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REPORT FROM THE CONFERENCE
“IUSTORIA 2022: LAW, HEALTH AND MEDICINE”
(MARCH 25–27TH, 2022)

The third annual meeting of students of legal history, organised by the University of Belgrade Faculty of Law, borrowed many aspects from the previous conferences. In three days (March 25–27, 2022), the participants presented and discussed various topics pertaining to the wider subject of “Law, health and medicine” – one that has doubtless been inspired by the current pandemic. That factor also influenced, among other things, the manner in which the conference was held, as participants and audience joined online, via the Webex meeting platform. This year’s Iustoria was divided into 9 sessions, 4 of which were in English and 5 in Serbian. Each day was opened with a keynote lecture from an esteemed scholar in that respective field.

The first day of the conference started with greetings and introductory remarks, given by Prof. Emeritus Dr Sima Avramović (professor of Comparative Legal Tradition at the University of Belgrade Faculty of Law) – who commended the enthusiasm of the organisers, assistant professor Nina Kršljanin in particular; Prof. Dr Milena Polojac (professor of Roman Law at the same institution and the Head of its Department of Legal History) – who reminded the audience about some important Roman *regulae* on health and medicine; and Prof. Dr Slobodan Savić (professor at the University of Belgrade Faculty of Medicine and Faculty of Law, and a permanent court expert for Forensic Medicine) – who underlined the significance of forensic medicine and medical testimony in legal history. All of

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the speakers noted the importance of such a format existing and bringing together students and scholars from various parts of the world.

The first keynote speaker, Prof. Dr Markham Geller (University College London, Department of Hebrew and Jewish Studies), gave a lecture titled “If P then Q: The Legal Paradigm at the Heart of Mesopotamian Science”, with numerous excerpts from the Law Code of Hammurabi detailing health issues, diseases and injuries in the legal light, showing that the same logical path was taken in scientific inquiries and in formulating legal norms. The afflicted (from different social classes), the healers (physicians and barbers alike) and the causes of injury take centre stage in the explanation of legal concepts (mostly connected to liability) and medical terms (treatments, instruments etc.). The discussion that developed after the lecture focused on the relations between court cases and law norms of Hammurabi’s code and the diagnostic tablets detailing symptoms, rather than the diseases that caused them.

The first session (in English) was dedicated to law and medicine in Ancient Greece and Rome and had two speakers. Ana Šumenković from the University of Belgrade Faculty of Philosophy, Department of Classics, whose paper was titled “Doctors and Trials – Physicians as Witnesses in Demosthenes’ ‘Contra Cononem’ and Cicero’s ‘Pro Rege Deiotaro’” – giving famous examples of court testimonies of doctors that validated the respective orators’ (clients’) claims, whilst showing the importance of medical expertise and expert witnesses in court proceedings dealing with injuries in the former and (potential) poisoning in the latter case.

Isidora Smolović from the University of Belgrade Faculty of Law gave a presentation titled “Euthanasia in Ancient Greece and its Correlation with the Hippocratic Oath Then and Now”. She first introduced the origins of the word and discussed different forms of euthanasia, continuing with cases mentioned in the works of Aeschylus, Sophocles and Euripides, as well as philosophers (Pythagoras, Plato, Aristotle, Seneca and others), which show the authors’ views on euthanasia. The final part of the presentation concerned the relation between the Hippocratic Oath and euthanasia, with arguments given both in favour and against the procedure. The discussion focused on the nature of Aristotle’s stance as well as the modern outlook on euthanasia.

The second session, the first to be held in Serbian, treated the subject of law and medicine in antiquity, and, likewise, had two students presenting, both from the University of Belgrade Faculty of Law. Isidora Fürst spoke of the legal regulations of healthcare services in Ancient Greece. She noted the different institutions (temples, medical schools and military hospitals), as well as individuals (state and private doctors) that provided

healthcare, explaining how they were organised. Lastly, the author reflected on legal aspects of ancient Greek medicine – public financed healthcare, the liability of doctors etc. She concludes that, although a universal healthcare system didn't exist, sources show that this topic was addressed adequately.

Stefan Antić presented the audience with his thoughts on doctors' ethics in antiquity, as well as its modern significance. Its roots, he states, can be found in Ancient Greece, and wars, plagues and cultural exchange played a large part in its formulation. Its first principle is "*primum non nocere*" – not harming the patient, which subsequently received further elaboration. The author then continued detailing principles of medical ethics, establishing ties between historical medical concepts and theoretical outlooks with the current pandemic of COVID-19.

The third session (the second one in Serbian) covered the topic of law and medicine in medieval Serbia and the Adriatic. All four presenters came from the University of Belgrade Faculty of Law. Đorđe Stepić opened this block with his notes on the legal status of 'hospitals' in Serbia under the Nemanjić dynasty. Firstly, he pointed out the difference between places of healing ('hospitals') and places of nurturing the poor, strangers and those suffering from incurable diseases, both of which formed around monasteries. He followed this up by talking about different sources detailing the inner-workings of 'hospitals' – such as documents stating the rights and status of the staff and patients or the property of hospitals, noting their different nature: legal (monastery *typika*, various charters of Serbian rulers), literary (archbishop Danilo, Camblak etc.), and archaeological.

Marko Romić talked about the status of the 'hospitals' according to the *typika* of Studenica and Hilandar, noting the importance of Saint Sava in imposing norms on 'hospitals' following the Rhomaian model – in particular the one formed in the Evergetida monastery in Constantinople. He traces the path from this *typikon* to the ones created for the Serbian monasteries of Hilandar and Studenica, taking into account the historical context. The status of hospitals is relatively the same – understandably, the Serbian *typika* upheld lower medical standards. The discussion that followed focused on the different standards of care in Serbian and Rhomaian monasteries.

Milica Petrović focused on health, law and medicine in medieval Serbia, by noting the existence of both religious and 'worldly' medicine and the different ideas they held about the causes of diseases and healing techniques. Various canons, she states, prohibited the work of witch doctors and the usage of their amulets in healing. She pointed out the importance of several medicinal treatises, such as the Hilandar medical codex, that contained descriptions of diseases and treatments, ending with short

notes on medieval physicians, apothecaries and hospitals. The participants discussed apothecaries and the relations between worldly and religious medicine.

Igor Muidža finished that day's proceedings with his presentation on the quarantine in the littoral republics of the Adriatic, starting with a short insight into the hygienic measures to combat diseases. He then talked of the emergence of quarantine as a sanitary measure and various isolation and repressive measures enforced in Dubrovnik to combat the plague. In conclusion, he noted that the plagues and the circumstances surrounding them influenced much more than the immediate health culture. The ensuing discussion revolved around the comparative relations between health measures.

The second day of the conference started with the keynote lecture of Dr Katherine Watson from Oxford Brookes University, Faculty of Humanities and Social Sciences, titled "The Medical Contribution to Crime Investigation: Historical Roots, Historiographical Challenges". The professor introduced some important scientific works detailing the relation between law and (forensic) medicine, before focusing on the historical roots of forensic medicine and its ties with legal history and history of medicine and the importance of case studies. Within these fields, she addressed the development of the history of crime, with its different areas of study. She also examined the stand-out phenomena that shaped the research of forensics: poisoning, infanticide (through the lens of the evolution of penal policies) and evidence of identity (with a historical recap of techniques used and in use). Dr Watson put all of these into a wider social and historical context, leading up to the emergence of the necessity to consult expert witnesses in the forensic field. The last segment of the lecture presented the recent historiographical challenges in the field, being discussed in detail by the lecturer and the audience, along with the potential use of forensic knowledge in crime prevention.

The first session of the day (the second in English), dealt with challenges and dilemmas of the Modern era. The first speaker, Sofija Lekić, from the University of Belgrade Faculty of Law, titled her contribution "The Legal Perception of Dissecting Corpses in Early Modern Britain: The Evolution from the Murder Act of 1751 to the Anatomy Act of 1832". She gave the historical background of the dissection of corpses in the UK, noting the importance of the Murder Act – serving the means of crime prevention and (inadvertently) furthering medical knowledge. However, because of the greater need for cadavers to be used for medical purposes, a black market soon appeared, giving rise to „crimes for anatomy". The Anatomy Act solved this crisis by allowing, in principle, all bodies to be dissected.

Jakub Babushka from the University of Warwick School of Law started his presentation, “The Human Body in Law – Between a Cadaver and Commodity”, by raising the question of “absolute property” over the body, giving numerous examples of the varying views on this issue from history and legal cases and practices (English, American and Australian): from not even being considered property to partially being understood as such.

Karianne J. E. Boer from the Vrije Universiteit Brussel Faculty of Law and Criminology talked about the historical and critical perspective on the polio vaccine mandate in Belgium. After a short overview of her presentation, she talked about the modern situation with polio. She then focused on the history of the emergence of the polio vaccine mandate in Belgium, with a Royal Decree from 1966. At first, vaccination was voluntary, during the 1958–62 and 1963–65 campaigns; however, under the influence of French scholars and health policies, it was decided that vaccination would become mandatory. Lastly, the speaker drew parallels between this case and the modern debate on vaccine mandates, concerning case law on the proportionality test.

Finally, Natalia Deptała and Justyna Michalak, both from the University of Warwick School of Law introduced an interesting question “Euthanasia – Supporting a Culture of Death?” Elaborating, they mentioned the influence of broad social, religious and cultural contexts on this issue. The ideas of „a peaceful death” and „the art of living” are inseparable from the acceptance of death in numerous examples given by the presenters. The second co-speaker focused on case law and legal sources on euthanasia, mostly from Great Britain. The topics touched upon in the discussion were: the moral and legal risks of commercialisation of human parts and the nature of healthcare as a collective/individual human right.

The second session (the third in English overall) revolved around health systems in the Modern age. It started with the presentation of Vojtěch Vrba, from the Faculty of Law of the University of West Bohemia in Pilsen, “Occupational Safety and Health of Zbrojovka Brno Workers during the Third Czechoslovak Republic”. He spoke about the company’s short history and the short-lived state itself, before tackling the general and special sources on workers’ health and safety rights – and the labour law itself. He analyses the provisions of these laws and regulations, such as paragraphs of the General civil code of 1811 (as per the novel of 1916) and factory rules, to conclude that a labour law did exist in the chosen frame of analysis. The discussion touched on the issues of employee insurance in Czechoslovakia.

The second contribution was that of Aleksei Kapustin, from the ANHEO University associated with IA EAEC, Faculty of Law, concerning the history of healthcare standardisation in Russia. He detailed different stag-

es of healthcare standardisation, focusing heavily on the modern period, after 1991, giving numerous examples of federal laws and their provisions that deal with this matter.

The third session of the day, the sixth overall (held in Serbian) treated law and medicine in modern Serbia and Yugoslavia. The first presenter, Dorđe Gojković from the University of Belgrade Faculty of Law, spoke on the legal fate of the hospital that was part of the endowment of King Peter the First. Broadly speaking of the entire Oplenac endowment of the Serbian king, the speaker later focused on the conception and founding of the hospital, and the legal sources behind it (the King's will of 1914, the building contract etc.), that determined its fate in the years before WWII – it was a medical institution revolving around the idea of universal healthcare, used (but not owned – as per the King's will) by the state. After WWII, the endowment lost its legal form and was confiscated in 1947, becoming state property. It continued its mission until 1962 when it became a community health centre. The legal fate of the hospital, the speaker concludes, remains unclear.

Vidan P. Bogdanović, from the University of Priština (with its temporary seat in Kosovska Mitrovica) Faculty of Philosophy, followed with his presentation on Belgrade's periodicals in the service of health from the end of the 19th and the beginning of the 20th century, starting with their names and noting the mixed approach (academic and popular) to reporting. Later on, in their development, there was even a perceivable ideological division – some papers published critical texts on the ailments of the working class. Summing up, the presenter states that the most frequent topics were above all concerned with public morals, and only then with health in general.

Dorđe Timotijević and Stevan Manojlović, both from the University of Belgrade (the former from the Faculty of Law, the latter from the Faculty of Medicine), talked about criminal legislature and medicine in the Kingdom of Yugoslavia. The first co-speaker mentions several key institutes of procedural law: court medicine, doctors as expert witnesses, security measures etc. His co-speaker noted the significance of facilities for the treatment of mental illnesses and the detention of unaccountable criminals, elaborating on groups of crimes against health, and expert opinions on court procedures. All these themes were analysed in the context of Yugoslav law and scientific literature.

Simo Ilić and Adela Lukač, the former from the University of Belgrade Faculty of Law, the latter from the High Health School of Professional Studies, approached the subject of abuse of psychiatry for political aims, with special reference to socialist Yugoslavia. The co-authors focused on the field of political crimes – counterrevolutionary behaviour,

enemy propaganda etc. Simo Ilić spoke about security measures taken against perpetrators of verbal offences. Giving several examples of the abusive measures that were prescribed by the court for such crimes, he detailed the problematic legal and medical practices involved, also noting the poor conditions in psychiatric institutions. In conclusion, the audience was faced with the grim reality of political opportunism that gave rise to the abovementioned policies of containment.

In the final presentation for the day, Maša Marković from the University of Belgrade Faculty of Law talked about medical error as a reason for legal liability in the Socialist Federative Republic of Yugoslavia. She examined in particular the stances taken by Yugoslav jurists on the matter, along with the relevant legal norms – such as the Constitution and the Law on healthcare. The scientific literature of the time concerned itself with various legal standards, such as doctors' diligence and negligence, the speaker notes, before dissecting the definition of medical error and its impact (or the lack thereof) and the future of this institute. The ensuing discussion treated several issues, such as the classification of murderers and the proving of medical error.

The third day started with the final keynote lecture of the conference, given by Prof. Dr Zoran Mirković, professor of Serbian legal history and Dean of the University of Belgrade Faculty of Law. In his lecture, titled "Safety Measures against the Plague and Other Infectious Diseases in Serbia During the First Half of the 19th Century", professor Mirković first mentions the sanitary measures of neighbouring states – the Ottoman and Habsburg Empires. Prince Miloš of Serbia took a page from the books of these more developed systems and ensured quarantines and heavy border guards were in place during the plague epidemics, the lecturer notes, and later details the organisation of medical and administrative staff of those institutions. The audience then learned of further sanitary, military and diplomatic measures taken to vanquish the plague in 1836 and 1837, which unfortunately spread through Serbia – with some notable cases being analysed. Lastly, we are given the legal sources from 1838 to 1841 that concern border meetings and sanitary measures, like the sanitary cordon, all modelled after Austrian regulations. The discussion focused on the plague in the Middle Ages and the Modern Era, some incidents concerning the border measures and the later fate of the Zemun quarantine.

The first session (and last to be held in English), concerning the history of assisted reproduction, was opened by Denisa Kotroušová from the Faculty of Law of the University of West Bohemia in Pilsen, who focused on this topic in the case of the Czech Republic. She introduced the concept of ART, its techniques and historic milestones worldwide, before turning towards legal sources that deal with ART in Czechoslovakia and

their provisions – the current definition of ART coming from an act from 2011. The next segment focused on the same issue in Slovakia, which stuck more closely to its earlier regulations. In conclusion, the author examines which Czech legal framework – former or current – is of greater quality, stating that some modern concepts are not better by default.

This was followed by a presentation on types of assisted reproductive technologies in the Republic of Belarus, given by Arina Alexandrovna Sasova from the Belarusian State Economic University Faculty of Law. The first and oldest are surrogacy, followed by in vitro fertilisation and artificial insemination. All of these were analysed in their first iteration worldwide, in Russia and Belarus. She then spoke of numerous other methods of ART available in Russia, such as dissection of the embryotic membrane, and sperm injection into the oocyte cytoplasm, among others. Concluding, the speaker underlines the need of including these methods in the current Belarusian law on ART.

The last piece of the puzzle was laid by Danica Karamarković from the University of Belgrade Faculty of Law and her topic “Legalisation of Surrogacy for Commercial Purposes – Legal Aspects”. She tied her piece to the previous two presentations, mentioning different types of surrogacy – traditional and gestational – and their history. The focus is then shifted to reasons for choosing surrogacy, whether altruistic or commercial, before looking at some cases and legal norms (American, Russian and others) that shaped the regulation of this matter – concerning the issues such as the nationality of the newborn and various ethical problems. The next part detailed the problem of commercial surrogacy and its legality worldwide. The participants discussed the financing of the AR procedures and commercial surrogacy.

The last two sessions were held in Serbian, with the first dealing with abortion in Serbian Law. Milica Sušić, from the University of Belgrade Faculty of Law, focused on the intentional termination of pregnancy in the Serbian legislature in the modern age. She began with a short general comparison of stances between the pro-life and pro-choice movements, before speaking of the legal acts that dealt with the issue at hand: the Yugoslav Criminal Codes of 1929 and 1951, Statutes on the termination of pregnancy from 1952 and 1960, etc. Each of these furthered the protection of the rights of pregnant women, liberalising reasons for terminating a pregnancy and simplifying the procedures. Lastly, the speaker analyses the norms of the current Serbian Law on terminating a pregnancy and connected subjects, like education and population decline.

Approaching the issue from a different angle, Anđela Ristić, from the University of Niš Faculty of Law, spoke on the incrimination of terminating a pregnancy in the history of Serbian legislature, from the Middle

Ages and into the Modern Era. The first instance of an allowed termination comes from Yugoslavia – thus, any termination before this time was illegal. The presenter then pays attention to the protected object (health, life, etc.), potential perpetrators (pregnant women or third persons) and different acts that could constitute these crimes. Different developments, she notes, influenced the penal policies formed through the ages. Quotes from the relevant legal acts are used to highlight these changes, including the criminal codes of Serbia/Yugoslavia (1860, 1929 and 1951) and various other sources detailing this matter. The results of her study show that the zone of criminality of this act is narrowed, attempting and helping are criminalised separately and punishments became less severe. The participants discussed the border of the legality of abortion and medieval stances on the issue.

The last session of the conference was broadly titled “Medicine, expert opinion, art” and was opened by a case study of Richard Dadd and his opus by Marija Ristić, from the University of Belgrade Faculty of Philosophy. The audience was introduced to a short history of Dadd’s life, before looking at his mental collapse following a trip to Egypt – developing schizophrenia and mania of persecution that influenced his criminal behaviour, confinement in a mental institution and changes in art style. His defence relied on the M’Naghten (McNaughton) rule, which dealt with the standard for an insanity plea. The next part of the lecture focused on the art painted during his trip to the Middle East and after his fall into madness.

Anđela Zarubica, from the University of Belgrade Faculty of Law, gave an ambitious look at the medical expert opinion of rape through history, beginning with Antonio Mola’s pioneering research in the 19th century, as well as the contributions of William Guy. However, the greatest advancement in investigations came with DNA analysis, so the speaker focused on the application of forensic evidence in the court of law and the early questions on its credibility. Most of the latter were dispelled by reports from the NRC in the 1990s, which the speaker summarises, while also giving examples of cases where this technology was used as a means of exculpation. The last segment was dedicated to pregnancy and various antiquated views on it in cases of rape, as well as the significance of psychological force being used.

The last presentation at this conference was that of Jovana Pavićević, from the University of Belgrade Faculty of Law, which tied to the penultimate one, talking about the role of medical expert opinion in criminal procedure. Starting by noting the influence an expert opinion can have on a court’s decision and the basics of criminal procedure, especially the rules on evidence, the presenter spoke about the status of expert witnesses

from Antiquity until the late 19th and 20th centuries, when this position became definitively regulated. The same historical approach is taken when detailing the role of expert witnesses, before focusing on Serbia, where the first regulations of the matter came in 1842, with expert witnesses soon becoming a staple of criminal procedure. The discussion revolved around the independence of expert witnesses and their expertise. The conference was appropriately closed by Asst. Prof. Dr Nina Kršljanin, on behalf of the organisers.

This conference brought together students of law, medicine, history and art, amongst other fields, from all corners of the world. In three days, the audience had a chance to see participants discussing wildly different subjects and shedding special light on some lesser-known recesses of all the fields mentioned. From Antiquity to the Contemporary Era, from the Middle East to Serbia via all the continents, the result leaves very few important stones unturned. This format of broad participation is bound to ensure the success of future Iustorias.

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