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Theoretical Foundations of Gen AI-Informed Teacher Pedagogy

*Mr. Samuel Clarke, Mr. Sam Lovatt, Ms. Ksenija Laskova, Ms. Huiwen Wang
& Ms. Laura Chisnall*

ABSTRACT

The integration of Generative Artificial Intelligence (GenAI) into educational pedagogy represents a transformative shift in the dynamics of teaching and learning. To guide this transition, this paper introduces the Ped-AI-gogy Informed Model (PIM), which combines established educational frameworks: the Technology Acceptance Model (TAM), the SAMR model and Technological Pedagogical Content Knowledge (TPACK), into a cohesive approach for GenAI integration. This model provides a progressive pathway for educators, moving from initial awareness to active advocacy, while addressing the complexities of technology adoption, pedagogical change and shifting educator-learner relationships.

In addition, this paper develops the theoretical foundation of “ped-AI-gogy”, a concept that fuses pedagogy with AI to reimagine teaching practices in an increasingly digital landscape. By situating this integration within a posthumanist perspective, the authors advocate for a collaborative, symbiotic relationship among educators, students and GenAI tools. Finally, the paper critiques traditional human-centred educational paradigms and calls for adaptive learning models that harness GenAI potential to enhance both teaching and learner agency.

Keywords: generative artificial intelligence (genai), pedagogy, integration, posthumanist.

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Theoretical Foundations of Gen AI-Informed Teacher Pedagogy

Mr. Samuel Clarke^a, Mr. Sam Lovatt^o, Ms. Ksenija Laskova^p, Ms. Huiwen Wang^{co}
& Ms. Laura Chisnall^z

ABSTRACT

The integration of Generative Artificial Intelligence (GenAI) into educational pedagogy represents a transformative shift in the dynamics of teaching and learning. To guide this transition, this paper introduces the Ped-AI-gogy Informed Model (PIM), which combines established educational frameworks: the Technology Acceptance Model (TAM), the SAMR model, and Technological Pedagogical Content Knowledge (TPACK), into a cohesive approach for GenAI integration. This model provides a progressive pathway for educators, moving from initial awareness to active advocacy, while addressing the complexities of technology adoption, pedagogical change, and shifting educator-learner relationships.

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Keywords: generative artificial intelligence (genai), pedagogy, integration, posthumanist.

I. AI IN EDUCATION: CONTEXTUAL BACKGROUND

Artificial Intelligence (AI) has been studied and applied for several decades, including within educational contexts (Holmes & Tuomi, 2022). Recent rapid progress in machine learning has

prompted a re-evaluation of traditional definitions of AI originally formulated in the 1950s (Antonenko and Abramowitz, 2023). Antonenko and Abramowitz (2023, p.64) define AI as a ‘process that includes how a system perceives data, analyses data, uses data, and improves its intelligence based on the data’. Within this broader field, Generative Artificial Intelligence (GenAI) is a subset of AI that has become popularised since the release of ChatGPT, a free, web-based GenAI tool, in 2022. Miao and Holmes (2023) define GenAI as a form of ‘artificial intelligence technology that automatically generates content in response to prompts written in natural-language conversational interfaces’. Given the expanding scope of AI applications, this paper focuses specifically on how GenAI technologies afford new possibilities for pedagogical practice and educational design.

Modern societies are currently experiencing what Lee (2018) terms the ‘age of AI implementation,’ in which [long-established AI techniques are now applied across diverse fields such as finance, healthcare, climate science, and education.] In education, there has been a concerted shift toward integrating technology to enhance learning outcomes and alleviate teacher workload. The impact of freely accessible GenAI tools on both learning and teaching processes is particularly significant (Felix & Webb, 2024). At the turn of the century, Prensky (2001) introduced the categories of ‘digital natives’ and ‘digital immigrants’ to describe differing levels of digital competency. [However, more recent scholarship has challenged this binary distinction, noting that even those who grow up surrounded by technology often lack fundamental digital literacy skills and require explicit instruction and support

to develop them] (Muller & Goldenberg, 2021). In a review of computing education, Ofsted (2022) [argues that the persistence of “digital native” thinking hinders the advancement of genuine digital competence. Despite these critiques, the terminology continues to circulate within popular media and educational discourse (Mertala et al., 2024). The [recent coining of the term “AI natives” (Parmenter, 2019; Eliot, 2022), derived from the digital native framework, risks reinforcing similar misconceptions and may hinder efforts to support educators and learners in effectively adopting GenAI technologies.

GenAI offers an opportunity to rethink the nature of knowledge and its role in the learning process. It has been argued GenAI is poised to become a driving force for the future, with significant implications for both education and learning (Rajakishore & Riya, 2023). The rapid advancement of GenAI not only promises to enhance educational outcomes but may also transform human cognition itself. With knowledge readily accessible and regenerated through GenAI tools, educators are encouraged to reconsider their pedagogy and classroom practices. This technology has the potential to redefine traditional educational roles, shifting the teacher-student dynamic toward a human-AI collaborative model, in which both teachers and students leverage GenAI to support and enrich learning.

The Department for Education (2023) highlights the potential of GenAI to positively influence both teacher workload and pedagogical practice. Their policy document suggests that, when applied ethically and strategically, GenAI tools can create opportunities to enhance teaching quality and learning outcomes. Kehoe (2023) outlines three distinct benefits of using GenAI: personalised learning, creativity enhancement and time efficiency. When effectively leveraged by educators, these affordances can strengthen classroom interactions and support more responsive teaching. To realise this potential, a conceptual shift is needed: from viewing GenAI merely as a functional tool, to recognising it as an extension of human cognition. This aligns with posthumanist thought, which posits that human

and technologies can exist in symbiotic relationships (Tegmark, 2018), enabling AI to augment teachers’ capabilities beyond administrative efficiency toward the co-creation of new forms of intelligence and pedagogy.

II. PURPOSE AND SCOPE

The only fence against the world is a thorough knowledge of it.

- John Locke (1693)

In November 2024, Neil Lawrence, the Inaugural Google DeepMind Professor of Machine Learning and author of *Atomic Human*, delivered a talk to a small group of founders at Downing College, University of Cambridge. In his talk, he drew a distinction between human and machine intelligence. Human brains possess remarkably efficient computational abilities but limited bandwidth; our capacity to communicate internal thought processes remains comparatively slow. Machines, by contrast, are far less efficient in cognitive processing but exhibit immense bandwidth, enabling near-instantaneous communication between systems. Machines exist in networks deeply interconnected with one another yet remain detached from the lived world, whereas humans are embedded in the world but experience a form of isolation from one another (Lawrence, 2024). While this observation offers valuable insight, it overlooks a critical dimension of human-machine interdependence. Machines are ingrained in the lives of the many, they are ingrained in our economy; they are not isolated from the world. Human subjectivity itself is increasingly co-constructed through human-machine interfaces, and we may or may not feel more authentic or real in cyberspaces as one has been seduced by technology into its generation (Zylinska & Zylinska, 2002).

As Generative Artificial Intelligence (GenAI) technologies continue to reconfigure human identity (and, by extension, multiple social, cultural, and professional domains) education remains at the forefront of this transformation. The contemporary moment, defined by the dual forces of generativism and individualism, necessitates that educators cultivate a careful

equilibrium between innovation, sustainability, and interdependence in pedagogical practice. Within this context, *Education 4.0* functions as a critical response to the exigencies of *Industry 4.0*, wherein human and machine learning are increasingly interwoven to produce new epistemic formations and expanded possibilities for knowledge creation (Laskova, 2021). Situated within a posthumanist framework, the paper advocates rethinking education to accommodate the possibilities of GenAI-driven adaptive learning. It also examines the implications of GenAI-mediated education, in which the boundaries between humans and machines blur, creating opportunities for symbiotic learning ecosystems. The central purpose of this paper is to examine the theoretical foundations that support the integration of GenAI tools into pedagogy, conceptualising this integration as *ped-AI-gogy*. The term reflects the convergence of pedagogy and AI, emphasising the transformative role GAI can play in creating innovative, adaptive, and inclusive educational environments. We put the *ped-AI-gogy* forward through the posthumanist lens, where GenAI is considered a modern, more complex incarnation of an ‘object’ in object-centred pedagogy theory.

The literature reviewed in this theoretical paper has been carefully selected to provide current definitions, key research insights, and conceptual grounding for the proposed *Ped-AI-gogy* Model. This model seeks to examine how Generative AI (GenAI) tools can be meaningfully integrated into existing pedagogical practices, offering a structured theoretical foundation for future application and study. In doing so, the paper extends beyond definition and synthesis to critically challenge traditional human-centred paradigms of teaching and learning. It encourages educators, policymakers, and researchers to re-evaluate established assumptions about the teacher-student relationship, envisioning an educational ecosystem in which educators function as facilitators and co-learners alongside AI systems. Finally, we propose the development of new pedagogical approaches that cultivate alternative knowledge systems and support non-anthropocentric ways of engaging with GenAI.

2.1 Rethinking Human-Centred Education and Pedagogies

Rethinking human-centred education and pedagogy necessitates a critical engagement with the problematic nature of the categories of the *human* and the *human-centred*, approached here through a Braidottian lens. In contemporary discourse, the very notion of what it means to be human has become an open and contested field and questions arise here whether there has ever existed a coherent or universally accepted understanding of the human (Braidotti, 2013), arguing that the term has always been entangled in dynamics of power, inclusion, and exclusion. As she observes, “it has never been a neutral or inclusive term,” underscoring the need to interrogate the historical and philosophical foundations upon which human-centred frameworks, educational or otherwise, are built (Braidotti, 2013). Humanism, a term first coined by the Bavarian reformer and educator Friedrich Immanuel Niethammer in 1808, refers to a human-or man-centred educational philosophy whose origins can be traced to classical Athens, ancient Rome, and later the Renaissance, traditions that placed the human subject at the centre of all intellectual and moral inquiry. According to humanist thinkers such as Socrates and later Dewey (2004), humanity represents the pinnacle of species being, and education serves as the process through which one becomes fully human, ‘*aided in the development of one’s innate talents and capacities*’ (p. 102). This conception of education foregrounds the realisation of human potential, envisioning learners as evolving toward a state of self-actualisation and ethical citizenship within a shared human community. Yet, while this ideal carries a certain moral nobility, it cannot be understood or realised in isolation from the broader material, social, and technological contexts in which human development unfolds. Generative Artificial Intelligence (GenAI), however, fundamentally challenges traditional humanist pedagogical models, which typically prioritise human-centred education and maintain clearly defined roles for teachers and students. In alignment with the concept of “*The New Hybrid*” (Pratschke, 2024), this paper reconceptualises pedagogy through a posthumanist lens,

positioning GenAI as a creative and collaborative participant within the educational process. By enabling adaptive, AI-driven learning, GenAI opens the possibility for posthuman pedagogical models that accommodate highly individualised and potentially non-human, forms of intelligence, ranging from AI-assisted learners to hybrid human-machine students, thereby expanding the conceptual boundaries of teaching and learning. By embracing GenAI-driven adaptive learning, educators can evolve beyond conventional methods to address diverse learning needs, including a) highly individualised learning, such as creating personalised pathways that cater to individual student needs and offer tailored instruction, assessment, and feedback (Hew et al., 2022); b) posthuman opportunities of enabling new forms of intelligence, such as GenAI learners or students augmented by GenAI tools. These possibilities align with a future where education accommodates both human and non-human intelligence (Knox, 2021; Mertala et al., 2024).

By interrogating and moving beyond traditional human-centred paradigms, we enter the discourse of posthumanism, prompting us to re-examine what it means to be human; as teachers, learners, and creators of knowledge. Through this lens, we can critically and imaginatively consider contemporary developments such as gene editing, cyborg embodiment, intelligent robotic educators, and GenAI without being constrained by anthropocentric notions of identity and capability. Within this framework, the human is understood as embedded, embodied and relational-inseparable from the technologies that shape and extend cognition. This situates us firmly in the age of implementation and augmentation, where educators must adopt flexible and adaptive pedagogical models that position GenAI as a co-educator rather than a passive tool. Ultimately, this perspective calls on educators, regardless of their technological expertise, to shift from viewing GenAI as an instrument of instruction to co-designing posthuman “ped-AI-gogies” that embrace collaboration between human and artificial intelligence.

2.2 Technological Mediation and Posthuman Experience in Education

As the integration of Generative AI (GenAI) in education progresses, scholars have increasingly distinguished between *GenAI-enhanced pedagogy* and *GenAI-mediated pedagogy* within pedagogical discourse. Careful attention to these distinctions is essential for clarifying the diverse roles GenAI may assume in educational contexts. *GenAI-enhanced pedagogy* refers to scenarios in which AI supports and augments human-led teaching practices, such as automating routine administrative tasks or providing supplementary learning resources. In contrast, *GenAI-mediated pedagogy* entails a more profound integration, wherein AI actively participates in the learning process and shapes pedagogical strategies, student engagement and educational outcomes. Recognising these distinctions is critical for enabling educators and researchers to adopt precise terminology that accurately reflects the depth and nature of GenAI’s integration into contemporary educational practice. Aligned with the posthumanist notion, we believe that GenAI tools do more than supplement existing pedagogical methods—they actively mediate the posthuman experience in education. This means that the posthumanist perspective encourages us to view these digital ‘tools’ not as mere extensions of human capabilities but as agentic entities that shape and redefine educational interactions. This section of the paper invites the reader to contemplate mediation through three critical lenses: 1) blurred boundaries, 2) facilitation over authority, and 3) symbiotic ecosystems.

Under the blurred boundaries lens, GenAI technologies erode the distinction between humans and machines, creating hybrid learning environments where both entities collaborate to co-create knowledge (Bayne, 2020). The concept of facilitation over authority positions teachers not as authoritative figures, but as guides who mediate interactions between students and GenAI tools. This shift challenges traditional hierarchies and promotes collaborative learning (Latour, 2020). Integrating GenAI into existing pedagogical frameworks, in addition, creates ecosystems in which humans and AI co-adapt,

fostering new teaching practices that emphasise responsiveness and personalisation within a symbiotic ecosystem (Holmes et al., 2022). This mediated relationship highlights GenAI's transformative potential in education, moving beyond mere automation toward active and participatory engagement.

2.3 The Importance of Understanding Teacher Perceptions

The extent of GenAI's active involvement in educational settings, pedagogical practices, and implementation will largely depend on teachers' perceptions and attitudes toward it. As gatekeepers of knowledge within formal education, teachers play a central role in shaping how educational innovations are adopted and enacted, regardless of underlying pedagogical frameworks (Oh & Ahn, 2024; Casal-Otero, et. al., 2023). Teachers occupy multiple roles within these settings, but as the primary agents of knowledge acquisition through direct interaction with students, they are pivotal in determining the degree to which GenAI becomes integrated into educational practices (Oh & Ahn, 2024; Casal-Otero, et. al., 2023). While this may appear straightforward in theory, the practical challenge of ensuring teachers attain sufficient 'GenAI literacy' to confidently incorporate these tools into their pedagogy is significant, particularly given the minimal, or often absent, training provided during initial teacher education (Sanusi, et. al., 2022).

It is therefore crucial to examine the barriers to GenAI adoption that may arise from the perspectives of existing qualified teachers (Cooper, 2023). By identifying and understanding teachers' attitudes and perceptions toward GenAI, researchers can better inform strategies to optimise its adoption and development within formal educational settings (Woodruff, et. al., 2023). While successful integration of GenAI will require coordinated engagement from all stakeholders involved in educational planning, development, and implementation (Littmann, et. al., 2021; Wolf, 2022; Ramirez & Yu, 2023), teachers will play a central and determining role in shaping the extent of its success (Matthews, et. al., 2022; Cooper, 2023).

Teachers' perceptions, adoption and implementation of GenAI are critical to its successful integration (Lee, et. al., 2021), however, the manner in which this occurs will vary depending on the age of the students they teach (Lim, 2015; Breakstone, et. al., 2018; Ali et al., 2021; Woodruff, et. al., 2023). In primary and secondary education, where self-directed learning and the integration of assistive technologies are already promoted, GenAI's adoption may face relatively little resistance (Breakstone, et. al., 2018). This potential has been further supported by the shift toward asynchronous e-learning during the COVID-19 pandemic, as most students now possess a level of technological literacy conducive to GenAI integration (Breakstone, et. al., 2018; Ali, et. al., 2021). However, this perspective presents a simplistic view of the teacher's role, overlooking the multimodal capacities required of educators—who are expected to function as instructors, guides, psychologists, community liaisons, administrators and more (Oh & Ahn, 2024; Bidwell, 2013)—as well as the diverse factors that may shape their perceptions of GenAI.

In early childhood settings, learning remains largely structured around child-initiated, play-centred pedagogy, with a strong emphasis on physical and social interactions rather than technology-based materials (Vygotsky, 1978). Consequently, teachers in these contexts are likely to perceive GenAI as beneficial, and thus worthy of integration into their pedagogy, only if it aligns with constructivist principles (Miettinen, 2006; Kress, 2010; Lim, 2015). This perspective highlights that teacher perceptions are not universal, and careful investigation is necessary for researchers to identify potential barriers to GenAI adoption and to realize its theoretical learning benefits (Woodruff, et. al., 2023).

Despite the anticipated impact of GenAI on education and its purported theoretical benefits, the extent to which these advantages are realised is contingent upon teachers' perceptions and their intentional integration of the technology into pedagogical practice. While GenAI possesses significant potential, its implementation in learning environments remains fundamentally mediated by the human factor (Mercader &

Gairín, 2020); technological deployment alone does not inherently ensure enhanced educational quality. Existing scholarship has predominantly addressed either the use of GenAI in classroom contexts (Kim & Kim, 2022) or the professional roles of educators (Felix, 2020; Woodruff, et. al., 2023), yet there remains a notable gap concerning the interplay between teacher perception and the overall efficacy of GenAI in education. In this regard, further examination of the human–GenAI collaborative model, as conceptualized by Timms (2016) within the domain of Artificial Intelligence in Education (AIED), is warranted. A nuanced understanding of teachers’ perceptions of GenAI may prove decisive in determining whether the technology constitutes a transient trend or a sustainable component of contemporary educational practice.

2.4 Fear of Technology

The uncertainty surrounding the potential longevity of GenAI is grounded in the observation that teachers, along with other stakeholders, often exhibit an inherent apprehension toward technological change (Urlaub & Dessein, 2022; Zimotti, et. al., 2024). This apprehension reflects a broader, instinctive human response to novel phenomena, which are frequently perceived as threats to established ways of operating or existing (Urlaub & Dessein, 2022). Within the educational context, such fear of emerging technologies is rooted in the recognition that latest innovations necessitate adaptations to established pedagogical practices, an undertaking that can appear daunting or overwhelming (Zimotti, et. al., 2024). Consequently, educators may question both the necessity and the effectiveness of implementing such changes.

To overcome this fear, individuals move through a process known as ‘*technological normalisation*’ (Bax, 2003:23) where they move from a state of apprehension, to acceptance, to hardly noticing the technology is present and it becomes just another aspect of what the individual perceives as their ‘*everyday life*’ (Bax, 2003:23). Such a process is not simple, and an individual may go through various stages of early adoption, followed by scepticism and disillusionment. This in turn

may lead to follow-up attempts of adopting a new technology which will be accompanied simultaneously by feelings of anxiety, awe, fear, until eventually the new technology becomes integrated (Zimotti, et. al., 2024). In the realm of teacher pedagogy, the notion of proper integration occurs when any given material—such as a textbook, pen, interactive whiteboard (Cutrim Schmid, 2008), remote/distance learning (O’Dowd, 2007) or even GenAI—has become seamlessly employed within a teacher’s numerous pedagogical approaches to content delivery and everyday language (Bax, 2011).

Within contemporary education, there remains a pervasive concern that GenAI, which is still largely in its conceptual phase, may exert potentially adverse effects on the learning experiences of young people (Gentner, et. al., 2001; Grindle et al., 2013; Niemi, 2021). This highlights that many educators are engaged in the process of normalizing this emerging technological innovation, a process that involves developing a comprehensive understanding of the technology, exploring how it can support pedagogical practice and determining ways in which it can function effectively alongside educators (Levy & Stockwell, 2006). Successful normalization is anticipated to yield positive educational outcomes (Bax, 2003; Cutrim Schmid, 2008; Bax, 2011). This perspective, however, has been contested (Hubbard & Levy, 2006), as the process of technological normalisation may, in certain contexts, produce unintended negative consequences. There also remains insufficient empirical evidence to definitively ascertain whether the integration of GenAI into teaching practice will ultimately result in beneficial or detrimental outcomes.

III. POSTHUMANISM AND TECHNOLOGY ACCEPTANCE

Technology is not neutral. We’re inside of what we make and it’s inside of us. We’re living in a world of connections - and it matters which ones get made and unmade.

Donna Haraway (1997)

3.1 Posthumanist Philosophy in Education

Advancing existing theoretical frameworks for GenAI in teaching pedagogies from a posthumanist perspective necessitates a rigorous understanding of critical philosophical posthumanism and its applicability within the scope of this theoretical analysis. Posthumanism provides educators with a conceptual lens to reconsider traditional humanist paradigms by challenging the notion of ‘Man’ as the ultimate measure of all and by questioning anthropocentric assumptions. It emphasizes the interdependence of humans, nonhumans (e.g., plants and animals), and technology, while reconceptualizing the roles of both human and nonhuman actors within systems of knowledge creation and dissemination. In educational contexts, this perspective encourages a reimagining of how learners interact with their environments, drawing attention to the influence of ecological factors and technological developments on shaping human understanding and agency (Ferrando, 2013).

Particularly relevant to this study is a specific subset of technological posthumanism, which examines how emerging technologies, such as GenAI, redefine human identity and potential while acknowledging the agency of both human and nonhuman actors, including the technology itself. By challenging human exceptionalism, this paradigm provides educators with an analytical lens to explore how technology can augment learning capacities and transform pedagogical practices, encouraging practitioners to move beyond perceiving technology as a passive instrument toward recognising its active role in shaping educational outcomes (Bayne, 2020). It also raises critical ethical and philosophical questions regarding the integration of such technologies in teaching and learning, prompting educators to consider how these innovations may redefine the roles and responsibilities of both teachers and learners (Braidotti, 2013).

According to Knox, posthumanist philosophy redefines the human-machine relationship as a collaborative partnership. It blurs the boundaries between humans and technology, proposing that both entities can co-create knowledge and

transform learning environments. This approach underscores the symbiotic interactions between teachers, students, and GenAI, emphasising the transformative potential of GenAI to augment human cognition and encourage new pedagogical practices (Knox, 2021). By decentring the human subject, this onto-epistemic stance encourages educators to explore collaborative, interdisciplinary approaches that reflect the complexities of modern learning ecosystems.

3.2 Object-Centred Pedagogy Under the Posthumanist Perspective

Selwyn suggests that while in most formal modes of education, “the teacher” holds a professional and prestigious role, the relationship between teachers and technology remains a “contentious area of education discussion and debate” (Selwyn, 2020:100). This complexity can be further understood through the lens of Heidegger's influential thoughts on human and nonhuman agency, which raise questions about whether we use tools for our own purposes or whether they, in turn, shape our actions (Wegerif & Major, 2023: 93). In this context, the integration of GenAI into educational practices introduces concerns about its potential negative impacts. The emerging framework of object-centred pedagogy (Prown, 1982; Peirce, 1991; Ryan, 2009) offers a promising lens through which to examine the dynamic relationships between technology, educators and learners (Barton & Willcocks, 2017), with the potential to transform the educational landscape. This approach emphasises the interplay between human and nonhuman actors within learning environments (Engeström, 1999; Parton et al., 2017), resonating closely with posthumanist theories that challenge traditional hierarchies and advocate for a more inclusive understanding of agency in educational contexts (Beck, 2013). By investigating how object-centred pedagogy reconceptualises the roles of students, teachers, and artificial intelligence (AI), this framework facilitates the creation of dynamic interactions that reshape the learning experience, while also accommodating critical perspectives and opposing viewpoints to offer a comprehensive understanding of this pedagogical shift.

3.3 AI as an Evolving Actor

At the heart of object-centred pedagogy lies the recognition of AI as an evolving actor within the educational process. Traditionally viewed as static tools, AI technologies-such as adaptive learning systems and intelligent tutoring systems-are now understood as co-participants in learning (Zhang & Aslan, 2021; Barnes & Hutson, 2024). This shift in perception encourages educators to reflect on the implications of AI's influence on learning outcomes, learner engagement, and instructional strategies (Abdelghani, et. al., 2023; Xu, 2024).

AI's role extends beyond the mere facilitation of knowledge transfer. For example, adaptive learning systems can analyse students' interactions and performance in real time, enabling personalised learning pathways that address individual needs (Almusaed et al., 2023; Dumirtu, 2024). This capability not only enhances learner engagement but also fosters a more profound understanding of the subject matter. In interacting with AI, students are not simply passive recipients of knowledge; instead, they become active participants in a collaborative learning process, with AI adapting continuously to their evolving needs (Tynjälä, 1999; White, 2020). All of which underscores the significance of adaptive learning environments in promoting more profound learning experiences (Billingsley, et. al., 2018), and such systems can contribute to improved academic performance.

However, this view is not without criticism. Some scholars argue that relying heavily on AI could lead to a devalue of human interaction in learning. Critics such as Selwyn (2021) suggest that over-dependence on technology may undermine the development of critical thinking and interpersonal skills, as students may become overly reliant on AI for answers and guidance. This concern raises important questions about the balance between technological integration and the maintenance of essential human elements in education. Although AI can enhance learning experiences, it is essential to ensure that it supports rather than replaces human interaction, thereby preserving the social aspects of learning (Poçan, et. al., 2023).

3.4 Fluid and Decentralised Learning Ecosystems

The integration of AI within educational settings promotes fluid and decentralised learning ecosystems, where knowledge production and dissemination become collaborative and multifaceted. By facilitating real-time interaction, personalised feedback, and access to diverse perspectives, AI supports a more dynamic and participatory learning environment. Such an environment contrasts sharply with traditional models that often position the teacher as the primary source of knowledge. In a posthumanist framework, the classroom transforms into a dynamic space where students, educators, and AI collectively contribute to knowledge construction (Young, 2008; Aydin and Karaarslan, 2023).

For example, in classrooms that utilise project-based learning and experiential activities, students engage with both physical and digital objects, allowing them to connect theoretical concepts to real-world applications (Trahan et al., 2020; Ambarwati, 2021). Researchers from University College London (UCL) observed that children participating in experiential learning experiences demonstrated enhanced retention of ideas and made meaningful connections to their perceptions of the world (Ranken, et. al., 2024). These findings suggest that hands-on, immersive experiences can deepen understanding and make learning more relevant and engaging for young learners. Such research highlights the potential of object-centred pedagogy to create learning environments that are not only engaging but also deeply relevant to students' lives and experiential learning can serve as a form of public pedagogy that resonates with learners' lived experiences (Bengtsson & Van Poeck, 2021).

In these decentralised ecosystems, knowledge is not merely transmitted from teacher to student; instead, it emerges through collaboration and interaction among all participants. Students draw from their unique experiences, insights, and perspectives, while AI systems provide data-driven insights that inform the learning process (Bax, 2011; Urlaub & Dessein, 2022). This shared agency cultivates a sense of ownership and empowerment among learners, as they actively contribute to their educational journeys.

Yet, while the potential benefits of decentralised learning ecosystems are numerous, there are challenges that must be addressed. One major issue is the digital divide that persists in many educational contexts. Not all students have equal access to technology, which can create disparities in learning opportunities. Additionally, the reliance on digital platforms raises concerns about data privacy and the ethical implications of using student data to inform AI systems (Cohen, et. al., 2007). These challenges underscore the need for thoughtful implementation of object-centred pedagogy that considers equity and inclusivity in the educational landscape.

3.5 Teacher-Student-AI Interactions

The interactions among teachers, students and AI objects are central to understanding the evolution of educational relationships in a posthumanist context. These interactions are not static; they evolve over time, influenced by the changing dynamics of the classroom environment (Wilson & Rutherford, 1989). As AI technologies become more integrated into teaching practices, the roles of educators and learners are reshaped, fostering new forms of collaboration (Venkatesh, et. al., 2007; Allen, et. al., 2017). Educators increasingly act as facilitators and co-creators of knowledge rather than sole providers, while learners engage more actively in personalised, self-directed, and collaborative learning experiences. Such a transformation possesses the potential for the development of critical thinking, problem-solving skills and adaptive expertise, as both teachers and students navigate an evolving, technology-mediated educational landscape.

Teachers are no longer the sole gatekeepers of knowledge; they become facilitators who guide students in their exploration of content (Williams, 2018; Alvesson & Skoldberg, 2018). This shift allows for a more personalised approach to learning, as AI can provide real-time feedback and insights into student performance. For instance, intelligent tutoring systems can assess a student's understanding of a topic and offer targeted resources to address knowledge gaps (Wolf, 2022; Alharbi, 2023). This supportive role of AI enables teachers to focus on fostering critical thinking and

creativity rather than simply delivering content (Wood, et. al., 2019).

The nature of teacher-student interactions is therefore transformed as AI becomes a part of the learning ecosystem. Students can engage with AI systems in ways that encourage curiosity and exploration. For example, a student might ask an AI-powered educational tool a question that sparks further investigation, leading to a deeper understanding of the subject matter (Venkatesh & Davis, 1996; Araújo & Casais, 2020). By providing immediate feedback and diverse perspectives, AI supports both independent inquiry and collaborative discussion, enhancing the overall learning process. This collaborative dynamic reinforces the idea that learning is a shared endeavour, where all actors (human and non-human) contribute to the educational experience.

However, this evolving relationship does not come without its challenges. The effectiveness of AI in education relies heavily on the teachers' ability to integrate these technologies thoughtfully into their pedagogical practices. Critics argue that without adequate training and support, teachers may struggle to adapt to these new roles, potentially resulting in frustration and ineffective use of AI tools (Ertmer & Ottenbreit-Leftwich, 2010). Furthermore, concerns about the potential dehumanisation of education arise when AI systems take on more prominent roles in the learning process. Scholars like Postman (1993) warn that over-reliance on technology can lead to a disconnection from the human aspects of teaching and learning, emphasising the importance of maintaining the emotional and relational components of education. To address this, it is crucial to integrate AI in ways that complement, rather than replace, human interaction, ensuring that empathy, mentorship and social engagement remain central to the educational experience.

3.6 The Role of Physical and Digital Objects

Object-centred pedagogy also highlights the importance of both physical and digital objects in the learning process. In this framework, objects are not mere tools but active participants in

knowledge construction (Barton & Willcocks, 2017; Parton, et. al., 2017). The interplay between tangible materials and digital technologies creates rich learning opportunities (Parton et al., 2017) that engage students on multiple levels. For instance, in STEM education, students can manipulate physical objects (like building blocks or scientific instruments) while using technology to deepen their understanding of complex concepts (Sydon & Phuntsho, 2022). This combination of hands-on and digital experiences allows learners to experiment, visualise abstract ideas and make connections between theory and practice, fostering deeper comprehension and long-term retention.

This dual engagement encourages a holistic learning experience where students can visualise abstract ideas (Arnheim, 1969; Yenawine, 1999; Houson, 2002) and apply theoretical knowledge to real-world situations. Such an approach aligns with constructivist theories of learning, which advocate for hands-on interaction with materials to promote deeper understanding (Piaget, 1976; Vygotsky, 1978; Engeström, 1999). In environments that leverage both physical and digital tools, students are encouraged to experiment, iterate and collaborate, fostering creativity and innovation.

Nevertheless, the integration of physical and digital objects raises questions regarding the balance of experiences students engage with. Some educators argue that an overemphasis on digital tools might detract from the benefits of hands-on, experiential learning (Kirkwood & Price, 2014). Additionally, the potential for distraction in digital environments poses a risk to focused learning. For instance, as with any object that has multiple meanings (Hooper-Greenhill, 2002), when a student interacts with an educational app, they may be tempted to engage with unrelated content, leading to fragmented attention and reduced retention of knowledge. Therefore, it is critical for educators to thoughtfully curate learning experiences that leverage both physical and digital objects to ensure a balanced approach that maximises engagement and understanding. By incorporating clear objectives, interactive prompts, and

reflective tasks, educators can channel students' curiosity productively, transforming potential distractions into opportunities for deeper engagement and meaningful learning.

3.7 Mapping Technology Acceptance Through Models

Taking all these factors into consideration, it is pertinent to understand this new form of thinking around the acceptance and greater incorporation of GenAI technologies into existing teacher pedagogy through technology acceptance models. Specifically, the Technology Acceptance Model (TAM), SAMR (Substitution, Augmentation, Modification, Redefinition) and TPACK (Technological Pedagogical Content Knowledge) framework.

IV. TAM AND SAMR

The TAM and the SAMR model represent two distinct approaches to understanding and integrating technology in educational contexts. TAM, developed to explain how users come to accept and use technology, is predicated on the perceptions of technology's usefulness and ease of use. It emphasises extrinsic motivators, such as the practical benefits technology provides to its users (Bulut, et. al., 2020). It explains a little about technology itself, but a lot about what people believe or how they perceive technology. In other words, the usefulness or ease of use of a technology is determined not by the technology itself, but by people's perceptions of it. These perceptions can vary based on factors such as prior experience with technology, age or gender. Its simplicity and emphasis on user perceptions have made this framework widely adopted for studying technology adoption.

However, critics argue that TAM's focus is too narrow, overlooking the complex, multifaceted nature of technology adoption, which involves cognitive, social, and behavioural dimensions (Al-Adwan et al., 2023). For instance, when introducing a new AI platform, despite the platform being user-friendly and functional, adoption rates were unexpectedly low. This discrepancy revealed TAM's limitations, as it

failed to account for faculty reluctance to shift away from traditional teaching methods and the lack of organisational support for the technological transition. In previous research regarding this critique of the mode, many faculty members in a HE institution expressed concerns about the time required to learn the new system and the absence of training sessions or technical support provided by the university (Dorfsman & Horenczyk, 2022).

Both models offer valuable insights, yet have their limitations. TAM's adaptability and focus on user perceptions are essential for understanding the factors that drive technology adoption. However, it may benefit from incorporating a more comprehensive view of how technology impacts learning. SAMR's strength lies in its potential to enhance educational practices through technology, though it could be enriched by considering the factors that influence technology acceptance and use among educators and learners. Together, these models highlight the complex relationship between technology, pedagogy and the user, underscoring the need for a holistic approach to technology integration in education. By combining the strengths of both frameworks, educators and researchers can gain a more nuanced understanding of how technology can effectively support teaching and learning. This integrated perspective can guide the design, implementation and evaluation of educational technologies to maximise both engagement and learning outcomes.

4.1 SAMR Model and Perceived Usefulness (PU)

This section explores how the SAMR (Substitution, Augmentation, Modification, Redefinition) model underpins teachers' acceptance of GenAI, highlighting its value in enhancing modern pedagogy. The SAMR model offers a framework for evaluating the depth of AI integration into teaching and learning processes. Developed by Puentedura (2006), it categorises technology use into four levels: Substitution, Augmentation, Modification, and Redefinition. This model not only assesses how AI is used but also aims to transform and enhance learning experiences.

At the Substitution level, AI tools serve as direct replacements for traditional methods, performing tasks without altering their fundamental nature. For example, students using ChatGPT to retrieve and cross-verify information replicate the process of consulting textbooks or static web searches. The AI does not change the underlying goal of gathering accurate information; rather, it streamlines the process by providing faster access, more organised responses, and the ability to quickly cross-reference multiple sources. Although the core objectives of the task remain unchanged, AI enhances both the efficiency and accessibility of these processes, reducing the cognitive and time burden on learners. This stage represents a crucial foundational step in AI integration, establishing familiarity with technology-mediated workflows and paving the way for more transformative applications at higher levels of adoption.

Moving to Augmentation, AI introduces functional improvements that elevate the quality and depth of learning activities. For instance, a teacher might use generative AI to produce a news article on climate change that deliberately incorporates key vocabulary such as *reduce*, *mitigate* and *adapt*. This material can then serve as the foundation for reading comprehension exercises, seamlessly linking vocabulary development to meaningful, real-world issues. Beyond language instruction, teachers can leverage AI to generate debate prompts, scaffold complex tasks or provide structured guidance for simulations like Model UN, thereby enhancing both engagement and the authenticity of the learning experience. By augmenting traditional methods rather than replacing them, AI empowers educators to create richer, more targeted and personalised learning opportunities that actively support student understanding and critical thinking.

The Modification level represents a significant shift in pedagogy, as AI facilitates the redesign of traditional activities. For instance, teachers can input lesson objectives into AI tools to generate differentiated questions tailored to students' proficiency levels, transforming lesson planning into a personalised, dynamic process. AI also

enables collaborative analysis by organising complex data, such as regional climate change impacts, for students to compare. It prompts critical thinking by encouraging them to assess data accuracy and biases and promotes synthesis as they combine AI insights with their own understanding to conclude which transforms learning into a deeper, more innovative process.

At the highest level, Redefinition, AI allows for entirely new learning experiences that were previously unimaginable. For example, a teacher might utilise ChatGPT to role-play historical figures, such as Abraham Lincoln, enabling students to engage in immersive, interactive Q&A sessions. Alternatively, students could design multimedia projects using AI-generated content tailored to their individual preferences and learning styles, creating personalised, adaptive assessments. These applications illustrate the transformative potential of AI, redefining traditional pedagogical boundaries and fostering dynamic, learner-centred environments.

4.2 Perceived Usefulness (PU) in AI Adoption

Perceived Usefulness (PU), a core concept from the Technology Acceptance Model (TAM), refers to the extent to which individuals believe that a technology enhances their efficiency and performance (Al-Adwan et al., 2023). In educational contexts, PU is a critical determinant of whether teachers integrate AI tools into their practices. When educators perceive clear, measurable benefits—such as saving time, improving instructional quality, or enhancing student outcomes—they are more inclined to adopt AI as an integral component of their teaching strategies. The subsequent section explores the dimensions of PU in education, illustrating its significance with practical applications of AI technologies.

4.3 Dimensions of Perceived Usefulness in AI Integration

One of the most immediate and impactful dimensions of PU is efficiency and time-saving. AI tools excel at automating repetitive tasks, allowing teachers to redirect their efforts toward more

strategic instructional activities. For example, GenAI can quickly produce lesson plans, quizzes, or learning resources based on specific inputs. A teacher planning a lesson on environmental science, for instance, might input objectives into an AI system to generate customised teaching materials, such as reading passages or group activity prompts. Similarly, tools like Gradescope automate grading for multiple-choice and even essay-based assessments, providing detailed analytics that save teachers substantial time while offering insights into student performance.

Another critical dimension is AI's capacity for personalised learning pathways. By analysing individual learner data, AI tools adapt educational content to meet diverse needs and preferences. For instance, adaptive platforms like DreamBox or Duolingo assess a student's strengths and weaknesses in real-time, delivering targeted exercises to reinforce specific skills. In a classroom, a teacher might use AI to provide differentiated comprehension tasks for students with varying proficiency levels, ensuring equitable access to meaningful learning experiences. Such applications highlight AI's utility in creating tailored learning opportunities that are responsive to individual progress.

A third dimension is the enhancement of learning outcomes through AI-driven support for complex cognitive tasks. For example, AI can facilitate inquiry-based learning by guiding students in formulating research questions or simulating real-world scenarios. A history teacher might leverage AI to help students explore counterfactual historical events, such as "What if the American Civil War had ended differently?" This encourages critical thinking by allowing students to analyse alternative outcomes. By providing immediate feedback and adaptive prompts, AI helps students navigate challenging problems more independently while maintaining academic rigor. Similarly, AI tools that scaffold creative projects, such as generating multimedia content or refining argumentative essays, promote higher-order skills like synthesis and evaluation.

4.4 Challenges and Critiques of SAMR

Despite its structured approach, the SAMR model has faced criticism for potentially overemphasising technology use without adequately addressing pedagogical and content considerations (Ertmer et al., 2015). Deeper AI integration does not inherently lead to higher-order thinking skills, as the effectiveness of these tools depends on their alignment with well-defined learning objectives and the educator's motivation for change (Carrington, 2016). Furthermore, SAMR's hierarchical structure may oversimplify the complexities of integrating AI into diverse educational contexts, leading to inconsistent applications.

V. TPACK FRAMEWORK

The Technological Pedagogical Content Knowledge (TPACK) framework, developed by

Mishra and Koehler (2006), highlights the interplay between Content Knowledge (CK), Pedagogical Knowledge (PK), and Technological Knowledge (TK) in fostering effective teaching practices (Figure 1). Unlike models such as SAMR, which focus on the stages of technology integration, TPACK emphasises a holistic approach where these three domains dynamically interact to create meaningful educational experiences (Harmer & Smith, 2021). This interaction underscores that effective teaching with technology depends not merely on using digital tools, but on integrating them in ways that align with both subject matter and pedagogy. In the context of emerging technologies like GenAI, the TPACK framework requires a reimagination to address the challenges and opportunities posed by such tools (Mishra, , et. al., 2023).

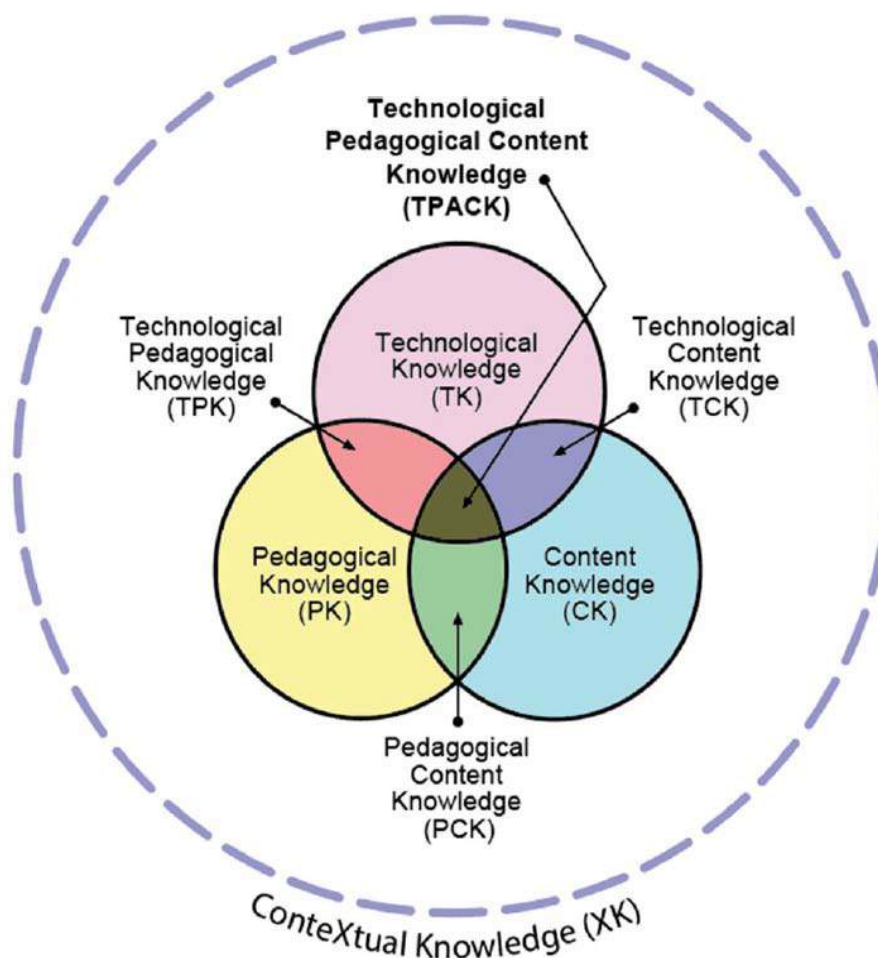


Figure 1: TPACK Model (Mishra, et. al.,2023, p.241)

However, the TPACK framework has long been critiqued for the difficulty teachers face in balancing its knowledge domains (Archambault & Barnett, 2010). Integrating new technologies into subject-specific pedagogy often requires significant professional development and reflective practice. The complexity increases with tools like GenAI, which demand a deeper understanding of both the technology's capabilities and its implications for teaching and learning (Ning et al., 2024).

5.1 Technological Pedagogical Knowledge (TPK)

To effectively harness Generative AI (GenAI) in the classroom, educators must reconceptualise their pedagogical strategies to align with the affordances and challenges of these emerging technologies (Mishra, et. al., 2023). GenAI's capacity to produce real-time, context-specific outputs enables new forms of creative inquiry, supporting activities such as brainstorming, prototyping and iterative problem-solving. Rather than serving merely as a content generator, GenAI can act as a cognitive partner that stimulates curiosity and extends students' zones of proximal development. At the same time, its integration calls for rethinking assessment practices to move beyond static evaluations of student work. For instance, educators might assess the process of interaction with AI-such as how students prompt, critique and refine AI-generated drafts-to cultivate metacognitive awareness and critical engagement with technology. This shift emphasises not only what students produce, but also how they think, question and learn in collaboration with intelligent systems.

Educators, however, must also address the ethical and practical concerns that accompany the integration of Generative AI (GenAI) into learning environments. These include issues such as algorithmic bias, data privacy and the propensity of AI systems to generate inaccurate or misleading information. As such, teaching students to critically evaluate and verify AI-generated outputs becomes a core digital literacy skill, enabling them to question the reliability, source and ethical implications of the information they encounter. Within this context, Technological Pedagogical

Knowledge (TPK) extends beyond technical proficiency to encompass the ability to guide learners in the responsible and reflective use of GenAI tools. Educators are thus challenged to design learning experiences that not only leverage GenAI's creative and cognitive potential but also cultivate discernment, transparency, and ethical reasoning. Balancing these opportunities and limitations ensures that GenAI serves as a catalyst for deeper learning rather than a shortcut that undermines intellectual integrity.

5.2 Technological Content Knowledge (TCK)

The integration of GenAI profoundly affects how content is taught and learned (Mishra, et. al., 2023). GenAI automates routine tasks, pushing educators to focus on higher-order skills such as analysis, creativity, and strategic decision-making. For instance, in fields like journalism and data analysis, journalists may move from basic reporting to in-depth analysis, in contrast, data analysts rely on AI-generated visualisations to explore complex scenarios.

Generative AI's (GenAI) versatility fosters interdisciplinary learning by generating multimodal outputs (such as text, code, images, and sound) that bridge traditionally separate domains such as art, computer science, and design. By integrating these capabilities into projects, students can engage in both creative expression and computational thinking, reflecting the hybrid skills demanded in contemporary problem-solving. To capitalise on this potential, educators must adapt curricular goals to emphasise transferable competencies over disciplinary silos. This includes developing critical, creative, and adaptive capacities such as prompt engineering, ethical reasoning, and iterative collaboration with AI tools. Through such approaches, GenAI becomes not merely a technological aid but a catalyst for reimagining how knowledge is produced and connected across fields, preparing students to navigate and contribute meaningfully to an AI-driven, interdisciplinary workforce.

5.3 Contextual Knowledge (XK)

Effective technology integration extends beyond individual classrooms and is shaped by broader systemic, institutional, and cultural factors (Mishra, et. al., 2023). Educators must navigate complex issues such as academic integrity policies, institutional restrictions on AI use, and evolving societal perceptions of Generative AI (GenAI). These external factors significantly influence how teachers adopt and adapt GenAI in their pedagogical practice, underscoring the importance of Contextual Knowledge (XK), the understanding of how local environments, policies and values shape technology use. Addressing these contextual dimensions is essential for promoting equitable access, ensuring ethical implementation and supporting inclusive participation in AI-enhanced learning. Furthermore, as GenAI continues to transform social and professional structures, educators have a critical role in preparing students to engage with these technologies thoughtfully and responsibly in both their personal and civic lives.

5.4 Reimagining TPACK for the Age of Generative AI

As GenAI transforms education, the TPACK framework must evolve to remain relevant (Mishra, et. al., 2023). Educators need to see TPACK's domains not as static silos but as dynamic and adaptable to rapidly changing technologies. The philosophical shift GenAI introduces-where AI acts not merely as a tool but as a collaborator in the learning process-requires teachers to rethink their roles. They are no longer just content experts but facilitators of critical thinking, creativity and ethical reasoning.

Successful teaching with AI, however, requires integrating all these elements-content knowledge, pedagogical strategies, and AI technology (Ning et al., 2024). To achieve this, teachers need focused training that equips them to use AI tools effectively, enabling them to bridge the gap between traditional teaching methods and innovative AI-driven approaches. Societal implications of GenAI extend beyond classroom practices. Educators must address long-term challenges, such as how AI blurs the boundaries

between human and machine-generated content, potentially eroding trust and reshaping students' sense of identity. Preparing learners for an AI-driven future necessitates a broader view of TPACK, one that accounts for both immediate teaching strategies and the larger societal changes AI brings. This means that effective AI integration is not only a matter of classroom technique but also of fostering ethical awareness, critical thinking, and adaptive skills in students, ensuring they can navigate and contribute responsibly to an AI-mediated society.

5.5 Toward a New Model for AI Integration: The Ped-AI-gogy Informed Model (PIM)

As AI technologies continue to evolve, there is a growing need for comprehensive adoption models that reflect the dynamic interplay between technology, pedagogy, and user behaviour. Future frameworks should incorporate constructs such as perceived usefulness and ease of use, external influencing factors and an appreciation of the fluctuating state of acceptance to provide a nuanced understanding of AI integration into an educator's pedagogy. It is on this foundation that this paper proposes a New Model (Figure 2) of how GenAI becomes integrated into a teacher's existing pedagogical practices: the Ped-AI-gogy Informed Model (PIM). Our Ped-AI-gogy Informed Model (PIM) was conceptualised as a mental model to illuminate better the process of integrating Generative Artificial Intelligence (GenAI) into an educator's existing pedagogical practices. This model emerged from a comprehensive examination of various precursor theoretical perspectives and pedagogical frameworks explored throughout the paper. The creation of the model can be articulated through several key dimensions: theoretical foundations, integration of precursor models, focus on teacher perception, stages of integration, and emphasis on collaborative education.

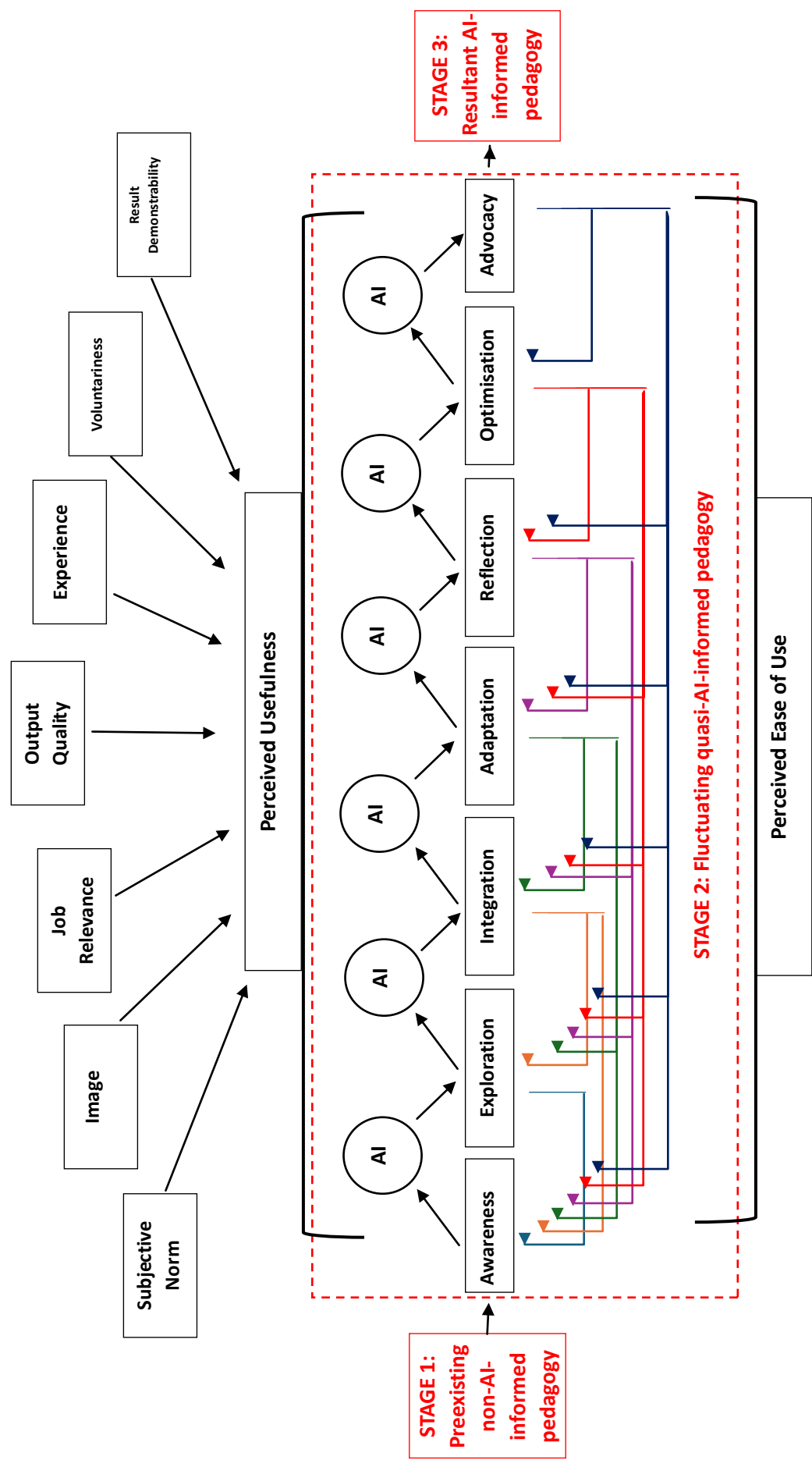


Figure 2: The Ped-AI-gogy Informed Model (PIM)

STAGE 2: Fluctuating quasi-AI-informed pedagogy steps:

1. Awareness
Description: The teacher becomes aware of the AI tool's existence and its potential applications in education.
Key Actions:
 - Researching AI tools through articles, workshops, or peer recommendations.
 - Understanding the specific functionalities and benefits of the tool.
2. Exploration
Description: The teacher explores the AI tool's features and capabilities to see how it can fit into their teaching practices.
Key Actions:
 - Navigating the tool's interface and experimenting with its functionalities.
 - Reviewing tutorials or demos to learn how the AI can assist in lesson planning, grading, or personalised learning.
3. Integration
Description: The teacher begins to incorporate the AI tool into their teaching workflow.
Key Actions:
 - Using the tool to create lesson plans or educational content.
 - Implementing AI-driven assessments or feedback mechanisms in the classroom.
4. Adaptation
Description: The teacher adapts their teaching methods based on insights gained from using the AI tool.
Key Actions:
 - Analysing student performance data provided by the AI to tailor instruction.
 - Modifying lesson plans and teaching strategies based on AI recommendations.
5. Reflection
Description: The teacher reflects on the impact of the AI tool on their teaching and student outcomes.
Key Actions:
 - Evaluating the effectiveness of the AI tool in enhancing learning experiences.
 - Gathering feedback from students about their experiences with AI-assisted learning.
6. Optimisation
Description: The teacher seeks ways to optimise the use of the AI tool for ongoing improvement.
Key Actions:
 - Staying updated with new features and updates of the AI tool.
 - Attending professional development sessions to learn advanced strategies for integrating AI in the classroom.
7. Advocacy
Description: The teacher becomes an advocate for the use or rejection of AI in education, sharing their experiences and promoting its benefits or pitfalls.
Key Actions:
 - Sharing success or cautionary stories with colleagues and participating in discussions about AI in education.
 - Contributing to workshops or training sessions to help other educators integrate AI tools effectively or reject their usage.

VI. THEORETICAL FOUNDATIONS

PIM is firmly rooted in posthumanist philosophy, which challenges conventional human-centred

educational paradigms (Braidotti, 2013; Zylinska, 2002). This theoretical lens reconceptualises the roles of teachers, students, and technology,

emphasising a collaborative relationship among these separate yet interlinked “entities”. By acknowledging the agency of both human and non-human actors-including Generative Artificial Intelligence (GenAI)-the PIM promotes a more inclusive understanding of GenAI integration into existing pedagogy that highlights the dynamic interactions and interdependencies present between an educator, the “object” (in this case, GenAI) and external influencing factors. In doing so, it encourages educators to move beyond viewing technology as a passive instrument, instead recognising it as an active participant in knowledge creation and learning processes. = Such an approach facilitates a shift from traditional, fixed human-centred models to a more fluid, object-informed understanding of pedagogical development over time, enabling teaching strategies that are adaptive, responsive and cognisant of the evolving educational ecosystem.

Incorporating insights from posthumanist philosophy, the PIM frames knowledge construction as a collective endeavour. The concept of “The New Hybrid” (Pratschke, 2024) complements this perspective by highlighting the potential of Generative AI (GenAI) to function as an active collaborator in the educational process. Integrating GenAI into pedagogical frameworks enables educators to develop more individualised learning pathways that accommodate diverse student needs. From a posthumanist standpoint, GenAI is not merely a tool but a co-educator that participates in shaping learning experiences, fostering collaboration, creativity and adaptive problem-solving. By reconceptualising the teacher-student-technology relationship in this way, the PIM encourages a more dynamic and responsive approach to curriculum design that reflects the evolving possibilities of AI-enhanced education.

The PIM’s reliance on posthumanist principles allows for a critical examination of traditional roles in education. For instance, the transition of teachers from authoritative figures to facilitators who guide interactions between students and GenAI tools embodies the principle of “facilitation over authority” (Latour, 2020). In this model, the

educator’s role shifts from delivering knowledge to orchestrating learning experiences, mediating interactions, and supporting students in leveraging AI as an active partner. This transformation is essential in creating hybrid pedagogical practices where both human and GenAI collaborate to co-create knowledge. Such collaboration requires educators to be attuned not only to student needs but also to the affordances and limitations of AI, ensuring that learning is meaningful, ethical, and contextually grounded. As GenAI technologies blur the boundaries between humans and machines, educators must cultivate pedagogical practices that prioritise responsiveness and personalisation, thereby fostering the establishment of symbiotic ecosystems (Holmes et al., 2022).

By decentring the human subject and exploring the collaborative partnerships between humans and technology, the PIM encourages a reimagining of learning ecosystems that reflect the complexities of our interconnected world. Such a perspective aligns with the assertion by Knox (2021) that the human-machine relationship can be seen as a collaborative partnership, where both entities co-create knowledge and transform learning environments. In this context, the PIM serves as a framework for rethinking and reconstructing pedagogical approaches in the AI age, fostering a more interconnected and symbiotic educational landscape. By integrating GenAI within a posthumanist framework, PIM also promotes a critical engagement with the ever-evolving nature of knowledge construction in the age of technology, which invites educators to embrace the potential of GenAI as an active participant in the educational process, redefining the boundaries of teaching and learning in an increasingly interconnected and technologically advanced world.

6.1 Integration of Precursor Models

The development of PIM was informed by established educational frameworks, such as the Technology Acceptance Model/2 (TAM/2) (Davis, 1989; Venkatesh & Davis, 2000), the Technological Pedagogical Content Knowledge

(TPACK) framework (Mishra & Koehler, 2006) and the SAMR (Substitution, Augmentation, Modification, Redefinition) model (Puentedura, 2006). By recognising the interplay between content, pedagogical, and technological knowledge, PIM aimed to provide a holistic view of how GenAI could be theoretically integrated into existing pedagogical practices. It highlights not only the potential of AI to enhance instructional strategies but also the need for educators to critically evaluate when and how technology is applied to support meaningful learning outcomes. This integration aligns with the insights discussed in the various pedagogical strategies outlined in the paper, emphasising the importance of educators' understanding of technology in relation to their subject matter and pedagogical approaches. Ultimately, PIM seeks to bridge theoretical frameworks and practical implementation, offering a roadmap for educators to navigate the complexities of AI-enhanced teaching while maintaining pedagogical integrity and responsiveness to student needs.

PIM incorporates insights from the Technology Acceptance Model/2 (TAM/2) (Davis, 1989; Venkatesh & Davis, 2000), which emphasises the significance of perceived usefulness (PU) in technology adoption (Al-Adwan et al., 2023). The recognition that educators need to see tangible benefits from using GenAI, such as improved efficiency, personalised learning pathways, and enhanced student engagement, reinforces the necessity of aligning technological integration with clear educational outcomes. By foregrounding perceived usefulness, PIM encourages educators to critically evaluate how AI tools contribute to pedagogical goals, rather than adopting technology for its own sake. Understanding and demonstrating these benefits, furthermore, can increase teacher confidence and willingness to experiment with AI-driven approaches, creating a more sustainable and meaningful integration of technology into the curriculum.

PIM builds upon the foundational principles of TPACK, which highlight the necessity for educators to navigate the complex relationships between their technological knowledge,

pedagogical strategies, and content expertise (Mishra & Koehler, 2006). This framework highlights how teachers progress and regress through fluctuating states of how their knowledge domains intersect with an external object (GenAI) that gradually becomes more of a co-creator of their practices. Through emphasising these dynamic interactions, PIM provides a nuanced understanding of how technology can shift from a peripheral tool to an active participant in teaching and learning. By doing so, PIM highlights how an educator might deepen their engagement with technology, theoretically reaching a point where they are not merely experimenting with GenAI or using its capabilities as an add-on, but thoughtfully integrating it into their teaching practices. In this sense, PIM serves both as a conceptual guide and a practical roadmap, helping educators to align AI integration with pedagogical goals while remaining responsive to students' learning needs. Consequently, PIM integrates the stages principles within the SAMR model, which categorises the use of technology into four levels, providing a pathway for educators to progress from simple substitution to the redefinition of learning experiences (Puentedura, 2006).

6.2 Focus on Teacher Perceptions

Understanding teacher perceptions is crucial for the successful integration of Generative Artificial Intelligence (GenAI) tools in educational settings. PIM addresses the diverse attitudes, fears, and motivations of educators, highlighting that the successful adoption of GenAI is significantly influenced by teachers' beliefs regarding the usefulness and applicability of these tools in their classrooms (Cooper, 2023; Venkatesh & Davis, 1996). As the primary agents of knowledge acquisition, teachers hold a pivotal role in determining the extent to which GenAI becomes embedded in pedagogical practices (Oh & Ahn, 2024; Casal-Otero et al., 2023).

The PIM posits that fostering a positive mindset towards technology adoption is essential for overcoming resistance to GenAI integration. This aligns with the broader implications of the Technology Acceptance Model 2, which

emphasises the importance of perceived ease of use and perceived usefulness in influencing teachers' attitudes towards new technology (Venkatesh & Davis, 1996). By considering these factors, educators can be encouraged to explore and engage with GenAI, which ultimately enhances their confidence and competence in utilising these innovative tools (Woodruff et al., 2023). PIM also takes into consideration the external context surrounding teachers' perceptions. As highlighted, teachers operate in multifaceted roles that extend beyond mere knowledge delivery; they are guides, psychologists and community leaders (Bidwell, 2013; Oh & Ahn, 2024). Such complexity considers that an educator's perception of GenAI will be shaped not only by their professional experiences but also by their individual beliefs and the educational context in which they work (Lim, 2015; Breakstone et al., 2018).

6.3 Stages of Integration

Addressing the inherent fear of technology among educators is essential in this discourse. Many teachers fear that the introduction of GenAI may disrupt their established practices or diminish their role in the educational process (Urlaub & Dessein, 2022; Zimotti et al., 2024). The process of 'technological normalisation' (Bax, 2003) can help educators transition from apprehension to acceptance, enabling them to integrate GenAI seamlessly into their pedagogical approaches. This normalisation process is not linear; it often involves navigating through stages of scepticism and anxiety before achieving a state of comfort with the technology (Zimotti et al., 2024). PIM acknowledges this process by stating that stage 2 of GenAI's integration into an educator's existing pedagogical practices, is not a linear process, but rather, a fluctuating quasi-AI-informed version of their pedagogy. In this stage, an educator may progress and regress between the different stages of complete integration of GenAI into their pedagogy, as they navigate the complexities of technological normalisation (Bax, 2003). Recognising this iterative process highlights the importance of professional development, peer support, and reflective practice, which can help educators build confidence and agency in using

GenAI. Understanding that uncertainty and adjustment are natural parts of technology adoption can empower educators to experiment, adapt and gradually incorporate AI into their teaching without fear of failure.

PIM, therefore, combines insights from the SAMR model and the concept of technological normalisation when proposing the fluctuating stages of GenAI integration into pedagogical practices. This approach begins with recognising the stages of fluctuating quasi-AI-informed pedagogy, which outline the typical progression educators experience when adopting AI technologies. These stages—awareness, exploration, integration, adaptation, reflection, optimisation, and advocacy—provide a structured pathway for meaningful engagement with Generative AI (GenAI), helping teachers to navigate both the opportunities and challenges of AI-enhanced instruction. By articulating these stages, PIM acknowledges that adoption is not linear; educators may move forward or backward through stages as they gain experience, encounter obstacles or reassess the role of AI in their teaching. The SAMR model, with its four levels of substitution, augmentation, modification, and redefinition (Puentedura, 2006), served as a foundational framework for organising the steps within stage 2 of PIM. Integrating SAMR in this way allows educators to visualise how incremental changes in technology use can evolve into transformative practices, ultimately supporting the thoughtful and reflective incorporation of GenAI into pedagogy.

6.4 Emphasis on GenAI as a Co-Creator

The integration of Generative AI (GenAI) into educational frameworks has prompted a paradigm shift in how we conceptualise the roles of technology, educators, and learners. Rather than merely being viewed as tools, GenAI systems have emerged as co-educators, participating actively in the learning process. This perspective aligns with the object-centred pedagogy framework, which emphasises the dynamic relationships between human and non-human actors within educational settings (Barton and Willcocks, 2017; Parton et al., 2017). By

recognising the agency of AI alongside educators and students, this framework encourages a reconceptualisation of teaching practices that integrates technological capabilities into the core of pedagogical decision-making. As Selwyn (2020) points out, the relationship between teachers and technology is inherently contentious, yet PIM demonstrates theoretically how GenAI may come to play an integral part of the educational ecosystem. This highlights the potential for GenAI not only to augment existing teaching strategies but also to facilitate innovative, collaborative, and reflective learning experiences that reshape traditional classroom dynamics.

The notion of symbiotic ecosystems, as highlighted in the previous discussion, captures the essence of how GenAI interacts with teachers and students in a mutually beneficial manner. This dynamic relationship enables a more fluid understanding of education, in which GenAI contributes actively to the co-construction of knowledge alongside educators and learners. By positioning GenAI not merely as an “external other” but as a collaborative participant in the pedagogical process, educators can navigate the nuanced and often fluctuating stages of technology integration, adapting their practices to leverage AI’s affordances effectively (Wegerif & Major, 2023:93). Such symbiotic ecosystems foster fluid and decentralised learning environments, where authority and agency are distributed across human and non-human actors. This contrasts sharply with traditional models in which the teacher serves as the sole knowledge source, highlighting the potential for AI to reshape classroom dynamics, promote collaborative problem-solving and support more personalised and responsive learning experiences.

VII. CONCLUSION

In conclusion, the proposed Ped-AI-gogy Informed Model (PIM) represents a significant and novel contribution to the burgeoning field of Generative Artificial Intelligence (GenAI) and education theory. By synthesising established educational frameworks such as the Technology Acceptance Model (TAM), the SAMR model, and

Technological Pedagogical Content Knowledge (TPACK), the PIM provides a comprehensive, structured approach to understanding how educators can effectively integrate GenAI into their pedagogical practices. This model goes beyond mere technological implementation, advocating for a fundamental rethinking of the roles and relationships between educators, students and GenAI within the classroom ecosystem.

The PIM’s emphasis on the dynamic interplay between human and non-human agents reflects a posthumanist perspective that challenges traditional human-centred academic paradigms. By positioning GenAI not merely as a tool but as a collaborative partner in the learning process, the model encourages educators to adopt adaptive learning approaches that leverage AI’s unique capabilities to enhance educational outcomes. Recognising GenAI as an active participant opens new avenues for pedagogical strategies that foster creativity, critical thinking, and personalised learning experiences. The incorporation of teacher perceptions as a central element of PIM underscores the importance of understanding the human dimension in technology integration. Teachers, as primary agents of educational change, play a crucial role in determining the effectiveness of GenAI adoption in classrooms. By addressing educators’ concerns, motivations, and apprehensions, PIM provides a structured framework for supporting a thoughtful and informed transition to AI-enhanced teaching practices. This focus on teacher agency not only empowers educators but also aligns with contemporary pedagogical principles that prioritise collaboration, inclusivity and responsiveness in learning environments.

PIM lays the theoretical foundations for future research in GenAI-informed teacher pedagogy by providing a nuanced understanding of how GenAI can be woven into the fabric of academic practices. It invites researchers to explore the complexities of integrating AI into various educational contexts, examining the implications for curriculum design, assessment, and teacher training. In particular, it encourages investigations into how AI can support

personalised learning, enhance student engagement and facilitate adaptive teaching strategies. As the academic landscape continues to evolve in response to rapid technological advancements, PIM serves as a critical touchstone for scholars seeking to investigate the pedagogical possibilities and challenges posed by GenAI. This model encourages interdisciplinary dialogue among educators, technologists and policymakers, fostering collaborative efforts to shape the future of education in an increasingly AI-driven world. Through this novel structured conceptual lens, PIM also helps guide empirical studies, ensuring that research is grounded in both theoretical insight and practical relevance. By advocating for a shared understanding of GenAI's role in education, PIM promotes the development of innovative educational practices that are responsive to the diverse needs of learners.

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Janya Sarwal

ABSTRACT

Human rights are rights of a person simply just because they are a human and are inherited by birth. Human rights are inalienable, indivisible and interdependent. To violate human rights of a person simply means to treat that person as not a human being and when respected means that the dignity of all human beings be respected. Although human rights are universally declared and they are protected by international courts and organizations, there are countries globally who are in conflict of granting human rights to their citizens with the clash of cultural relativism. My research is on one country among them which is Qatar and the research work is done on how rights of women in Qatar are exploited, diving deep into the historical context, to understand the legal and social status of women in Qatar, to understand the reforms which have been provided to them in the past years. The ultimate goal to study is to see that human rights of every person is protected and promoted everywhere. Even though there have been several reforms and initiatives taken by the Qatari government, there have still been cases reported by human rights watch and many such international organizations. Laws in Qatar still continue to discriminate against women and lesbian, gay, bisexual, and transgender (LGBT) individuals. Women continued to face discrimination in law and practice.

Keywords: human rights, cultural relativism, human rights watch, inherited, male guardianship, al shafallah.

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ABSTRACT

Human rights are rights of a person simply just because they are a human and are inherited by birth. Human rights are inalienable, indivisible and interdependent. To violate human rights of a person simply means to treat that person as not a human being and when respected means that the dignity of all human beings be respected. Although human rights are universally declared and they are protected by international courts and organizations, there are countries globally who are in conflict of granting human rights to their citizens with the clash of cultural relativism. My research is on one country among them which is Qatar and the research work is done on how rights of women in Qatar are exploited, diving deep into the historical context, to understand the legal and social status of women in Qatar, to understand the reforms which have been provided to them in the past years. The ultimate goal to study is to see that human rights of every person is protected and promoted everywhere. Even though there have been several reforms and initiatives taken by the Qatari government, there have still been cases reported by human rights watch and many such international organizations. Laws in Qatar still continue to discriminate against women and lesbian, gay, bisexual, and transgender (LGBT) individuals. Women continued to face discrimination in law and practice. Under the guardianship system, women needed a male guardian's permission to marry, study abroad on government scholarships, work in many government jobs, travel abroad if aged under 25, and access reproductive healthcare, Women remained inadequately protected in law against domestic violence (Amnesty International, 2024). The supreme political leadership

represented by His Highness the Emir and Crown Prince plays an encouraging role in supporting women to achieve equal rights, and improve and enhance women's position and role in society (Ashghal, n.d.). She has supported the Qatar Institution for Sciences, Education and Society Development that was established in 1996. It is a special institution that first established The Qatar Academy under the chairmanship of Sheikha Al Misnad (Ashghal, n.d.) Her Highness has also shown her interest in helping girls with special needs, by establishing the 'Al Shafallah' center, headed by Sheikha Ghalia Bint Mohamed Al Thani (Ashghal, n.d.)

Keywords: human rights, cultural relativism, human rights watch, inherited, male guardianship, al shafallah.

Author: MA, Hamdard Institute of International Studies (HIIS) Jamia Hamdard, New Delhi, School of Humanities and Social Sciences (SHSS).

I. OBJECTIVES OF THE RESEARCH

The research aims to understand the recent reforms in Qatar, whether these reforms are implemented in practice and to what extent they align with the international human rights regulations. It aims to deeply analyse the reforms, identify the gaps and assess policy reforms. My research aims to understand what rights women currently have and what they are fighting for and to understand how traditional gender roles affect women's ability to be independent.

1.1 Research Questions

- How do male guardianship laws in Qatar reflect a clash between modern legal reforms and traditional norms?

- How effective is the recent Qatari government in enhancing women's legal and human rights?
- What are the limitations posed by Qatar's reservations to international human rights treaties on the realization of gender equality?

1.2 Hypothesis

Qatar's diplomatic efforts to appear progressive on the global stage have led to limited but symbolic reforms in women's rights, without fully addressing systemic gender discrimination even International pressure and global partnerships (e.g., with the UN) influence Qatar's public stance on women's rights but have limited impact on changing internal legal and cultural frameworks.

II. METHODOLOGY

The research employs a qualitative methodology, collecting a range of primary and secondary sources to analyse women's rights in Qatar and how it is navigating the crossroads of cultural norms and universal human rights in gulf diplomacy, looking at it through the lens of the debate between cultural relativism and universalism. Primary sources include official statements, policy documents, official speeches as well as reports by international organizations such as the United Nations, Amnesty International as well as Qatari government releases. Secondary sources encompass academic journals, think tank publications, media reports. This method allows for a comprehensive and inclusive understanding of the rights of women in Qatar. My research study incorporates discourse analysis as to how cultural relativism in Qatar justify the restrictions on women rights and universalism ought for reforms and justified rules. To have diverse and inclusive viewpoints, my research study incorporates reports from international organizations, Qatari scholars and global activists.

2.1 Sampling Strategy

We will use purposive sampling to pick reports and cases that are directly connected to how cultural practices and gender policies intersect. We will focus on materials created from 2015 to

2025 to make sure the information is both relevant and up-to-date.

2.2 Data Analysis

The qualitative data we collect will be analyzed using thematic coding. We will group and compare key themes to find patterns and differences in how Qatar handles traditional values alongside its diplomatic objectives. We may use software like NVivo or do the coding manually, depending on how much data we have.

2.3 Ethical Considerations

Since this study uses publicly available data and secondary sources, there will be no direct contact with people. Still, we will be careful and respectful when interpreting the content, especially when looking at personal stories shared by women.

2.4 Justification of the Study

This topic is important because it shows how women's rights are affected not just by laws, but also by culture, family expectations, and politics. It also helps explain how countries like Qatar can appear modern in some ways while still being very traditional in others. Understanding this helps us see the bigger picture of women's rights in the Middle East and beyond.

2.5 Limitations of the Study

2.5.1 Limited Field Work

My research study does not include interviews, surveys or direct face to face interaction with the people in the region. The personal experiences, ground realities and local voices in the region could have added more depth to my research findings.

2.5.2 Dependence on Secondary Sources

As my research study relies on policy reports, official documents, news articles, government statements they might carry certain biases and provide only official narratives.

2.5.3 Language and Translation Limitations

Important sources for example the local and regional ones which might not be available in hindi or english which limits access to wider range of viewpoints and might also influence the diversity of perspectives in the analysis.

III. REVIEW OF LITERATURE

3.1 Human Rights Watch. (2021). "Everything a Woman has to do in Qatar is Tied to a Man" - Discrimination against Women in Qatar. Human Rights Watch

This report highlights the legal constraints that were faced by women in Qatar. This report has highlighted gender based discrimination and the working of women under male guardianship laws which has put restrictions on the basic rights of women in general. The report has provided insights of reality on ground and has helped me in portraying those ground realities faced by women in general and how their human rights are curtailed which further insists that reforms are needed to protect and preserve the basic human rights of women in Qatar. This report provides an insightful and a broader framework on how cultural systems intersect to shape women's lived experiences in the gulf region.

3.2 Human Rights Watch. "Qatar." World Report 2023: Events of 2022. Human Rights Watch, 2023

This report has further investigated that even in 2023 the male guardianship system still continues the discriminatory practices which has also covered the LGBT individuals as well. The report has very well highlighted how the cultural norms intersect with women's freedom and how cultural relativism justify practices that contradict universal human rights standards. This report is helpful in providing me an insight into the debate between cultural relativism and advocacy for universal human rights.

3.3 Public Works Authority (Ashghal). (n.d.). Women in Qatar. Ashghal. Retrieved October 25, 2025

This report by a Qatari think tank is an important and valuable insight which presents an official

narrative on women rights and empowerment. This report while specifying on the discrimination and inequality faced by women in Qatar has provided the vision 2030 and more government initiatives to bring on reforms for unjust laws and discriminatory practices. It reveals a complex interplay between modern narratives and existing patriarchal structures in Qatari society.

3.4 Musawah. (2019). Musawah Thematic Report on Qatar (CEDAW73). Retrieved October 25, 2025

This thematic report provides a critique of Qatar government's compliance with CEDAW. It reveals the legal unjust provisions in family laws, marriage customs, divorce regulations.

Musawa which is a global reform movement dives into reforms according to Quranic principles which object to the injustices done in the name of cultural relativism. It provides a bridge between local cultural realities and international advocacy and what efforts can be made and done to protect human rights. This provides reforms in women's rights in Qatar from a muslim feminist lens.

IV. INTRODUCTION

In 539 B.C., the armies of Cyrus the Great, the first king of ancient Persia, conquered the city of Babylon. But it was his next actions that marked a major advance for Man. He freed slaves, declared that all people had the right to choose their own religion, and established racial equality. These and other decrees were recorded on a baked clay cylinder in the Akkadian language with cuneiform script. Known today as the Cyrus Cylinder, this ancient record has now been recognized as the world's first charter of human rights (*British Museum, n.d.*). It is translated into all six official languages of the United Nations and its provisions parallel the first four articles of the Universal Declaration of Human Rights (UN, 2020).

Documents asserting individual rights, such as Magna Carta (1215), the Petition of Right (1628), the US Constitution (1787), the French Declaration of the Rights of Man and of the Citizen (1789), and the US Bill of Rights (1791) are written precursors to many of today's human

rights documents (Donnelly, 2013). Human Rights are those basic standards without which people cannot live in dignity. The basic rights and freedom to which all humans are entitled often include the right to life and liberty, freedom of thought and expression and equality before law (UDHR, 1948). Human rights are protected and promoted by International law. They are internationally recognized, enforced by the United Nations, international courts and other specialized organizations (Alston & Goodman, 2013). There are no remedies against the violation of human rights.

On the basis of UDHR, 1948, there are following classifications:

- Civil and Political rights
- Economic Rights, Social and Cultural rights
- Solidarity rights

Rights are something people demand or desires for their self-Development. Rights are those basic standards without which people cannot live in dignity (United Nations, 1948).



Hobhouse says, “Rights are what we may expect from others, and others from us and all genuine rights are conditions of social welfare” (Hobhouse 1911). To violate someone’s human right is to treat that person as though she or he were not a human being (Donnelly, 2013). These are basically few natural rights which cannot be denied, but at the same time not guaranteed by Statutory Law (Freeman, 2017). It is the obligation of the state to promote and protect human rights. Human rights are the same for everyone regardless of their caste, class, race, sex, gender, nationality, origin. Though Human Rights have a universal figure, its scope and periphery differ because of the different socio-economic and political structure of various countries (Donnelly, 2007). One such case study is that of Qatar where women are denied basic rights because the country is navigating its crossroads with cultural norms and universality of global rights.



Source : (2015a). Qatar Flag.

Source : Qatar, UN join forces for women empowerment. (2024).

Many women in the Middle East are not free to go where they want. In some countries, women need their husband’s permission to get a passport, or to travel with her own children, even leaving their homes requires a man’s consent. A Human rights watch report says, “Everything a woman has to do in Qatar is tied to a man” (Human Rights Watch, 2021).

Women in Qatar have broken barriers and achieved significant progress, including in

education where there are now more female than male graduates, and as doctors, lawyers, and entrepreneurs in one of the world’s richest states per capita. Yet they continue to face deep discrimination in almost all aspects of their lives (Human Rights Watch, 2021). Women in Qatar face systematic discrimination. To avail their basic rights like right to education, government scholarships & even for some reproductive healthcare as well, women are dependent upon their fathers, brothers, grandfathers (Human

Rights Watch, 2021; Human Rights Watch, 2024). This depicts that men are the heads of households and also the guardians of women. All of this has led Qatari women to leave their home country and flee to other countries to avail benefits which has resulted in refugee crises around the world as well.

4.1 Universal Values V/s Cultural Relativism

Cultural relativity is an undeniable fact; moral rules and social institutions evidence an astonishing cultural and historical variability. The doctrine of cultural relativism holds that at least some such variations cannot legitimately be criticized by outsiders (*Donnelly, 1984*). Radical universalism says that culture is irrelevant to the validity of moral rights or rules, which are universally valid. The body of the continuum defined by these typical end points, that is those positions involving varying mixes of relativism and universalism can be roughly divided into what we can call strong cultural relativism and weak cultural relativism (*Donnelly, 1984*). Many in developing countries argue that some human rights are simply not relevant to their societies, for instance, to political pluralism, the right to paid vacations and, inevitably, the rights of women. It is not just that some societies claim they are simply unable to provide certain rights to all their citizens, but rather that they see the "universal" conception of human rights as little more than an attempt to impose alien Western values on them (*Mutua, 2002*). "Human Rights might turn out to be a Trojan horse, surreptitiously introduced into other civilizations, which will then be obliged to accept those ways of living, thinking and feeling for which Human Rights is the proper solution in cases of conflict" (*An-Na'im, 1992, p. 14*). Universalists argue that all peoples have a shared and common humanity which means there can be some universal values. In human rights, universalists believe that all humans have the same inalienable rights simply because of their humanity. Therefore, all humans are entitled to the same rights and freedoms, regardless of age, sex, gender or any other distinguishing characteristic (*Donnelly, 2013*). Relativism is a critical theory that argues nothing is universal among humans and that all values are

created by culture. Because there is no universal culture, there can be no universal values. As a result, each culture determines its own values and its own idea of justice (*Renteln, 1990*). Relativists believe it is impossible to impose a universal set of human rights on all cultures because each culture creates its own set of morals and ideas of right and wrong. Instead, human rights are relative to the cultures that created them and other cultures are entitled to their own morality (*Renteln, 1990*). The theory of Cultural relativism leads to the idea that the main social unit is community, not individual (*Renteln, 1990*).

4.2 Historical Context

Qatar obtained independence in 1971 from its status as a British protectorate. The country has a mixed legal system incorporating both civil law and Islamic law. *Shari'ah* is one of the sources of Qatari legislation, and is applied to aspects of family law, inheritance, and certain criminal acts (*Musawah, 2019*). Political leadership in Qatar under Sheikha Moza Bint Nasser in the 1990s had played an encouraging role in supporting women in providing equal rights to them. She had led the establishment of Qatar institution for sciences, education and society development in 1996. Under her leadership, women had achieved educational excellence and also contributed their part extensively in arts, law, public policy etc. Globally, women started to have a good impact, a Qatari women member of the UN child rights committee was elevated to a senior position in 2001. Women got the right to vote in 1997. In 1998 respectively, women started to grow in the banking and investment sector, a joint venture between Qatari ladies and Qatar international bank started which was also managed by a woman, In line Qatari business women forum was established in 2000.

The Qatar Red Crescent Society was the first to establish a Women's Section in 1982, before more associations joined and set up women's branches in addition to the country's Social Development Center. Qatari women work in these communities both as employees and as volunteers (*Ashghal, n.d.*). Qatari women have contributed to the health sector since the late 1960s through their

involvement in nursing and study in nursing schools. The proportion of Qatari nurses exceeds 21% of nurses working within the Supreme Council of Health (Ashghal, n.d.). Her Highness Sheikha Moza had paid great attention to highlighting the prominent role of Qatari women and encouraging them to move forward with social responsibilities and participation in public life (Ashghal, n.d.).

4.3 Ambivalent Chauvinism in Qatar

Since Qatar is a Sunni monarchy with Sharia law as its main source of legislation, Qatari women's present day mobility needs to be viewed in the context of the established patterns in Islamic gender relations. While historically the level of human mobility was high for Muslims, tribal order and strict interpretation of the Qur'an

resulted in a rigid spatial organization (Hidemitsu 2003, Golkowska, 2017). Women in Qatar face legal and structural constraints leaving them easily vulnerable to violence and hindering equal status in areas like nationality, guardianship and family law (Qatar Centre for Peace & Democracy, n.d.).

Musawah the global movement for equality and justice in the Muslim family contends that the very notion of male authority and guardianship over women is not in line with Quranic principles. The hierarchical understanding of qiwamah and wailayah are juristic constructs shaped by gender ideology of classical muslim scholars in the context of norms and practices prevalent in their times (Qatar Centre for Peace & Democracy, n.d.)

CHALLENGING THE MAINTENANCE-FOR-OBEDIENCE FRAMEWORK	
This idea of 'complementarity of rights' is a manifestation of male authority (qiwamah) and guardianship (wailayah) over women. It does not in practice lead to equality in rights and responsibilities between the husband and wife. Men who fail to provide do not lose their authority over women, and women who financially provide for the family do not enjoy corollary rights and privileges.	
QUR'ANIC PRINCIPLES PROMOTE EQUALITY BETWEEN SEXES	- The concept of male authority (qiwamah) and male guardianship (wailayah) over women play a central role in institutionalizing, justifying, and sustaining a patriarchal model of families in Muslim contexts, and must be challenged. - The very notion of male authority and guardianship over women is not in line with Qur'anic principles. The hierarchical understandings of qiwamah and wailayah are juristic (fiqh) constructs that belong to the time and context where patriarchy was part of the social and economic fabric of life, and where men's superiority and authority over women was theoretically a given. - We can and must reconsider these concepts in line with the Qur'anic principles of justice and fairness, to build egalitarian family laws and practices that are based on social justice and enable families and their individual members to reach their full potential.
	Women's lives and stories reveal that laws based on male authority and guardianship over women are untenable, unjust and discriminatory. Far from creating harmony in marriage, these laws are the main causes of marital breakdown and violence against women and thus there is urgent need for reforms.
CONTEMPORARY LIVED REALITIES	

Source: (Musawah, 2019)

A study reveals that there was inequality persisting in Qatar during the gulf cooperation council crisis (2017-2021). As of 25 April 2018, Qatari citizens living in the blockading countries have experienced 643 human rights violations regarding family reunification (Abu-Ras et al., 2022). The interaction between law, tradition, family life, and well-being is complex and multidimensional. Gendered citizenship is fundamental to this interplay. While citizenship contributes to positive psychological well-being, engagement, and interpersonal interactions, gender-based citizenship places women at a disadvantage and makes them more vulnerable to psychological distress (Abu-Ras et al., 2022). A women rights activist Aisha-al-Qahtani escaped from Doha because of an oppressive and abusive

life she had to face in Qatar, she escaped a country where a local woman under 25 required the male guardian's permission to board a flight restricting the right to travel (Al Arabiya English, 2020). The reason she chose to do so from another Gulf country as Qatar remains the only state within the Gulf Cooperation Council to require females under the age of 25 to obtain a male guardian's permission to travel (Al Arabiya English, 2020). Qatar remains the only GCC country with male guardianship laws for female travel after Saudi Arabia lifted restrictions in 2019. According to the Qatari Ministry of Interior's website, single women under 25 years of age require a male guardian's consent to travel outside the country, Qatari men can also apply to the courts to prohibit their wives from traveling, Al-Qahtani vowed that she plans

on “starting a revolution” in Qatar to get more women to speak out for their rights, adding that she had both the time and energy to do so (*Al Arabiya English, 2020*), “But why do I have to go through this escape plan and Prison Break-like story just to leave? Just to, you know, travel? Just, my freedom of movement?” she added (*Al Arabiya English, 2020*).

4.4 Women Rights in Qatar, A 2023 Human Rights Watch Report

The Human Rights watch report in 2023 published a report highlighting that women in Qatar are bound by male guardianship laws and they restrict women’s ability to make autonomous decisions. All their basic rights like right to education, applying for scholarships, travelling abroad, seeking healthcare facilities. Unmarried women are restricted to travel without their guardian’s permission and women who are married their travel can be restricted by men whom they are married to and even their female relatives travel can be restricted alongside. Unmarried women who are victims of sexual violence and rape cases and when they report it and if authorities don’t believe in them, they are subjected to torture and severe punishment in charge of adultery. The family law in Qatar restricts and forbids husbands from hurting their wives physically as well as morally but there are no provisions for victims of domestic violence and prosecuting their abusers.

The 2016 Mental Health Law allows for involuntary hospitalization, that is detention, including by male guardians or other Qatari authorities for three months, which is renewable, with no role given to the judiciary to review such detention (*Human Rights Watch, 2023*).

Qatar’s penal code punishes consensual sexual relations between males above sixteen with up to seven years imprisonment (Article 285). It provides penalties between one- and three-years’ imprisonment (Article 296) for any male who “instigates” or “entices” another male to “commit an act of sodomy or immorality.” A penalty of 10 years’ imprisonment (Article 288) is imposed on anyone who engages in consensual sexual relations with a person above sixteen, outside marriage,

which could apply to consensual same-sex relations between women, men, or heterosexual partners (*Human Rights Watch, 2023*). Preventive Security Department Forces in Qatar arbitrarily arrest lesbian, gay, bisexual, and transgender (LGBT) people and subject them to ill-treatment in detention. Security forces pick people off the streets and in public places based solely on their gender expression, and unlawfully search their phones in detention (*Human Rights Watch, 2023*).

4.5 Qatari Government Support for Women's Rights

- The Qatari government established the supreme council for family affairs in 1998 to focus on women’s issues (*Qatar Supreme Council for Family Affairs, 1998*).
- The council led by Sheikha Mouza bint Naseer-al-Misnad, advocates for reforms in women’s rights. (*Al-Misnad, 2002*).
- Legislative changes include raising the marriage age from 15 to 16 (*Qatar Legal Code, 2003*).
- Women can now divorce without losing custody of their children and are eligible for three years of alimony after divorce (*Family Law Reform Act, 2006*).
- The government provides free education for citizens aged 6 to 16, contributing to a high literacy rate (*Ministry of Education, 2010*).
- Women are provided more education opportunities where more women attend Qatar’s university college of law in comparison to men (*Qatar University Report, 2015*).
- Women are provided good career opportunities in business and finance after graduation (*Qatar Development Report, 2016*).
- Qatar’s labor law enacted in 2004 promotes equality in the workplace (*Labor Law No. 14, 2004*).
- Women receive equal wages for similar work and have access to promotion and training opportunities (*Qatar Ministry of Labor, 2018*).
- There are still some employment restrictions in hazardous or morally harmful jobs (*International Labour Organization, 2020*).

- Qatar joined the convention on the elimination of all forms of discrimination against women (CEDAW) in 2009 (*United Nations Treaty Collection, 2009*).

V. CONCLUSION

With its upcoming role as host of the WSSD2, Qatar is well placed to demonstrate alignment between domestic priorities and global social commitments (*Qatar Centre for Peace & Democracy, n.d.*). Originally launched in 2008 and most recently updated in 2024, the 2030 Vision “for a country in which there is economic and social justice for all”, is underpinned by a Human and Social Development dimensions, Recognising its people as the “nation’s most valuable resource”, the national strategy outlines essential investments in healthcare and workforce development sectors whilst including a gendered-responsive objective to foster and enhance female participation in economic life, The empowerment of women is also reverberated within the second social dimension, along with the provision of safeguards for vulnerable groups (*Qatar Centre for Peace & Democracy, n.d.*). The CEDAW committee should ensure men and women the same right to enter marriage, including repealing discriminatory laws, regulations and practices

requiring for a guardian’s consent or approval, eliminating all provisions that refer to disobedience of women as a grounds by which she risks losing her right to financial maintenance, Consider family codes in other muslim contexts such as morocco, algeria, turkey as examples for reforming QFL to promote equality in the muslim household (*Musawah, 2019*). Education can provide the necessary changes.

Education based on equal citizenship is one way to address the region’s political and social realities. Furthermore, the curriculum must be updated to include discussions of national identity, women’s participation in and contribution to government and politics, and the transmission of democratic and just values to future generations. This resocialization process would enable educators and parents to contribute to gender equality, social justice, and the advancement of human rights (*Abu-Ras et al., 2022*). Qatar is home to a wide range of civil-society organizations that support vulnerable people and cultural outlets for its many different nationalities. These organizations can also actively assess and address current human rights concerns and increase women’s civic involvement locally and nationally (*Abu-Ras et al., 2022*).

EQUALITY OF SPOUSES IN MARRIAGE		POSITIVE DEVELOPMENTS IN MUSLIM FAMILY LAW GLOBALLY	
ALGERIA		TURKEY	MOROCCO
Under the Constitution and the Civil Code, the family is based on equality between spouses		The Family Code requires each spouse to cohabitate in harmony, mutual respect and kindness, contribute jointly to the preservation of the family's interests, the protection of their children and the provision of a sound education for them and mutually agree in the management of the family's affairs, including the spacing of births.	The Family Code (Moudawana) recognises marriage as a partnership of equals and specifies the 'mutual rights and duties' between spouses which includes: (i) cohabitation, mutual respect, affection and the preservation of the family interest; (ii) both spouses assuming the responsibility of managing and protecting household affairs and the children's education; and (iii) consultation on decisions concerning the management of family affairs.

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Dominants of the Present: World Zionism and World Regress. Is there Hope for a Positive Future?

Sergei Nelozhin

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A compact article touches upon the expansion of the world Zionist movement at the present moment. Primary attention has focused on the relationship between this phenomenon and the next advent of the neoconservative state course by name of Trump in the USA. Further, the author reveals the main attributes of the coordinated Zionists policy to achieve Power in many countries. Based on these realities, the necessary solutions are outlined to curb the global Zionist expansion in the fairly near future due to the implementation of a positive scenario for world development.

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Author: Independent analyst, research fellow of Institute for social development (Moscow).

I. THE NEWLY-MINTED ALLIANCE OF THE FORCES OF REGRESSION

Let me start without prelude, straight from the most essential. Almost immediately after the outcome of the last presidential elections in the USA, there was an extraordinary increase in the influence of the world Zionist movement on economic and political life on a full global scale. The new American administration is providing overt support to Zionist organizations, especially those operating abroad.

Having acquired "their" man in the White House, the Zionist bosses have sharply intensified aggressive actions that violate international law. It is enough to mention the ongoing genocide in

Palestine, as well as the recent aggression against Iran.

In almost all developed countries, according to estimates of familiar representatives of the mass media, one can now meet and easily get involved in contact with agents of influence of the Zionist movement or, as hereinafter referred to, Z°. In particular, a huge influx of such agents is clearly visible in India, Italy and Turkey, where I happened to be recently.

The updated strategy of Z°, apparently, now consists of maximum assistance to the restoration of American hegemony on the world stage. The main reason seems obvious. The main representatives of Zionist capital, the largest banks, corporations, individual billionaires, together with an impressive number of political organizations and their leaders, are counting on huge profits in the conditions of the unlimited Power of "big money" on a planetary scale. Zionist capital expects to become the main subject of this Power together with the business and political elite in countries where the influence of Z° agents is relatively small.

In fact, the so-called global nationalism according to Trump means the right of the leading country to any actions for the sake of achieving economic and political benefits. In this way, it is supposed to achieve the restoration of American hegemony existed in the end of the past century. The probable development of events according to this scenario concludes in a direct economic war and unprecedented political confrontation. In fact, the "law" of the jungle will reign on the world stage, with most of the inhabitants becoming victims of large predators.

Obviously, a humanitarian collapse will inevitably occur in the developing world, which will be deprived of any support from the rest of the world. A global financial crisis, even more destructive than the crisis of 2007-2009, will also become highly probable taking in consideration the grandiose growth of the national debt of the USA as well as the developing countries.

The adherents of the established clan of billionaires/multimillionaires (although not all of them) and their Zionist minions publicly express full solidarity with the position of fearless businessmen, staunch supporters of free enterprise and admirers of the market forces. According to this position, commercial success is always deserved and therefore fair. Practical adherence to this imperative has logically expressed in the apology of speculation and all kinds of greed, including through obvious fraud. It should be recognized that, thanks to propaganda in the media, this kind of perception of the meaning of market activity is becoming widespread in wide circles of modern society. This is especially true for poorly educated young people who want to become very rich and live fully in accordance with their desires, and not their possibilities. The personalities of existing billionaires, who were actually generated by the speculative global stock market, have become role models thanks to targeted propaganda through the Mass Media.

The inevitable result of economic development according to the neoconservative scenario is a deliberately unfair distribution of income and, especially, personal wealth. It will be expressed in an extremely pyramidal stratification of society, when the stratum of the super-rich (*nouveau riche*) and the stratum of the rich absolutely dominate the dependent middle class and the strata of the poor. The most numerous will be the miserable social stratum, including majority low-income families, the hopelessly poor, simply beggars and homeless people. Such an outcome will mean nothing less than the restoration of predatory exploitative capitalism in its classic version of several centuries ago.

By all indications, the essentially insane Old Testament dream of world domination is still firmly entrenched in the minds of the leaders and many activists of the Zionist movement, often rightly called "star worshipers". It is worth recalling that the idea of fulfilling this dream arose a long time ago, during the period of the spread of behind-the-scenes Masonic lodges.

In confirmation of the formulated diagnosis, let us turn to the recent history covering the period of neoliberal hyper-globalization in the nineties. Then, as a result of this kind of globalization and the accompanying economic and political course of Western countries, the opening of national markets for unlimited expansion of foreign capital occurred. In fact, it manifested in the inflation of a financial bubble by spinning the flywheel of stock market speculation with securities with parallel jumps in prices for oil and other resources and a stunning growth of illiquid lending coupled with shadow, mainly illegal banking activities¹.

It is worth emphasizing a well-known collision. The main interested force in the accelerated globalization of the world capital market and, above all, the stock market was the "six-pointed" constellation of American and European banks (GoldmanSachs, JPMorganChase, Morgan Stanley, City Bank, Bank of America, BNP Paribas, Credit Swiss and others). The direct conductor of their global expansion was the US Federal Reserve System and the International Monetary Fund. In fact, the inherited ancient practice of financial bondage was used to achieve world domination. Its most famous herald, it is reasonable to recall, for a long time was Lord Jacob Rothschild, the head of the English house of the well-known usurious banking dynasty.

II. Z° AND NEO-KGB: BACKROOM ALLIANCE

A special plot concludes in the close, one might say kinship cooperation of the Zionist movement and the current reformed KGB which now it is logical to name the Neo-KGB.

¹ Stiglitz, J. (2004). *The roaring nineteen's*. N.Y., W.W. Norton & Company.

It is worth noting that in Russia after the exhaustion of the neoliberal course and the systemic changes that took place, the financial power of the Zionist elite and, as a consequence, its political capital has noticeably decreased. Nevertheless, the "star worshipers" remained and remain involved in the activities of all more or less important state and non-state organizations. While remaining committed to their special group interests, domestic Zionists closely interact with intelligence officers. According to many testimonies, the penetration of Russian agents of influence into European countries occurs precisely through the local networks of Z°. Of course, with sufficient compensation.

In turn, the emerging alliance of world Zionism and the US administration fully suits the Neo-KGB. It is ready to join the Triumvirate, which would rule over most of the world. Then this Monster will have inexhaustible opportunities for amicable geopolitical deals with both Triumvirate's partners.

As has long been known, the current US President is a long-standing business partner of the Soviet KGB². Trump was one of the godfathers of the "Russian" (precisely Moscow-Odessa) mafia, which initially settled in New York in the mid-eighties³. He had long established informal connections with Soviet KGB agents, who were purposefully involved in this mafia. Indeed, its successful promotion in the United States became the initial step towards the creation of the global financial empire of the Neo-KGB in the nineties and zeros after the transition to market economy. According to unofficial information, Trump made a great personal contribution to this field.

The establishment of the aforementioned Triumvirate of World Power will have enormous destructive consequences for the overwhelming majority of countries on all continents. In particular, there is already every reason to believe

that the loss of Ukraine's ancestral territories is actually happening to a large extent due to the backroom alliance the top of the Zionist movement with the Neo-KGB.

III. ON THE CURRENT ZIONIST POLICY IN THE WORLD STAGE

For the sake of completeness of argumentation, it makes sense to at least briefly outline the main attributes of the strategy and ongoing aggressive activity of the Zionists.

Undoubtedly, the strategic plans of the Zionists are realized through targeted financing of Zionist organizations around the world. First of all, it is carried out directly and covertly through the aforementioned "six-pointed" constellation of banks.

Also, an integral attribute of the Z° strategy concludes in the accumulation of maximum information resources. Dominance in the information sphere allows for the successful manipulation of public sentiment. The huge disinformation, carefully verified, as well as simply outright, constantly has been poured down on ordinary citizens of different countries. Moreover, a very wide range of new, successfully tested, technologies of actual zombification (mostly mentally malicious) through TV and the Internet have intensively used.

In particular, in the example of present-day Russia, one can see how profound the "vegetable-growing" of society can become, which to a significant extent the Zionists managed to achieve in alliance with the official authorities. Here, the ideologists of power, according to widely spreading opinion, long ago surpassed their predecessors from the Third Reich - Goebbels and Rosenberg. The old principle still prevails: the more primitive the preferences in a national society, the better.

In addition it is appropriate to draw attention to the advantages of a flexible network agent structure, which distinguishes the current Z°. Operational tasks quickly and in the required volume have transferred from one cell of "star-worshipers" to another.

² Unger, G. (2021). *American kompromat: how the KGB cultivated Donald Trump and related tales of sex, greed, power, and treachery*. Scribe Publications.

³ Rachman, G. (2023). Putin, Trump and the meaning of mafia state. Financial Times, August 28. <https://www.ft.com/content/19ac2cb1-8cb4-464d-9683-18c632146755>

Besides, a very significant advantage of Z^o lies in its factually multinational composition. It makes sense to highlight the fundamental discrepancy between the communities of Jews and Zionists. In general, representatives of Jewish full-blooded nationality are to a limited extent involved in Zionist organizations. Their activities are determined by the national/ international circles of the Jewish tycoons and the circles of the other tycoons (especially majority shareholders and top managers of transnational corporations), connected with each other by close informal, namely Masonic ties. The co-keeping of Zionist-Masons groups, mostly avoiding publicity, provides by a huge number of minor functionaries. In turn, their main part, judging by the example of well-known countries (Russia, Germany, etc.), has represented by people of mixed nationality, the so-called half-breeds, with a meager share of natural Jews. Of great importance is such broadest involvement of functionaries of non-Jewish origin in the active work of Zionist organizations. Russia's example convinces the reality of the "multi-national" Zionist offensive.

It can be assumed that in order to fulfill their expansionist goals, the Zionists will tacitly contribute to the preservation of constant threats to international security and enemy images. This primarily concerns Islamic Jihadist extremism, which has long served as a justification for the illegal, precisely criminal actions of the Zionists in the international arena.

In addition, one cannot ignore the following circumstance: to this day, a targeted dictate from circles directly connected with the World Zionist Organization (WZO) and other international Zionist unions in the intellectual sphere remains. The justification for such practices presents the myth about the intellectual superiority of the Jews. No dispute, the genial researchers of Jewish origin have made an enormous contribution to scientific and technical progress. However, it does not at all follow from this that the provision of research grants and the awarding of prizes for scientific merit are legitimate on the basis of national affiliation or loyalty to the Zionist activity.

IV. POSSIBLE SOLUTION TO THE PROBLEM DUE TO THE FUTURE IMPLEMENTATION OF A POSITIVE SCENARIO FOR WORLD DEVELOPMENT

It would be an unforgivable mistake for supporters of a sustainable movement toward social planetary Progress to exaggerate the power of Zionism and fall into a state of hopeless pessimism. In our opinion, the possibility of curbing the aggressive expansion of Z^o seems quite achievable in the foreseeable future.

Probably, in the current period of the ensuing regress, the most achievable shift consists of at least partially overcoming apathy and indifference in society. Active civil opposition to Zionist expansion in its various manifestations will allow to achieve a radical improvement in interethnic relations and the overall social climate in many countries.

In this regard, the recent Congress of Anti-Zionist Forces in Vienna presents a very tremendous event. The adoption of the "Declaration of the Jewish Anti-Zionist Congress" will undoubtedly have a significant impact on public sentiment in Europe and throughout the world⁴.

The few progressive media outlets are called upon to play an exceptional role in exposing the designs of the Zionists, as well as in laying bare the ins and outs of the totalitarian branch of Islamic dogmatic doctrine⁵. Their maximum cooperation is required to consolidate their actions in the conditions of the dominance of agents on the Internet and television channels who directly or covertly carry out Zionist propaganda.

⁴ Vienna, 13-15 June, 2025. <https://www.juedisch-antizistisch.at>

⁵ Using exclusively correct information methods, probably a significant positive result would be brought by unobtrusive disclosure to a huge number of uninformed Muslims about the origin of the orthodox Sunni faith. Based on all historical evidence, it was actually created by the prophet Muhammad (he is also Moses - simultaneously the creator of official Judaism) by the behest of the pharaoh of Ancient Egypt and was directly used as a tool of Power over the Arab part of the population.

Looking ahead, the US neoconservative course declared for the coming years will likely be exhausted for the two main reasons⁶.

First, in the current market economy of the third decade of the 21st century, the effect of stimulating the growth of activity of national entrepreneurs - the main economic recipe of neoconservatives - is becoming obviously limited. It can be confidently predicted that further deepening of digitalization and decarbonization will be associated with a strong reduction in non-high-tech and non-science-intensive sectors with a concomitant narrowing of the space of obviously free market initiatives. In such a situation, excessive market competition within the boundaries of ordinary business sectors will inevitably lead to a drop in the incomes of its participants, which will entail an increase in economic and social imbalances in general.

Second, the combined economic and human potential of most developed countries, Western and non-Western, is much higher than that of the United States and its possible few allies. In order to counteract the ultra-protectionist policy, or, in other words, Trump's tariff "banditry", these countries will be forced to join forces to ensure external economic protection and carry out counter-offensive actions. Consequently, American entrepreneurs will suffer enormous losses. The Trump administration will have to abandon its militant external economic policy, which will likely entail a change in the overall political situation in the United States.

Along with this, after the final end of hostilities in Ukraine, a radical narrowing of international military conflicts will become quite possible⁷. The

consequence will be a weakening of the positions of the allies of world Zionism, primarily the Neo-KGB.

If the above-mentioned metamorphoses occur, it will be highly probable that social forces that share the ideology of Progress will return to the political Olympus in the Western world as a whole⁸. Then in the future, during the implementation of the supposed positive scenario of global development, the governments of many countries, representing political forces of the center-left and social-reformist orientation, will probably turn to face the practice of sustainable development of society in its updated format⁹. Consequently, it will become possible to gradually achieve the updated sustainable development targets (SDG) on a planetary scale, including ensuring a fair world economic order and a sustainable geopolitical order.

Certainly, the implementation of the updated SDGs will be incompatible with the functioning of the speculative stock market and other speculative capital markets that generate an unfair distribution of income and an unacceptable polarization of wealth. The only decision seems non-alternative: to establish a global banking system of money turnover, dating back to Bismarck and institutionalized in most European and many other countries in the world. Indeed, a

⁶ Litan, R., & Shane, P. (2025). Trump's regulatory house cleaning won't be easy. Brookings, January 20. <https://www.brookings.edu/articles/trumps-regulatory-housecleaning-wont-be-easy/>; Posen, A. (2025). Trade wars are easy to lose. *Foreign Affairs*, April 9. <https://www.foreignaffairs.com/united-states>

⁷ Nelozhin, S. (2023). *Russia Today: does it real to turn to the path of progress?* MPRA Paper 119403, University Library of Munich, Germany. https://mpra.ub.uni-muenchen.de/119403/5/MPRA_paper_119403.pdf; RAND. (2025). *Russia's military after Ukraine*. January 16. https://www.rand.org/pubs/research_reports/RRA2713-1.htm

⁸ Fleurbaey, M. et al. (2018). *A Manifesto for Social Progress*. Cambridge: Cambridge University Press; Nelozhin, S. (2025). The Hour of Trial for Europe Has Come (The Vision from Russia). *Arts and Social Science Journal*. 16: 642. DOI: 10.37421/2151-6200.2025.16.642; Porter, M. (2015). Social Progress: the next development agenda. The World Bank, October 29. <https://thedocs.worldbank.org/en/doc/172681446566695985-0050022015/original/DECLectureSeriesMichaelE.PorterPresentation.pdf>; Stiglitz, J., Sen, A., Fitoussi, J.-P. (2010). *Report of the Commission on the Measurement of Economic performance and Social Progress*. Commission on the Measurement of Economic performance and Social Progress: France.

⁹ Lafortune, G. & Grayson, F. (2025). *Europe Sustainable Development Report 2025: SDG Priorities for the New EU Leadership*. Paris: SDSN and Dublin: Dublin University Press; Sachs J., Lafortune, G., Fuller, G. (2024). *The SDGs and the UN Summit of the Future. Sustainable Development Report 2024*. Paris: SDSN, Dublin: Dublin University Press; UNDP Strategic Plan 2026-2029. (2025). United Nations. <https://www.undp.org>

number of countries will be faced with the dilemma of demanding fundamental institutional changes that mediate the rejection of the market capitalist monetary system of the Anglo-American type.

In the event of the elimination of speculative capital markets, the well-being of Zionist financial capital will, without any exaggeration, come to a long-awaited end. The constellation of "six-pointed" banks, together with related financial/investment companies, will lose their main sources of super-profits. As a result, the legal and illegal channels of support for Zionist organizations will de facto narrow sharply.

In turn, an ordinal reducing of the Zionist influence presupposes reforming the state media in many countries. For this purpose, national governments will need to recruit new qualified personnel and provide their subsequent adaptation. Besides, the necessary complementary step - to overcome Z^o dominance over the commercial media markets. The demanded solution consists in attracting investors on a fully competitive basis.

It is reasonable to hope for the establishment of democratic political parties/ movements distinguished by the international composition of their participants in large countries of Europe and Asia. They must act as a powerful counterweight to political Zionist associations. Thanks to the new digital technologies, it seems be more than realistic to create comprehensive information systems for the needs of future political organizations. Thus, the mentioned organizational advantage of Z^o will come to naught.

The time will definitely come to end the dominance of Z^o in the research sphere. Under the auspices of the UN and UNESCO, authoritative international research associations are called upon to be created, ensuring equal access for participants to receiving grants and publications in the leading journals. In particular, the world-wide gloomy activity of Elsevier editorial, which in fact represents the WZO, will be radically reduced.

Along with the above, strict legal restrictions on the aggressive activities of Zionist organizations will necessary remain. In particular, at the national level strong neutralization of the activities of Zionist non-commercial (only officially!) organizations spreading all over the world through restrictions on sponsorship and funding from abroad will definitely be required.

Finally, one should not forget: a necessary step aimed at a full-scale deactivation of Zionist influence lies in the maximum possible eradication of acting extremist movements. This primarily concerns the performance of Islamic terrorist organizations.

The world community must get rid of Zionism and Islamism in their current sinister guise!



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Dr. Gonzague Mottet

ABSTRACT

The alter identicus has dismissed the alter ego in late modernity, with repercussions for the way psychiatrists view the other. After examining the notions of limit and situation for each of these two ways of viewing the other, we will examine their consequences for diagnostic development. We will detail the example of the ADI-R and the ADOS in the diagnosis of autism spectrum disorders (ASD). We will question the usefulness of defining very broad markers of belonging (alter identicus) that seem to miss their target: to understand a neuroconstructivist development process in which the patient's creativity (alter ego) contributes significantly to the development of a divergent trajectory.

Keywords: alter ego, alter identicus, diagnosis by discrimination, diagnosis by accumulation, adi-r, ados, neuroconstructivist developmental hypothesis.

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From the Alter Ego to the Alter Identicus: The Transformation of the Epistemological Approach to the other and its Implications in Child Psychiatry

De L'alter Ego à L'alter Identicus: La Transformation de L'approche Épistémologique de L'autre et ses Incidences en Pédiopsychiatrie

Dr. Gonzague Mottet

ABSTRACT

The alter identicus has dismissed the alter ego in late modernity, with repercussions for the way psychiatrists view the other. After examining the notions of limit and situation for each of these two ways of viewing the other, we will examine their consequences for diagnostic development. We will detail the example of the ADI-R and the ADOS in the diagnosis of autism spectrum disorders (ASD). We will question the usefulness of defining very broad markers of belonging (alter identicus) that seem to miss their target: to understand a neuroconstructivist development process in which the patient's creativity (alter ego) contributes significantly to the development of a divergent trajectory.

Keywords: alter ego, alter identicus, diagnosis by discrimination, diagnosis by accumulation, adi-r, ados, neuroconstructivist developmental hypothesis.

Author: Pédiopsychiatre, CH Drôme Vivarais.

RÉSUMÉ

L'alter identicus a congédié l'alter ego dans la modernité tardive, avec des répercussions sur le regard que les psychiatres portent sur l'autre. Après avoir étudié les notions de limite et de situation pour chacune de ces deux manières d'envisager l'autre, nous en verrons les conséquences sur l'élaboration diagnostique. Nous détaillerons l'exemple de l'ADI-R et de l'ADOS dans le diagnostic des troubles du spectre de l'autisme (TSA). Nous nous interrogerons sur

l'utilité de définir des marqueurs d'appartenance très larges (alter identicus) qui semblent manquer leur cible: appréhender un processus développemental neuroconstructiviste dans lequel la créativité du patient (alter ego) contribue largement à l'élaboration d'une trajectoire divergente.

Mots clés: alter ego, alter identicus, diagnostic par discrimination, diagnostic par accumulation, ADI-R, ADOS, hypothèse développementale neuroconstructiviste.

Être psychiatre c'est tenter de connaître l'autre et ses troubles. Tout psychiatre est tributaire du regard de son époque sur la manière dont la connaissance de l'autre se constitue. Or l'époque change et le statut de l'autre aussi.

Mon propos est d'envisager les incidences de ce changement du statut de l'autre sur la pratique des psychiatres, et de réfléchir plus particulièrement sur ce qu'induit le passage d'une connaissance classique de l'autre (mécanisme de discrimination), à une connaissance contemporaine de l'autre (accumulation de données).

I. «L'AUTRE IDENTIQUE» SELON BYUNG-CHUL HAN.

Le constat du philosophe allemand sur le statut de l'autre dans la modernité tardive est sans appel. L'autre y est expulsé¹. «Le temps où l'autre existait est révolu.

¹ Byung-Chul Han L'expulsion de l'autre PUF 2020

L'autre comme mystère, l'autre comme tentation, l'autre comme eros, l'autre comme désir, l'autre comme enfer, l'autre comme douleur, tout cela disparaît»². Suit une centaine de pages dans lesquelles Byung-Chul Han détaille les ravages de l'ère numérique sur les rapports humains, où chacun cherche à être en lien avec de l'identique (qualifié de positivité) et évite d'affronter l'autre pourvoyeur de conflit et d'opposition (qualifié de négativité). Cette recherche effrénée de positivité, encouragée par les datas et les algorithmes, isolerait l'individu dans des bulles cognitives et dans la multiplication de pseudo expériences, tout en faisant peser sur lui la responsabilité de la réussite de sa vie. Le risque en serait l'effondrement dépressif, maladie de l'époque, par une indigestion face au « trop plein de pseudos expériences » ou par un découragement coupable face à l'échec. Byung-Chul Han a une lecture politique du basculement de la modernité tardive dans le néolibéralisme, avec une contrainte économique qui ne s'exerce plus de l'extérieur mais à l'intérieur même des individus, et un besoin « d'authenticité »³ qui nous rend captifs des possesseurs de données. La recherche « d'authenticité » aurait remplacé notre besoin d'ipséité. Nous sommes car nous sommes comparables. Nous sommes car nous appartenons à une (des) communauté(s). Et qui sait mieux que quiconque qui nous sommes si ce ne sont les détenteurs des données, les nôtres et celles de ceux à qui nous ressemblons.

La construction communautaire de soi (soi-même comme appartenant à une communauté se substituant à soi-même comme un autre) déplace la conflictualité. S'il existe un « autre identique », il existe forcément son contraire, un « autre différent » qui se transforme vite en « autre hostile ». La fraternité n'habite plus notre humanité sous le regard du « il y a » de Levinas⁴. Elle est réduite aux enjeux de rivalité entre communautés d'appartenance au risque d'une violence justifiée par le danger que constitue l'autre dans sa propre revendication d'appartenance. Il n'y a plus de modalité de

médiation tierce au-dessus, ou à côté, du conflit immédiat. Au plan individuel comme au plan collectif, nous entrons dans une spirale de prétextes d'autant plus efficaces qu'ils deviennent l'explication banale de la violence envahissant le monde.

Dans la suite de mon propos, je reprends la description de Byung-Chul Han de « l'autre identique » dans la modernité tardive, sous le terme d'alter identicus, en l'opposant au classique alter ego.

II. L'ALTER EGO

Mon propos n'est pas de faire la genèse du concept d'alter ego, de Descartes à Husserl. Soulignons simplement ici comment ce concept a irrigué la psychiatrie moderne, en faisant de l'autre un sujet d'observation et aussi un sujet avec lequel le soignant doit entrer en relation (inter subjectivité), oscillant entre une classique « psychiatrie en troisième personne » (psychiatrie de l'observation symptomatique et de la classification nosographique) et une « psychiatrie en première personne » (psychiatrie de l'écoute du vécu singulier). Ces deux psychiatries se nourrissent l'une l'autre, aucune n'ayant une prééminence, la psychiatrie en première personne touchant parfois à l'essentiel du trouble comme pour Anna et le concept de « perte de l'évidence naturelle » de Blankenburg⁵.

Posons comme point de départ l'idée que l'alter ego est un semblable: quelqu'un qui tout en étant très différent de nous nous ressemble (et vice versa), ce qui est très différent « d'être semblable à ». Le passage du substantif (un semblable comme alter ego) au qualificatif (« être semblable à » comme alter identicus) évince la dualité de l'alter ego que Jeanne Hersch⁶ rappelle dans la formule: « *un alter ego se constitue dans la conscience par analogie avec le moi, et en même temps comme étranger à la conscience du moi* ».

² idem p 7

³ idem p 37-47

⁴ Levinas E. Totalité et infini, édition Martinus Nijhoff 1971

⁵ Blankenburg W. La perte de l'évidence naturelle PUF 1991 (édition allemande 1971)

⁶ Hersch J. L'étonnement philosophique Gallimard 1981

III. LES NOTIONS DE «LIMITES» ET DE «SITUATIONS» DANS LE CONCEPT D'ALTER EGO

La méthode husserlienne de réduction phénoménologique est une première limite.

Prenons pour l'illustrer l'exemple de l'apparition de Mickey sous le crayon de Walt Disney; une feuille blanche comme renoncement à tout pré-supposé et à tout contexte, la simple observation d'une forme à la ligne claire qui apparaît, puis qui s'anime, et enfin un «étant là » à qui l'on prête une intention. L'alter ego comme phénomène est de cette nature. Avec très peu d'informations, l'autre s'anime et prend une place singulière. La ligne claire du dessin, la deuxième limite, laisse dans l'ombre nombre d'informations, sans empêcher pour autant que la forme dessinée soit «présence» à nos yeux, et permette une rencontre.

La situation forme la troisième limite. L'intention de l'autre ne peut s'éprouver qu'en situation. Jaspers⁷ nous rappelle que nous sommes toujours « en situation » dans notre rencontre avec l'autre, que nous ne pouvons pas faire abstraction de qui nous sommes (historicité), de là où nous rencontrons l'autre (contexte) et surtout que chaque rencontre est une rencontre entre deux existences possédant leurs propres historicité et liberté.

La connaissance de l'autre comme alter ego nécessite donc un processus de discrimination à un triple niveau:

Discrimination de la forme faisant éruption (présentation)

Discrimination du mouvement singulier qui interroge sur la logique interne propre à l'autre, à partir de soi et de ce que l'on imaginerait faire si nous étions à la place de l'autre (apprésentation)

Discrimination d'une intention libre rencontrant notre propre liberté. Cette triple discrimination a des conséquences essentielles dans notre capacité à connaître un alter ego. Il serait illusoire de vouloir la gommer par commodité. La

présentation permet une approche objective (parfois scientifique) de l'autre.

L'apprésentation nous rappelle la subjectivité de notre regard, et celle de l'autre. Sa liberté rend l'autre en partie inaccessible comme objet d'étude (nous relativiserons plus avant cette notion de liberté au sujet de la maladie mentale).

Vouloir connaître un alter ego, c'est accepter cette triple dimension impliquant que l'autre ne se laissera jamais totalement saisir dans le processus de la connaissance.

IV. L'ILLUSION DE L'ABSENCE DE LIMITES DANS LA CONNAISSANCE DE L'ALTER IDENTICUS

Reprenons l'exemple de l'apparition sous nos yeux de Mickey. Cette fois-ci non sous le crayon de Walt Disney traçant une ligne claire, mais sur un écran informatique dont la pixellisation deviendrait de plus en plus performante. L'alter identicus se constitue dans cette logique, celle de l'attente d'une définition de plus en plus précise de l'autre. C'est l'accumulation de données qui le constitue, et la précision de sa définition qui retient notre attention. Là où une seule ligne claire suffisait à faire vivre une présence qui n'avait nul besoin d'une accumulation de détails, la pixellisation échoue. Nous ne nous laissons pas prendre dans le miracle de la rencontre immédiate, attendant d'en savoir plus, attendant d'y voir plus clair. Mais pour savoir quoi de plus ?

Réexaminons les trois niveaux de discrimination de l'alter ego au sujet de l'alter identicus.

La forme a du mal à prendre corps. C'est comme si le centre prenait le dessus sur la périphérie. L'attente d'une meilleure définition prime sur la place de l'alter identicus dans le contexte. La limite de la forme n'a plus la même importance, car nous n'y prêtons plus le même intérêt comme indice de la présence de l'autre.

La discrimination d'un mouvement singulier interrogeant sur une logique propre à l'autre n'est pas au premier plan, car l'attente d'une meilleure définition capte là aussi l'attention. Pourquoi faire des hypothèses à partir de ce que nous ferions à la

⁷ Jaspers K. Philosophie éditions Springer-Verlag 1932.

place de l'autre, quand nous attendons une réponse qui doit s'afficher sous nos yeux par une hyper pixellisation en cours. Notre attente de précision au sujet de l'alter identicus entre en résonnance avec notre attente d'une réponse technique. Nous sommes dans la même logique que face à un écran LED hyper pixellisé; ce qui s'affiche à l'écran « ringardise » la perception que nous avons du réel, et devient la norme attendue. La limite serait la limite technique qui en étant repoussée jour après jour nous fait penser qu'elle n'en a pas.

L'intention libre de l'autre pourrait ne plus être un mystère dans une connaissance par accumulation de données. L'autre pourrait être connu dans toutes ses dimensions, dans tous ses secrets, la traçabilité des habitus venant hypothéquer l'idée de liberté, l'individu enfermé dans ses habitudes mises à jour par la technique devenant prévisible.

Nous constatons donc l'ambition de l'accumulation de données: connaître toujours mieux l'alter identicus avec la seule limite de la technique. Nous verrons dans le chapitre suivant que c'est le clinicien lui-même qui doit poser des limites afin de rendre l'outil technique opérant au plan diagnostique.

Dans une connaissance de l'alter ego, les limites s'imposent au clinicien.

Dans une connaissance de l'alter identicus, le clinicien technicien s'impose des limites.

V. DIAGNOSTICS PAR ACCUMULATION VERSUS DIAGNOSTICS PAR DISCRIMINATION

Si la connaissance de l'alter ego se fait par discrimination, si la connaissance de l'alter identicus se fait par accumulation, l'observation clinique et l'établissement d'un diagnostic vont suivre des logiques différentes en fonction du statut que le clinicien attribue à l'autre.

Dans la tradition de la psychiatrie clinique, l'approche objective se concentre sur la présentation de l'alter ego, laissant à l'approche subjective l'exploration de son appréhension, et acceptant que des pans entiers de l'alter ego

restent inaccessibles à la connaissance. Cette approche objective adopte les critères médicaux classiques des symptômes, regroupés en syndromes et en maladies. Le diagnostic est positif quand les critères cliniques sont établis en fonction de la grille diagnostique choisie (pas d'exclusivité, coexistence de plusieurs approches cliniques possibles), mais il est aussi et surtout différentiel. La nécessité de faire un tri entre pathologies psychiatriques présentant une proximité clinique est essentielle. Le psychiatre de la tradition clinique prend grand soin de discriminer les catégories nosographiques à partir d'éléments distinctifs significatifs. Il se doit de définir ce que présente son patient au plan clinique et nosographique, mais il se doit également de définir ce qu'il ne présente pas et qui pourrait prêter à confusion dans la prise en charge et dans l'établissement d'un pronostic évolutif. C'est la seconde limite de la ligne claire qui est ici à l'œuvre, faisant le distingo entre une présentation « évocatrice de », et une présentation pouvant « faire penser à tort à ».

Une branche de la psychiatrie clinique classique, la psychiatrie phénoménologique, a renoncé à découper la présentation de l'alter ego en éléments clairement délimités et parfois quantifiables. L'approche phénoménologique envisage la présentation de l'alter ego comme une présence-au-monde singulière qui en dirait plus sur le trouble psychiatrique sous-jacent que le regroupement d'éléments venant s'emboîter telles les pièces d'un puzzle. La mise en évidence d'une atmosphère particulière dans la rencontre oriente le clinicien phénoménologue vers un approfondissement, à la recherche d'un hiatus dans cette présence venant signer le trouble. Il n'est pas question ici de subjectivité clinique mais d'une lecture objective⁸ d'une présence-au-monde pathologique.⁹

⁸«Le diagnostic psychiatrique est fondamentalement de nature perceptive et non inférentielle» Tatossian A. Qu'est-ce-que la clinique ? Confrontations Psychiatriques, 30, 55-61, 1989.

⁹ à noter, face à l'hégémonie académique de l'alter identicus, la tentation de certains phénoménologues d'élaborer des grilles de lecture cotées comme l'EASE de Joseph Parnas explorant un trouble du self minimal. Ces grilles de lectures cotées peuvent être perçues comme un renoncement de la phénoménologie psychiatrique à l'alter ego, et conduire à

Nous avons posé plus avant la liberté de l'alter ego, c'est-à-dire sa capacité à être là où on ne l'attendait pas, à faire ce que l'on ne prévoyait pas, donc à échapper à la prédictibilité scientifique. Cette liberté est parfois suspendue ou perdue pour l'alter ego présentant une maladie psychiatrique (aliénation). Les débats sont nombreux tant d'un point de vue individuel (responsabilité pénale) que collectif (prédictibilité du passage à l'acte). Ici encore l'approche phénoménologique a l'avantage de maintenir le principe d'un alter ego libre sans fermer les yeux sur l'aliénation. Un alter ego dont la maladie psychiatrique l'empêche d'être responsable de ses actes, n'est pas prévisible pour autant. Le passage à l'acte, même celui symptôme de maladie psychiatrique, n'est pas déterminé par la maladie. Il est comme tout symptôme psychiatrique, tentative de reconstruction d'une cohérence ébranlée par le processus morbide¹⁰. S'il est bien en lien avec le processus morbide responsable d'une présence-au-monde particulière (par exemple un «être-permanent-sous-le-regard-de-l'autre»), le passage à l'acte de l'alter ego malade n'est pas prédictible. Il est à comprendre au regard du trouble et s'inscrit dans le processus délirant d'une illusoire reconquête d'une cohérence interne.

Aujourd'hui, la collecte des éléments cliniques et le raisonnement diagnostique qui en découle, se déroulent d'une manière radicalement différente. La nouvelle clinique telle qu'enseignée à l'université ne présuppose pas une rencontre avec un alter ego¹¹. Elle envisage le patient comme un alter identicus transparent au regard scientifique. Chaque part du comportement humain peut être explorée, et comprise par un protocole ad hoc.

notre point de vue à des impasses cliniques en cherchant par exemple une structure de base au trouble schizophrénique, et s'éloigner de la formule pleine de sagesse d'Arthur Tatossian qui affirmait que l'origine du trouble schizophrénique est à chercher dans sa dimension anthropologique.

¹⁰ Gabarre J. Henri Ey et la pensée psychiatrique contemporaine, Les empêcheurs de penser en rond, 1977

¹¹ Le développement de la pair aidance dans les services de psychiatrie, excellente initiative si la parole du pair aidant n'est pas qu'un relais de la parole médicale, peut être analysée comme une répartition des rôles: aux cliniciens la relation avec l'alter identicus du patient, aux pair aidants la relation avec l'alter ego du patient.

Les seules limites envisagées sont celles de la méconnaissance du clinicien et de l'insuffisance de la technique. Elles ont vocation à être repoussées, encore et encore.

La collecte des éléments cliniques s'inscrit toujours dans le même processus. Le clinicien est devenu un opérateur de santé qui suit des protocoles bien rodés. Très en amont, dans des cercles restreints de chercheurs éminents et influents, sont définis par consensus les principes généraux (et affichés comme non inféodés à une théorie) de ce qui est considéré comme maladie ou trouble (DSM). Il s'en suit la collecte de toute une série de «symptômes» significativement (statistiquement) plus fréquents dans un groupe de « personnes considérées malades ou porteuses du trouble» par rapport à un groupe témoin. Ces symptômes sont « mis à l'épreuve » dans des tests (auto questionnaires, questionnaires ou méthodes d'observation semi-directives, tests neuropsychologiques divers...) eux-mêmes étalonnés dans le but d'avoir une valeur prédictive de la maladie ou du trouble. Cette prédictibilité s'appuie sur toute une série de seuils (cut off) déterminées par les inventeurs du test. Ces seuils sont essentiels pour comprendre l'alter identicus et faire émerger de la masse de données recueillies une information signifiante. C'est cette information qui est aujourd'hui considérée comme un diagnostic, diagnostic qui n'est plus guidé par le constat d'une rupture intrapsychique, mais qui est le fruit de choix de niveaux de seuils (cut off) par les inventeurs du test. Le clinicien de terrain est celui qui met en œuvre ces tests, la plupart sous copyright, et qui récolte l'information signifiante telle que l'algorithme l'a définie. Ce qui nous pose problème dans cette démarche, ce n'est pas la richesse des éléments cliniques récoltés, c'est la valeur de vérité que l'algorithme leur donne, estampillée «certitude diagnostique», et l'idée que telle une hyper pixellisation toujours de meilleure qualité, les tests en tout genre auraient un regard toujours plus affûté, car plus riche et informé sur l'alter identicus que le regard clinique par définition partiel sur l'alter ego.

Arthur Tatossian dans un texte¹² concis et lumineux pose trois objections à la psychopathologie quantitative (diagnostic par accumulation): une objection quant à la place du symptôme, une objection quant à la place du clinicien, une objection quant au champ étudié.

Au sujet du symptôme, Tatossian réfute l'idée que les symptômes font la maladie. Ils ne sont pas les éléments visibles d'un processus caché (comme en médecine somatique). Le clinicien reconnaît la maladie non pas « *par le symptôme* » mais « *dans ou avec le symptôme* ». Il donne l'exemple d'une même croyance ou d'un même comportement qui peut exister chez une personne saine d'esprit ou chez une personne aliénée. Le clinicien cherchera si le symptôme est l'occasion d'une rupture d'un équilibre dialectique au sein de l'individu et dans son rapport au monde. C'est ce point de rupture qui signe la maladie. En termes phénoménologiques Tatossian dit dans son ouvrage *Phénoménologie des Psychoses*: «*Là où l'unité transcendante de l'angoisse et de la confiance est déchirée au profit de l'une ou de l'autre, est présent ce que nous désignons cliniquement comme psychose*».

Au sujet du clinicien, Tatossian parle du dilemme de l'utilisateur d'outils standardisés: «*soit coter la même chose (le symptôme standardisé) mais en lui déniait paradoxalement en même temps toute valeur pathologique, ou bien ne pas coter la même chose (rester sur son analyse clinique classique) mais alors en reconnaissant ou non la folie dans le symptôme et non à partir de lui...*». En dehors de l'idée d'un grand catalogue type check-up, le psychiatre de la tradition clinique ne peut donc rien attendre d'un diagnostic standardisé.

Au sujet du champ étudié, Tatossian affirme que la psychopathologie quantitative n'est pas la mieux inspirée pour aborder la nosologie catégorielle. Elle doit se cantonner à une

«*approche dimensionnelle permise par les méthodes mathématiques*». Tatossian décrit en précurseur le basculement de la psychiatrie de ces quarante dernières années, une psychiatrie dans laquelle la notion de maladie psychiatrique ne s'aborde plus comme un processus morbide au sein de l'individu que le clinicien aurait à repérer, à décrire, à comprendre et à tenter de soigner, mais dans une appartenance à une communauté de malades à partir de marqueurs d'appartenance, patient devant être soigné et accompagné comme tous les membres de la communauté à laquelle il appartient désormais. Le clinicien a cédé la place au statisticien, et il n'est donc pas étonnant que le psychiatre soit une espèce en voie de disparition, car la société n'a plus besoin de son expertise (bien qu'elle dise le contraire).

Une conséquence est aujourd'hui très visible depuis la généralisation des diagnostics par accumulation de données: la disparition des diagnostics différentiels et l'inflation des comorbidités. Seuls les diagnostics par discrimination ont la capacité de différencier des pathologies de natures différentes présentant des expressions cliniques proches. Les diagnostics par accumulation ne le peuvent pas. Et comme ils ne le peuvent pas, leurs promoteurs ont fait disparaître la notion de diagnostic différentiel de l'esprit des cliniciens. Leurs promoteurs restent dans la logique de l'accumulation, permettant pour un même patient l'accumulation de diagnostics parfois contradictoires, laissant patients et cliniciens démunis face à la «responsabilité» de tel ou tel trouble dans la genèse de la souffrance psychique ou les particularités du comportement. Sur le terrain, le débat clinique semble s'être détourné de l'idée de diagnostic, pour basculer vers l'idée plus opérante de manifestations symptomatiques préoccupantes¹³, sans que les habitudes des centres de référence ne changent: diagnostiquer encore et toujours.

¹² Tatossian A. Symptôme et maladie en psychiatrie: sur les présupposés de la psychopathologie quantitative, intervention du 28/04/1980 aux IX^e journées de Méthodologie de la Recherche en Psychiatrie, Marseille, Psychologie Médicale, 1981, 6, 13, 879-881, repris dans le 3^e Tome des Œuvres complètes, MJW Éditions Paris 2020, p 245-250

¹³ La prescription des psychotropes obéit plus à une logique de cibles symptomatiques qu'à une logique de diagnostic, l'idée de cible symptomatique permettant aussi un retour au sujet, dans l'ici et le maintenant de la clinique.

VI. UN EXEMPLE DE DIAGNOSTIC PAR ACCUMULATION EN PÉDOPSYCHIATRIE: LE DIAGNOSTIC DE TROUBLE DU SPECTRE DE L'AUTISME (TSA) PAR L'ADI-R ET L'ADOS

L'ADI-R (Autism Diagnostic Interview- Revised, 1994) est un entretien semi-structuré et standardisé avec les parents ou aidants des enfants suspects de TSA. L'ADOS (Autism Diagnostic Observation Schedule, 1989) est une échelle d'observation pour le diagnostic des TSA.

Le plus souvent associés, ces deux tests sont considérés comme le gold standard diagnostique. Mon objectif n'est pas de faire une analyse de leurs avantages et leurs limites. Vous trouverez deux analyses intéressantes dans les articles de Sylvie Tordjman¹⁴ et Antoine Frigaux¹⁵.

Intéressons-nous ici simplement à ces trois questions:

- Pourquoi le modèle explicatif actuel des TSA dit « développemental neuroconstructiviste » laisse-t-il si peu de place aux cliniciens ?
- Pourquoi la très riche collecte d'éléments cliniques de l'ADI-R et de l'ADOS n'aboutit qu'à une sélection de marqueurs d'appartenance ?
- Pourquoi l'idée d'une psychodynamique propre aux enfants TSA est-elle si peu exploitée aujourd'hui dans les prises en charge ?

Des éléments de réponses sont à rechercher dans l'omniprésence de l'idée d'alter identicus à laquelle contribuent ces tests.

En préambule, quelques mots sur l'évolution du concept de TSA ces dernières années. La période 1990/2000, alors que les tenants de la psychanalyse avaient déjà perdu la bataille de l'autisme, a été féconde en hypothèses majeures

(les travaux de Hutt, Ornitz, Van Engeland sur le défaut de filtrage ou filtrage exagéré des afférences sensorielles, les défauts en méta représentation de Baron-Cohen et en théorie de l'esprit de Frith, les défauts dans le traitement des émotions de Hobson, dans l'imitation de Nadel, dans le traitement de la vitesse des mouvements de Gepner, les défauts de cohérence centrale et d'affordance, les défauts de régulation tonique de Bullinger....). Une thèse de science¹⁶ résume bien le fait que, parce qu'aucune de ces hypothèses ne peut expliquer la totalité des symptômes autistiques, elles ont toutes été abandonnées au profit d'une théorie plus globale, le modèle développemental neuroconstructiviste (Karmiloff-Smith 2009), qui ne met plus en avant le défaut d'une fonction particulière, mais qui défend l'idée que les symptômes autistiques sont les manifestations d'une trajectoire développementale différente¹⁷ (j'insiste ici sur l'utilisation du singulier). Si la cause ou les causes initiales sont encore inconnues, des hypothèses se basant en particulier sur des modèles animaux (souris) mettent en évidence des « périodes critiques » avant la naissance ou très tôt après la naissance, durant lesquelles l'équilibre excitation/inhibition neuronale serait perturbé¹⁸. Nous sommes donc aujourd'hui face à un modèle théorique postulant l'existence d'un trouble précoce altérant le fonctionnement synaptique, et provoquant en réaction (plasticité cérébrale) une trajectoire développementale divergente¹⁹. Ce modèle n'est pas sans rappeler aux psychiatres de ma génération le modèle organo-dynamique d'Henri Ey, qui postulait que tout symptôme psychiatrique est un compromis adaptatif, une recherche d'équilibre et de cohérence malgré le trouble biologique initial supposé. Si le modèle organo-dynamique de Ey laissait une très grande latitude aux cliniciens dans l'analyse de la créativité symptomatique des patients et dans leur

¹⁶ Plusquellec A. Etude du trouble du spectre autistique : vers un modèle développemental neuroconstructiviste Ecole doctorale de Sciences d'Amiens 2018

¹⁷ Johnson, Jones et Gliga (2015)

¹⁸ Le Blanc JJ Fagiolini M, Autism : A « Critical Period » Disorder ? Neural Plasticity 2011 (2090-5904) :921680

¹⁹ Pour Laurent Mottron « des questions scientifiquement encore ouvertes se sont refermées sur des positions opératoires, cristallisées par des outils et des dogmes... »

¹⁴ Tordjman S. Les instruments d'évaluation de l'autisme: intérêts et limites, Psychiatrie de l'Enfant, 2002/2 (vol. 45) p 533 à 558, PUF.

¹⁵ Frigaux A., Evrard R., Lighezzolo-Alnot J., L'ADIR-R et l'ADOS face au diagnostic différentiel des troubles du spectre autistique: intérêts, limites et ouvertures, L'Encéphale, 2019-11-01, Volume 45, Numéro 5, p 441-448.

accompagnement face aux impasses personnelles et relationnelles, le modèle développemental neuroconstructiviste les cantonne à un rôle de collecteur de données.

Prenons l'exemple du passage du DSM4 au DSM 5 en 2013. La définition clinique du TSA change avec l'abandon de la triade symptomatique classique pour une dyade.

Les formes cliniques (syndrome d'Asperger, trouble envahissant du développement..) sont abandonnées pour se rapprocher d'une forme clinique unique dans l'esprit d'une trajectoire développementale divergente (Trouble du Neuro Développement) dont nous venons de parler. Des modifications des algorithmes de l'ADI-R et de l'ADOS devenaient nécessaires pour se conformer à cette nouvelle définition²⁰. Elles ont été entreprises en particulier par Huerta et Gotham sur de nouvelles cohortes (accumulation de données) correspondant à la nouvelle définition clinique. Sans entrer dans les détails techniques, comment se calculent aujourd'hui les algorithmes et que mettent-ils en avant ?

L'ADI-R demande aux parents²¹ de répondre à 93 questions au sujet du développement de leur enfant dans les domaines du langage, de la communication, des relations sociales, du jeu, des intérêts, du comportement, et en particulier sur la période entre 4 et 5 ans. Seuls 42 items sur 93 sont pris en compte pour l'algorithme. Parmi les items laissés de côté, certains me paraissent essentiels pour mieux cerner le profil clinique particulier de ces enfants, par exemple les items 11 à 18 sur les pertes de compétences acquises, les items 32 et 40 sur la prosodie, l'item 41 sur la qualité actuelle du langage communicatif, l'item 46 sur l'attention à la voix humaine, l'item 60 sur la capacité à prendre des initiatives, l'item 72 sur la sensibilité aux bruits, l'item 73 sur des réponses anormales/personnelles aux stimuli sonores, les items 74 75 76 sur les difficultés face aux

changements de routines, de l'environnement ou des objets, l'item 80 sur la marche sur la pointe des pieds, les items 88 à 93 sur les îlots de compétence. Quelle logique préside à cette recherche fouillée, suivie d'une telle simplification ? L'utilisation d'une forme abrégée de l'ADI- R, réduisant à la fois le nombre des questions et l'algorithme aux items les plus « statistiquement significatifs »²² pour poser le diagnostic de TSA (limite posée par les promoteurs du test), dévoile les objectifs de ce test. Il n'a pas pour vocation de permettre un meilleur éclairage clinique pouvant orienter le travail du clinicien. Il a pour seule ambition d'être le plus efficace possible dans la mise en évidence de marqueurs d'appartenance à la communauté des enfants avec autisme, donc de diagnostiquer en intégrant le patient au sein d'une communauté aux contours élargis depuis le DSM5²³. Plus le test est court, plus les marqueurs d'appartenance sont concordants avec les données en possession des promoteurs du test, plus son objectif est atteint. Là où le clinicien est en attente d'éléments éclairant un mode de fonctionnement singulier face à l'atypicité d'une trajectoire développementale (alter ego) le test demande au clinicien technicien de déclarer « officiellement » une appartenance (alter identicus). Est-ce l'essentiel ? Probablement oui à en croire la demande sociétale pour ce type de diagnostic standardisé²⁴.

Nous allons voir que l'ADOS comporte aussi des biais sélectifs dans l'établissement de son algorithme, mais contrairement à l'ADI-R, l'ADOS devrait être d'abord une véritable rencontre. Comment cette rencontre (alter ego) est-elle finalement réduite à une simple collecte de données (alter identicus) ? Un premier élément de réponse : pour être un bon clinicien technicien, le clinicien technicien se doit de ne rien entendre de

²⁰ même les tests ont leur millésime !

²¹ Ici la subjectivité parentale n'est pas questionnée, ni l'histoire personnelle, familiale, du couple, du désir d'enfant, de l'établissement des premières interactions parents/bébé...ce qui tranche avec la démarche d'une équipe de périnatalité qui aurait pu prendre en charge la même situation quelques mois plus tôt.

²² Les articles scientifiques sur le sujet utilisent le terme « discriminant ». Vous comprendrez que je ne puisse reprendre ce terme dans mon propos.

²³ Laurent Mottron parle de « trivialisation de l'autisme travestie en découverte ».

²⁴ J'ai souvent noté sur les forums de discussion au sujet des démarches diagnostiques la formule « obtenir le diagnostic ».

« ce que dit le patient »²⁶²⁵, pour ne se concentrer que sur «le comment il le dit». Drôles de prémices pour une rencontre!

Nous limitons ici notre analyse aux modules 1, 2 et 3 de l'ADOS-2²⁷²⁶, le module Toddler (12-30 mois) ne posant pas de diagnostic mais définissant prudemment des «signes de préoccupation», le module 4 pour grands adolescents et adultes sortant du champ pédopsychiatrique.

Tous les modules sont bâtis sur la même structure.

Premier temps avec la proposition d'activités à partir d'une mallette standard²⁷, activités devenant de plus en plus élaborées en fonction du niveau de langage (module 1 préverbal/mots isolés, module 2 langage par phrases, module 3 langage fluide). Ces activités sont par exemple: «un jeu interactif», « décrire une image», «raconter une histoire à partir d'un livre», «imaginer un goûter d'anniversaire», «parler de ses amis», «parler du sentiment de solitude», «créer une histoire»...L'observateur clinicien technicien ne s'intéresse pas au contenu partagé mais à la manière dont il est partagé.

Deuxième temps, avec la cotation tout au long des activités partagées, d'items répartis en 5 domaines: A (langage et communication) B (interaction sociale réciproque) C (jeu) D (comportements stéréotypés ou restreints) E (autre comportement dont l'anxiété). Leur nombre varie légèrement en fonction du module (33 pour le module 1, 28 pour le 2, 29 pour le 3).

Troisième temps, avec la construction de l'algorithme, en deux sous scores correspondant à la dyade du DSM5 (affect social dit AS et comportements restreints et répétitifs dit CRR), additionnés en un score global qui définira les

cut-off délimitant trois catégories: hors du spectre, spectre autistique, autisme.

Deux points essentiels sont à noter dans la construction de l'algorithme diagnostique.

Les domaines C (investissement fonctionnel et ludique des objets, créativité, imagination) et E (type et intensité de l'anxiété, retentissement fonctionnel des atypicités) ne rentrent pas dans la cotation.

L'algorithme n'est calculé qu'avec la moitié des items collectés (16/33 pour le module 1, 14/28 pour le module 2, 14/29 pour le module 3), qui comme pour l'ADI-R semblent le mieux caractériser les marqueurs d'appartenance à la communauté des enfants avec autisme.

Les algorithmes de ADI-R et de l'ADOS figent ces tests dans leurs millésimes. Ils ne sont plus en mesure de mettre en évidence les formes cliniques antérieures disparues du DSM, et ne sont pas en mesure d'évaluer les nouvelles formes cliniques entrain d'apparaître. Ces tests sont totalement dépendants de leur étalonnage et de leur objectif: dire une appartenance par rapport à la définition du moment du DSM, mettre en évidence des marqueurs cliniques qui deviennent les «dénominateurs communs» d'un spectre très largement défini.

Prenons l'exemple de l'étude²⁸ de la Weill Cornell Medicine de New York qui par les moyens de l'intelligence artificielle détermine 4 sous-groupes cliniques (phénotypes) d'autisme. Cette étude ouvre une brèche dans la définition du DSM5 et permet au clinicien de terrain de reconnaître la diversité des tableaux étiquetés spectre de l'autisme. Les algorithmes de l'ADI-R et l'ADOS ne nous sont d'aucune utilité pour aller plus avant dans l'exploration de ces nouveaux phénotypes. Pourtant les nouvelles entités cliniques définies par cette étude méritent un regard psychodynamique²⁹, c'est-à-dire tenter de comprendre comment un sujet confronté à des difficultés «biologiques » modifiant la trajectoire

²⁵ Mon propos est caricatural à dessein, car un bon clinicien tente toujours d'écouter ce qu'a à lui dire son patient, mais cette écoute est sans influence sur l'algorithme, au mieux elle ressort parfois dans les commentaires annexes.

²⁶ Version française 2015/2016 aux éditions Hogrefe France. Sous copyright.

²⁷ À noter le prix très élevé de ce matériel qui doit s'acquérir au moment de la formation par l'éditeur (21 heures de formation en visio sur 3 jours).

²⁸ Buch A.M. et coll, Molecular and network-level mechanisms explaining individual differences in Autism Spectrum Disorder, Nature Neuroscience, volume 26, avril 2023, pp 650-663.

²⁹ La psychodynamique n'est pas synonyme de psychanalyse.

développementale commune, tente de trouver malgré tout un équilibre, une cohérence dans son rapport à l'autre et au monde. C'est ce que j'ai tenté de faire³⁰ au sujet du 2^e phénotype décrit par cette étude, dans lequel la difficulté sensorielle à faire face à «l'intensité-de-la-présence-du-monde» me paraît première, par rapport aux troubles de la relation et de la communication, conséquences d'un fonctionnement en îlot de compétence, moyen trouvé pour rester malgré tout dans le «jeu commun». Une telle approche psychodynamique ne peut se priver des dires du patient. Il est le seul à pouvoir exprimer son vécu, ses angoisses, ses stratégies pour adapter une trajectoire développementale particulière parmi d'autres. Cette approche psychodynamique s'adresse à l'autre comme alter ego, dans sa présentation pour mettre en évidence les signes cliniques en faveur d'un trouble du spectre de l'autisme, mais aussi dans son appréhension pour tenter de comprendre ce qu'il a du et pu mettre en œuvre pour compenser le trouble initial, et surtout dans sa liberté qui est aussi créativité et originalité. Il est donc ici très difficile d'utiliser le singulier.

VII. DIAGNOSTIQUER UN TSA PAR L'ADI-R ET L'ADOS N'EST-IL PAS EN CONTRADICTION AVEC L'HYPOTHÈSE DÉVELOPPEMENTALE NEUROCONSTRUCTIVISTE ?

Nous venons de voir en quoi l'ADI-R et l'ADOS, les outils de référence pour établir un diagnostic de TSA, s'appuient sur l'idée d'alter identicus, dans la récolte des données cliniques et dans la construction de leurs algorithmes. Les algorithmes ont dû être modifiés au moment du passage du DSM4 au DSM5 afin de mieux correspondre à la nouvelle définition du TSA devenu TND. Les cut-off définissent des marqueurs d'appartenance répartis en trois zones, ce qui donne l'impression de sortir du «principe du tiers exclu», qui énonce qu'ou bien une proposition est vraie, ou bien sa négation est vraie. Le troisième terme n'est ici que l'illusion

d'une troisième voie possible, car la définition de l'idée de spectre de l'autisme n'est que l'extension de l'idée d'autisme, réduisant la définition de l'autisme, par un indice de gravité des scores, à un degré d'intensité d'un même processus. Les cut-off définissent donc une logique binaire: autiste ou pas autiste.

Mais cette binarité, qui vaut pour tout test à ambition diagnostique avec cut-off, pose ici problème face à la définition même du processus qu'elle a l'ambition d'évaluer, et ceci à deux niveaux principaux: la mesure de processus déficitaires et non de processus en construction, la difficulté à saisir, et encore plus à mesurer, ce qui est entrain de se construire sous les yeux du clinicien.

Premier niveau: quels sont réellement les marqueurs d'appartenance définis par l'ADI-R et l'ADOS, marqueurs de déficit ou marqueurs de divergence ?

Il nous faut sortir ici de la riche analyse clinique que rendrait possible l'analyse de l'ensemble des données recueillies, pour nous focaliser sur les seuls items nourrissant l'algorithme. L'hypothèse développementale neuroconstructiviste stipule la mise en place par l'enfant d'une trajectoire développementale divergente en raison d'un trouble initial. Il serait fastidieux de reprendre ici chaque item, mais ils sont tous cotés de la même manière (de 0 à 3, le 3 étant ramené à 2 dans la grille de l'algorithme). Pour chaque item le 0 correspond à ce qui est attendu habituellement pour un enfant normotypique. Le 1 le 2 et le 3 correspondent, à un degré plus ou moins marqué, à la difficulté à réaliser ce qui est attendu pour un enfant normotypique. Ce sont les « bémols » ajoutés à l'énoncé qui orientent vers l'idée de déficit, plutôt que vers l'idée de divergence qui impliquerait une manière différente de faire. Quelques exemples de ces « bémols » dans l'énoncé: «mais avec des erreurs», «rarement», «jamais», «ne renseigne pas spontanément», «dépend des sollicitations», «en quantité moindre», «pauvrement», «limité», «inférieur», «peu ou pas de plaisir», «absente», «minimale», «peu d'intérêt», «tentatives occasionnelles», «pas aussi clair»,

³⁰ Mottet G. Autism Spectrum Disorder (ASD) and «Late Modernity»: What Correlations? London Journal of Research in Humanities and Social Science Volume 25/ Issue 6/ Compilation 10

L'impression générale qui se dégage de ces définitions, en dehors de la difficulté à coter des observations avec ce type d'approximations qui alimentent la subjectivité de l'observateur, est une impression d'une manière de faire en « recul ». Le jeune enfant autiste est ici celui qui n'y « arrive pas » ou qui y « arrive moins bien », mais pas celui qui y « arrive différemment, par d'autres moyens ».

Deuxième niveau: l'hypothèse développementale neuroconstructiviste de l'autisme obéit aux principes généraux des épistémologies constructivistes.

Je ne rentrerai pas dans les détails des épistémologies constructivistes, de Bachelard à Morin, en passant par Piaget, laissant le lecteur intéressé à la lecture de l'introduction de l'ouvrage de Jean Louis Le Moigne³¹(en ligne).

Arrêtons-nous à quatre affirmations classiques pour les systèmes constructivistes et appliquons les à nos interrogations sur le TSA.

- Un système constructiviste n'est pas stable, il est en permanente évolution
- Un système constructiviste n'est pas un assemblage d'objets dénombrables (le fameux « tout ce n'est pas tout » d'Edgar Morin)
- Un système constructiviste est un système construit dont il faut chercher l'intentionnalité
- Comprendre un système constructiviste, c'est chercher le plausible, plutôt que le vrai

Je pense qu'il n'est pas utile d'argumenter plus avant pour comprendre en quoi des protocoles rigides, chiffrés, cherchant ce qui est déficient plutôt que ce qui est en mouvement, ne se posant pas la question de ce qui est mis en œuvre pour construire une trajectoire divergente, voulant prouver plutôt que comprendre et accompagner, cherchant à catégoriser et à séparer, auront du mal à se revendiquer pouvoir appréhender un système constructiviste.

VIII. CONCLUSION

La psychiatrie ne peut s'extraire d'un monde dans lequel l'alter identicus règne en maître et dont

l'alter ego a été expulsé. Expulsé ne veut pas dire disparu. C'est d'une réhabilitation de l'alter ego dans notre clinique dont il a été question ici.

- Cette réhabilitation peut prendre des formes différentes. Je me suis attelé à en détailler quelques-unes:
- Ne pas imaginer que la technique et la quantification soient les seules voies objectives pour connaître l'autre.
- Accepter l'idée que l'autre, même malade psychiquement, est habité par sa subjectivité/historicité et sa liberté.
- Attacher autant d'importance au diagnostic positif qu'au diagnostic différentiel.
- Remettre en perspective les données cliniques des auto questionnaires, entretiens semi directifs côtés et tests neuropsychologiques, dans une réflexion pluridisciplinaire, aucune de ces procédures techniques ne pouvant se prévaloir d'une « vérité diagnostique », quelque-soit la fiabilité de ses modalités.
- Remettre à sa juste place la notion de diagnostic, qui n'est pas un quitus définitif d'appartenance à une communauté, mais le regard de cliniciens à un moment donné, à partir des éléments cliniques observés et de la parole du patient.

Que reste-t-il au clinicien qui ne veut pas être dans un combat d'arrière-garde d'une opposition systématique à la technique, mais qui ne souhaite pas se laisser entrainer dans un mouvement le privant de sa réflexion clinique? Nous avons choisi depuis deux ans dans l'équipe pluridisciplinaire du CMP enfants/ados de Romans-sur-Isère, une position éthique reposant sur une pratique clinique dite du « raisonnement plausible » que je peux résumer en quelques mots: favoriser une psychiatrie en « première personne » seule capable de comprendre le processus morbide, ne pas se prévaloir d'une vérité diagnostique, ne pas chercher la preuve mais envisager le vraisemblable, accepter de voir remettre en cause par d'autres ou par l'évolution clinique, nos conclusions écrites et nos propositions de soins.

³¹ Le Moigne J.L. Les épistémologies constructivistes Flammarion 2021

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Quality of Employment: Intergenerational Labor Precariousness from the Perspective of the IMCE in Santa Cruz de la Sierra 2023-2025

*Pedro Cesar Saavedra Romero, Alberto Limpías Calvimontes, Edwin Mamani Ávila
& Hugo Villegas Barrios*

Universidad Tecnológica Privada de Santa Cruz

ABSTRACT

This study evaluates the Quality of Employment (QoE) and analyzes intergenerational labor precariousness in Santa Cruz de la Sierra, Bolivia, during the 2023–2025 period. The conceptual framework is based on the Theory of Segmented Labor Markets (SLMT), focusing on the unequal insertion of different generational cohorts. A quantitative approach was adopted, using the Multidimensional Quality of Employment Index (IMCE), which is grounded in the Alkire-Foster (AF) double-threshold model. The IMCE assesses deprivation across three main dimensions: Labor Income, Labor Stability, and Employment Conditions. The poverty line for poor quality employment was set at $K = 50\%$. The results are based on a representative sample of 415 employed workers (ages 18–65). Findings confirm that the overall QoE remains considerably low ($IMCE_{2025} = 0.45$) and below the historical Bolivian national average (0.47). The Headcount Ratio of Poor-Quality Employment (H) reached 68%. The intergenerational analysis confirms labor market segmentation: Generation Z exhibits the highest vulnerability ($IMCE_Z = 0.37$), validating its predominant insertion into the secondary sector.

Keywords: quality of employment, income, intergenerational precariousness; generation z, decent work.

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Quality of Employment: Intergenerational Labor Precariousness from the Perspective of the IMCE in Santa Cruz de la Sierra 2023-2025

Calidad de Empleo: La precariedad laboral intergeneracional desde la perspectiva del IMCE en Santa Cruz de la Sierra 2023 – 2025

Pedro Cesar Saavedra Romero^α, Alberto Limpas Calvimontes^σ, Edwin Mamani Ávila^ρ
& Hugo Villegas Barrios^Ω

ABSTRACT

This study evaluates the Quality of Employment (QoE) and analyzes intergenerational labor precariousness in Santa Cruz de la Sierra, Bolivia, during the 2023–2025 period.¹ The conceptual framework is based on the Theory of Segmented Labor Markets (SLMT), focusing on the unequal insertion of different generational cohorts. A quantitative approach was adopted, using the Multidimensional Quality of Employment Index (IMCE), which is grounded in the Alkire-Foster (AF) double-threshold model. The IMCE assesses deprivation across three main dimensions: Labor Income, Labor Stability, and Employment Conditions. The poverty line for poor quality employment was set at $K = 50\%$. The results are based on a representative sample of 415 employed workers (ages 18–65). Findings confirm that the overall QoE remains considerably low ($IMCE_{2025} = 0.45$) and below the historical Bolivian national average (0.47). The Headcount Ratio of Poor-Quality Employment (H) reached 68%. The intergenerational analysis confirms labor market segmentation: Generation Z exhibits the highest vulnerability ($IMCE_z = 0.37$), validating its predominant insertion into the secondary sector. Youth precariousness is highlighted by high contractual instability (27% without a formal contract) and lack of social protection (68% without access to benefits). Gender disparity is acute: Generation Z females show the lowest IMCE (0.36) and an incidence rate of 92% (H), implying that almost all young

employed women face poor quality employment. The structural challenge facing the labor market is fundamentally the quality of employment, not merely access. Urgent public policy intervention is required to strengthen contractual stability and social protection mechanisms to promote Decent Work, particularly for highly vulnerable groups like Generation Z women.

Keywords: quality of employment, income, inter-generational precariousness, generation z, decent work.

Author ^{α σ ρ Ω}: Universidad Tecnológica Privada de Santa Cruz.

RESUMEN

Este estudio evalúa la calidad del empleo (CE) y analiza la precariedad laboral intergeneracional en Santa Cruz de la Sierra durante el periodo 2023–2025. Se utiliza como marco conceptual la Teoría de los Mercados de Trabajo Segmentados para entender las disparidades en la inserción laboral de las distintas cohortes. Se adoptó una metodología cuantitativa, aplicando el Índice Multidimensional de Calidad del Empleo (IMCE), fundamentado en el modelo de doble umbral de Alkire y Foster (AF). El IMCE evalúa la privación en tres dimensiones principales (Ingresos Laborales, Estabilidad Laboral y Condiciones de Empleo). La línea normativa de mala calidad del empleo se fijó en $K = 50\%$. Los resultados se basan en una muestra representativa de 415 trabajadores ocupados (18–65 años). Los hallazgos confirman que la calidad del empleo es

¹ Índice Multidimensional de Calidad de Empleo

considerablemente baja ($IMCE_{2025} = 0.45$) y que el índice se mantiene por debajo del promedio histórico boliviano (0,47). La Tasa de Incidencia de Mala Calidad del Empleo (H) alcanzó el 68% de la población ocupada. El análisis intergeneracional revela un claro deterioro: la Generación Z presenta la mayor vulnerabilidad ($IMCE_z = 0.37$), lo que valida la hipótesis de que esta cohorte se inserta mayoritariamente en el sector secundario. La precariedad juvenil se evidencia en la inestabilidad contractual (27% sin contrato) y la falta de protección social (68% sin acceso a beneficios). La disparidad de género es extrema: la Generación Z femenina exhibe el IMCE más bajo (0.36) y una incidencia de mala calidad del empleo del 92% (H), indicando que casi la totalidad de las mujeres jóvenes tienen empleo precario. El problema estructural del mercado laboral no es solo el acceso al empleo, sino fundamentalmente su calidad. Es urgente implementar políticas públicas focalizadas que fortalezcan la estabilidad contractual y la protección social para promover el Trabajo Decente.

Palabras Clave: calidad del empleo, imce, precariedad intergeneracional, generación z, trabajo decente.

I. INTRODUCCIÓN

La calidad del empleo (CE) constituye un eje central en el debate socioeconómico contemporáneo, dada su vinculación directa con la calidad de vida de las personas y el desarrollo sostenible de las sociedades (OMEQ, 2023). En las últimas décadas, este concepto ha ganado una atención creciente por parte de académicos y responsables de políticas tanto en países desarrollados como en vías de desarrollo (Sehnbruch et al., 2020). La Organización Internacional del Trabajo (OIT) define la calidad del empleo en función de las condiciones en las que se lleva a cabo el trabajo y las características que afectan la capacidad del trabajador para satisfacer sus necesidades y desarrollarse en la sociedad (Weller & Roethlisberger, 2011). Bajo esta óptica, el concepto es inherentemente dinámico y multifacético, lo que impide su reducción al análisis de una única variable.

La preocupación por la calidad del empleo se ha intensificado ante la consolidación de un fenómeno laboral caracterizado por la incertidumbre y la inestabilidad: la precariedad laboral (Laparra, 2006; Santamaria, 2010; Ubeda et al., 2020). Un empleo es considerado precario cuando no permite consolidar un nivel de ingresos, estabilidad contractual o una carrera profesional que sustente un plan de futuro (Cano, 2007). Las características de la precariedad -bajos ingresos, inestabilidad laboral, ausencia de prestaciones sociales y condiciones de trabajo inseguras-coinciden estrechamente con la segmentación identificada históricamente en el mercado laboral entre un sector primario de alta calidad y un sector secundario de baja calidad (Dickens & Lang, 1992; Doeringer & Piore, 1971; Reich et al., 1973; Uribe & Ortiz, 2006). En el contexto boliviano, la calidad del empleo representa un desafío persistente, especialmente para grupos vulnerables como las mujeres y las personas jóvenes. La literatura previa evidencia que la calidad del empleo en Bolivia es baja (Yañez, 2018), con estimaciones que indican que más del 50% de la población ocupada cuenta con empleos de mala calidad (Choque, 2019). Ante la escasez de alternativas laborales, muchos trabajadores adoptan una visión de emergencia, priorizando la conservación del empleo existente, incluso a costa de aceptar condiciones de baja calidad (Yañez, 2018). La urgencia de abordar esta temática se reafirma, ya que la mala calidad del empleo dificulta el establecimiento de itinerarios vitales sólidos para los jóvenes (Sennett, 2000).

El estudio de las condiciones laborales ha trascendido la mera observación de las tasas de empleo para centrarse en la Calidad del Empleo (CE), un concepto que la Organización Internacional del Trabajo (OIT) define en función de las condiciones en que se realiza el trabajo y las características que influyen en la capacidad del trabajador para satisfacer sus necesidades y desarrollarse en la sociedad. El concepto de CE es reconocido por su naturaleza dinámica, multifacética e irreducible a una única variable, lo que exige herramientas de medición

comparables, fiables y consistentes (Weller & Roethlisberger, 2011).

Desde finales de la década de 1990, la OIT impulsó el concepto de "Trabajo Decente", entendiéndolo como el trabajo productivo en condiciones de libertad, equidad, seguridad y dignidad, que garantiza derechos, remuneración adecuada y protección social. Posteriormente, el debate internacional ha confluído en la necesidad de analizar las siguientes dimensiones clave para medir la calidad del empleo: ingresos, estabilidad de trabajo e ingresos, protección socio-laboral, organización del trabajo, integración social y desarrollo personal (Weller & Roethlisberger, 2011). La atención creciente en la calidad del empleo ha coincidido con la instalación de un nuevo régimen de empleo caracterizado por la precariedad laboral. La precariedad laboral se considera un fenómeno multidimensional que afecta la trayectoria vital de los individuos. Un empleo precario se define por la imposibilidad de consolidar un nivel de ingresos, estabilidad contractual y una carrera profesional que permita la planificación futura (Cano, 2007). Este tipo de empleo se manifiesta a través de bajos ingresos, inestabilidad laboral, ausencia de prestaciones sociales y condiciones de trabajo inseguras (Uribe & Ortiz, 2006).

Este modelo afecta particularmente a las personas jóvenes, quienes experimentan trayectorias laborales fragmentadas, incertidumbre e inseguridad. La precariedad juvenil se caracteriza por prácticas no remuneradas, contratos temporales, jornadas a tiempo parcial involuntarias y salarios que generan dependencia. La mala calidad del empleo dificulta que las nuevas generaciones puedan establecer itinerarios vitales sólidos frente a los proyectos de vida lineales de épocas anteriores (Sennett, 2000). Además, la falta de empleos de calidad incide directamente en el aumento de la pobreza y la desigualdad, como lo evidencia el aumento de la tasa de riesgo de pobreza o exclusión social (AROPE) para el grupo de 16 a 29 años.

La teoría de los mercados de trabajo segmentados ofrece un marco conceptual sólido para comprender las disparidades en la calidad del

empleo y la precariedad. Esta teoría postula la existencia de al menos dos segmentos principales en el mercado laboral, que se distinguen por la calidad de los puestos de trabajo ofrecidos:

- *Sector Primario o Moderno*: Caracterizado por empleos de alta calidad, que ofrecen mejores salarios, estabilidad, seguridad social, posibilidades de ascenso y relaciones de empleo regidas por un sistema de contratación explícito (Dickens & Lang, 1992; Doeringer & Piore, 1971).
- *Sector Secundario o Tradicional*: Caracterizado por empleos de baja calidad o precarios, que presentan bajas remuneraciones, alta movilidad, escaso acceso a la seguridad social, e inestabilidad.

La hipótesis central de esta teoría es que la segmentación se manifiesta en la existencia de mecanismos de determinación salarial diferentes, en la estabilidad laboral y en la recompensa desigual al capital humano, siendo esta recompensa menor en el sector secundario (Tauhman & Wachter, 1991). La movilidad limitada entre estos segmentos impide que el mercado sea representado por el modelo de competencia perfecta. Los estudios empíricos que contrastan esta hipótesis a menudo utilizan modelos de regresión con cambio de régimen (switching models) y regresiones por percentiles (quantile regression) para demostrar cómo la valoración de las características individuales (como la educación) cambia significativamente a lo largo de la distribución de ingresos, lo que sugiere la existencia de segmentación.

Dada la complejidad y la multidimensionalidad de la calidad del empleo, su medición precisa requiere herramientas que superen las limitaciones de los indicadores unidimensionales, como el Producto Interno Bruto (PIB) per cápita, siguiendo las críticas de autores como Amartya Sen (Stiglitz et al., 2009). Para el contexto boliviano, el Índice Multidimensional de Calidad del Empleo (IMCE) se ha consolidado como una herramienta fundamental para medir y analizar este fenómeno. El IMCE se fundamenta en el modelo de doble umbral de Alkire y Foster (AF) (Alkire S., 2007; Sehnbruch et al., 2020),

seleccionado por su fortaleza al proponer un índice comparable internacionalmente y su capacidad para medir privaciones traslapadas. El IMCE evalúa la privación en tres dimensiones principales, a cada una de las cuales se les asigna una ponderación igual (1/3):

- Ingresos Laborales.
- Estabilidad Laboral, que incluye dimensiones como el *Status Ocupacional/Contrato* y la *Antigüedad Laboral*.
- Condiciones de Empleo, que comprende el *Seguro Social* (Salud y Pensiones) y la *Jornada Laboral*.

Un trabajador es clasificado con mala calidad del empleo si su puntaje de privación ponderado excede la línea normativa establecida en $K = 50\%$. La investigación previa realizada en Santa Cruz de la Sierra utilizando esta metodología, con una muestra de 817 encuestados, reveló que la calidad del empleo es "considerablemente baja", con una incidencia (H) del 47% y una intensidad (A) del 53%. Estos hallazgos concuerdan con los resultados a nivel nacional en Bolivia, donde se ha determinado que, en promedio, el 69% de la población ocupada cuenta con empleos de mala calidad (Salazar Aramayo A. J., 2021).

El análisis de la contribución de las dimensiones al IMCE nacional (2011-2019) muestra que la mala calidad se explica principalmente por la dimensión de Ingresos Laborales (40% de aporte), seguida por el *Status Ocupacional/Contrato* (23% de aporte, donde el 64% no tiene contrato) y la falta de acceso a Seguro de Pensiones (11% de aporte). La aplicación del enfoque intergeneracional en Santa Cruz de la Sierra reafirmó el deterioro, mostrando que la Generación Z presenta el IMCE más bajo (0,33), un valor que refleja un alto grado de precariedad en comparación con las generaciones X y Y (0,46).

II. MÉTODOS Y MATERIALES

Para alcanzar el objetivo de evaluar la calidad del empleo y analizar la precariedad laboral desde una perspectiva intergeneracional en Santa Cruz de la Sierra, se adoptó la metodología multidimensional propuesta por el Índice

Multidimensional de Calidad del Empleo (IMCE) para Bolivia, fundamentado en el modelo de Alkire y Foster (AF) (Alkire & Santos, 2014; Alkire S., 2007). Esta elección se justifica por la capacidad del modelo AF para medir privaciones traslapadas y ofrecer una evaluación integral que supera los indicadores unidimensionales.

El modelo utilizado se basa específicamente en la adaptación del IMCE propuesta por Salazar Aramayo (2021) para Bolivia, la cual sigue los estudios previos de Sehnbruch et al. (2020)). La fortaleza de este índice radica en que propone una métrica comparable internacionalmente, similar a otros índices multidimensionales influyentes. Los pasos fundamentales en la construcción del IMCE, siguiendo a Sehnbruch (2020) y Salazar Aramayo (2021), son:

- *Definición de Dimensiones y Subdimensiones*: Se establecen las dimensiones clave que determinan la calidad del empleo.
- *Límites de Privación*: Se definen los umbrales normativos que indican si un individuo está privado en una dimensión específica. Cabe notar para el caso de antigüedad "No se considera a personas de 18 a 24 años como privadas".
- *Ponderación*: Se asignan pesos relativos a cada dimensión y subdimensión, asegurando que la suma total sea 1. En este método se sigue la lógica de que cada dimensión tiene igual importancia (1/3).
- *Cálculo del Puntaje de Privación (PP)*: Se calcula el score ponderado de privación para cada individuo.
- *Línea de Mala Calidad del Empleo (K)*: Se establece un umbral normativo, K, sobre el cual se considera que un trabajador tiene mala calidad del empleo o está privado multidimensionalmente. En concordancia con la decisión normativa en Sehnbruch (2020), se tomó $K = 50\%$.

Las dimensiones, subdimensiones y los límites de privación utilizados en este estudio son las mismas que se definieron para el IMCE de Bolivia:

Tabla 1: Dimensiones del modelo

Dimensión	Ponderación	Límite de Privación
1. Ingresos Laborales	1/3	Menos de Dos salarios mínimos nacionales (2 SMN).
2. Estabilidad Laboral	1/3	
2.1 Status Ocupacional/Contrato	1/6	Sin contrato / Autoempleado.
2.2 Antigüedad Laboral	1/6	Menos de tres años (No se considera a personas de 18 a 24 años como privadas).
3. Condiciones de Empleo	1/3	
3.1 Seguro Social	1/6	
3.1.1 Seguro De Salud	1/12	No afiliado.
3.1.2 Seguro De Pensiones	1/12	No afiliado.
3.2 Jornada Laboral	1/6	Más de 48 Hrs/semana.

Fuente: Elaboración parcial a partir del estudio de Sehnbruch (2020) y Salazar Aramayo (2021)

El IMCE final se deriva del producto de dos indicadores clave:

$$\text{IMCE} = H \times A$$

Donde

- *Tasa de incidencia de mala calidad del empleo (H)*: Es la fracción de ocupados que son considerados con mala calidad de empleo.
- *Intensidad de la mala calidad del empleo (A)*: Es la fracción de dimensiones en las que están privados aquellos que cuentan con mala calidad de empleo, sobre el total de dimensiones consideradas.

El presente estudio se enmarca en una investigación cuantitativa que utiliza el método hipotético-deductivo. El análisis se centra en Santa Cruz de la Sierra, que presenta un contexto económico dinámico y en crecimiento. Cabe notar que la información 2023, corresponden a datos secundarios de un estudio previo de los mismos autores (OMEQ, 2023).

- *Población de estudio*: La población ocupada en edad de trabajar (entre 18 y 65 años) que reside en la ciudad de Santa Cruz de la Sierra y reporta un salario mensual de su ocupación principal.
- *Muestra*: Se utilizó una muestra representativa de 705 encuestados (siendo 415 los

válidos para las estimaciones del IMCE), realizado del 10 al 13 de octubre del 2025.

- *Diseño de Muestreo*: Muestreo por conglomerados en los 12 distritos municipales urbanos de Santa Cruz. Cabe recalcar el diseño de muestreo fue idéntico al periodo 2023,
- *Parámetros de Fiabilidad*: Se trabajó con un nivel de confianza del 95% y un margen de error del 3.5% general (4,99% para el cálculo específico del IMCE)

La aproximación metodológica de este estudio incluye un análisis intergeneracional, comparando los resultados del IMCE entre las cohortes Generación X, Generación Y y Generación Z. Para comprender la evolución de la precariedad, la metodología se aplicó distinguiendo los resultados entre las generaciones a partir del estudio previo de los profesores Edwin Mamani y Pedro Saavedra (OMEQ, 2023):

- *Generación X*: Se presenta como la cohorte con mayor estabilidad y mejores resultados en Ingresos Laborales y Estabilidad Laboral de largo plazo.
- *Generación Z*: Se identifica como la cohorte más afectada por el deterioro en las dimensiones de calidad del empleo, mostrando un mayor porcentaje de jóvenes buscando activamente empleo (29,4%), alta

precariedad laboral (12,1% pasantes sin remuneración), y el IMCE 2023 más bajo (0,33).

Este enfoque permite no solo cuantificar la mala calidad del empleo en términos de incidencia e intensidad, sino también desagregar la precariedad en sus dimensiones y subdimensiones para identificar a los grupos de mayor vulnerabilidad y sus causas subyacentes.

III. RESULTADOS

El presente estudio examinó la calidad del empleo en Santa Cruz de la Sierra a través del Índice Multidimensional de Calidad del Empleo (IMCE) y un análisis intergeneracional. Los resultados confirman una calidad del empleo considerablemente baja en la región, evidenciando patrones

significativos de privación que afectan desproporcionadamente a las cohortes más jóvenes y a las mujeres.

3.1 Caracterización de la Situación Ocupacional

Al analizar la Población Económicamente Activa (PEA) de la muestra, se observan diferencias notables en la inserción y vulnerabilidad laboral por generación. La Generación X₂₀₂₅ (80%) y la Generación Y₂₀₂₅ (69%) tienen las tasas de empleo más altas. Sin embargo, la Generación Z₂₀₂₅ (53%) registra la menor tasa de empleo y la mayor proporción de personas en búsqueda activa de empleo₂₀₂₅ (47%), lo que indica desafíos adicionales en la inserción laboral. En términos generales se aprecia una fuerte caída de un 79% de empleabilidad el 2023-que de por sí ya es lamentable - a un 67% para octubre del 2025.

Tabla 2: Situación actual de empleo - Considerando Población Económicamente Activa

Situación Laboral / Generaciones	2023*			Total 2023	2025			Total 2025
	X	Y	Z		X	Y	Z	
1. Está trabajando	86%	83%	69%	79%	80%	69%	53%	67%
2. Esta sin trabajo y en busca de trabajo	14%	17%	31%	21%	20%	31%	47%	33%
Total general	100%	100%	100%	100%	100%	100%	100%	100%

Nota: Elaboración propia a partir de investigación primaria y estudios previos (OMEQ, 2023)

Respecto al desempeño ocupacional, la Generación X se concentra en el trabajo por cuenta propia (39% Vs. 46%), las Generaciones Y (34% Vs. 38%) y Z (39% Vs. 37%) muestran una mayor participación como empleados en entidades privadas. Es alarmante que la Generación Z presente un porcentaje

notablemente alto en categorías altamente precarias, con el 7% Vs. 12% desempeñándose como aprendices o pasantes sin remuneración y el 4% Vs. 10% como trabajadores familiares sin remuneración, lo cual "refleja una mayor precariedad laboral" en esta cohorte.

Tabla 3: Desempeño actual - Considerando Población Económicamente Activa

Situación Laboral / Generaciones	2023*			Total 2023	2025			Total 2025
	X	Y	Z		X	Y	Z	
1. Obrero o empleado en entidad privada	24%	38%	37%	34%	30%	34%	39%	34%
2. Obrero o empleado en entidad pública	13%	13%	6%	11%	22%	20%	16%	20%
3. Trabajador por cuenta propia	46%	30%	16%	31%	39%	32%	28%	33%

4. Empleador o socio que no recibe salario	2%	2%	2%	2%	1%	2%	2%	2%
5. Cooperativista de producción o servicio	2%	2%	2%	2%	3%	2%	1%	2%
6. Trabajador familiar sin remuneración	1%	3%	10%	4%	1%	2%	4%	2%
7. Aprendiz o persona en formación sin remuneración [Prácticas]	0%	0%	12%	3%	0%	0%	7%	2%
8. Trabajador [a] del hogar	10%	9%	9%	9%	3%	6%	0%	4%
9. Sin clasificar [Otras denominaciones]	2%	2%	5%	3%	1%	1%	3%	1%
Total general	100%	100%	100%	100%	100%	100%	100%	100%

Nota: Elaboración propia a partir de investigación primaria y estudios previos (OMEO, 2023).

3.2 Agregados del Índice Multidimensional de Calidad del Empleo

La aplicación del modelo Alkire-Foster (AF) para el cálculo del IMCE en Santa Cruz de la Sierra arroja los siguientes indicadores generales:

Estos hallazgos indican que la calidad del empleo es considerablemente baja en Santa Cruz de la Sierra y se agudiza en los últimos periodos. El valor promedio del obtenido en este estudio (0,45) si bien es superior al (0,43) del 2023, permanece por debajo del promedio histórico

boliviano para el periodo IMCE2011-2019 (0,47), lo que sugiere que la calidad del empleo en el contexto analizado aún refleja un deterioro general respecto al estándar histórico. Además, se observa un deterioro de las dimensiones de calidad del empleo entre las cohortes, con la Generación Z presentando el IMCE más bajo (0,37). Esto se atribuye a dos factores: la reciente entrada de esta generación al mundo laboral y un deterioro general identificado en las dimensiones de calidad del empleo.

Tabla 4: Agregados del IMCE

Situación Laboral / Generaciones	2023*			Total 2023	2025			Total 2025
	X	Y	Z		X	Y	Z	
Índice Multidimensional de Calidad del Empleo (IMCE)	0.45	0.46	0.33	0.43	0.51	0.45	0.37	0.45
Tasa de Incidencia de Mala Calidad del Empleo	0.63	0.66	0.92	0.70	0.52	0.68	0.90	0.68
Intensidad de la Mala Calidad del Empleo	0.66	0.60	0.63	0.63	0.65	0.59	0.53	0.59

Nota: Elaboración propia a partir de investigación primaria y estudios previos (OMEO, 2023)

3.3 Precariedad en Dimensiones Específicas

La desagregación de la precariedad se manifiesta claramente al examinar las dimensiones constitutivas del IMCE:

3.3.1 Ingresos Laborales

Tabla 5: Ingresos laborales en base a un salario mínimo nacional (SMN)

Situación Laboral / Generaciones SMN Gestión 2023 = 2362 Bs. SMN Gestión 2025 = 2750 Bs.	2023*			Total 2023	2025			Total 2025
	X	Y	Z		X	Y	Z	
a. Menos de un SMN	45%	49%	76%	56%	27%	33%	60%	38%
b. Entre 1 y 2 SMN	34%	40%	20%	32%	38%	48%	31%	40%
c. Entre 2 y 3 SMN	11%	7%	2%	7%	19%	10%	4%	11%
d. Entre 3 y 4 SMN	6%	2%	1%	3%	5%	4%	4%	4%
e. Mayor a 4 SMN	4%	2%	1%	2%	11%	6%	1%	6%
Total general	100%	100%	100%	100%	100%	100%	100%	100%

Nota: Elaboración propia a partir de investigación primaria y estudios previos (OMEQ, 2023)

La Generación Z enfrenta la mayor privación en la dimensión de ingresos. El 60% de los trabajadores de la Generación Z se concentran en el rango de ingresos más bajo (0-2750 Bs.), comparado con el 27% de la Generación X. Esta tendencia se refleja en la contribución de los Ingresos Laborales al IMCE, que es significativamente menor para la

Generación Z (0,04) que para la Generación X (0,14).

3.3.2 Estabilidad Laboral y Condiciones Contractuales

La inestabilidad laboral es un factor clave de la precariedad juvenil.

Tabla 6: Estabilidad laboral y condiciones contractuales

Situación Laboral / Generaciones	2023*			Total 2023	2025			Total 2025
	X	Y	Z		X	Y	Z	
1. Tiene un contrato indefinido	25%	28%	21%	25%	30%	22%	28%	26%
2. Firmó un contrato con fecha de vencimiento o término	8%	20%	21%	17%	17%	26%	20%	22%
3. No firmó contrato pero tengo un compromiso por trabajo terminado	5%	9%	12%	8%	7%	4%	6%	6%
4. No firmó contrato [Empleado]	27%	20%	37%	27%	11%	16%	27%	17%
5. Autoempleado [Trabajador por cuenta propia]	36%	23%	9%	23%	35%	32%	20%	30%
Total general	100%	100%	100%	100%	100%	100%	100%	100%

Nota: Elaboración propia a partir de investigación primaria y estudios previos (OMEQ, 2023)

Tipo de Contrato: El 17% del total general trabaja sin haber firmado un contrato formal, pero esta situación es particularmente aguda en la Generación Z, donde el 27% trabaja sin firmar un contrato formal, lo que subraya una mayor precariedad laboral para esta cohorte.

Antigüedad Laboral: El 94% de la Generación Z tiene entre 0 y 3 años de antigüedad, lo que, si bien refleja su entrada reciente al mercado, también acentúa su vulnerabilidad, esto en comparación al 69% general, o comparado con el 81% de hace dos años.

Tabla 7: Antigüedad Laboral

Antigüedad / Generaciones	2023*			Total 2023	2025			Total 2025
	X	Y	Z		X	Y	Z	
[0 - 3]	31%	51%	81%	53%	41%	67%	94%	69%
[4 - 7]	18%	27%	10%	20%	19%	22%	4%	15%
[8 - 11]	19%	12%	5%	12%	13%	9%	1%	8%
[12 - 15]	7%	6%	1%	5%	8%	2%	0%	3%
[16 - Mas]	25%	5%	4%	10%	19%	1%	0%	5%
Total general	100%	100%	100%	100%	100%	100%	100%	100%

Nota: Elaboración propia a partir de investigación primaria y estudios previos (OMEO, 2023)

3.4 Condiciones de Empleo y Protección Social

Tabla 8: Condiciones de empleo y protección social

Condiciones de empleo / Generaciones	2023*			Total 2023	2025			Total 2025
	X	Y	Z		X	Y	Z	
No, ninguno de los anteriores	67%	56%	76%	64%	53%	53%	68%	57%
Si, Caja de Salud – Seguridad Social	33%	44%	24%	36%	47%	47%	32%	43%
Total general	100%	100%	100%	100%	100%	100%	100%	100%

Nota: Elaboración propia a partir de investigación primaria y estudios previos (OMEO, 2023)

El acceso a la protección social es bajo en el total de la población (57% no cuenta con protección social). Sin embargo, la Generación Z es la más afectada, con el 68% sin acceso a protección social, debido a la mala calidad de los empleos a los que acceden. Finalmente, en lo que respecta a

la jornada laboral la generación Z, son quienes menos presentan una jornada adecuada (42% versus un 47% del total), con un 29% de una jornada de trabajo menor o igual a 31 horas (una caracterización del subempleo), respecto a 18% del total.

Tabla 9: Jornada Laboral

Jornada / Generaciones	2023*			Total 2023	2025			Total 2025
	X	Y	Z		X	Y	Z	
1. Menor o Igual a 31	19%	16%	34%	22%	16%	12%	29%	18%
2. Mayor a 31 y Menor o Igual a 48 Hrs. Semanales	48%	63%	49%	55%	40%	55%	42%	47%
3. Más de 48 Hrs. Semanales	32%	20%	16%	22%	44%	33%	28%	35%
Total general	100%	100%	100%	100%	100%	100%	100%	100%

Nota: Elaboración propia a partir de investigación primaria y estudios previos (OMEO, 2023)

La contribución de la dimensión Condiciones de Empleo (Seguro Social y Jornada Laboral) al total para la Generación Z es del 43,24% (0,16 sobre 0,37). Por su parte, la contribución de Ingresos Laborales representa aproximadamente el 10,81% (0,04 sobre 0,37) del IMCE total de esta cohorte.

Esto evidencia elementos carentes principalmente en estas dos dimensiones (Ingresos y Seguro Social), que definen la parte formal del empleo. De forma general podríamos señalar un grado de formalidad de un 15% (0,09 + 0,06, como contribución del IMCE₂₀₂₅)

Tabla 10: Contribución de las dimensiones

Contribuciones / Generaciones	2023*			Total 2023	2025			Total 2025	Alcance p/ contribución Vs. 2025
	X	Y	Z		X	Y	Z		
Ingresos Laborales (0,33)	0.09	0.05	0.02	0.05	0.14	0.08	0.04	0.09	26%
Estabilidad Laboral (C) (0,17)	0.06	0.10	0.10	0.09	0.09	0.09	0.14	0.10	62%
Estabilidad Laboral (A) (0,17)	0.14	0.11	0.05	0.11	0.13	0.11	0.03	0.10	57%
Seguro Social (0,17)	0.04	0.06	0.03	0.05	0.06	0.06	0.04	0.06	33%
Jornada Laboral (0,17)	0.11	0.14	0.14	0.13	0.09	0.11	0.12	0.11	64%
IMCE (sobre 1,00)	0.45	0.46	0.33	0.43	0.51	0.45	0.37	0.45	

Nota: Elaboración propia a partir de investigación primaria y estudios previos (OMEQ, 2023)

3.5 Disparidad de Género en la Precariedad

El análisis por género revela una disparidad significativa en la calidad del empleo:

- IMCE por Sexo: El promedio general del IMCE₂₀₂₅ es superior para los hombres (0,47) que para las mujeres (0,41).
- Incidencia Extrema en Generación Z: La Generación Z femenina presenta el IMCE más bajo (0,36 Vs. 0,30 del 2023) y una Tasa de Incidencia de Mala Calidad del Empleo (H)

- significativamente más alta (0,92 Vs. 0,96 del 2023), comparado con los hombres de la misma cohorte (0,89). Esto significa que casi todas las mujeres jóvenes ocupadas en la muestra tienen un empleo de mala calidad.
- Intensidad de la Precariedad (A): La intensidad de la mala calidad también es ligeramente mayor para las mujeres de la Generación Z (0,52 Vs. 0,64 del 2023) que para los hombres (0,55 Vs. 0,61 del 2023).

Tabla 11: Participación de las ponderaciones

	Contribuciones / Generaciones	2023*			Total 2023	2025			Total 2025
		X	Y	Z		X	Y	Z	
IMCE	Hombre	0.51	0.49	0.35	0.47	0.57	0.47	0.37	0.47
	Mujer	0.39	0.42	0.30	0.39	0.44	0.42	0.36	0.41
	Total General	0.46	0.46	0.33	0.43	0.51	0.45	0.37	0.45

H	Hombre	0.55	0.58	0.89	0.63	0.40	0.65	0.89	0.64
	Mujer	0.74	0.74	0.96	0.79	0.69	0.75	0.92	0.76
	Total general	0.63	0.66	0.92	0.70	0.52	0.68	0.90	0.68
A	Hombre	0.66	0.59	0.61	0.62	0.65	0.60	0.55	0.59
	Mujer	0.66	0.60	0.64	0.63	0.65	0.58	0.52	0.59
	Total general	0.66	0.60	0.63	0.63	0.65	0.59	0.53	0.59

*Nota: Elaboración propia a partir de investigación primaria y estudios previos (OMEO, 2023).
Tasa de incidencia de mala calidad del empleo (H) (Salazar Aramayo A. J., 2021).
Intensidad de la mala calidad del empleo (A) (Salazar Aramayo A. J., 2021).*

Estos resultados muestran que las mujeres, especialmente en la Generación Z, están en desventaja en términos de calidad del empleo, tanto en incidencia como en intensidad, enfrentando una mayor profundización de los problemas de empleo de mala calidad.

IV. DISCUSIONES

Los resultados obtenidos mediante la aplicación del Índice Multidimensional de Calidad del Empleo (IMCE) en Santa Cruz de la Sierra en 2025 revelan una situación crítica que se alinea con la literatura sobre precariedad laboral en América Latina, especialmente en contextos donde la segmentación del mercado es pronunciada (Posso, 2010; Uribe & Ortiz, 2006). Los resultados obtenidos mediante la aplicación del Índice Multidimensional de Calidad del Empleo (IMCE) en Santa Cruz de la Sierra en 2025 revelan una situación crítica. El IMCE promedio de 0,45 confirma que la calidad del empleo se mantiene baja, ubicándose cercano al promedio local de 0,43 del año 2023, y aún por debajo del promedio nacional boliviano de 0,47 (Salazar Aramayo, 2021). Este hecho sugiere que, a pesar de la ligera variación al alza desde 2023, el índice se mantiene en un nivel que refleja un deterioro general en las condiciones laborales en comparación con el estándar nacional histórico. La Precariedad Intergeneracional y la Segmentación Laboral: El estudio proporciona evidencia empírica robusta a favor de la teoría de los mercados de trabajo segmentados (Doeringer & Piore, 1971; Reich et al., 1973), donde la Generación Z se inserta mayoritariamente en

el segmento secundario o tradicional. Este sector se caracteriza por bajos ingresos, alta movilidad e inestabilidad.

- *Vulnerabilidad de la Juventud:* La Generación Z, con un IMCE₂₀₂₅ de solo 0,36, presenta la mayor vulnerabilidad, lo que se debe tanto a su reciente incursión en el mercado laboral como al deterioro identificado en las dimensiones de calidad del empleo. Esta cohorte experimenta precariedad mediante la concentración en empleos atípicos, como aprendices o pasantes sin remuneración (12% el 2023 y 7% ahora), y una alta tasa de empleo sin contrato formal (37% el 2023 y 27% ahora). Estas condiciones laborales dificultan el establecimiento de itinerarios vitales sólidos, obligando a los jóvenes a desarrollar pautas de vida centradas en la "incertidumbre" y el "vivir al día" (Sennett, 2000; Santamaria, 2010; Ubeda et al., 2020).
- *Segmentación por Género:* Las mujeres jóvenes de la Generación Z se enfrentan a la peor situación, con una tasa de incidencia de mala calidad del empleo (H) de 0,92. Esto significa que casi la totalidad de las mujeres jóvenes ocupadas en la muestra están en empleos de baja calidad. La intensidad (A) de la mala calidad también es ligeramente mayor para ellas (0,52). Está marcada disparidad subraya la necesidad de fortalecer las políticas de igualdad de género en el empleo, un desafío que la literatura internacional también ha identificado, especialmente en la

concentración de mujeres en trabajos precarios (Fernandez, 2015).

En definitiva, la evidencia del 2023, sumada a la situación de un continuo detrimento durante este 2025, resalta que el problema ya no es solo de acceso al empleo (Generación Z tiene la menor tasa de empleo, 69% el 2023 Vs. 53% el 2025), sino fundamentalmente de la calidad del mismo, tal como lo anticipó Choque (2019) al afirmar que el 74,8% de los empleos en Bolivia son de baja calidad. El desafío subyacente es transformar la estructura del mercado laboral para que se generen empleos de alta calidad, definidos por salarios justos, estabilidad y seguridad social, que se correspondan con los criterios de Trabajo Decente promovidos por la OIT (Weller & Roethlisberger, 2011).

V. CONCLUSIONES

El objetivo central de este estudio fue analizar la calidad del empleo en Santa Cruz de la Sierra bajo una perspectiva de precariedad laboral intergeneracional, utilizando el Índice Multi-dimensional de Calidad del Empleo (IMCE) fundamentado en el modelo de Alkire y Foster (2007). Los resultados obtenidos en 2025, en comparación con el marco teórico y la evidencia nacional, conducen a varias conclusiones fundamentales sobre la precariedad estructural del mercado laboral en la región:

Baja Calidad del Empleo y Confirmación de la Precariedad: El análisis cuantitativo confirma que la calidad del empleo en Santa Cruz de la Sierra es considerablemente baja, lo cual valida las preocupaciones planteadas en la literatura respecto a Bolivia (Choque, 2019; Yañez, 2018)

- El $IMCE_{2025}$ promedio calculado fue de 0,45, cercano al 0,43 del $IMCE_{2023}$ (OMEQ, 2023), lo que indica que se mantiene el deterioro general en comparación con el promedio boliviano de 0,47 reportado por Salazar Aramayo para el período 2011-2019 (2021).
- La Tasa de Incidencia de Mala Calidad del Empleo (H) fue del 68%, lo que significa que más de la mitad de la población ocupada cuenta con empleos de baja calidad. Este

hallazgo es congruente con la conclusión de Choque (2019) de que más del 50% de los empleos en Bolivia son de mala calidad.

- La Intensidad de la Mala Calidad del Empleo (A) alcanzó el 59%, lo que subraya que los trabajadores que sufren de mala calidad del empleo lo hacen a través de la privación en más de la mitad de las dimensiones evaluadas.

Deterioro Acentuado y Precariedad Intergeneracional. Existe un claro deterioro en la calidad del empleo entre las cohortes, lo que se manifiesta en la segmentación del mercado laboral donde las generaciones jóvenes se insertan en condiciones de mayor precariedad:

- La Generación Z presenta el IMCE más bajo (0,36), reflejando una desventaja marcada en comparación con las Generaciones X e Y (0,44 y 0,42 respectivamente). Este deterioro se atribuye tanto a la antigüedad y experiencia laboral de la cohorte como a un deterioro estructural en las dimensiones de calidad del empleo.
- La precariedad de la Generación Z se evidencia en la Estabilidad Laboral, con un 27% trabajando sin firmar un contrato formal, lo que refleja una mayor precariedad laboral. Además, esta cohorte tiene porcentajes altos de aprendices o pasantes sin remuneración (7%) y trabajadores familiares sin remuneración (4% ahora Vs. 10% 2023), categorías que definen la precariedad laboral (Ubeda et al., 2020).
- En cuanto a los Ingresos Laborales, el 60% de la Generación Z se concentra en el rango más bajo de ingresos (0 – 2.750 Bs.), y la contribución de los Ingresos Laborales al IMCE disminuye significativamente para los jóvenes (0,04 en la Generación Z frente a 0,14 en la Generación X de un máximo de 0,33).

Disparidad de Género y Vulnerabilidad Extrema: La precariedad afecta de manera desproporcionada a las mujeres, particularmente a las jóvenes, acentuando la necesidad de fortalecer las políticas de igualdad de género:

- El $IMCE_{2025}$ es consistentemente inferior para mujeres (0,41) respecto al de hombres (0,47).

- La Generación Z femenina presenta el IMCE más bajo (0,36) y una Tasa de Incidencia de Mala Calidad del Empleo (H) de 0,92. Este valor indica que casi la totalidad de las mujeres jóvenes ocupadas se encuentran en una situación de mala calidad de empleo.
- La Intensidad de la mala calidad (A) es ligeramente mayor para las mujeres de la Generación Z (0,52) que para los hombres (0,55), lo que sugiere una mayor profundización de los problemas de empleo de mala calidad para las mujeres jóvenes.

Implicaciones y Recomendaciones de Política: Los resultados sugieren que, si bien puede existir mayor acceso al empleo, su calidad se ve afectada negativamente, un problema que se está intensificando en las generaciones más jóvenes.

- *Necesidad de Intervención Focalizada:* Es urgente implementar políticas públicas específicas que promuevan la mejora de la calidad del empleo, especialmente para grupos vulnerables, con el fin de fomentar un desarrollo económico más inclusivo y sostenible.
- *Fortalecimiento de la Estabilidad y Protección Social:* Las áreas que requieren atención especial para mejorar la equidad y la calidad del empleo son la alta incidencia de contratos temporales y la menor participación en empleos con beneficios sociales. La falta de acceso a protección social es particularmente crítica en la Generación Z, donde el 68% no cuenta con estos beneficios (Vs. 57% del total).
- *Monitoreo Continuo:* Se recomienda que futuras investigaciones sigan desarrollando y aplicando marcos multidimensionales como el IMCE para capturar la complejidad del mercado laboral. El seguimiento continuo del IMCE a nivel nacional, departamental y por sector es crucial para verificar el cumplimiento de la legislación laboral y aplicar incentivos/sanciones a las empresas (Salazar Aramayo A. J., 2021).

Para cerrar nuestro debate, la mala calidad del empleo y la precariedad son un problema estructural que se está transmitiendo y acentuando en la Generación Z, comprometiendo

sus trayectorias vitales y la cohesión social, lo que requiere un esfuerzo concentrado para generar empleos que cumplan con los criterios de Trabajo Decente promovidos internacionalmente (Weller & Roethlisberger, 2011).

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Organizational Efficiency in Courts and Tribunals: An Unfinished Task/A Forgotten Task

José María Fernández Seijo

ABSTRACT

The purpose of this article is to address various issues related to the modernisation of the organisation of courts and tribunals in order to respond to the challenges of an increasingly complex and, at the same time, more demanding justice, to essential mechanisms to strengthen the effectiveness of judicial procedures as well as to the citizens guarantee regarding judicial claims. The likely implementation of a collegiate system in the first instance, which goes beyond the nineteenth century scheme of isolated courts which work as «kingdoms of taifas», re-opens with the presentation by the government of a draft for an Organization Efficiency Act, a project which is a mere replay of 2021 draft bill. If a broad political and professional consensus to promote the reform and its implementation is not to be reached, we might risk it that a modernization of justice will cease to be a pending issue and will turn into a forgotten subject.

Keywords: justice, justice administration, courts of first instance, court organisation, judicial institution.

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Organizational Efficiency in Courts and Tribunals: An Unfinished Task/A Forgotten Task

Eficiencia Organizativa en Los Juzgados y Tribunales: una Asignatura Pendiente/ una Asignatura Olvidada

José María Fernández Seijo

ABSTRACT

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Author: Magistrado-Juez Titular del Juzgado de lo Mercantil núm. 11 de Barcelona, Vocal del Consejo General del Poder Judicial.

RESUMEN

El objeto de este artículo es abordar diversas cuestiones vinculadas a la modernización de la organización de juzgados y tribunales para responder a los retos de una justicia cada vez más compleja y, a la vez, más exigentes, mecanismos imprescindibles para fortalecer la

eficacia de los procedimientos judiciales, también las garantías de las ciudadanas y ciudadanos en sus reclamaciones judiciales. La posible implantación de un sistema colegiado en primera instancia, que supere el esquema decimonónico de juzgados aislados que funcionan como «reinos de taifas», se abre de nuevo con la presentación por parte del Gobierno de un proyecto de Ley de Eficiencia Organizativa, proyecto que no hace sino reproducir lo ya trabajado en el anteproyecto de 2021. Si no se alcanza un amplio consenso político y profesional para el impulso de la reforma y su implantación, corremos el riesgo de que la modernización de la justicia deje de ser una asignatura pendiente y se convierta en una asignatura olvidada.

Palabras clave: justicia. administración de justicia. tribunales de instancia. organización de tribunales. planta judicial.

ZUSAMMENFASSUNG

Ziel dieses Artikels ist es, verschiedene Fragen im Zusammenhang mit der Modernisierung der Organisation von Gerichten und Tribunalen zu erörtern, um den Herausforderungen einer immer komplexeren Justiz gerecht zu werden, sowie die notwendigen Mechanismen, um die Effizienz der gerichtlichen Verfahren zu stärken und die Rechte der Bürgerinnen und Bürger in ihren Klagen zu gewährleisten. Die mögliche Einführung eines kollegialen Systems in erster Instanz, welches das neunzehnjährige Modell der isolierten Gerichte, die wie «Taifas-Königreiche» agieren, überwindet, wird erneut mit der Vorstellung eines Gesetzesentwurfs zur organisatorischen Effizienz durch die Regierung

eröffnet. Sollte es keinen breiten politischen und professionellen Konsens für die Reform und deren Umsetzung geben, riskieren wir, dass die Modernisierung der Justiz eine ausstehende Aufgabe bleibt und zu einem vergessenen Thema wird.

Schlüsselwörter: justiz, justizverwaltung, instanzgerichte, gerichtsorganisation, gerichtsstruktur.

Advertencia Previa: Este artículo se escribió cuando se acababa de publicar el RDL 6/2023 y era incierta la tramitación parlamentaria de dicho RDL como proyecto de Ley. Esas incertidumbres se han despejado y cuando esta publicación salga a la luz la reforma habrá aparecido en el *Boletín Oficial del Estado*.

Una parte de las propuestas que aparecen en este artículo, también de las críticas a las disfunciones legales y organizativas, quedan superadas por el texto de la que será Ley de Eficiencia.

A lo largo del año 2025 se deberán desplegar los llamados tribunales de instancia en todas las jurisdicciones, también en todos los partidos judiciales, sea cual sea su tamaño.

Es cierto que en la nueva norma aparecen muchos instrumentos que permitirían despejar una parte importante de las incertidumbres que apunto en el artículo, pero el nuevo modelo de organización exige un esfuerzo no sólo del Gobierno y del Poder Legislativo, sino también del Consejo General del Poder Judicial y de quienes integran en los distintos niveles de responsabilidad los juzgados y tribunales. Sin ese esfuerzo colectivo para dar un salto cualitativo en la gestión de la actividad judicial, el proyecto corre el riesgo de quedar en un mero cambio de nombres, sin mayor profundidad.

Los juzgados de primera instancia especializados en condiciones generales de la contratación han resuelto desde 2017 casi un millón de asuntos. Pese al esfuerzo realizado, lo cierto es que todavía quedan pendientes de resolver casi medio millón de asuntos más, algunos de ellos todavía no han sido admitidos a trámite, pese a que las demandas se presentaron hace más de dos años.

La Audiencia Provincial de Barcelona ha tenido paralizados más de cuatro mil recursos de apelación desde el año 2021, pendientes de la resolución de distintas cuestiones prejudiciales planteadas ante el Tribunal de Justicia de la Unión Europea. El 25 de abril de 2024 se dictó por el Tribunal de Luxemburgo la Sentencia que debería poner fin al debate sobre el cómputo de prescripción de las reclamaciones de cantidad pendientes (ECLI:EU:C:2024:360). Para resolver esos recursos pendientes la Audiencia ha tenido que poner en marcha comisiones de servicio específicas, dedicadas a resolver solo asuntos pendientes en materia de consumo. Estas comisiones de servicio específicas tardarán al menos tres años en solventar los recursos pendientes.

En el año 2023 16.122 personas físicas solicitaron ser declaradas en concurso de acreedores con el objetivo principal de conseguir la exoneración de las deudas que no pudieran pagar con la liquidación de su patrimonio. Las cifras de los primeros meses del año 2024 ponen de manifiesto que el problema de insolvencias de particulares no es puntual, sino que responde a factores estructurales que hacen previsible un incremento del número total de procedimientos de particulares a 20.000. Teniendo en cuenta que en España hay 64 juzgados mercantiles, la media de asuntos de este tipo que debería resolver cada uno de estos juzgados superaría los 300 al año. Dado que los jueces mercantiles han de tramitar y resolver también los concursos de sociedades, los conflictos de sociedades de capital, la propiedad intelectual e industrial, el transporte y las normas civiles reguladoras de los mercados (defensa de la competencia y competencia desleal), las expectativas de resolución rápida y eficaz de esas demandas son muy reducidas, pese al enorme esfuerzo que diariamente se asume por estos juzgados.

En España hay 755.000 funcionarios interinos. A la vista de la jurisprudencia del Tribunal de Justicia de la Unión Europea de 22 de febrero de 2024 (ECLI:EU:C:2024:149), solo con que reclamara un 15 por 100 de los funcionarios interinos el volumen de asuntos a tramitar sería cercano a los 115.000.

Estos datos estadísticos, tomados casi al azar, a partir de notificaciones o recortes de prensa, contrastados con las estadísticas judiciales que trimestralmente publica el Consejo General del Poder Judicial (<https://www.poderjudicial.es/cgpj/es/Temas/Estadistica-Judicial/>), evidencian el fenómeno de la litigación en masa, una forma de litigar que no es nueva, pero que se ha acentuado en los últimos diez años. Para hacer frente a esta realidad que ha colapsado ya juzgados y tribunales, la justicia española cuenta con 5.419 juezas y jueces (11,24 jueces por cada 100.000 habitantes). Para llegar a la ratio de 17,60 jueces por cada 100.000 habitantes (media europea) España tendría que contar con al menos 8.400 jueces, es decir, 3.000 más que los que tiene.

Una lectura de los periódicos de los últimos diez años evidencia que se ha celebrado como un hito histórico que se creen 70 u 80 nuevas plazas judiciales al año. Si consiguiera mantenerse este ritmo de creación de plazas judiciales podría aspirarse a contar con una planta judicial adecuada a las necesidades reales de las ciudadanas y ciudadanos españoles en poco menos de cuarenta años, siempre y cuando no se produjera ningún fenómeno judicial que incrementara exponencialmente el número de asuntos.

Para abordar estas nuevas formas de litigar, en la que los despachos profesionales han incorporado con absoluta normalidad las tecnologías más innovadoras, incluidas herramientas de inteligencia artificial, los juzgados y tribunales cuentan con un modelo de organización muy parecido al sistema de resistencia de la aldea gala de Astérix y Obélix frente a las legiones romanas, con la particularidad de que los galos judiciales no cuentan con otra poción mágica que la de su esfuerzo y dedicación. Cada juzgado, cada tribunal, es un pequeño núcleo de poder construido a partir de un modelo en el que la letrada o letrado de la administración de justicia, con la colaboración de la juez o el juez, diseña un sistema de trabajo de modo muy intuitivo, atendiendo a los medios materiales y humanos con los que se cuenta, así como al volumen de asuntos de entrada, más los pendientes de

resolver. Aunque las normas procesales y organizativas son comunes (Ley Orgánica del Poder Judicial, Ley de Enjuiciamiento Civil o leyes procesales de otras jurisdicciones) lo cierto es que los usos, costumbres y criterios de cada unidad judicial terminan por adquirir una fuerza mucho mayor que la de los textos legales que las respaldan, dándose la paradoja de que un mismo órgano judicial, un mismo juzgado, puede estar servicio por varias juezas o jueces y cada uno de ellos puede tener un criterio distinto a la hora de señalar, tramitar o resolver sus asuntos. De modo que una misma condición general puede ser declarada nula o válida por un mismo juzgado, en función de quien haya dictado la sentencia; incluso en la segunda instancia es habitual que en estos litigios masa haya resoluciones contradictorias sobre un mismo problema no solo entre las distintas secciones de una misma Audiencia, sino dentro de una misma sección, atendiendo a la terna que resuelve.

El cierto que el Tribunal Supremo termina por unificar criterios y dar respuestas homogéneas a problemas similares, pero el Tribunal Supremo no puede revisar todas las disparidades que se producen en el sistema judicial porque una parte muy importante de los recursos no superan el filtro de la admisión a trámite de la casación, especialmente en lo que afecta a problemas procedimentales. La configuración de un sistema de garantías procesales similar para procedimientos similares queda al albur de posibles recursos de amparo, y el Tribunal Constitucional tampoco es un ejemplo a seguir ni en celeridad a la hora de resolver, ni en uniformidad de sus criterios interpretativos del art. 24 de la Constitución, puerta de entrada para la búsqueda de El Dorado de unas reglas procesales uniformes.

Todos estos datos sirven para defender que el problema de la lentitud o la falta de eficacia en España no se resuelve solo con la creación de más juzgados, sino con la adopción de otras medidas, principalmente organizativas, de dotación de medios materiales e incorporación de nuevas tecnologías, que permitan abordar cambios cualitativos en un servicio público que va

quedándose a la cola en cuanto a prestigio y en cuanto a eficiencia.

En el año 2017 publiqué en el blog Almacén de Derecho(<https://almacenederecho.org/justicia-mercantil-tribunales-instancia>) un artículo sobre la necesidad de introducir reformas organizativas en la primera instancia que permitieran afrontar los problemas de litigación en masa que ya padecíamos en ese momento, hacía referencia a la creación de un grupo de trabajo por parte del Ministerio de Justicia, expertos que en el año 2010 habían elaborado un informe que aconsejaba incorporar al sistema judicial español un modelo organizativo similar al que se aplicaba en Francia o en Países Bajos.

En el año 2021 volví a escribir sobre estos temas en un artículo que se titulaba «De nuevo sobre los Tribunales de Instancia». Empezaba ese artículo indicando que «El ministro de Justicia presentó en el Consejo de Ministros celebrado el 20 de abril de 2021 el Anteproyecto de Ley de Eficiencia Organizativa del Servicio Público de la Justicia. Se trata de una reforma de la Ley Orgánica del Poder Judicial destinada a implantar los llamados “tribunales de instancia”, un cambio organizativo que afecta principalmente a los juzgados unipersonales en todas las jurisdicciones. Inspirado en el sistema francés, los tribunales de instancia tienen por objeto principal introducir criterios de colegiación en el primer circuito o primera instancia de todos los órdenes jurisdiccionales. La reforma pretende romper con la ecuación juez/juzgado/oficina judicial, para establecer un sistema de reparto objetivo de asuntos entre juezas y jueces que dejan de estar adscritos a un juzgado concreto y pasan a servir, dentro de cada partido judicial, en una determinada instancia y jurisdicción».

En el *Boletín Oficial de las Cortes Generales* se publicó, el 22 de marzo de 2024, el Proyecto Ley Orgánica de medidas en materia de eficiencia del Servicio Público de Justicia y de acciones colectivas para la protección y defensa de los derechos e intereses de los consumidores y usuarios.

Este Proyecto toma como punto de referencia la propuesta de reforma organizativa de 2021, en la que se incluía la creación de juzgados de instancia en todos los partidos judiciales, y se incorpora también el viejo Anteproyecto de Ley de acciones de representación para la protección de los intereses colectivos de los consumidores de mayo de 2023, por el que se abordaba la trasposición al derecho español de la Directiva (UE) 2020/1828 del Parlamento Europeo y del Consejo, de 25 de noviembre de 2020, relativa a las acciones de representación para la protección de los intereses colectivos de los consumidores.

El proyecto de marzo de 2024 no es nuevo, el Gobierno aprovecha los trabajos realizados en los últimos años para presentar de nuevo esas reformas organizativas varadas desde hace casi quince años.

Las tensiones políticas y el juego de mayorías y minorías en las Cortes españolas complican mucho el debate sereno y a aprobación de una reforma legal muy ambiciosa, eminentemente técnica, que obliga no solo a un cambio del marco legal, sino también a un cambio en profundidad del modo de trabajar de los juzgados y tribunales.

En el contexto político y social actual se corre el riesgo de considerar que la reforma no es sino un intento velado de limitar la independencia de jueces y tribunales. Si el debate se traslada a ese escenario político, la suerte de la reforma será complicada.

En esta situación de incertidumbre política, en la que uno de los ejes del debate y de las tensiones políticas para por el funcionamiento no solo del Poder Judicial como institución u organismo autónomo e independiente, sino también de los juzgados y tribunales ordinarios, es interesante establecer los puntos principales de la anunciada reforma, para ponerlos en relación con las necesidades estructurales de un sistema cada vez más ineficiente, entendiendo que la eficiencia se limita a buscar que los juzgados resuelvan de modo razonable y transparente en un periodo de tiempo también razonable.

La propuesta de tribunales de instancia atiende a criterios organizativos, busca el reparto de

asuntos de manera objetiva y razonable, atendiendo a cargas de trabajo predeterminadas, garantizando la independencia de órgano judicial en el momento de la resolución, pero introduciendo criterios de colegiación y unificación de criterios. No se trata, por tanto, de crear más juzgados, ni de reducir o aumentar el número de partidos judiciales, sino de conformar un modelo de trabajo en primera instancia en el que el número de juezas o jueces llamados a dar respuesta a los conflictos no dependa de una oficina preestablecida, sino de la carga de trabajo efectiva. También se busca que, sin cuestionar el derecho al juez natural predeterminado por la Ley, se establezcan sistemas de distribución de trabajo acordes con la experiencia y capacidad de cada juezas o juez, para evitar así la leyenda urbana de que las posibilidades de que se estime o desestime una demanda dependan de la lotería del reparto, no solo entre juzgados, sino también en la distribución por secciones o negociados dentro de un mismo juzgado o tribunal.

Desaparece la figura de la decana o decano, por lo menos nominalmente, sustituyéndose por una fórmula presidencial, con más competencias y con posibilidad de designar presidente para cada una de las jurisdicciones. En partidos judiciales reducidos la presidencia se atribuye por un simple criterio de escalafón, asume la presidencia la jueza o juez con mejor número en el escalafón, es decir, normalmente el que cuenta con más antigüedad y experiencia. Pero en partidos judiciales más grandes la presidencia se dirige por medio de un proceso electoral en el que la candidata o candidato debería ofrecer un modelo organizativo y de funcionamiento reconocible.

Como ya he indicado en este mismo artículo, la propuesta de implantar la fórmula de los tribunales de instancia en España no es nueva, ya se intentó en el año 2010, cuando se elaboró un informe preliminar por una comisión de expertos, informe que no llegó a cristalizar en un texto articulado.

Esta nueva iniciativa sí que cuenta con un proyecto de reforma de la Ley Orgánica del Poder Judicial (LOPJ), pero lo propuesta no es fruto de un grupo de trabajo plural y transversal, sino que

parte del impulso del Ministerio de Justicia que, a lo largo del año 2021, había presentado ambiciosas propuestas de reforma en distintos ámbitos en la búsqueda de una eficiencia procesal, organizativa y digital. La anunciada reforma de las normas procesales (Ley de Eficiencia Procesal) dio lugar al Real Decreto Ley 6/2023, de 19 de diciembre, por el que se aprueban medidas urgentes para la ejecución del Plan de Recuperación, Transformación y Resiliencia en materia de servicio público de justicia, función pública, régimen local y mecenazgo. Real Decreto que está tramitándose, con ciertas zozobras, como proyecto de Ley, condición que pusieron algunos partidos políticos para dar el visto bueno a una norma que estuvo a punto de no ser convalidada en el Parlamento.

La estrategia del Gobierno de anunciar con mucho ruido cambios importantes que, sin embargo, no llegan al Congreso de los Diputados debe ser objeto de crítica, ya que las propuestas no cuentan con el consenso político y profesional suficiente como para garantizar su aprobación, circunstancia que puede generar frustración, ya que el sistema procesal y organizativo español necesita cambios profundos, urgentes a la vista de la incidencia que la alarma sanitaria había tenido en la economía y en el funcionamiento de las principales instituciones públicas o privadas. Alarma sanitaria que ha llevado a que ciertos problemas de litigación no puedan considerarse coyunturales, es decir, conectados con la incidencia de la pandemia, sino estructurales.

También debe criticarse el sistema de trabajo impulsado por el Ministerio, que es muy hermético durante el proceso de elaboración de las propuestas, dado que no impulsa ningún tipo de grupo de trabajo previo, y fija plazos muy breves de informe para que las asociaciones profesionales puedan emitir informes o modelos alternativos.

El calado de las reformas propuestas exigiría una metodología de trabajo distinta para evitar el fracaso o la oposición frontal. Probablemente debería retomarse la idea de impulsar un pacto de Estado sobre la Justicia para conseguir el consenso no solo de partidos políticos, sino

también de colegios profesionales, asociaciones judiciales, de fiscales y LAJs, sindicatos, así como el resto de operadores jurídicos implicados en actuaciones judiciales.

Por otra parte, en la cuestión específica de los tribunales de instancia, la reforma puede diluirse y convertirse en una mera modificación nominal si no va acompañada de una reforma en profundidad del modelo de planta judicial, modificando el actual mapa de juzgados y tribunales, configurado en los años ochenta del siglo pasado, mapa que ha quedado completamente obsoleto.

Tal y como se ha apuntado en los informes preparados por distintas asociaciones profesionales, la valoración de la iniciativa es positiva, en la medida en la que se retoma una cuestión pendiente desde hace muchos años, pero el proyecto plantea algunas dudas tanto por su indefinición como por sus opciones en puntos concretos de mucho calado que determinan la recepción de la propuesta con cierta cautela.

Los claroscuros del proyecto pueden sintetizarse en los siguientes puntos:

1. La puesta en marcha de los Tribunales de Instancia debería ir acompañada de una propuesta concreta de reorganización de la planta judicial, sobre todo para reordenar y agrupar partidos judiciales. Sería imprescindible disponer de un diseño inicial de la nueva planta para agrupar partidos judiciales atomizados. No tiene sentido que en las grandes ciudades haya partidos judiciales de periferia que no pudieran agruparse atendiendo, por ejemplo, a la estructura de las vías de comunicación.

Si no se aborda una reforma en profundidad de la planta judicial, la propuesta corre el riesgo de quedar en un mero cambio de denominación. Es imprescindible reconfigurar la planta a partir de un concepto más moderno del territorio y de las conexiones tanto físicas, como tecnológicas entre municipios.

La entrada en vigor el 21 de marzo de 2024 del Real Decreto-Ley de 19 de diciembre, por

el que se aprueban medidas urgentes para la ejecución del Plan de Recuperación, Transformación y Resiliencia en materia de servicio público de justicia, función pública, régimen local y mecenazgo. Permite normalizar el uso de herramientas de internet y telecomunicaciones para la celebración de vistas y actuaciones judiciales en línea. Este RDL, tramitado actualmente como proyecto de Ley, consolida la práctica habilitada de modo excepcional durante la vigencia de la declaración del estado de alarma de las vistas en las que la representación, asistencia técnica, partes, testigos y peritos podían conectarse en línea, eludiendo los riesgos de la presencia en sala. Esta práctica extraordinaria se convierta en regla general a partir de la entrada en vigor del RDL, por lo que dejan de ser necesarios los desplazamientos físicos, sobre todo en procedimientos más sencillos o con trámites reiterativos.

La incorporación de las nuevas tecnologías a la práctica de actuaciones judiciales hace que pierda todavía más sentido la actual división de partidos judiciales.

Una posible reconfiguración de la planta judicial podría asentarse sobre las nuevas vías de comunicación, permitiendo que en la periferia de las grandes ciudades en vez de contar con partidos judiciales infradotados y colapsados, establecer un partido único, con una red de servicios comunes.

2. Para que la puesta en marcha de esos Tribunales de Instancia sea eficaz debería conocerse desde un inicio el nuevo mapa de partidos judiciales y los criterios de definición de la nueva planta judicial.

Hasta la fecha, la propuesta del Ministerio de Justicia no supone una alteración de la planta judicial, ya que se mantienen los 431 partidos judiciales, circunstancia que hace que el proyecto de organización pueda quedar, como ya se ha advertido, reducido a una mera modificación del nombre de los órganos en cuestión, sin atender a verdaderos criterios de eficiencia.

3. El proyecto debería hacer referencia expresa a la incorporación de nuevas tecnologías en la celebración de vistas y realización de actuaciones judiciales, permitiendo que en aquellos municipios en los que no se haya constituido un Tribunal de Instancia se puedan celebrar todo tipo de actuaciones, incluidas algunas vistas, en salas constituidas de modo virtual para evitar que el ciudadano se tenga que desplazar para realizar actuaciones sencillas o cotidianas a la sede física del partido judicial.

El proyecto, por tanto, debería estar adecuadamente coordinado con las futuras Leyes de Eficiencia y de Medidas de Eficiencia Procesal del Servicio Público de la Justicia, generando una legislación coherente y armonizada. Normas que ya han entrado en vigor parcialmente con el RDL 6/2023, ya reseñado, pero que todavía están pendientes de un bloque de reformas reglamentarias que permitan instaurar de modo efectivo la llamada justicia del dato.

Es interesante en este punto reseñar la puesta en marcha de un procedimiento monitorizado, planteado ante una plataforma pública de litigación, regulado en el Texto Refundido de la Ley Concursal, tras la reforma de la Ley 16/2022, que habilita un procedimiento especial para pequeñas empresas y empresarios, incorporado en el nuevo libro III del Texto Refundido. Este procedimiento, que empezó a aplicarse el 1 de enero de 2023, se sustenta en la puesta a disposición del deudor y de los acreedores de formularios cerrados que deben cumplimentarse e incorporarse a un expediente electrónico virtual. Los procedimientos de insolvencia se refieren a empresas o personas que cumplan con los requisitos del art. 685 del Texto Refundido de la Ley Concursal:

- El procedimiento especial para microempresas será aplicable a los deudores que sean personas naturales o jurídicas que lleven a cabo una actividad empresarial o profesional y que reúnan las siguientes características:

- Haber empleado durante el año anterior a la solicitud una media de menos de diez trabajadores. Este requisito se entenderá cumplido cuando el número de horas de trabajo realizadas por el conjunto de la plantilla sea igual o inferior al que habría correspondido a menos de diez trabajadores a tiempo completo.

- Tener un volumen de negocio anual inferior a setecientos mil euros o un pasivo inferior a trescientos cincuenta mil euros según las últimas cuentas cerradas en el ejercicio anterior a la presentación de la solicitud.

4. La indicación anterior tiene especial incidencia en la nueva configuración de la antigua justicia de paz, que pasa ahora a las llamadas *oficinas de justicia municipales*. El proyecto en este punto debería ir acompañado de una memoria económica que permitiera vislumbrar la viabilidad de la reforma para la puesta en marcha de unas oficinas en su diseño tienen poco que ver con la actual justicia de paz, que ha quedado como un instrumento residual.

5. En materia de organización y funcionamiento de los Tribunales de Instancia, la propuesta de denominación presidencialista debería evitarse, manteniendo la denominación de decanos y la sustitución de las presidencias de sección por coordinación. No puede construirse el futuro tribunal de modo *vertical* o jerarquizado, sino *horizontal*, de ese modo se evitaría la posible interferencia en el principio de independencia judicial.

La figura de un decano o coordinador del Tribunal de Instancia o de sus ramas especializadas debe permitir la adopción de acuerdos en materia organizativa o funcional, pero no en las funciones estrictamente jurisdiccionales.

6. Debería hacerse un esfuerzo por definir las competencias y el sistema de distribución de asuntos en los Tribunales de Instancia, especialmente en materia de instrucción. El cambio de sistema no generará recelos si las normas de reparto son claras y garantizan el juez predeterminado por la Ley.

7. Se plantean serias dudas sobre la conveniencia de la introducción de decisiones colegiadas en la primera instancia. No hay unanimidad en este punto, aunque lo cierto es que la experiencia de otros países (Francia y Países Bajos), permite afirmar que la colegiación podría incidir en la eficiencia del funcionamiento del Tribunal de Instancia si se tienen que organizar las agendas de señalamientos de las personas que han de intervenir en estas actuaciones colegiadas y, fundamentalmente, si se tiene que plantear un sistema de deliberación y decisión que sin duda incidirá en el tiempo de respuesta de los tribunales, especialmente en cuestiones más complejas.

Por eso, se considera más útil el sistema de unificación de criterios que el de enjuiciamiento y decisión colegiada.

Por otra parte, la introducción de la colegiación en los Tribunales de Instancia sin duda incidirá en la organización y funcionamiento de las audiencias provinciales, lo que generaría serias disfunciones para las que el proyecto no da solución. Debe tenerse en cuenta que el proyecto apenas introduce propuestas de modificación sustancial de la segunda instancia.

Debe advertirse que el RDL 6/2023 no permite la colegiación en primera instancia.

La colegiación en primera instancia permitiría redefinir las funciones y competencias de las audiencias provinciales, que evitarían el fenómeno de la litigación en masa en la segunda instancia.

8. Debería aprovecharse el proyecto para superar el sistema de organización por secciones en las Audiencias Provinciales, manteniendo exclusivamente la distinción entre civil y penal, pero introduciendo el criterio de colegio único en la segunda instancia, permitiendo así dotar de mayor flexibilidad y agilidad en la Audiencia Provincial para la formación de las terna que deben resolver los recursos. El colegio único debería igualmente ser trasladado a las Salas

de contencioso-administrativo y de social de los TSJ, dando flexibilidad a la formación de las terna y a la movilidad interna para evitar la generación de micro salas estancas y facilitar el intercambio de pareceres y criterios.

9. El modelo de instrucción de delitos en el proyecto debe armonizarse con el modelo de instrucción en la propuesta de reforma de la Ley de Enjuiciamiento Criminal. La configuración del Tribunal de Instancia de instrucción variará cuantitativa y cualitativamente en función del modelo de instrucción.
10. El proyecto debe coordinarse con el proyecto de Fiscalía Europea ya en tramitación y la puesta en marcha de esta Fiscalía, que ya ha iniciado su andadura normativa independiente del proyecto de Tribunales de Instancia.
11. Deberían darse más competencias e iniciativas a las juntas de jueces. El régimen de funcionamiento de estas juntas de jueces no puede quedar, en sus líneas fundamentales, al riesgo de un ulterior desarrollo reglamentario o a las propuestas de organización y funcionamiento de las distintas juntas de jueces.
12. El proyecto debería ser claro e inequívoco respecto de las reglas de funcionamiento de las juntas y acuerdos de unificación de criterios. Esta tarea unificadora, sin duda importante para dar seguridad jurídica, no debería interferir en modo alguno en la valoración de prueba, tampoco en la determinación de hechos probados; estas concretas funciones deberían ser competencia exclusiva de la jueza o juez que enjuicia y decide.

Por otra parte, es positivo que se reclame cierto esfuerzo en la motivación de quien decida legítimamente apartarse de los criterios unificados.

13. Debería aprovecharse la reforma para suprimir la figura de jueces de adscripción temporal y en expectativa de destino. Tendrían que integrarse en los tribunales de

instancia que les correspondan por concurso. Si se implementan criterios de asignación dinámica de cargas de trabajo bien diseñados, estos destinos provisionales pierden sentido.

14. Debería aprovecharse la reforma para regular los dos primeros años de destino de los jueces que se incorporan a la carrera, estableciendo normas de reparto especiales (predeterminadas) para que lleven asuntos de menor complejidad durante ese periodo inicial de dos años.
15. Debería aprovecharse la reforma para solventar algunas notables disfunciones del sistema actual de especialización en el que se mantiene la distinción entre:
 - Especialidades previa prueba específica.
 - Especialidades *de facto*.

Debería replantearse el modelo de consecución de la especialización para implantar un sistema que permita reconocer la especialidad a quien, sin superar pruebas específicas, hubiera acreditado una cualificación vía experiencia en materias específicas por permanencia en la jurisdicción en la línea de la disposición adicional vigésimosegunda de la LOPJ, cuya introducción, si bien solo para el orden civil y penal, se justificó sobre la consideración de que un determinado número de años en el ejercicio de una específica jurisdicción constituye condición suficiente para ostentar la condición de especialista. Carece de sentido la diferenciación con otros órdenes jurisdiccionales e incurre en un trato desigual y, por tanto, notoriamente lesivo.

También sería interesante hacer referencia al itinerario profesional del juez en vez de a un sistema rígido de especializaciones, de modo que cualquier juez pudiera dibujar su itinerario profesional bien por medio de pruebas especializadas, bien por una especialización *de facto* en la que se tuvieran en cuenta los años de ejercicio en una jurisdicción o materia específica, así como la formación complementaria que pudiera ir adquiriendo. De ese modo se plantea un sistema de «carrera» judicial marcado a partir de ese itinerario profesional que garantizara un grado óptimo de conocimiento en materias específicas.

16. Si bien es positiva la propuesta de gabinetes técnicos, surgen dudas respecto de su presencia en los TSJ y Audiencias, ya que en estos órganos no hay problemas en cuanto a la admisión a trámite y las asimetrías o criterios dispares debería solventarse por las juntas y plenos de unificación de criterios. Además, se plantean algunas dudas respecto de la falta de concreción de los criterios para la convocatoria y cobertura de plazas de estos gabinetes, así como de la conveniencia de ampliar los gabinetes al cuerpo de letrados de la Administración de Justicia.

Específicamente, se considera que los gabinetes técnicos en los juzgados de instancia pueden plantear serias disfunciones por cuanto, al no asumir esas funciones de admisión, el posible control previo debería limitarse al análisis de la competencia objetiva, territorial o a la subsanación de defectos formales. Si no se modifican las leyes procesales estos informes previos no tendrían amparo legal. Asimismo, podrían suponer un retraso importantísimo en la admisión de la demanda y en la adopción, en su caso, de las medidas cautelares que se soliciten.

17. El proyecto debería revisarse para adaptarlo a un lenguaje inclusivo y no discriminatorio.

En todo el proyecto se observa el incumplimiento de lo previsto en la LO 3/2007, 22 de marzo, de Igualdad Efectiva entre Mujeres y Hombres (art. 14.11), al utilizarse de forma constante el siguiente lenguaje no inclusivo (juez, magistrado-jueces magistrados, presidente), cuando se podría utilizar otras expresiones como integrantes de la carrera judicial, Presidencia, persona que ocupa la Presidencia.

18. La utilización reiterada de la designación de «Presidencia» (según el texto presidentes) a diferentes niveles (TSJ, Instancia, Sección...), podría sustituirse por denominaciones tales como: Dirección, Coordinación..., evitando confusión, así como la necesidad de añadir con posterioridad el órgano al que se refiere esa Presidencia. Y en las Oficinas Judiciales se podrían utilizar denominaciones como Coordinación. Gerencia.... Todo ello evitaría

confusiones y haría factible una economía lingüística, favoreciendo la democratización interna al evitar la connotación jerárquica que las denominaciones presidencialistas encierran, resultando innecesarias cuando se trata de temas puramente organizativos.

19. De otro lado, se observa que en la composición de las Salas de Gobierno, Presidencias de Tribunales de Instancia y Presidencias de Sección en ningún momento se hace referencia a la necesaria participación equilibrada de mujeres y hombres en dichas designaciones (LO 3/2007, art. 14.4 Criterios de actuación de los Poderes Públicos que afecta al Poder Judicial). Por ello, proponemos que se prevea la paridad en la Composición de las Salas de Gobierno, y Presidencias de Tribunales de Instancia y Presidencias de Sección.

20. Faltan en el proyecto referencias claras a normas organizativas de los Tribunales de Instancia, y a los requerimientos de capacidad de gestión y formación de las personas que ocupen dichas responsabilidades en la estructura de los Tribunales, específicamente las que estén al frente de las Unidades Procesales de Tramitación y Servicios Comunes Procesales.

Una nueva organización que busca la eficiencia del servicio público de justicia y la apuesta clara por las TIC exigiría abordar una nueva redefinición de funciones de los distintos Cuerpos de la Administración de Justicia, pues la regulación actual es incompatible con la nueva organización de la justicia que se pretende.

21. Las previsiones de organización territorial que se propone debería dar más margen a la estructura territorial que cada Comunidad Autónoma tenga prevista o pueda prever en su propio Estatuto de Autonomía y superar la actual organización provincial del siglo xix.

22. Dentro de posibles propuestas de nuevos instrumentos procesales, sería interesante que se desarrollara la experiencia embrionaria del llamado procedimiento testigo (art. 438 bis LEC), restringido en la actualidad solo a

procedimientos verbales que afectan a condiciones generales de la contratación seguidos ante un mismo juzgado, procedimientos en los que, además, no se posible aplicar la regla de suspensión si las partes proponer la nulidad por falta de transparencia.

Esta herramienta procesal se prevé también para extender el posible efecto de cosa juzgada, sin necesidad de procedimiento declarativo previo, en aquellos supuestos en los que haya una sentencia de segunda instancia anulando una cláusula abusiva. El RDL 6/2023 aprovecha la referencia del art. 519 LEC para introducir una reforma de mayor calado, convirtiendo el redactado del párrafo único inicial en el primer apartado del nuevo precepto, para, a continuación, introducir cinco ordinales más que se refieren a un supuesto de extensión de la ejecución sustancialmente distinto, pues no se trata de ejecutar sentencias en las que se articuló la defensa de intereses colectivos difusos, sino la extensión de los efectos de sentencias individuales a quienes no han sido parte de la acción individual.

De hecho, la reforma del RDL introduce un nuevo subtítulo del art. 519, separado por un punto. Ese nuevo subtítulo es: Extensión de efectos de sentencias dictadas en procedimientos en los que se hayan ejercitado acciones individuales relativas a condiciones generales de la contratación. El párrafo 1 queda desconectado de los otros cinco párrafos.

Conforme al nuevo régimen legal, se puede prescindir de instar un procedimiento verbal previo para que se declare la nulidad de la cláusula, procedimiento que puede quedar paralizado, para acudir presentar una demanda ejecutiva en la que pide que la sentencia dictada en un procedimiento con un objeto sustancialmente similar sobre una cláusula sustancialmente igual pueda extender sus efectos a la situación jurídica de la perjudicada o perjudicado, que pasa a ser ejecutante, siempre y cuando se den los requisitos que prevé el extenso desarrollo del nuevo art. 519 LEC. Se trata de una opción que la norma solo reconoce al adherente a una condición general y los requisitos son:

- Que el ejecutante identifique una sentencia que reconozca una situación jurídica individualizada y que, de haberse dictado en primera instancia, hubiera adquirido firmeza tras haber sido recurrida ante la Audiencia Provincial. La norma no explicita que, necesariamente, esa sentencia firme haya sido dictada por el mismo juzgado ante el que se insta la extensión de la ejecución. La norma solo exige que «el órgano jurisdiccional sentenciador o competente para la ejecución de la sentencia cuyos efectos se pretende extender fuera también competente, por razón del territorio, para conocer de la pretensión.»
 - Que las condiciones generales de contratación tengan identidad sustancial con las conocidas en la sentencia cuyos efectos se pretenden extender.
- En definitiva, la modernización de la organización de juzgados y tribunales para responder a los retos de una justicia cada vez más compleja y, a la vez, más exigentes, pasa por la búsqueda de nuevas fórmulas que pueden considerarse «rompedoras», pero que parecen imprescindibles para fortalecer la eficacia, también las garantías. La posible implantación de un sistema colegiado en primera instancia, que supere el esquema decimonónico de juzgados aislados que funcionan como «reinos de taifas», se abre de nuevo con la presentación por parte del Gobierno de un proyecto de Ley de Eficiencia Organizativa, proyecto que no hace sino reproducir lo ya trabajado en el anteproyecto de 2021. Si no se alcanza un amplio consenso político y profesional para el impulso de la reforma y su implantación, corremos el riesgo de que la modernización de la justicia deje de ser una asignatura pendiente y se convierta en una asignatura olvidada.
- Nada dice la norma respecto de aquellas audiencias provinciales en las que haya distintas secciones con competencia en condiciones generales que hayan podido dictar sentencias contradictorias. Esta posible controversia puede ser objeto del incidente de oposición a la extensión de efectos.
- Se exige expresamente que haya pronunciamiento de la segunda instancia, es decir, no es posible extender efectos si la sentencia en cuestión no fue recurrida, o si contra ella no se admitió recurso.
 - Debe ser una sentencia firme.
 - El demandado, en realidad ejecutado, debe ser el mismo sujeto que fue demandado en el procedimiento que se pretende ejecutar. La norma también permite que se extienda la ejecución cuando se trate de quien haya sucedido en esa posición.
 - El ejecutante debe presentar el escrito antes de que transcurra un año desde la firmeza de la sentencia que se pretende ejecutar.
 - Deben, además, cumplirse con los requisitos objetivos que ya se analizaron en los epígrafes anteriores:
 - Que los interesados se encuentren en idéntica situación jurídica que los favorecidos por el fallo.
 - Que no sea preciso realizar un control de transparencia de la cláusula ni valorar la existencia de vicios en el consentimiento del contratante.

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