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THE PROBLEM OF TRANSHUMANISM IN THE CONTEXT OF INDIVIDUAL FREEDOM AND DIGNITY: A LESSON FROM SLAVOJ ŽIŽEK

Abstract. In his book *Hegel in a Wired Brain*, Slavoj Žižek uses the approach of G.W.F. Hegel because he considers that this approach can be used to describe the reality of people immersed in technology, but above all to analyze the situation of connecting people and computers into one network. Simultaneously, the interpretations of Hegel's concepts presented by Žižek must be considered plausible. For instance, the Slovenian philosopher correctly understood Hegel's concept of abolition: *Aufhebung*. Žižek asks a fundamental question, namely how the phenomenon of the "wired brain" can affect the human experience and the status of human beings as free individuals. Žižek also considers the socio-political implications of connecting brains, which is written about by transhumanists such as Ray Kurzweil and Elon Musk. He ponders how this new situation may affect power relations and forms of freedom. Žižek uses Hegel's critique of J.G. Fichte's concept of the "police state" to undermine Kurzweil's and Musk's positions. The problem analyzed in the article is whether Žižek's Hegelian analyses contribute something fresh to the understanding of freedom and human dignity on the ground of contemporary philosophy of law. The author emphasizes that Žižek's analyses human exceptionality are particularly interesting from the point of view of the philosophy of law.

Keywords: Slavoj Žižek, transhumanism, G.W.F. Hegel, human dignity, freedom, philosophy of law

PROBLEM TRANSHUMANIZMU W KONTEKŚCIE WOLNOŚCI I GODNOŚCI JEDNOSTKI: LEKCJA Z ROZWAŻAŃ SLAWOJA ŽIŽKA

Streszczenie. W swojej książce *Hegel i mózg połączony* (*Hegel in a Wired Brain*, wydanie polskie 2021) Slavoj Žižek posługuje się podejściem G.W.F. Hegla, ponieważ uważa, że można je wykorzystać również do opisu rzeczywistości ludzi zanurzonych w technologii, a przede wszystkim do analizy sytuacji połączenia ludzi i komputerów w jedną sieć. Jednocześnie interpretacje koncepcji Hegla przedstawione przez Žižka należy uznać za przekonujące. Przykładowo – słoweński filozof trafnie zrozumiał Heglowskie pojęcie „znoszenia” – *Aufhebung*. Žižek stawia fundamentalne

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pytanie, a mianowicie, jak zjawisko „połączonego mózgu” może wpływać na ludzkie doświadczenie i status człowieka jako jednostki wolnej. Žižek rozważa również społeczno-polityczne implikacje łączenia mózgow, o czym piszą transhumaniści, tacy jak Ray Kurzweil i Elon Musk. Zastanawia się, jak ta nowa sytuacja może wpłynąć na relacje władzy i formy wolności. Žižek wykorzystuje heglowską krytykę koncepcji „państwa policyjnego” J.G. Fichtego, aby podważyć stanowiska Kurzweila i Muska. Problem analizowany w artykule dotyczy tego, czy heglowskie analizy Žižka wnoszą coś nowego do rozumienia wolności i godności człowieka na gruncie współczesnej filozofii prawa. Autor podkreśla, że analizy Žižka dotyczące ludzkiej wyjątkowości są szczególnie interesujące z punktu widzenia filozofii prawa.

Słowa kluczowe: Slavoj Žižek, transhumanizm, G.W.F. Hegel, godność człowieka, wolność, filozofia prawa

1. INTRODUCTION

Slovenian philosopher Slavoj Žižek (born 1949) is a provocative thinker, and as a result, he is not taken seriously by many. He is often considered a celebrity intellectual who became fashionable because he appealed to leftist elites, and that he has little to offer beyond brilliant paradoxes and philosophical analyses of popular films. In the literature, you can find sociological analyses showing how, thanks to the media revolution, an intellectual from a small Central European country became a global phenomenon.¹ In my opinion, however, the Slovenian philosopher deserves to be taken seriously. Certainly, Žižek often references films and popular culture texts, but he does not stop there. He is an expert not only in Marx’s thought and psychoanalytic concepts but also in German classical philosophy, and has repeatedly presented original interpretations of the ideas of Immanuel Kant, Johann Gottlieb Fichte, and especially Georg Wilhelm Friedrich Hegel. In 2020, to commemorate the 250th anniversary of Hegel’s birth, Žižek published the book *Hegel in a Wired Brain*, in which, among other things, he looks through the prism of the author of *The Phenomenology of Spirit*’s concepts at the ideas of transhumanists such as Ray Kurzweil and Elon Musk (Žižek 2020). Žižek focuses on transhumanist ideas that assume overcoming humanity’s limitations through connection with machines that would not only be controlled by the human brain (a brain-computer interface) but would also form a single network with humans, allowing for the sharing of experiences.² In his 2020 book, Žižek poses a fundamental question: how the phenomenon of the “wired brain” can affect the human experience and the status of human beings as free individuals. In this article, I adopt the perspective of legal philosophy, and the main question I ask here concerns whether Žižek’s considerations – especially those made in the context of his assessment of transhumanism – enrich the philosophico-legal

¹ Cf. Bar-El (2025, chapters 3–4).

² The notion of transhumanism can be understood in different ways. On the history of the very concept, cf. Sulikowski (2013, 119–139).

approach to individual freedom and dignity. This question, however, requires two caveats. First, Žižek does not devote much attention to law and the institutional sphere in general. This is understandable, given that his starting point is Marx's critique of the institutions of capitalist society and liberal democracy, which is considered by him as the political equivalent of late capitalism. Second, Žižek also follows Marxist thought by not using the term "human dignity,"³ although he devotes considerable attention to what constitutes the uniqueness of the human individual and her experience. I therefore believe that these considerations by Žižek indirectly concern human dignity, although this term is not used. To assess the potential benefits of transferring some of Žižek's concepts of freedom and individual uniqueness to the field of legal philosophy, it is necessary to briefly present the dominant philosophico-legal positions on freedom and human dignity. The aim of the article is a rather restrained and moderate one, namely to point out the components of Žižek's analyses of transhumanism that are interesting from the point of view of contemporary discussions on human dignity in the field of law and which can be inspiring even if one does not share many of Žižek's philosophical views.

2. INDIVIDUAL FREEDOM AND HUMAN DIGNITY IN PHILOSOPHY OF LAW

It is impossible to provide here a comprehensive overview of even the most important concepts of individual freedom within the philosophy of law. In its most typical understanding, individual freedom consists in the existence of a legally protected sphere of individual autonomy and decision-making. This sphere encompasses several rights and freedoms (Girgis, George 2020). Discussions on freedom in the philosophy of law may/often refer to Isaiah Berlin's division into negative liberty ("freedom from"), encompassing the sphere free from state interference, and positive liberty ("freedom to"), meaning the area in which an individual can demand specific actions on his or her behalf from state authorities (Berlin 2002). The "Capabilities Approach," developed by Martha Nussbaum based on the economic concepts of Nobel Prize winner Amartya Sen, adds another dimension to the concept of freedom: it puts emphasis not so much on legal guarantees of individual freedom of choice, but on the actual ability to take action and choose a life path that individuals value and desire. This approach also emphasizes the material resources necessary to truly exercise freedom of choice and is based on the quality of life (Nussbaum 2011, 17–45).

³ In Marxist concepts, human dignity was and is understood primarily, if not primarily, as self-respect. The hostility of Marxists toward the universal concept of dignity stems primarily from the fact that Marxism views humans not so much as individuals but as products of society (Green 2007, 152).

Nussbaum, unlike Sen, links the concepts of freedom and human dignity: "... the Capabilities Approach, in my version, focuses on the protection of areas of freedom so central that their removal makes a life not worthy of human dignity" (Nussbaum 2011, 31).⁴

Contemporary legal literature and the case law of Western legal cultures distinguish two fundamental and competing approaches to human dignity. The first is the so-called absolute approach to dignity, undoubtedly grounded in Article 1(1) of the German Basic Law of 1949 (Mahlmann 2012, 379–380). This provision states that human dignity is inviolable (*unantastbar*). The 1997 Polish Constitution adopts the approach to dignity expressed in both the German Basic Law and the case law of the Federal Constitutional Court in Karlsruhe. Article 30 of the Polish Constitution states that dignity is not only inviolable but also "inherent" and "inalienable," and constitutes the source of individual constitutional rights and freedoms. The absolute approach to dignity has also permeated, to varying degrees, the case law of other Central European countries, including the Czech Republic, the Slovak Republic, and the Republic of Hungary. Essentially, this approach assumes that dignity understood as a constitutional principle is not subject to balancing against other constitutional principles, and dignity as a constitutional right cannot be limited in accordance with the principle of proportionality.⁵ The relative approach to dignity, in turn, means that dignity understood both as a legal principle and as a subjective right (the right to dignity) does not occupy a special, distinguished place in the legal system. An advocate of this approach is the Israeli judge and law professor, Aharon Barak (born 1936), who believes that dignity is not an axiomatic and universal concept, and that the concept of dignity evolves historically. Barak maintains that dignity is a "relational" category in the sense that it concerns an individual's relationships with other people within society. Therefore, it is impossible to speak of individual dignity outside of society (Barak 2015, 6–8). Furthermore, in his opinion, a relative understanding of human dignity prevails in most legal systems.

Two philosophical concepts of dignity have gained particular popularity in legal literature and have also permeated the jurisprudence of many countries. The first is a concept that is a particular reading of Giovanni Pico della Mirandola's

⁴ Nussbaum presents a long list of capabilities she considers central (Nussbaum 2011, 33–35). This list includes: life, "bodily health," "bodily integrity," "senses, imagination, and thoughts," "practical reason" (being able to define a concept of goodness), "affiliation" (being able to form relationships with other people and not be discriminated against), "other species" (being able to form relationships with components of nature, especially animals), "play," and "control over one's environment" (this category also includes political freedoms). This list raises the question of whether these elements were chosen arbitrarily (they are consistent with liberal-leftist ideology, but supporters of other ideologies would likely choose a different set of central values), and the extent to which considering many of them central might be controversial. However, a broader discussion of Nussbaum's concept is not possible here.

⁵ On proportionality, cf. Barak (2012).

famous oration *De hominis dignitate* (1486). According to Pico, unlike other beings, man – or at least the first man, Adam, before original sin – is not bound by his nature. It is up to him whether he descends to the rank of animals or even becomes something like the devil or attains divinity. This is precisely the essence of human dignity (Pico della Mirandola 2012). As Olga Rosenkranzová aptly states, the typical interpretation of the Renaissance philosopher’s ideas presented in legal literature is anachronistic, misleading, and even deceptive, as it completely ignores their Neoplatonic context and Hermetic elements (Rosenkranzová 2019, 44–67). The second concept is based on Immanuel Kant’s considerations in *Groundwork for the Metaphysics of Morals* (1785). Kant argued that there are things that have dignity and things that have value. The dignity of a human being is expressed in her moral autonomy, i.e., freedom of will. At the same time, in the famous second formula of the categorical imperative, Kant states that every human being should treat the humanity in others as an end in itself and never merely as a means to an end (Kant 2002, 52–54). German constitutional scholar Günter Dürig (1920–1996) transferred Kant’s considerations, which pertain to the sphere of morality, to the realm of constitutional law and legal philosophy. Commenting on Article 1(1) of the German Basic Law, Dürig presented the “object formula” (*Objektformel*). According to this formula, state authority in a democratic state cannot treat an individual solely as an object of its actions. Human dignity is expressed in the fact that the individual must therefore be treated as a subject of state authority’s actions (Dürig 1956). Objectifying a human being is, therefore, contrary to the principle of human dignity. This understanding of dignity was utilized by the German Federal Constitutional Court, and this interpretation was also adopted in the case law of the Polish Constitutional Tribunal.⁶ It is also worth mentioning Ronald Dworkin’s more recent concept of dignity, which argues that the principle of dignity encompasses two principles, i.e. self-respect

⁶ It is worth pointing out that the Polish Constitutional Tribunal, in its judgment of September 30, 2008 (file no. K 44/07), concerning the possibility of shooting down a plane taken over by terrorists, adopted the argumentation based on *Objektformel* developed by the German Federal Constitutional Court in the judgment of February 15, 2006, file no. 1 BvR 357/05 (Urteil des Ersten Senats vom 15. Februar 2006). Other references to the same formula can be found, among others, in the following case-law of the Polish Constitutional Tribunal: judgment of October 15, 2002, file no. SK 6/02 (point 6.2); judgment of July 9, 2009, file no. SK 48/05 (point 2.2). Similar argumentation was present in the case law of other Visegrad Group countries. Of the approximately 40 judgments in which the Constitutional Court of the Czech Republic referred to human dignity, in four the court directly used the Dürig formula (judgments: of March 6, 2012, file no. I. ÚS 1586/09; of August 18, 2009, file no. I. ÚS 557/09; of September 26, 2013, file no. III. ÚS 3333/11; of June 14, 2016, file no. Pl. ÚS 7/15). Cf. (Rosenkranzová 2019, 140–146; Benák, Vyhnaněk, Zahumenský 2018, 197–210). The Constitutional Court of the Slovak Republic used the same formula particularly in its judgment of November 9, 2016 (I. ÚS 689/2014). The use of German constitutional jurisprudence on dignity by the Hungarian Constitutional Court before the constitutional amendment in 2011 has been described in great detail in the literature (Dupré 2003, 65–155). Cf. Szymaniec (2025, 97–113).

and authenticity. The former implies that each person should take his/her own life and the lives of others seriously. The latter implies that each person should express himself/herself in relationships with others and choose a life path that he or she deems appropriate in given circumstances (Dworkin 2011, 203–213). This concept, however, is controversial, firstly because it is difficult to apply in case law. Secondly, it is based on a specific vision of the relationship between society and the individual and an extremely individualistic vision of a human being as the subject of rights. For this reason, it is difficult to expect it to gain widespread acceptance.

3. FOUNDATIONS OF ŽIŽEK'S VIEWS ON LAW

Slavoj Žižek's thought is based on three foundations. The first is – obviously – Marxism. The source of social antagonisms for Žižek continues to be the economic system of late capitalism. At the same time, he has been criticizing the approach of contemporary leftist critics of capitalism for years, who do not dare to criticize the current system in its entirety. Žižek compares the approach of these critics to the image of a democratic political system emerging from Hollywood political fiction films. In such films, some secret organization that corrupts the system is often responsible for the evil of the system. The thinker describes such an approach as paranoiac (Žižek 2002a, 170–171). Similarly, according to Žižek, contemporary critics of capitalism are afraid to admit that it is the system that is flawed, not its specific pathologies. Žižek also claims that although modern liberal democracy declares freedom of expression and opinion as an indisputable human right, on the other hand it introduces a kind of unwritten censorship or “ideological oppression,” which the thinker calls the German term *Denkverbot*, referring to the unwritten prohibitions used in the Federal Republic of Germany in the post-war period. *Denkverbot* consists in the fact that any substantively radical criticism of capitalism is met with the response that such views lead in practice to totalitarianism and the creation of the Gulag. Žižek firmly emphasizes that: “the actual freedom of thought means the freedom to question the predominant liberal-democratic ‘post-ideological’ consensus – or it means nothing” (Žižek 2002a, 168). According to him, the possibility of questioning the economic system must be combined with the possibility of criticizing the political order based on parliamentary democracy with which this system is closely linked (Sydor 2012, 104–105). This approach implies Žižek's suspicion toward the law of modern democratic states. However, as Paweł Sydor writes, in the light of Žižek's thought, the only just legal system is one that provides broad possibilities for freedom of opinion, including the possibility of questioning the existing order, as well as guaranteeing the rights of hired workers and the rights of all social minorities (Sydor 2012, 105).

The second source of Žižekian concepts is the psychoanalytic theory of Jacques Lacan (1900–1981). This theory indicates three dimensions of an individual's functioning: the imaginary, the symbolic and the real (Žižek 2007). On the first of these levels, an individual creates their identity. Symbolic space is the one in which an individual functions, interacting with other people. A large number of phenomena of a symbolic nature make up this dimension, and these include those that are fundamental for society such as language and law. An individual is a kind of prisoner of conventions created in this very dimension, for example those related to naming specific things or social phenomena (Sydor 2012, 95). Using Lacanian categories, Žižek recognizes that an individual, by creating the imaginary or the symbolic, simultaneously maintains his/her reality. The symbolic is part of the construction of the individual's reality. Such a reality, however, is itself a fantasy-construction. As Žižek himself puts it, "Reality" is a fantasy-construction which enables us to mask the Real of our desire" (Žižek 2008, 45). Ideology is not a dreamlike structure being beyond reality, but "a fantasy-construction which serves as a support for our 'reality' itself." The function of ideology is to support our social relations, but at the same time, to mask the rift that is the kernel of reality. Žižek calls this the "insupportable, real, impossible kernel" and, referring to Chantal Mouffe and Ernesto Laclau, writes that it is "a traumatic social division that cannot be symbolized" (Žižek 2008, 45). The symbolic sphere is always simultaneously ideological. Žižek refers to the French Marxist Louis Althusser (1918–1990), who coined the concept "ideological interpellation," where the term "interpellation" denotes a forceful appeal, coupled with a specific demand addressed to individuals. According to Althusser (1971, 170), "ideology 'acts' or 'functions' in such a way that it 'recruits' subjects among the individuals (it recruits them all), or 'transforms' the individuals into subjects." Ideology binds individuals to specific social structures (Sulikowski 2013, 98).⁷ Žižek uses the term "quilting" to describe the function of ideology described by Althusser, meaning the element connecting the subject with a "master signifier." The "master signifiers" are specific ideologies, such as liberalism or communism. These ideologies determine how concepts such as "freedom," "state," "peace," or "justice," which are called "floating signifiers" by Žižek, will be understood, and therefore also what role will be assigned to subjects (Žižek 2008, 111–116; Mańko 2014, 46–47; 2015, 26–34).⁸ For Žižek, influenced by Lacanian psychoanalysis, interpellation is always incomplete, always marked by a "lack" (absence), meaning that element of the individual (also called the Real) that has not been symbolized, and therefore has not been susceptible to the processes that transform the individual into a subject (Mańko 2014, 47).

⁷ Cf. Gillot (2014).

⁸ On the notion of ideology with the reference to Žižek, cf. Sabján (2022, 128–129).

From Žižek's assumptions about the symbolic sphere it follows that law serves as a tool for social interaction, but it can also be oppressive in the sense that it petrifies certain conventions or socially imposed labels that can be oppressive for an individual (e.g. a specific model of life can be defined as a crime just because it goes beyond what the majority accepts). Experiencing the law's enforcement could be, therefore, traumatic for certain individuals. Furthermore, Žižek's perspective can be useful in pointing out the role of ideology in transforming individuals into subjects of law. This perspective can be helpful in uncovering the ideological background of legal institutions, concepts, and notions that shape the individual as a legal subject. For example, the civil codes of the classical liberal period were based on the notion of the individual as an autonomous individual striving to achieve their economic goals.⁹ These provisions, in a sense, forced individuals into the role of such individuals. Moreover, the legal text points out, after all, model (exemplary) features of such legal entities as, for example, "consumer" or "employee," and indication of these features undoubtedly has an ideological aspect. In this way, positive law participates in creating a certain vision of human subjectivity (Maňko 2014, 52–53).

Žižek openly wrote about the law in his 2015 essay. He noted a significant paradox of the law. The law is considered an impartial and rational system, but it contains an "obscene supplement," which consists in the fact that the law is unable to fully encompass and control social reality, and furthermore, it contains elements of fantasy and what is unconscious (Žižek 2015, 220–247). Žižek views the law as a complex social system, which is why the approach represented by legal realism is closest to his own. At the same time, the Slovenian philosopher uses a conceptual framework developed in psychoanalysis to conceptualize the phenomenon of law, while also displaying a strong distrust towards positive law. The inherently incomplete nature of law in general, and public law in particular, means that its rules must be supplemented by "a clandestine 'unwritten' code aimed at those who, although they violate no public rules, maintain a kind of inner distance and do not truly identify with the 'spirit of community'" (Žižek 2005, 55). Drawing on Mikhail Bakhtin and his concept of carnivalization, Žižek recognizes that the presence of this internal, clandestine code makes periodic moments of transgression and suspension of public law inherent to the social order and essentially serve its stabilization (Žižek 2005, 55). However, they also carry a certain, but essentially unavoidable, danger. One of the threats is that the moment of "carnavalesque" suspension of "egalitarian" public law is the authoritarian-patriarchal regime (Žižek 2005, 56).

In his book *For They Know Not What They Do*, Žižek argued that the establishment of law is preceded by the "real of violence," namely usurpation. The violence underlying law must be concealed, however, because the law can

⁹ In the legal thought of that period, a good example of such perceptions of the individual are the considerations of Rudolf von Jhering in his famous pamphlet *Der Kampf ums Recht* (Jhering 1879).

operate thanks to the concealment of this violence. Only because this violence is concealed, legal subjects recognize the authority of law as eternal and true. Žižek argues that the violence upon which law is based was invalidated in classical political philosophy (Žižek 2002b, 204). This is certainly an accurate statement in relation to social contract theory, although this violence is certainly less concealed in Hobbes' theory than in Rousseau's idea of social contract. However, David Hume, in his famous critique of the social contract as a historical fact, explicitly noted that most known governments originated from usurpation or conquest (Hume 1994, 186–201). For Žižek, the violence with which law is connected is related to the fact that the symbolic (and law belongs to this sphere) is marked by "a lack," because it cannot fully express the real. The act of changing the law is also marked by brutality. From the perspective of the old law, changing it is a kind of crime, but the crime is nullified when the new legal order is established. Commenting on Žižek's thought, Jodi Dean called the specific identity of law and crime emphasized by the philosopher a paradoxical source of law (Dean 2004, 1–24). Žižek's thought is not so much connected to Marxist concepts of law, which emphasize the class nature of law, but also to the gradual extinction of law under socialism, when the radical social conflict that characterized previous systems is overcome.¹⁰ As noted in the literature, Žižek draws more on Lacanian psychoanalysis, in which the establishment of human subjectivity and their entry into the symbolic are linked to imaginative brutality (Michalik 2017, 147).

According to Žižek, law is also linked to violence in the sense that violence is associated with inevitable moments of transgression and suspension of public law. In his view, it is not the law itself that binds a community most closely, but the transgression against it. One example he cites is the activities of Ku Klux Klan members in the southern United States in the 1920s, who, despite murdering defenseless African Americans, remained respected members of the community.

The deepest identification that holds a community together is not so much an identification with the Law that regulates its 'normal' everyday rhythms, but rather identification with the specific form of transgression of the Law, of its suspension (in psychoanalytic terms, with the specific form of enjoyment). (Žižek 2005, 55)

Žižek is undoubtedly one of the most influential political thinkers, and many of the themes of his incredibly rich work can have an impact on legal thought. Currently, the representatives of critical legal studies are most inspired by his thought. They use Žižekian concepts and individual categories Žižek has employed

¹⁰ The gradual withering away of law – so-called legal nihilism – was particularly emphasized by legal concepts developed in the first period after the October Revolution (Bosiacki 2012, 197–330). Evgeny Pashukanis (1891–1937) was undoubtedly one of the most significant legal theorists of that period, and his critique of legal form is still commented on today (Head 2008, 169–192; Cercel 2025, 169–184). Against this background, it must be stated that Žižek does not so much criticize legal form as seek to expose the element of brutality and a certain "obscenity" underlying law itself.

(sometimes in isolation from their original context) to critique mainstream legal scholarship (Mańko 2015).¹¹

The third basis of Žižek's thought is Hegelianism, to which much space will be devoted later in this article. For years, Žižek has been reading Hegel in a way that emphasizes what is most radical in the German philosopher's thought and what differs from both earlier and later philosophical traditions. He effectively avoids the clichés that portray Hegel as an apologist for the institution of state or even an advocate of proto-authoritarianism. Although Žižek frequently cites the writings of the young Hegel, he does not refer to the distinction proposed by the Hungarian Marxist György Lukács (1885–1971), who distinguished the revolutionary work of the “young” Hegel from the conservative stance of the mature Hegel (Lukács 1977).¹² For Žižek, all of Hegel's work, including his late lectures delivered at the University of Berlin, is revolutionary, but in the sense that it introduces new content into philosophical discourse. Žižek does not deal with the different traditions of interpreting Hegel's philosophy, including the differences in the readings of this philosopher's work by the Left Hegelians and the Right Hegelians. He disregards, however, Alexandre Kojève's influential interpretation (later partially adopted by Francis Fukuyama), according to which Hegel was a philosopher announcing the “end of history” (Parker 2004, 18–32; Stambulski 2015, 49–51).¹³ The Slovenian thinker interprets Hegel's famous phrase, “[t]he owl of Minerva spreads its wings only with the falling of the dusk” (Hegel 1967, 13), in such a manner that a philosopher can only analyze his/her own epoch,¹⁴ and the future is completely open and indeterminate. All reflection about the future is based on conjectures. Paweł Sydor aptly observes that: “Žižek recognizes Hegel's method as adequate for the holistic analysis of the condition

¹¹ A good example of such a strategy is Comsin Cercel's use of the concept of “fetishist disavowal” which is used by Žižek for example to explain the phenomenon of belief (Žižek 2001, 89). According to Cercel, the position of contemporary mainstream lawyers can be defined by this Žižekian notion, and their attitude can be characterized by the following words: “I know very well that the law is not grounded in its own self-reference, that the legal field is not easy to delineate, yet as a matter of legal practice I act as if it is” (Cercel 2019, 17). However, the analysis of the use of Žižek's thought in contemporary legal thought goes beyond the modest scope of this article.

¹² Lukács distinguished four phases in the work of the “young” Hegel, from his youthful republicanism to his break with the philosophy of W.F.J. Schelling and the writing of *The Phenomenology of Spirit* (1807), which concludes Hegel's “early” work.

¹³ On Kojève's view on the “end of history,” cf. Nichols (2007, 81–96).

¹⁴ Žižek emphasizes: “Hegel was (...) probably the first to articulate the delay which is constitutive of the act of interpretation: the interpretation always sets in too late, with some delay, when the event which is to be interpreted repeats itself; the event cannot already be lawlike in its first advent. This same delay is also formulated in the Preface to Hegel's *Philosophy of the Law*, in the famous passage about the owl of Minerva (that is, the philosophical comprehension of a certain epoch), which takes flight only in the evening after this epoch has already come to its end” (Žižek 2008, 65). This interpretation emphasizes that the future is open and only philosophical comprehension of reality is limited. Cf. Avineri (1972, 129); Žižek (2002b, 130).

of a contemporary man and society ...” (Sydor 2012, 96). Certainly influenced by Lacan’s thought, Žižek recognizes that Hegel’s holistic vision of reality contains at its core a radical negativity. The fact that Hegel’s system is closed, and thus it is a kind of totality, does not mean that it is full; on the contrary, it contains at its core an emptiness (Žižek 2002b, 66–72; Schroeder 1998, 12). The emphasis on the element of negativity is where Žižek’s interpretation differs most from previous ones. Moreover, the Slovenian philosopher is not interested in the details of Hegel’s philosophy of law, understood as an analysis of the legal institutions of the modern state.¹⁵

4. ŽIŽEK ON TRANSHUMANISM AND THE EXCEPTIONALITY AND FREEDOM OF AN INDIVIDUAL

In *Hegel in a Wired Brain*, Žižek asks one fundamental question: “how will the phenomenon of a wired brain affect not only our self-experience of free human individuals, but also our very status of free human individuals?” (Žižek 2020, 12). In 2005 Ray Kurzweil, perhaps the greatest “prophet” of transhumanism, predicted the arrival of the “Singularity,” a future period in which rapid technological advancements would transform humanity and in which human intelligence and artificial intelligence would merge. According to Kurzweil:

The Singularity will allow us to transcend (...) limitations of our biological bodies and brains. We will gain power over our fates. Our mortality will be in our own hands. We will be able to live as long as we want (...) We will fully understand human thinking and will vastly extend and expand its reach. By the end of this century, the nonbiological portion of our intelligence will be trillions of trillions of times more powerful than unaided human intelligence. (Kurzweil 2005, 9)

Žižek points out that Kurzweil connects the Singularity primarily with the development of artificial intelligence, but the Slovenian philosopher is more interested in a slightly different understanding of the Singularity, namely, it would mean a situation in which, as a result of connecting human brains to one network via machines (computers), it will be possible not only to issue commands to machines using thoughts, but also to directly share experiences and thoughts with other people (Žižek 2020, 13–15). Furthermore, Žižek sees Musk’s interpretation of the Singularity as “the Gnostic New Age reading,” according to which the Singularity becomes not only a new stage of post-humanity, but a “key cosmic event” (Žižek 2020, 61). Criticizing Kurzweil and Elon Musk, Žižek argues that their transhumanist visions are naive and primitive, relying on a commonsense notion of the ego (as a psychoanalyst, Žižek must reject such a conception of the subject) and vulgar naturalism. Consequently, they understand the essence of being an individual in a narrow and misleading way (Žižek 2020, 16).

¹⁵ On that aspect of Hegel’s thought, cf. in particular Avineri (1972, 176–193).

As to the first issue, Žižek analyzes concerns whether the Singularity will mean the emergence of a new police state and whether the Singularity will be capable of preserving human freedom. In this context, Žižek utilizes the Hegelian concept of *Aufhebung*, which he interprets correctly. In Hegelian dialectic of concepts, expressed in the *Science of Logic* (1812–1813, 1816), *Aufhebung* signifies the overcoming of the previous stage of a concept and the transition to a higher level of development, at which its previous form, assigned to a given time and place, is rejected, while at the same time, what is truly rational in it is maintained. Thus, *Aufhebung* signifies both overcoming (cancellation) and preservation.¹⁶ It does not, therefore, mean the “dissolution” of the previous form into the next. As Hegel argues in the *Principles of the Philosophy of Right* (1820), individuals form families, and within the family, individuality is overcome, but this also means its preservation in a certain way at a higher level. Similarly, families are part of civil society (*bürgerliche Gesellschaft*), in which the direct social bond based on feeling (love), typical of the family, is abolished, since civil society is based on the system of needs rather than on natural feeling, but in a certain way such a bond is also preserved (Hegel 1967, 105–134). The “dissolution” of the individual into a shared neural network would be the opposite of *Aufhebung*; in such a state, individuality could no longer be preserved. Žižek recognizes that the emergence of the Singularity will create a new kind of freedom, namely freedom from being connected to a common network. However, the question arises as to who would be entitled to such freedom and under what conditions. Another question Žižek asks is whether there is “a dimension of being human which in principle eludes Singularity” (Žižek 2020, 19–20).

Žižek draws on the work of another popular author today, the book *Homo Deus: A Brief History of Tomorrow* (2015) by Israeli intellectual Yuval Noah Harari. According to Harari, the development of devices and technologies using artificial intelligence to precisely understand human preferences and habits will negate free will. Subsequently, the development of biotechnological interventions in the human body will cause a radical division of society into those who will be perfected and the rest, who will be condemned to extinction. This division, in turn, will mean the end of liberalism and liberal democracy. Žižek points out that what distinguishes Harari from popular scientific authors who question free will, such as Steven Pinker or Richard Dawkins, is that Harari openly negates liberal

¹⁶ On the notion of *Aufhebung*, cf. (Sparby 2015, 193–194; Kuderowicz 1970, 40; Szymaniec 2019, 230). As Michel Rosenfeld aptly writes, a proper understanding of the *Aufhebung* allows for a proper interpretation of Hegel’s conception of the modern state. Thanks to the *Aufhebung*, Hegel is able to reject unbridled individualism while simultaneously avoiding the fall into collectivism. Therefore, for example, freedom of contract can be preserved as an important element of Hegel’s understanding of state and law: “Accordingly, it is reasonable to insist that in the modern, freedom of contract within certain well-defined limits should be adopted as one of the community norms contributing to the definition of the ethical substance of the state” (Rosenfeld 1991, 235–236).

democracy, something that Pinker or Dawkins do not do (Žižek 2020, 25). Žižek calls Harari's vision a "digital police state" and claims that this vision is a kind of Fichtean revenge on Hegel.

In 1800, Johann Gottlieb Fichte (1762–1814), who would hold the philosophical chair at the University of Berlin before Hegel himself did, presented in the second part of *Foundations of Natural Right* (1797) a vision of a state in which everything is rationally organized and every citizen's action is regulated by the law and supervised by administrative and police authorities (Fichte 2000, 249–263). Then Fichte proposed a proto-socialist utopia titled *The Closed Commercial State* (*Der geschlossene Handelsstaat*), in which wealth differences would be very limited and the economy would be strictly regulated by the state. In his early writings, Hegel firmly rejected Fichte's vision, arguing that it would lead to the creation of a "machine state," in which every citizen would be responsible for controlling others (Hegel 1977, 146–149; 1999, 15–26). It would thus be a state of universal surveillance.

According to Žižek, the vision of the *digital police state* is even more dangerous than Fichte's, because in Fichte's state, individuals were supposed to be subject to external coercion, whereas digital control would not be experienced as external coercion, and the appearance of free choice would be maintained. Žižek believes that the most dangerous form of enslavement arises when enslavement is experienced as a manifestation of freedom (Žižek 2020, 29–32). Writing about the brain-computer interface (BCI), Žižek notes that its proponents demonstrate how much it can benefit humanity. One example is the improvement in the condition and quality of life of people with disabilities. However, Žižek emphasizes that "mind-controlled machines imply also machine-control of mind itself" (Žižek 2020, 46). The possibility of connecting humans to a neural network raises the issue of power and regulation: "what regulatory mechanism will decide which experiences I will share with others, and who will control this mechanism?" (Žižek 2020, 74). Žižek, at the end of his analysis, states that what is particularly "under threat from the wired brain is our ordinary self-experience as free human individuals with direct access to our inner life" (Žižek 2020, 181).

Referring to Hegel's *Phenomenology of Spirit* (1807), Žižek points out that we always express our thoughts in words, even if we don't say them out loud. However, words never fully express the intentions of the speaker. Most often, they express "too much" or "too little" in relation to what the individual intended to express. Therefore, communication is always doomed to some kind of failure. Žižek notes, therefore, that the question of whether neuralink will adequately capture the meaning of human thoughts is misplaced. Rather, the question should be whether neuralink will be able to capture the redundancy or incompleteness of human thoughts expressed in words (Žižek 2020, 44–45).

Here we come to the most important issue raised by Žižek, i.e. the experience of human exceptionality. In addressing this issue, Žižek once again draws on Hegel's philosophy: "For Hegel, all spiritual life, all actual existence of Spirit, remains

rooted in our finite bodily existence, in our material historical reality; There is no independent realm of Spirit; Spirit exists in human culture; language is its medium” (Žižek 2020, 59). This may be an overly materialistic interpretation of Hegel’s philosophy, but it highlights an important element of Hegel’s thought: Spirit, and therefore also human being as such, can achieve self-knowledge only through the experience of negation, and therefore also through erring. Žižek notes that while Hegel believed that true reconciliation of thought and reality is possible only in the sphere of philosophy, advocates of the Singularity assume that this reconciliation, and thus the achievement of a higher level of human development, will be achieved when people will become part of the Singularity. That also inevitably means renouncing individuality. In this context, Žižek asks whether – contrary to the assumptions of transhumanists – joining the neural network will not mean achieving divinity, but rather a shallowing or flattening of human existence (Žižek 2020, 63, 67). According to the Slovenian philosopher, the neural link perspective challenges those experiences that constitute our condition as human beings, namely finitude, sexuality, and “embeddedness-in-the-symbolic” (Žižek 2020, 78).

Žižek considers the Hegelian position regarding the positive meaning of finitude and an obstacle for humanity to be completely accurate and still valid:

[F]or Hegel, we, humans, reach immortality and infinity not (...) by way of somehow getting rid of the obstacle of our finite bodily existence and moving to another dimension of some higher reality, but by way of reconciling ourselves with (what appeared as) the obstacle and accepting that this ‘obstacle’ plays the positive role of sustaining the space of what it appears as the obstacle to. (Žižek 2020, 89)

Žižek’s reading of Hegel’s thought is accurate.¹⁷ Referring to Hegel’s thought interpreted in this way, Žižek draws his own reflection:

[...] [S]ince our – humanity’s – ‘highest’ achievements are rooted in our very limitations (failure, mortality, and the concomitant sexuality), i.e., in what we cannot but experience as the obstacle to our ‘higher’ spiritual existence, the idea that this ‘higher’ level can survive without the obstacle, without what prevents its full actualization, is an illusion...” (Žižek 2020, 136)

Hegel emphasizes that “Error or other-being, when superseded, is still a necessary dynamic element of truth: for truth can only be where it makes itself its own result” (Hegel 1975, 274). Žižek interprets this idea to mean that humans can only attain truth through error and even through ignorance. Error, therefore, is a necessary element in the development of humans and humanity as a whole (Žižek 2020, 90, 139). Achieving perfection excludes the possibility of making mistakes, and thus of further development. Only in the context of errors and imperfections humans are able to formulate a concept of what is perfect (Žižek 2020, 136). According to Žižek, the ability to make mistakes is an element of

¹⁷ In that context it is worth noting that according to the most general definition presented by Hegel, freedom means “being at home with oneself in the other” (*Bei-sich-selbst-sein-im-Anderen*) (Hofmann 2019, 10).

the exceptional human experience and therefore part of the human condition. Transhumanists, striving to create a perfect human being, or at least a more perfect one, transcending her own limitations, thereby deprive humans of a significant part of their uniqueness. Žižek adds also that possibly “the immersion in Singularity will deprive us of our status of singular individuals acting alone (in the sense of autonomy)” (Žižek 2020, 139). The Slovenian philosopher, therefore, believes that neuralink negates the moral autonomy of the subject understood in the Kantian way, and thus also the moral responsibility of an individual.

Using Hegelian arguments, Žižek emphasizes that only through imperfection do we gain the idea of perfection. In Žižek’s view, transhumanists, by striving to transform humans into creatures that, through technology, will transcend their own limitations, deprive the essence of humanity of a crucial element of its exceptionality: limitation and imperfection. In my opinion, emphasizing that human exceptionality also lies in human beings’ imperfection, limitation, and the possibility of making mistakes, is a significant and new element in the discussion on human dignity. Previous discussions on human dignity have emphasized three elements: the autonomy of individual choice, the inadmissibility of objectification by both other people and state authorities, and the set of conditions that must be met to call a human existence dignified. Žižek, drawing on Hegel, points to another, most often overlooked, element of human dignity: the imperfection inherent in both individual humans and the human species as a whole. Depriving a person of this element would simultaneously prevent any individual development. The perspective presented by Žižek is not, however, opposed to prevailing interpretations of human dignity, drawing on the concepts of Pico della Mirandola or Kant, but it can certainly be compatible with them, and at the same time introduces a new dimension to the discussion on human dignity.

Žižek does not suggest how to regulate the use of technologies intended to enhance humans. Moreover, such a recommendation would contradict the philosopher’s general skepticism toward positive law, as well as the general tone of his reflections on law, which emphasize that law is incapable of fully encompassing and controlling social reality, and that, furthermore, concealed violence lies behind it. However, if there is a lesson to be drawn from Žižekian reflections, it is that if law wishes to affirmatively address human dignity, it must acknowledge the imperfection inherent in the human species.

5. CONCLUDING REMARKS

Slavoj Žižek views the law as a complex system that pretends to be impartial and rational, but has an “obscene supplement,” since social reality eludes the law. The Slovenian philosopher uncovers the hidden “obscenity” and ambiguity of law itself. This article was concerned, however, less with Žižek’s general view

on law, but primarily with the issue whether his analyses of transhumanism offer new insights into the understanding of freedom and human dignity within the context of contemporary philosophy of law. Žižek's standpoint concerning individual freedom in the "wired brain" world is a fairly typical technological dystopia. They add little new to the discussion on human liberty. However, they demonstrate that freedom is not limited to individuals' formal decision-making or equally formal consent to specific conditions. However, the reminder that enslavement can also occur while maintaining the formal possibility of free decision-making is a certain value of the Slovenian philosopher's viewpoint. In my opinion, Žižek's reflection on human exceptionality is much more interesting. His position, expressed in polemic with transhumanists, is somewhat reminiscent of the widespread, "existentialist" interpretation of Giovanni Pico della Mirandola's concept of dignity. Žižek demonstrates that the unique nature of human subjectivity is expressed in its dynamic nature. The interpretation inspired by Pico presents the individual in similarly dynamic way, while the "classical" conception of human dignity, inspired by Kant's ethical thought, presents the individual in a decidedly more static manner. There is, however, an important difference between the Pico-inspired view and the Žižekian standpoint. While the former emphasizes the individual's ability to choose his/her condition, Žižek, drawing on Hegel, puts emphasis on something else, namely the importance of making mistakes and imperfections in the subjective development of a human being. From this perspective, one of the manifestations of human dignity is not only the capacity to make mistakes (this element is already present in Pico della Mirandola's concept, or at least in its most widespread interpretation, which emphasizes the autonomy of human choice, including the wrong choice), but also imperfection, which is inherent in the essence of the human species. It is also an important element from the perspective of contemporary legal philosophy. Žižek's "Hegelian" considerations are consistent with those concepts that link the dignity of the individual with his or her autonomy.

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