 2015). Spiritual dimension seems to be increasingly utilized for therapeutic or palliative purposes, especially when the mainstream medicine has proved to be ineffective (Sremac, Mijić, 2011; Ignjatović, Buturović, 2017). In spite of the great progress that has been made in reproductive medicine, infertility will always be untreatable condition for some people. After a long struggle with an uncertain outcome, religion may offer some answers:

Religious statements claim to be based on a higher authority than statements based on secular evidence. Remarkably, not only proponents of various faiths, but also their opponents grant religious leaders a kind of moral supremacy and tend to believe that theologians are somehow experts on ethical issues. Why is that? One answer is obvious, in that most people still consider religion and ethics to be inseparable. Even more than that, some people believe that religion is the very foundation of ethics, that without theology there can be no morality (Dahl, 2010: 834).

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### **Nove reproduktivne tehnologije i religija u Srbiji i Hrvatskoj**

**Apstrakt:** Rad istražuje katoličko i pravoslavno bioetičko shvatanje novih reproduktivnih tehnologija u Srbiji i Hrvatskoj. U radu se razmatraju različite pozicije teologa i teoretičara, zvanične pozicije crkava, politički programi i stavovi o reproduktivnim pravima u oblasti potpomognute oplodnje, stavovi o reproduktivnim tehnologijama u opštoj populaciji i populaciji zainteresovanoj za probleme neplodnosti. Analiza je pokazala da su pravna regulativa i društvene norme u domenu biomedicinski potpomognute oplodnje pod uticajem pozicija dominantnih religija u ove dve zemlje. Pravoslavna crkva je liberalnija prema primeni potpomognute oplodnje nego Katolička crkva. Ove razlike se vide u javnom diskursu i regulativi Srbije i Hrvatske.

**Ključne reči:** nove reproduktivne tehnologije, reproduktivna prava, religija, pravoslavlje, katoličanstvo.