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Expediency and scope of using AI in civil justice

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Abstract:

At first, people obeyed the rules out of fear of the gods. By the time when Nietzsche declared that "God is dead," faith had been replaced by the rule of law. But now the reality has been changed. Modern technologies are playing an increasingly important role in the digital era. The world is changing rapidly and the achievements of technical development are so fast, that they are only followed by legal regulations. The rule of law is rivaled by the rule of code. Artificial intelligence is a modern trend. Nobody knows how it can change the world. It is used in different fields but its usage in justice is the most controversial. The purpose of this article is to discuss how reasonable is the use of AI in the decision making process on civil cases where the creativity and human feelings play the most important roles - especially in the most untouchable sphere from globalisation such as family law.

Keywords: Artificial intelligence, justice, decision making, civil procedure, family law

Introduction

Artificial intelligence is already used in many different fields. It is no longer just a vision of the future - we are surrounded by it. (Ziemianin, K, 2021). Today, AI has become a global trend. The leading economies are in a race to be the first in this field. (Kamyshanskiy, V., Stepanov, D., Mukhina & I., Kripakova, D., 2021). Though it may bring a lot of benefits for humanity, some scholars consider AI as Civilized Man's Deadly Sin. (Kozyrev, A., 2018). Such predictions caused that some attempts of regulation on using AI in justice have begun at the international level. The Council of European Judges (CCJE) developed Recommendation to highlight the role of technology in providing information to judges, lawyers and other stakeholders in the justice system, as well as to the public and the media; According to Recommendation information technology must be tailored to the needs of judges and other users. Information technology should not violate the right of fair trial; Information technology should not intervene in the power of a judge and threaten the fundamental principles set out in the Conventions. (CCJE, 2011). The same approaches are reflected in European Ethical Charter "on the Use of Artificial Intelligence in Judicial Systems and their environment" adopted by European

Commission for the efficiency of Justice (CEPEJ, 2018).

The supporting role of artificial intelligence is also emphasized by common law countries. Supreme Court of Wisconsin recognized the importance of the role of the judge, stating that this kind of machine learning software would not replace their role, but may be used to assist them (Giarda R. & Ambrosino C., 2022). The abovementioned points out that the use of AI tools and services in judicial systems is intended to improve the efficiency and quality of justice and deserves to be encouraged. Preparation of judicial systems for AI use has already taken place. This was followed with the adoption of Recommendation on the Ethics of Artificial Intelligence On 23 November 2021 by The Unesco.

This means that using AI in judiciary is not far and it will be implemented by all states in the world soon or later, despite that implementation of artificial intelligence in the judicial system requires expensive resources (Siboe, N. N.,2020).

The legal profession was considered to be — by its very nature — requiring specialist skills and nuanced judgment that only humans could provide and would therefore be immune to the disruptive changes brought about by the digital transformation (Giarda R. & Ambrosino C., 2022), but the usage of AI has already began. Since there is a theoretical fear of artificial intelligence becoming dominant, at the early stage of its implementation, to avoid chaotic complications, it is necessary to determine in advance the risks of its use and if these risks are outweighed by the benefits obtained from its use. Currently, there is more active discussion about its use in criminal law, however, it is also important to foresee and analyze the perspective of its use in the consideration of civil disputes.

Risks assessment of using AI in civil judiciary

Positive results that the use of artificial intelligence in justice can bring are widely recognized. In terms of quantity and speed of statistical data processing, AI is irreplaceable and exceeds the human mental capacity. Artificial intelligence may useful for solve the 21-st centuries judicial sectors major problem - court congestion, for which governments are innovating alternative dispute resolution methods, but the problems still remain. Artificial intelligence is a good tool to help judges. It can easily find and process information faster than human intelligence. It can also be useful as a predictor for parties who intend to litigate but do not have solid positions. An important relief for the judicial sector will be the use of artificial intelligence in the automatic generation of documents. (Reiling, A.D., 2020) Also interesting is the feasibility of using artificial intelligence from the perspective of lawyers. It is possible to prepare a statement of claim and a defense more correctly and easily, which will reduce, but not lose the importance of the work of lawyers.

However China already uses ‘Court2Judge’ platform. (Wang, N. & Tian M.Y. 2022). The general idea of combining artificial intelligence and the law was born in 1981. Since 2016 the concept of a smart court was developing. (Aini, G., 2020). Now, Robot Xiaofa stands in Beijing No1 Intermediate People’s Court, offering legal guidance. She has answers to more than 40,000 litigation questions and can manage 30,000 lawful issues. China as of now has more than 100 robots in courts of the nation, as it effectively seeks progress to smart justice. Some of the robots even have specialisms, for example, business law or labour-related disputes. (Dialani, P., 2021).

Although Chinese scientists point out to both procedural and consequential shortcomings: however, in the application process, intelligent software has displayed essential, prerequisite, procedural, and result defects and thus poses ethical risks and challenges. First, judicial big data is not comprehensible, reliable, and objective. That is, not all judgment documents can be found online, and at least half of them are online. There are 100 judgements for 100 judges, of which there may be 25 similarities, but similarity does not represent the right direction. (Aini, G., (2020).

AI guru Herbert Simon often emphasized that studying AI involves studying the human mind. AI is defined as machines that can accomplish tasks that humans would accomplish through thinking. (Dörfler, V. Mattingly, James, ed. 2022). However, the way of getting the result makes the significance difference: main difference between human intelligence and artificial intelligence are the tools through which the processes of perception take place; Although scientists are trying to create artificial neurons and simulate the most unrecognizable organ - the human brain, important is how cognition is done by these two intelligences. The process of human cognition is carried out by verbalizing of the information provided by the five senses. Humanity has used linguistics as a means of knowledge transfer and communication for millennia. The artificial intelligence makes cognition through code language by numbers 1 and 0. As long as this distinction exists, usage of AI in justice will be controversial, as from the beginning was the Word, and the Word was with God, and God was the Word. (The bible, Gospel of Johan). Indeed, this problem is alredy identified: description of the factual and legal circumstances in understandable way for artificial intelligence was highlighted as a special difficulty. (Aini, G., 2020). Although there is an idea that artificial intelligence can think with non-digital technology at the next stage, (Gabisonia, Z., 2022). We already can read about news from Shanghai telling us the story of the first robot ever created to analyze case files and charge defendants based on a verbal description of the case (Giarda R. & Ambrosino C., 2022).

AI towards vulnerable persons in civil proceeding

European Ethical Charter on AI determined that algorithms must be done in a responsible manner, respecting the fundamental rights of individuals as set out in the European Convention on Human Rights (ECHR) and Council of Europe Convention No 108 on the Protection of Personal Data. Its principles reflect fundamental values and essential methodological meazures that must to be taken while creation of algorithm: quality and security need to be ensured. (European Ethical Charter. 2018) The main principles of the charter are: respect for human rights and non-discrimination; principle of quality and security, transparency. These principles were outlined for the prevention of the risks that arise while using artificial intelligence. Significant risks of the using AI in civil justices seems towards the vulnerable subjects. In the family disputes, which is recognized as the most untouchable sphere from harmonisation where the customs play the main role, the legislator establishes a wider initiative of the judge, since human characteristics gain special importance in the process of evaluating evidence and is based on the internal beliefs of the judge. For example Georgian Civil Procedure code while reviewing family cases allows the court to determine the circumstances by its initiative due to their specificity and high public

interests. (Georgian parliament. 1997). Also, for the protection of childs rights competent authority while the issuance of any legal document must take into account the high standard of reasoning, which must necessarily indicate the best interests of the child. (Georgian parliament. 2019). Involvement of specialized persons became mandatory when participating in the case of minors. Due to social needs, the status of a special plaintiff for the participation of persons with psycho social needs in the civil process has been established. (Georgian parliament. 2020). This means that civil proceedings for vulnerable persons are characterized with high public interest and they need sofisticated and individual approaches.

However, there is an opinion that AI can be used in family and employment matters, as there is also a significant proportion of routine cases. Here, the judge, in a function similar to that of a civil-law notary, assesses a proposed arrangement of the parties for legal validity. (Reiling, A.D., 2020). But its usage in practice showed that in order to make a divorce judgement, the judge must determine that the relationship between the couple has collapsed. In addition to objective evidence, during the trial, the judge can make a comprehensive judgement based on the eyes, language and other behaviour of the couple to determine whether the relationship has collapsed. (Aini, G., 2020). All this can be done today only by human intelligence. In the United Kingdom relatively simple piece of IT determined the financial capacity of (ex)-spouses in maintenance proceedings. The parties filled in a PDF form, and the IT calculated the resulting capacity. Due to a small mistake, which went unnoticed, incorrect calculations were made in 3,638 cases between April 2011 and January 2012, and between April 2014 and December 2015. (Reiling, A.D., 2020). This means that one mistake can wrongly decide the fate of people and bring irreparable consequences. The same is towards with moral damage claims. The moral demage is depending on the degree of suffering (Ninidze T., 2002). The aforementioned outlines another human characteristic that distinguishes from an artificial one - this is emotional intelligence. Emotional intelligence is described as human abilities, feelings (Kambur, E., 2021), and perceptions, which are often determined by various chemical processes, genetic factors, momentary experiences or impressions received by occesion in life. According to today's data, emotional intelligence cannot be possessed by a being who thinks in code. Its absence contradicts the main principle of decision-making. In arbitration, it is believed that the arbitrator should wear the shoes of the parties, feel himself in their position and decide the case accordingly. If the judge cannot put himself in the other person's shoes, or he can but cannot feel whether it is tight or not, he will not be able to understand the emotions of the parties. Another human factors which are significant in decision-making process – are judge's conscience, inner faith and the sense of responsibility in case of violation of laws, which obviously only human being can have.

Therefore, may be concluded that usage of artificial intelligence in disputes related to family, children, disabled persons, moral damages and labor can only have an auxiliary, secondary purpose. As for purely financial disputes AI can be successfully used to speed up disputes and make the court system more efficient.

AI and impartiality

It is common sense that AI may be appropriate for judgment and decision making due to its impartiality, while humans are prone to cognitive bias, AI would

make justice fairer, and moreover, unlike human judges, AI does not get tired and does not depend on its glucose levels to function.(Kahnemann, D., 2011) As for in Georgia there were some suspects on case distribution to judges and for prevention in 2017, the principle of electronic distribution of cases through a computer program was introduced. But it is clear that the impartiality of AI is another legend, though its characters largely depend on its creator, on the person who gives artificial intelligence access to information and tasks. AI has not inherent biological properties or social skills. Even if these features can be attributed to it, they are programmed by its creator. (Ziemianin, K., 2021) That is why European Parliament In 2021 in the non-binding resolution emphasized the risk of algorithmic bias and that human supervision and strong legal powers are needed to prevent discrimination by AI. Human operators must always make the final decisions and subjects monitored by AI-powered systems must have access to remedy.

To ensure that fundamental rights are upheld when using these technologies, algorithms should be transparent, traceable and sufficiently documented. Where possible, public authorities should use open-source software in order to be more transparent."(MEPs2021).

In general, if we deduce from the fact that since all human has past experiences and are shaped by genetic, social and cultural factors, may be concluded that there is no impartial human being. But this does not mean that a person with bias can not administer impartial justice. The key for a person is to be aware of his own bias and struggle with it. Unlike humans, the bias is not a characteristic of artificial intelligence, but if human bias is put in it by its creator, it will not have the ability to percept and struggle with it, unlike humans (Siboe, N. N., 2020).

That is why the opinion that AI technology will help to make the judicial process more predictable without compromising the integrity of judges' discretionary reasoning (Sartor, G., & Branting, K., 1998) is contraversial. On the one hand, this will help to implement the principle of foreseeability, but it will prevent the development of law as a living organism. AI relies heavily on information already contained in it and makes judgement based on that information. Consequently, if it can make a creative decision, set a precedent for a new social relations is controversial too even for the mere paradoxical reason - it does not have emotions and the bias. Development is often due to occasion - a good example is the case of Isaac Newton and the apple, when a random event became the basis for a great discovery.

It is no coincidence that China uses the robot for justice, and it is clear that the robot is with an algorithm for protecting state interests. while In Netherlands, the Council of State recommended that the principles of good governance, and in particular the principle of a reasoned decision and the due diligence principle, should be interpreted more strictly in the context of digitisation. (Reiling, A.D., 2020). However, in countries, where the prestige of the court is low and the society do not trust it, where the judge is not a strategic decision-maker but a law enforcer, where court decisions are made by the method of formal logic, and at the same time due to overcrowding the court is unable to create high quality justice, simple dispute resolution by artificial intelligence would be the best solution, especially the cases which may have a predictable outcome. But if the litigation is creative and interprets the laws, using a certain emotional intelligence, then

the replacement of human resources is practically excluded. Using AI in justice in such a manner will be positive especially in for such countries like Georgia where courts are characterized by congestion, shortage of personnel and overloaded with disputes. The mentioned problem actually leaves the population without legal protection, who vainly seeks to achieve justice through alternative ways of dispute resolution, but the salvation is not in it either, because the newly introduced court mediation is also characterized by bureaucratic approaches, and due to the unfortunate experience of arbitration, it already has a low reputation. Especially, since the criteria for selecting judges are not based on emotional intelligence and other human characteristics, but on how well the future judge knows the laws by heart, which is what artificial intelligence can do best.

Conclusions

The purpose of the article was to review the perspectives and risks of using artificial intelligence in civil litigation. As a result of the discussion, the following conclusions can be drawn: The myth that artificial intelligence is impartial should be replaced by its strict and detailed regulation by the states. Artificial intelligence should be deployed based on a transparent algorithm for tightly regulated purposes, especially if it is used in developing countries like Georgia.

However, the use of artificial intelligence as an assistant in court system to unload the judiciary is inevitable. Legal disputes are becoming more complex and diverse with the development of technology and the automatisation of processes. AI will enable the judiciary to resolve disputes more quickly but mankind must carefully keep ,,the Golden interval".

Accordingly, artificial intelligence in civil justice must be used only for certain categories of cases. It is necessary to determine the categories of proceedings, for which the use of artificial intelligence will be strictly limited, such as family disputes, as well as disputes in which vulnerable persons participate.

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Conflicts of interest

1. The author of this paper certify that he has NO affiliations with or involvement in any organization or entity with any financial or non-financial interest (such as honoraria; educational grants; membership, employment; affiliations, knowledge or beliefs) in the subject matter or materials discussed in this manuscript.

Digitalization of civil proceedings in the light of openness, equality and immediacy in the Polish legal system[1]

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Abstract:

This article is a voice in the discussion on the aims and function of digital transformation of the Polish civil procedure. The author also points out the changes in the Polish legal order introduced by the legislator in recent years, in particular those connected with temporary solutions for the time of Covid-19 Pandemic. She analyses IT-tools used in civil proceedings in the light of procedural rules. At first glance, it seems that digitalization may have quite an impact upon all the construction rules of civil procedure. However, contrary to this impression, it does not directly affect all of them. The greatest correlation can be seen in the case of the principle of openness, the principle of equality and the principle of immediacy. As the conclusion the author indicates that digital transformation allows for a more complete implementation of procedural principles and it supports the realisation of those rules.

Keywords: Civil procedure, digitalization, rules of civil proceedings

Introduction

In recent years, the Polish civil procedure has been amended many a time[3]. In many cases, the changes were meant to enable the use of new technologies as tools supporting the course of civil proceedings[4].

[1] **This article is the result of the research project under the National Centre of Science Sonata 6 'Procedural rules and the electronic workflow in civil proceedings,' No. 2013/11/D/HS5/01449** (Artykuł powstał w wyniku realizacji projektu badawczego w ramach programu Narodowe Centrum Nauki Sonata 6 Zasady procesowe a elektroniczny obieg dokumentów w procesie cywilnym (nr 2013/11/D/HS5/01449).

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[3] See e. g. A. Gołąb, New rules regarding the concentraton of procedural material, https://polishprivatelaw.pl/new-rules-regarding-the-concentration-of-procedural-material-in-the-polish-code-of-civil-procedure/#more-5886 (29.08.2022)

[4] P. Rylski, Polish Civil Procedure: Yesterday, Today and Tomorrow – some remarks about recent changes of procedural law in Poland, "Bratislava Law Review" 2019, No 1, pp. 141-149.

Digital transformation of the Polish civil procedure actually started in 2009, when the Code of Civil Procedure allowed for taking evidence from the examination of a witness via videoconferencing (Art. 235 § 2 of the Code of Civil Procedure), which still had to take place in the building of some other court in Poland. The electronic-writ -of-payment procedure[5] has been in place since 2010, which is often considered the first actual stage of digitalization. After subsequent changes to the Code of Civil Procedure, a new method of recording the course of court hearings came into being, i.e. by using sound and image recording devices (the so-called e-protocol). Afterwards, electronic registration proceedings (company registration, the so-called s-24[6]) and electronic land and mortgage register proceedings were introduced. Subsequently, new provisions applying to electronic service of judicial documents as well as provisions introducing the possibility of submitting procedural documents by electronic means were made[7].

In addition to code instruments, other tools were introduced to streamline civil proceedings, even though they did not relate directly to the course of legal proceedings. First of all, electronic case lists, case management systems as well as portals of judicial decisions and rulings ought to be mentioned.

The case list is a list of court cases placed by order in which they are to be heard on a given day[8]. It contains names and surnames of the parties to the procedure and other persons summoned in connection with the cases, basically personal data of the parties, names and surnames of the judges and lay judges, reference case numbers for the session and times for which the cases were scheduled; in civil cases, the subject matter of the case is provided as well. Case lists in paper form are usually displayed by the door of the court room; however, more and more often, traditional case lists have been replaced with electronic displays, with the electronic version available online, on websites of particular courts.

The Online Case Management System allows for the authorized or validated entities, by means of the data communication system, to have access to the information on the pending cases which they participate in. Most often, it is used by barristers, although anyone interested in particular cases may take advantage of the system. Its users obtain access to the data on the case covering, i.e. the present status of the procedure, activities performed by the court, marked dates, access to documents generated by the court in electronic form (rulings, decisions, justifications, electronic minutes)[9]. The portal allows to view the electronic version of a case files and to print out their copies. Using the portal is free of charge. The user obtains the information as generated to his account; any changes in the cases, incoming sessions and new cases are listed automatically.

For the past few years, the Ministry of Justice has been implementing the project of the portal of judgments and decisions, namely the Internet website making available

[5] The Act of 9 January 2009 amending the Act - Code of Civil Procedure and certain other acts (Journal of Laws No. 26, item 156), with effect from 1 January 2010.

[6] Limited liability company registered electronically on the basis of an electronic form made available in the ICT system of the registry court within 24 hours.

[7] Actually, there are currently no implementing regulations or technical possibilities to implement these provisions.

[8] Latin. vocanda – cases to be called.

[9] https://www.gov.pl/web/sprawiedliwosc/portal-informacyjny (access 29.08.2022 r.)

the judgments of common courts (district, regional and appellate courts)[10] for the users. Decisions of common courts become source of knowledge for all citizens, which enables effective social control over the course of legal procedures and the rationality of judgments and rulings given by courts of law[11]. Decisions and rulings are available for free and without the need of any prior registration. Some appellate courts issue their own bulletins, which are also available in electronic form (e.g. the Appellate Courts in Białystok, in Katowice, in Lublin, in Szczecin and in Wrocław).

Electronic writ-of-payment procedure

The analysis of the digital transformation process of court proceedings allows us to assume that one of the most significant changes was the introduction of a new type of proceedings to the Code of Civil Procedure, which were the electronic writ proceedings[12].

The electronic writ proceedings have been in operation within the Polish civil proceedings since January 1, 2010[13]. They were introduced as separate proceedings, optional and depending only on the will of the claimant. Only the plaintiff has the right to initiate proceedings in this manner by submitting a claim electronically via the court's dedicated ICT system. The disputes dealt with by the electronic court include only financial claims, regardless of the amount in dispute.

This particular type of proceedings may only be instituted by one court in the country appointed to do so. It is the Lublin West District Court. Due to the fact that most procedural steps are conducted in electronic form, the issue of jurisdiction becomes irrelevant. The participants in the proceedings do not experience the issue of jurisdiction at any stage of the case. Due to the type and specificity of the proceedings, no hearings are scheduled during the proceedings and there is no need to appear in court, and the entire proceedings are conducted without any actual participation of the parties. The claimant submitting the claim states the facts and provides the evidence that they can offer to support their claim. No attachments are added to the statement of claim. While assessing the case, the court referendary relies solely on the claimant's statements. If they are considered substantiated, an order for payment is issued. No evidentiary proceedings are carried out. If the defendant disputes the grounds of the order for payment, they may file an objection.

In the current procedure, it is assumed that the electronic writ of payment may be independent of other proceedings, and its effect may include an order for payment in the form of an enforceable title, unless the defendant effectively objects. However, if there are no grounds for issuing an order for payment or if the defendant lodges an effective appeal, the order for payment ceases to be in force, and the electronic writ of payment becomes only a preliminary stage of examining the case under the usual procedure (possibly taking into account other separate proceedings).

[10] http://orzeczenia.ms.gov.pl (access 29.08.2022 r.)

[11] P. Rodziewicz, A. Zalesińska, Publiczne bazy orzeczeń sądowych [in:] L. Górnicki (ed.) Technologia informacyjna dla prawników, Biblioteka Cyfrowa Uniwersytetu Wrocławskiego, https://www.bibliotekacyfrowa.pl/dlibra/publication/37369 (access 29.08.2022).

[12] R. Kulski, Some Remarks on the Course of Polish Electronic Proceedings by Writ of Payment [in:] M. Kengyel, M. Electronic Justice – Present and Future. Colloquium of the IAPL, Pecs, 2010, p. 17.

[13] The provisions regulating electronic writ proceedings were introduced to the Code of Civil Procedure by the Act of January 9, 2009, Journal Of Laws of 2009, No. 26, item 156.

The Polish electronic writ of payment was modelled on the English solution (Money claim online) and on the German solution (*Mahnverfahren*)[14]. As a matter of fact, the Polish solution is more similar to the German one, in which the writ proceedings are a specific court order for payment. Failure to react by the defendant sanctions the obligation to pay the amount requested by the plaintiff. On the other hand, if the defendant initiates any defensive actions, it is necessary to start a typical trial.

In electronic writ proceedings, the model of completely digitized proceedings has almost fully been implemented. Almost all procedural activities are performed in electronic form, i.e. the statement of claim is filed via the ICT system handling the proceedings; court actions, including the payment order, are made in electronic form; the enforcement clause is also in electronic form. The only operation that requires the traditional paper form is serving the defendant a printed order for payment along with the statement printed out from the system. If the defendant decides to take action, the way of communicating with the court can be selected. An objection to an order for payment may be filed in paper or electronic form via the system used for electronic writ proceedings. Letters of the plaintiff and the defendant, after choosing to lodge letters via the ICT system, cannot be filed in the traditional paper form, as then they will not have any procedural effect.

Electronic submission of documents

The provision to the Code of Civil Procedure which was to enable the submission of letters by electronic means was introduced by the legislator many years ago. This option first appeared as a result of the amendment introduced by the Act of May 24, 2000 (Journal of Laws of 2000, No. 48, item 554), which entered into force in this respect on October 1, 2000. Paragraph 2 was introduced to Art. 125 of the Code of Civil Procedure in the wording, 'if a special provision so provides, pleadings are filed on official forms or on electronic IT media.' The Minister of Justice was to define, by way of a regulation, detailed rules and deadlines for the introduction of IT technology, the conditions to be met by electronic IT media on which pleadings are to be lodged, the mode of reproducing the data contained therein and the manner of their storage and protection, taking into account the technical equipment courts have at their disposal and the level of information technology.

Ultimately, the Minister of Justice did not issue the afore-mentioned regulation; however, the provisions of Art. 125 § 2 of the Code of Civil Procedure were changed.

Initially, it was anticipated that the electronic submission of pleadings would take place on electronic information carriers. Then, IT data carriers and the possibility of using electronic means of communication were referred to in the provision. Another amendment stated that letters may be submitted via the ICT system (by electronic means) and on IT data carriers. At the same time, the electronic way was identified with the ICT system. It was only the amendment of January 9, 2009 that established the ICT system as

[14] B. Kaczmarek-Templin [in:] J. Gołaczyński (ed.), D. Adamski, Ł. Goździaszek, B. Kaczmarek-Templin, S. Kotecka, M. Kutyłowski, W. Łukowski, B. Pękalski, D. Szostek, Elektroniczne postępowanie upominawcze. Komentarz, Wolters Kluwer (Warszawa 2010), B. Kaczmarek [in:] J. Gołaczyński (ed.), Ł. Goździaszek, D. Góra, A. Jaroszek, B. Kaczmarek, S. Kotecka, P. Pęcherzewski, D. Sielicki, P. Skórniak, D. Szostek, A. Waloszczyk, A. Zalesińska, A. Zawiślańska, Informatyzacja postępowania sądowego w prawie polskim i prawie wybranych państw, C. H. Beck (Warszawa) 2009.

the only method of submitting electronic pleadings[15].

According to the current wording of Art. 125 § 21 of the Code of Civil Procedure, letters may be brought to the court if a special provision so states or a choice has been made to submit pleadings via the ICT system; submitting pleadings via the ICT system is permitted only if it is technically possible in a particular court of law.

So far, despite many amendments, it has been possible to effectively bring letters to court by electronic means with regard to regular proceedings.

Basically, it is currently possible to submit pleadings in electronic form only in the case of electronic writ proceedings. In addition, it is also possible to submit, via the ICT system, applications for entry in the register of entrepreneurs of the National Court Register of a limited liability company, limited partnership and general partnership. Apart from the e-court's ICT system (Lublin West District Court), supporting electronic writ proceedings and apart from the system supporting the S24 portal, and the system supporting the National Court Register, no court provides the parties with the functionality of the IT system that would allow the submission of letters by electronic means. Moreover, there is no provision to promote such a formula of submitting pleadings, which does not fall within the semantic scope of performing actions electronically[16].

Recent changes to the provision of Art. 125 of the Code of Civil Procedure are in line with social expectations and postulates regarding the digitalization of the judiciary[17]. After all, more and more everyday activities are performed electronically. One can indicate here electronic commerce, streaming platforms for music, games, films, as well as contacts with public administration offices[18].

The legislator abandoned the term 'electronic means' in favour of the term 'ICT system' in Art. 125 § 21 of the Code of Civil Procedure. The change was introduced primarily due to the interpretation problems of the ambiguous term 'electronic means,' which may mean submitting a pleading via the ICT system in which court proceedings are conducted as well as lodging a pleading by e-mail[19].

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[15] The Act on Amending the Code of Civil Procedure and Certain Other Acts (Journal of Laws of 2009, No. 26, item 156), which entered into force on 1 January 2010.

[16] Compare J. Gołaczyński, Elektroniczne czynności procesowe, http://www.digitallibrary.pl/Content/24974/Elektroniczne_czynnosci_pro.pdf (29.08.2022), p. 5 and S. Kotecka, M. Kutyłowski, Wnoszenie do sądu pism procesowych, https://www.bibliotekacyfrowa.pl/Content/23633/Wnoszenie_do_sadu_pism_procesowych.pdf (29.08.2022), p. 4.

[17] S. Cieślak, Forma czynności w procesie cywilnym–stan obecny i perspektywy rozwoju,[w:] K. Markiewicz (ed.), A. Torbus (ed.), Postępowanie rozpoznawcze w przyszłym kodeksie postępowania cywilnego, C. H. Beck (Warszawa) 2014, p 155 onwards; J. Gołaczyński, Model informatyzacji postępowania cywilnego w nowym Kodeksie postępowania cywilnego, [in:] K. Markiewicz (ed.), A. Torbus (ed.) Postępowanie rozpoznawcze w przyszłym kodeksie postępowania cywilnego, C. H. Beck (Warszawa) 2014, p 391 onwards.; K. Markiewicz, Informatyzacja postępowania cywilnego – de lege lata i de lege ferenda, [in:] K. Markiewicz (ed.), A. Torbus (ed.), Postępowanie rozpoznawcze w przyszłym kodeksie postępowania cywilnego, C. H. Beck (Warszawa) 2014, p. 403 onwards.

[18] Compare M. Załucki, The Road to Modern Judiciary. Why New Technologies Can Modernise the Administration of Justice? [in:] D. Szostek (ed.), M. Załucki (ed.), Internet and New Technologies Law, Nomos 2021, p. 159-171

[19] J. Gołaczyński [in:] J. Gołaczyński, D. Szostek (ed.), Informatyzacja postępowania cywilnego. Komentarz, C. H. Beck 2016 (Warszawa), p. 139.

The issue of service of court documents looks different. As a rule, court correspondence is delivered to participants in the proceedings in the traditional paper form. The court performs service via the ICT system (electronic delivery) if the addressee has submitted the letter via the ICT system or has chosen to submit the letters via the ICT system.

In connection with the obligation by professional attorneys (attorneys, legal advisers, patent attorneys, advisors at the State Treasury General Prosecutor's Office) to serve copies of pleadings with attachments in the course of the case, the legislator, extending the scope of electronic service, recognized that in this respect, new opportunities should be introduced as well. Pursuant to Art. 132 § 13 of the Code of Civil Procedure, attorneys shall deliver pleadings to each other only in electronic form if they submit to the court consistent declarations of appropriate content and provide the court with the address data used, in particular e-mail addresses or fax numbers. The declarations are not subject to withdrawal, and reservations of a condition or deadlines are considered invalid. In justified cases, the court may order to waive this method of service.

For several years, the Case Management System has been operating as part of handling court proceedings, however, until recently, obtaining information about the case did not have any legal effects. The system functioned as an alternative source of information on pending cases. Since 2020, when the coronavirus pandemic broke out, and after the introduction of the lockdown, when the maintenance of the proper functioning of the judiciary was at risk, there were voices in the discussion that it was necessary to urgently implement the possibility of communication between the participants in the proceedings and the court by electronic means, in particular allowing electronic service of pleadings and other court documents.

Covid-19 regulations

The provision of art. 15zzs 9 Section 2 of the Act on special solutions related to the prevention, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by the diseases (Journal of Laws, item 1842, as amended) introduced a revolutionary change in terms of deliveries[20]. Although, as the legislator declares, this change is temporary, it is safe to assume that it will last longer. Pursuant to this provision, during the period of the pandemic threat or the state of pandemic announced due to COVID-19 and within one year of the repeal of the last of them, in cases conducted under the Code of Civil Procedure, if it is not possible to use the ICT system supporting court proceedings, the court serves barristers, advisors, patent attorneys or General Prosecutor's Office of the Republic of Poland legal letters by placing their content in the ICT system used to make these documents available[21]. This does not apply to letters that are subject to service along with copies of the parties' pleadings or other documents not originating from the court. The date of delivery is the date on which

[20] P. Rylski, Transformation of Polish Civil Procedure in Light of Covid-19 [in:] B. Krans, A. Nylund (ed.), Civil courts coping with Covid-19, Eleven International Publishing 2021, p. 155-165, https://boeken.rechtsgebieden.boomportaal.nl/publicaties/9789462362048#165 (29.08.2022)

[21] P. Rylski Covid-19 and the civil justice in Poland [in:] Bart Krans, Anna Nylund, David Bamford, Laura Ervo, Frédérique Ferrand, Aleš Galič, Wolfgang Hau, Jordi Nieva Fenoll, Clement Salung Petersen, Catherine Piché, Piotr Rylski, Elisabetta Silvestri, John Sorabji, Vigita Vėbraitė, and Hermes Zaneti jr. (2020). Civil Justice and Covid-19. *Septentrio Reports 5*. https://doi.org/10.7557/7.5473, p. 45-46.

the recipient opens the letter posted in the ICT system. In the event of failure to open the letter, the letter is considered delivered after 14 days from the date of making the letter available in the ICT system. The service of a letter via the ICT system produces procedural consequences specified in the Code of Civil Procedure, appropriate for the service of a legal document. The chairman shall order that the letter should not be served through the system if it is impossible to deliver the letter due to the nature of the letter.

Digitalization and procedural rules

The digitalization of the justice system has aroused a lot of emotions and fierce discussions for years, with many praising[22] as well as many critical voices[23].

It is well worth considering whether the digitalization of civil proceedings is in conflict with the principles (procedural rules) governing the proceedings[24]. It should be analysed whether the procedural rules are obsolete and no longer valid, and whether it is necessary to develop new rules or, possibly, it will be enough to introduce a new interpretation of the existing rules, whether there is a need to make any changes in this regard.

The procedural principles include openness of proceedings, directness, availability, equal rights of the parties, procedural formalism, oral proceedings (word of mouth), free evaluation of evidence. At first glance, it might seem that digitization may have quite an impact upon all the construction rules of civil procedure; however, contrary to this belief, it does not directly affect all of them. The greatest correlation can be seen in the case of the principle of openness, the principle of equality and the principle of immediacy.

The digitalization of the proceedings undoubtedly helps exercise the right to a fair trial. Admittedly, the right to a fair trial is considered one of the guiding principles of the administration of justice, and due to its importance, it is worth distinguishing also in the context of procedural rules.

The right to a fair trial includes both the right to apply to a court for legal protection (the right to have a dispute heard by an independent body), as well as the right to be heard within a reasonable time and the right to fair and reliable proceedings, and the right to be heard and to be informed.

Accordingly, it appears that IT tools ideally support the implementation of the

[22] J. Gołaczyński, D. Szostek, Informatyzacja postępowania cywilnego. Komentarz, C. H. Beck (Warszawa) 2016, A. Zalesińska, Wpływ informatyzacji na założenia konstrukcyjne procesu cywilnego, C. H. Beck (Warszawa) 2016, J. Gołaczyński, S. Kotecka, A. Zalesińska, Protokół w postaci zapisu dźwięku albo obrazu i dźwięku z posiedzenia jawnego w sprawach cywilnych, „Monitor Prawniczy" 2010, No. 19, C. H. Beck.

[23] J. Grykiel, Kilka uwag o nowej definicji dokumentu i formie dokumentowej, „Monitor Prawniczy" 2016, No. 5, pp. 236-244, C. H. Beck.

[24] So far in Polish doctrine, there have not been many scientific papers on the influence of digitalization on legal principles. It is worth paying attention to B. Kaczmarek-Templin, Electronic support of civil proceedings and the need for data protection in Poland [in:] The Book of Articles National Scientific Conference "e-Factory of Science" IV edition November 14, 2020, p. 5-13, http://promovendi.pl/wp-content/uploads/2020/11/The-Book-of-Articles-National-Scientific-Conference-e-Factory-of-Science-IV-edition-ISBN-978-83-957816-7-4.pdf (29.08.2022), B. Kaczmarek-Templin, Zasady procesowe a informatyzacja postępowania cywilnego [in:] E. Marszałkowska-Krześ, I. Gil (ed.), „Transformacje postępowania cywilnego w postępowaniach wykonawczych", Currenda 2017, pp. 279-297

right to a fair trial. With the use of electronic writ of payment proceedings, the parties may pursue their claims regardless of their place of residence or the place of residence (or seat) of the defendant. The minutes taken with the use of sound and image recording devices allow for the substantiation of the right to fair proceedings. The right to be heard by a party may be exercised, inter alia, through remote participation in a hearing by means of distance communication. The right to information is reflected, among others, in the right to receive video and audio recordings of the hearings (Art. 9 of the Code of Civil Procedure), as well as by the possibility of getting acquainted with the state of the case and some documents via the ITC system.

Although the principle of openness is usually mentioned as one of the principles of the administration of justice, i.e. relating in general to the organization of judicial organs and the manner in which they perform the tasks entrusted to them (this applies to both civil and criminal courts), this principle is closely related to the mode of court proceedings. For this reason, it is also included in the procedural rules[25]. It is mentioned both in the provisions of the Polish Constitution, as well as in the provisions of the Code of Civil Procedure.

The principle of open proceedings is usually associated with the right to a fair trial and the right to information (the principle of openness)[26], which also affects the recognition of its fundamental importance as a legal value[27].

The ITC system[28], although not established by code regulations, enables parties to have access to information about the case pending with their participation. Usually, it is used by professional representatives (barristers, legal advisers). Information about the case, actions performed by the court, set dates, access to documents generated by the court in electronic form (judgments, decisions, justifications, electronic minutes) fall within the scope of available data[29].

Thanks to the system, interested parties can view the electronic version of case files and print out copies thereof. Users receive notifications about the status of their accounts, changes made to cases, upcoming hearings and the emergence of new cases with their participation. The ITC system is a manifestation of the principle of open proceedings.

The principle of immediacy, on the other hand, applies to the manner in which the court obtains information about the facts that are the factual basis of the decision, regardless of whether they come from the parties or from sources of evidence (personal and factual)[30]. This is one of the principles that apply to determining the factual basis of a decision or ruling[31].

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[25] W. Siedlecki, Postępowanie cywilne. Zarys wykładu, Warszawa 1977, p. 52.

[26] B. Kaczmarek-Templin, Zasada jawności a informatyzacja postępowania cywilnego – wybrane aspekty [in:] Ł. Błaszczak (ed.), Konstytucjonalizacja postępowania cywilnego, Presscom 2015 (Wrocław), pp. 231-240, K. Gajda-Roszczynialska, Zasada jawności w postępowaniu cywilnym, „Iustitia" January 2013, p. 18.

[27] T. Stawecki, Jawność jako wartość prawna, „Studia Iuridica" 2004, No. XLIII, p. 217 onwards.

[28] A. Zalesińska, T. Januszkiewicz, Udostępnianie akt sądowych online przy wykorzystaniu dedykowanych portali internetowych, „Człowiek i dokumenty" 2013, No. 1, 2013, pp. 55-58.

[29] http://ms.gov.pl/pl/sady-w-internecie/portal-informacyjny/ (29.08.2022)

[30] See W. Berutowicz, Postępowanie cywilne w zarysie, Warszawa 1974, p. 246.

[31] See także B. Kaczmarek-Templin, Zasada bezpośredniości a nowe przepisy o dowodzie z dokumentu, „Wrocławskie Studia Sądowe" 2016, Special Edition.

It demands that the extraction of evidence from means of proof, and then its assessment, should be performed by the adjudicating court without any intermediary links. The adjudicating court, while making a decision in a case, should learn about the demands and statements of the participants in the proceedings directly from them; the adjudicating court should also examine the evidence directly. The principle of immediacy also allows for issuing a judgment in accordance with the actual state of the case (objective truth), which is commonly postulated.

The principle of immediacy may be defined in material terms as a direct contact between the judging panel and the evidence, and in formal terms as evidence proceedings before the adjudicating court. Direct contact of the court with the evidence allows to optimally establish the facts of the case[32].

The application of this principle is reflected in Art. 235 of the Code of Civil Procedure, which stipulates that evidence proceedings should be held before the adjudicating court, unless the nature of the evidence contradicts it, or there are reasons for serious inconvenience, or the costs of such proceedings are disproportionate in relation to the subject matter of the dispute. The possibility of hearing the parties and witnesses via videoconferencing undoubtedly allows for the implementation of the principle of immediacy. This applies in particular to people who live at a considerable distance from the court. The necessity to travel to court may effectively discourage people from taking action related to pursuit of claims. Remote participation in a hearing also allows the court to contact a party or a witness and to hold hearings. Until recently, in such cases, the court conducting the proceedings ordered another court, in whose district the examined person was residing, to conduct such hearings by sending a list of questions. The court that was to conduct the hearings performed only auxiliary and technical activities. It was not allowed to ask any questions that were not included in the list it received even in the case of doubts or in order to inquire more carefully.

The principle of equality is based on the fact that the court may not issue a judgment without granting both parties the opportunity to express their opinion and that each party is entitled to the same means of procedural struggle and the same possibility of using them[33]. The principle stipulates that both parties can submit their comments on the pleadings of the opponent as well as statements during the hearing; the principle also establishes the rule according to which the court should issue a judgment only after hearing both parties[34].

Digital exclusion and the accessibility to the persons with special needs

Digital transformation of justice is vital for the whole society. Digital technologies have a great potential to improve access to justice and its efficiency. The European Commission's priorities for 2019-2024 list the digital strategy, ‘Europe fit for the digital age.’ Its main objective is to provide people with access to the latest generation technology and strengthen its digital sovereignty, as well as setting its own digital

[32] J. Jodłowski [in:] J. Jodłowski, Z. Resich, Postępowanie cywilne, Warszawa 1979, p. 155, also W. Siedlecki, Postępowanie cywilne. Zarys wykładu, Warszawa 1977, p. 70.

[33] W. Siedlecki, Postępowanie cywilne. Zarys wykładu, Warszawa 1977, p. 65.

[34] This does not apply to situations where a party waives this right, for example, by not submitting a statement of defense or by failing to appear at the hearing.

standards with a clear focus on data, technologies and infrastructure [35].

It seems that there is a huge social expectation for digital court services, and this is due to the fact that a large number of business and administrative services are possible in this form. However, because of the fact that it is easier to commit fraud online, transparency of digital services related to the administration of justice should be guaranteed in order to minimize the risk of fraud, extortion and other unlawful activities. On the other hand, one should remember about the significant role of the court in settling disputes as a manifestation of the state's sovereign activity. This means that certain rights of citizens must be guaranteed, and thus an adequate level of security of services and access to court must be maintained. A citizen must be sure, among others, as to the identity of judicial officers and as to the effectiveness of their actions. Transparency of court services provided digitally should also be postulated. Transparency implies that the right of citizens to a fair trial must be pursued, and it stems from the fact that citizens must trust the court. In fact, it can be said that transparency is an essential element for the implementation of the right to a fair trial.

Digitization of the judiciary, unless standards for the provision of electronic services are implemented, may lead to the loss of the authority of the judiciary, as citizens, due to the lack of personal contact with the judge, may not feel that such services are actual court proceedings. Another problem that needs to be counteracted is digital exclusion, which may lead to a situation in which digital services will be available only to part of a society. Incompatibility of the operating systems used by the parties and operated by the court may also be a problem, which may also result in limitations on the use of such services.

As far as the implementation of digital services by the judiciary is concerned, it would undoubtedly be useful to introduce the so-called codes of good practice, which could regulate general rules of conduct in the provision of digital services. They would refer to aspects of digital services not directly regulated by statutory provisions. Accordingly, certain standards related to the use of digital services could be introduced. Good practice would for sure contribute to the transparency of such services.

It is worth emphasizing that good practices should regulate the issue of accessibility of justice for disabled people, and it should also contain information about web browsers supporting a given service. Undoubtedly, it would also be useful to provide users with access to a reliable hotline with technical support with sufficient number of consultants. It is to postulate that good practices should also regulate the manner in which the action is performed, e.g. during a videoconference, the judge should introduce himself/ herself and show his/ her face, otherwise citizens may have doubts whether the action is indeed performed as part of court proceedings and that they answer to a judge.

Conclusions

Providing the parties with the opportunity to participate in court sessions with the use of devices enabling remote communication undoubtedly contributes to the

[35] https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age_pl (access 28.09.2022).

implementation of the principle of equal rights. The parties[36] that have their place of residence or seat away from the seat of the court conducting the proceedings are then able to participate in the case. There is a similar situation with carrying out proof or providing evidence from a distance. Each party is able to participate in such evidentiary activities and possibly submit statements regarding the activities carried out. The recording of hearings in the audio-video system also enables the parties to learn about the course of a hearing by playing the recording; this is essential for the parties who were absent from the hearing.

The procedural rules are changing and depend on the changes taking place in the economic and social structure of the society[37]. It can be assumed that as circumstances change, their interpretation may and even should be updated, and the legislator should strive to change the procedural provisions so that they will be consistent with the objectives and guidelines resulting from these principles.

The analysis of the issues related to the digitization of civil cases allows us to assume that it does not entail the need to modify the model and its construction principles. Supporting the civil trial, among others through the ICT system as a channel of communication between the parties and the court, does not upset the existing procedural institutions. It seems that the digitization of the procedure comes within the framework resulting from the provisions of the Code of Civil Procedure, as none of the procedural principles is limited. It can even be concluded that digital transformation allows for a more complete implementation of procedural principles. In fact, it can also be an argument in favour of introducing modern technological tools to procedural regulations on condition that the legal requirements related to the accessibility of court services to vulnerable people are taken into account.

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[36] How to guarantee the actual equality of the parties is discussed by J. Jodłowski [in:] J. Jodłowski, Z. Resich, Postępowanie cywilne, Warszawa 1979, p. 155, and also W. Siedlecki, Postępowanie cywilne. Zarys wykładu, Warszawa 1977, p. 138.

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Conflicts of interest

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Quality management and relation between innovation and knowledge & technology output

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Abstract:

My goal in conducting the research was to show real links between innovation and knowledge management (knowledge & technology output index) within a quality management approach worldwide in a response to the pandemic and the post-pandemic period. This is because innovation, knowledge, and technology output are becoming important questions related to quality and quality management issues, currently being discussed with increasing interest in a broader perspective from the worldwide audience. They are also part of factors of production theories and enterprise theories too.

The research methodology was (1) collecting data and information on the innovation index and knowledge management (knowledge & technology output index) worldwide, (2) describing the newly introduced ISO 56000 family of standards (ISO standards for innovation) and the newly introduced ISO family of standards (ISO standards for knowledge).

The method of the research was (1) dealing with descriptive statistics for innovation index and knowledge & technology output and handing (2) correlation and regression analysis (inferential statistics) for relationships between innovation index and knowledge & technology output. This procedure resulted in the main outcome of this research that the relationships between innovation and knowledge & technology output, statistically verified, are strong. Saying this, the general application of ISO standards and specifically, the ISO 56000 family of standards are necessary to achieve a competitive advantage.

The key recommendation of the research is that the application of ISO standards and the application of the ISO 56000 family of standards help companies to strengthen their commitment to their customers, improve outcomes of innovation and knowledge & technology output activities, improve processes and procedures and economies around the world to gain a competitive advantage in response to the crisis and post-crisis.

Keywords: Innovation, knowledge & technology output, ISO standards, quality, quality management, competitive advantage.

Introduction

When discussing innovation and knowledge & technology output, we immediately think of innovative goods and services, new combinations thereof leading to improved ones, new methods of processing, manufacturing, assembly, opening up new markets, a new way of using resources, innovative business models, etc., included. This is about the effectiveness and efficiency of processes, procedures, methods, methods, tools, and technologies involved in the production process of goods and services, as part of economic theory, especially in relations to theory.

As a general concept, innovation includes innovation processes, structures required for the process, results of activities, previous variants of products/services, and relationships at the organizational level in private and public issues, including specific, regional, and cluster levels, as part of economic theory, particularly concerning factors of production.

Knowledge & technology output, accompanied by innovation and vice versa, do not always require invention, but simple practical implementation of problem-solving techniques and decision-making, implementation of ideas based on individual and group activities.

There is currently an impressive drive and interest in innovation and knowledge & technology output, particularly in a culture of quality and ISO standards. The culture of quality serves as a guide for continuous improvement, belongs to all members of the organization (s), and also forms a link between internal customers and suppliers. They enshrine the core value of a quality culture in ISO standards, which are of increasing interest around the world to gain a competitive advantage.

Between them, the families of standards ISO 9000, ISO 14000, ISO 20000, ISO 22301, ISO 27000, ISO 30400, ISO 45000, ISO 50000, etc., and in particular the family of standards ISO 56000, directly related to innovation management, have been introduced during 2019, which also coincides with the time of the Covid-19 pandemic, are the most required standards.

Innovation, knowledge & technology output, quality, quality culture, quality culture management, and ISO standards are becoming an important part of achieving business models' competitive advantage, under the new reality and the new normal.

1. Literature review

At present, the literature on innovation, knowledge & technology output, quality, ISO standards, quality culture, etc. has been improved around the world, alongside the country and level of economic development. This is because concepts of innovation, knowledge, technological output, quality, quality management, and ISO standards when applied correctly, help private and public organizations to be more competitive in an open market when and where supply is much higher than demand. one of the main characteristics of the last 50 years of the global economy.

1.1 Megatrends of 2020 – 2030 and worldwide economies respond to crisis and post-crisis period

The five main megatrends for the next 10 years are (1) Population growth as the core of movements in economic power. (2) The effects of global warming are all around us and are having a significant impact on yields and coastal regions. (3) The IV revolution

of industries, the revolution of digitization, with the rapid advancement of technology, AI, and machine learning. (4) Demographics at a global level (habitats, population, density, ethnic issues, their level of knowledge, etc.) are being transformed by changes at social and psychosocial levels, while this level offers new opportunities and approaches to all issues, private and public included. These megatrends underpin structural shifts, technological development, economic power shifts, etc., and have serious implications at the individual, regional, global market, and societal level around the globe. (Peter Fisk. 2019). In response to these major changes/megatrends and the crisis and post-crisis period, the world is moving towards (1) an information revolution, (2) flexible and learning organizations and innovation systems, (3) an explosion of skills, knowledge, and competencies, (4) improvement of the creation, production and distribution systems, (5) use and expansion of innovation systems, creativity, and quality management culture, etc. (OECD. 2016).

1.2 Quality and culture of quality

The core definition of quality as a set of values that contribute to how improvements can be made in the daily practice of work and related outcomes, a set of applications that are taken for granted and that form the philosophy of organizations or work groups, has been identified by several authors who have defined quality culture as a social attack that supports people in the organization to stick together. Product and service features and their improvements thrive. This culture has been demonstrated in several areas: (1) individual improvement, (2) tolerating and respecting others, (3) entrepreneurship, and (4) proven skills. A culture of quality is a set of common, respected, and integrally formed approaches to product and service characteristics identified in the culture of organizations and management systems.

The importance of quality culture, quality management culture for doing business, achieving competitive advantage, linking it to corporate social responsibility, sustainable management, business ethics, diversity issues, international, intercultural management, national/international organizational culture, culture and sectors of the economy in a country as well as current as an important part of the history of economic thinking (related to the culture of corporate governance). ISO standards, their meaning, their application in practice, etc. have been described in several publications (Wiboonrat, 2020, Vlsceanu, et al., 2007, Robbins, 1999, Harrington, et al., 1997).

Main ISO's required then most currently are:

- 9000 Family – Quality management system
- 10244: 2010 – Management of documents
- 14000 – Environment protection
- 20000 – Information technology
- 22301 : 2019 - BCMS
- 27000 – ISM
- 45000 – HSW
- 50000 – Efficiency of energy
- 56002: 2019 - IMS
- Etc.

According to the Organization of Standards, there are three main types of benefits to using standards:

Key benefit 1: Streamlining internal operations

A key finding is that standards can be used to streamline an organization's internal processes, for example by reducing the time spent on specific activities in performing various business functions, reducing waste, lower procurement costs, and increasing productivity. The case studies consistently report that the contribution of standards to companies' gross profit ranges from 0.15% to 5% of annual sales.

Key Benefit 2: Innovation and Expansion of Operations

A few case studies provide examples where standards have served as the basis for innovating business processes that enable companies to expand their supplier network or effectively introduce and manage new product lines. In other cases, standards helped reduce the risk for companies to introduce new products into national markets.

Key Benefit 3: Creating or entering new markets

Standards have been used as a basis for developing new products, opening up new markets (both domestic and export), supporting market acceptance of products, and even creating markets. In exceptional cases, the impact of standards went well beyond the figure above, with companies generating gross profit contributions of up to 33% of their annual sales, which helped them position themselves as leaders in their field for at least a period (Musa. 2014 & Studylib 2016, Nation News 2016, ISO 2014, Nanopdf 2016).

1.3 Innovation

According to an OECD report, for about 35 years entrepreneurship has been defined as an attempt to use innovative aspects that involve the use of factors of production already involved, within the framework of a new approach to the use of productive capacity, with its core the realization and use of entrepreneurial resources and as an activity of Creation that takes place and is completed along the way of the manufacturing process (Drucker, 1985, Ahmad. et al. 2007, Shane 2003, Sarasvathy. 2001, Puhakha. 2013). The OECD-Oslo Handbook Innovation was defined as the implementation of a new or significantly improved product (good or service) or process, a new marketing method, or a new organizational method in business practices, workplace organization, or external relations. In terms of economic theory, innovation is an industrial mutation that is progressively revolutionizing the economic structure from within, incessantly destroying the old one and incessantly creating a new one, which is a concept of today's global economic approach when skills, knowledge, and competencies are important.

Innovative goods are simply put into practice ideas that materialize into new goods (products/services) or improved goods that are recognized as a new or changed entity that creates or redistributes value. According to the International Organization of Standards, innovation is a new or improved product or process that differs significantly from previous products or processes and is made available to users. This definition is consistent with those in ISO standards, so they can be useful tools for comparing and evaluating innovations within and between organizations (Schumpeter. 1942 & 1993. MAPING. 2022, ISO 2019). Very often innovation has been seen as the realization of making products more effective, the New Canvas Business Modeling aims to be more practical in terms of markets, processes, and procedures, without always requiring

inventive measures. Each state's system of innovative issues requires institutional support, laws and regulations, and written processes that clearly state how the framework establishes attracts, distributes, and deploys information, skills, competencies, and know-how to utilize them.

In emerging countries, innovative aspects relate not only to the development of local knowledge management but also to the application of existing data, information, skills, and competencies to develop, promote and improve innovative actions and outcomes, which requires a more favorable environment for entrepreneurship and business activity than required Environment for gaining competitive advantages, including research and development activities, also related to trademarks and patents (Lijster. et, al. 2018, Bhasin. et. al. 2 April 2012, Morgan 2015, Ledzik . 2013, Tjakraatmadja 2012, WB Institute 2005, Lane et al 2012, Porter et al 2008).

Innovation sources

Innovative aspects arise as a result of concentrated activity, belief, and failure of systems, as well as changes in a country's economic, industrial, market, demographic, perceptual structure, etc. (Drucker. 2002, Oculintech 2022. Dianthamatianenzo 2013).

According to Saylor and Engelberger Innovation requires:

- a recognizable need
- skilled people with proper technology
- economic push (Saylor. 2019, Engelberger 1982).

In the face of increasing global competition, global products, services, manufacturing processes, business models and markets, and the implementation of new technologies, it seems that the results of doing business are in the hands of productivity (effectiveness and efficiency) as well as in the hands of intense innovative activities, which have been considered as the main problems of the competitive advantage of doing business, as a process that arises through interactions between different actors and becomes issues of importance for the future of business and corporate success. According to several authors, it seems clear that the level of production can no longer be increased through the existence and use of classical factors of production such as labor, land, and capital, but through the use and incorporation of innovation and technological change, emphasizing the links between innovation, more inclusive Creativity, Entrepreneurship, Leadership, and Management (Greenhalgh. et. al. 2010, Anderson. et. al. 2015, Zhang. et. al. 2010 & 2015, Shin. et. al., Byron. et. al. 2015, Gilson et al 2015, Perry-Smith et al 2015).

As described above, considering competitive advantage as the main driving force for business and entrepreneurial activities, innovation and creativity should be considered as key factors that require physical and non-physical support for an optimal result. Every crisis creates threats and an environment for opportunities that leads to creative actions that create space for innovation and new solutions in all areas of human activity, including remote work, environmental approaches, and also the achievement of social goals. The crisis caused by pandemics brought before the eyes of all people around the world the importance and multidimensional approach of innovative activity to restore growth. This has been evident in multiple areas of business operations and sectors such as healthcare, insurance, banking, home working and remote, remote education and learning, e-

business, mobile solutions, etc. The COVID-19 pandemic has unleashed severe health and health damage Economic crises that will have lasting effects. Vaccine research and scientific investigations to prevent the spread of the coronavirus have raised awareness of the central role of science, technology, and innovation in economic and social development. Innovation is a development tool that plays an increasingly important role in global trade. In the last two decades in particular, the arena of world trade has changed, with economies of scale gradually being replaced by an innovation economy focused on high-value-added products and services (GII. 2021. Mungay. 2020, WIPO. 2021. Slideshare Wiziin Inc. 2021. Google Books, 2021).

1.4 Innovation as an ISO family of standards. ISO 56000

A large number of standards have been developed to help and support companies and public organizations to streamline their internal systems, processes, procedures, and records to have an open approach to innovative aspects and activities and to address any issues that contribute to the bottom line of operational activities of public and private entities that implement IMSs in innovative ways. Innovation serves as a force that propels companies into a time and period of success. It is clear that all subjects that provide their leaders and human capital with the right tools to expand and seize opportunities and achieve their goals and organizational strategic and operational goals, contribute to a broader perspective for society as a whole and a better way to Crisis and Challenges Ahead (Sancoct. 2019, ISO. 2021. Ann Brady. 2021. Muckrack. 2021). Approach to achieve competitive advantage. A family of standards with the number 56000 was published in 2019 on innovation and innovation management, which helps companies to manage innovations and innovative measures effectively and in a more structured way. Innovation is about creating something new that adds value; This can be a product, a service, a business model, or an organization. And the added value that is created is not necessarily of a financial nature, it can also be social or ecological. The ISO 56000 family will help organizations significantly improve their ability to survive in our changing and uncertain world. They enable organizations to constantly reinvent themselves (Academy Eicorn. 2021, ISO. 2020. Naden. Feb 2020. Continuous innovation. 2020).

The ISO 56000 family includes:

- 56000:2019 – Management of innovation — Innovation MS — Guidance
- 56002, Management of innovation – *Innovation MS – Guidance*
- 56003, Management of *innovation – partnership on innovation, methods, and tools – Guidance*
- 56004, Management of innovation - assessment – *Guidance*
- 56005, Management of *innovation – Int. Prop, Mngmt, Methods, and tools – Guidance*
- 56006, *Management of Innovation – SIM – Guidance*
- 56007, Management of innovation – *Management of ideas*
- 56008, Management of innovation – *IOM, methods, and tools – Guidance*

It is clear that even for the International Standards Organization the ties between innovation and creativity are strong, as the ISO 56000 family of innovation standards clearly expresses the connection by saying that the application of ISO standards in general and the Applying the ISO 56000 family of standards helps organizations strengthen their

commitment to their customers, improve innovation and creativity activities, processes and procedures, and economies worldwide to gain a competitive advantage in response to crisis and post-crisis times.

1.5 Knowledge & technology output and its relations with innovation

In most economies around the world, the agenda is shifting from efficiency to innovation. This also helps in policymaking and vice versa. Benchmarking and comparative analysis also help policy on this path to prosperity by placing competitive advantage as a central theme. Innovation activities are important prerequisites for companies because they correlate with the ability of companies to recognize new opportunities and advantages and to understand changes in the environment as well as to respond in an appropriate new way to finding solutions through managerial activities, uncertainty through new and renewed ones Clarify skills, competencies, and knowledge created through this process as a fundamental question for sustainable and viable economic performance, contribution to UNSDG, building resilient infrastructure, promoting inclusive and sustainable industrialization and fostering innovation. As a discipline, knowledge management aims for subjects to create and use knowledge, and besides, there is a lot of confusion about this topic, an approach to designing the management of knowledge should be established in every organization for t the goals they want (European norms. 2019, Vares et al., 2011, ISIEM 2020, International Afnor 2019, PHPKB 2020, CDN 2019, BSI 2019).

1.5.1 The importance of knowledge management

According to the International Standards Organization, the capture, transmission, and transformation of knowledge within an organization and its knowledge ecosystem is a key driver of innovation. It is clear that collaboration between managerial levels and employees in organizations creates knowledge, and organizations derive desired and valuable results from it through productivity and the achievement of competitive advantages. Opportunities are created through increased access to knowledge and the professional development of people in the organization through learning, practice, and exchange. Organizations can no longer rely on the spontaneous dissemination of knowledge to keep up with the pace of change. Instead, knowledge must be consciously created, consolidated, applied, and reused faster than the rate of change. Geographically dispersed and decentralized organizations that perform the same processes and provide the same services in multiple locations can reap tremendous benefits by sharing practices, expertise, and learning across organizational boundaries. Attrition and turnover in today's social impact knowledge management. In many organizations, critical knowledge is often isolated and/or held by experts, at risk of being lost if the organization changes or these experts leave the company. Effective knowledge management supports collaboration between different organizations to achieve common goals. Knowledge is an intangible corporate asset that needs to be managed like any other asset. It must be developed, consolidated, maintained, shared, adapted, and applied so that people can make effective decisions and take concerted actions to solve problems based on experience and new insights for the future. Knowledge management is a holistic approach to improving learning and effectiveness by optimizing the use of knowledge to create value for the organization. Knowledge management supports existing processes and development

strategies. Therefore, it needs to be integrated with other organizational functions (KMD. 2018, Rhem. 2018, Powell, 2020).

1.5.2. ISO 30401 – Knowledge management system

ISO published a newly introduced standard in 2018, ISO 30401 Systems of Management of Knowledge Requirements, a standard within which organizations implement a management system that improves and enables value creation through knowledge and information management for the entire business unit. ISO 30401 defines what is required and provides an organization with a system of guidelines for the preparation, use, maintenance, review, and continuous improvement of the knowledge management process. (ISO.TC 260. HRM. 2018).

Other ISO standards related to this area are:

- 30415, HRM
- 30422, development and learning process
- 30424, Management of knowledge

Innovation, knowledge, and technological output are directly related to the management of business process problems. (Breyfogle. 2015).

1.5.3. GII report on knowledge

In the GII 2021 report, knowledge is linked to knowledge & technology output and knowledge & technology output. In this article, we only considered the relationships between innovation and knowledge & technology output (Sekuloska. 2014). The GII 2021 report considers knowledge & technology output as a mix of (1) knowledge generation, (2) knowledge impact, and (3) knowledge dissemination (Szmodics. 2018).

The GII report considers knowledge creation related to the Origin of patents

- Filed patents at the national patent office
- Origin of patents PCT
- Applications of PTCs
- Origin of models of Utility
- Applications registered at the patent's office under RUM
- Scientific and technical articles
- Number of scientific and technical journal articles
- Articles published in science and technology.
- Citable documents H-index

At knowledge impact report considers:

- Labor productivity growth
- GDP Rate of growth / employed persons
- Newly business entities
- New density of business
- Spending on Softs
- Certificates of ISO 9001 issued
- Manufacturing of high tech

At knowledge diffusion report considers:

- Receipts of intellectual property
- Production/export complexity
- Exports of high tech
- Export of ICT services

2. Framework of the research, the purpose of the paper research study

The scope of the study was the level of innovation and knowledge & technology output and the relationships between them in a global entrepreneurial ecosystem. Given the lack of numerical, statistical, and algebraic arguments on the relationships between innovation and knowledge & technology output, this research offers a mode of theory-building aimed at exploring the questions listed below:

1

2 Q1: There is any relation between innovation and knowledge & technology output?

3 Based on this, two hypotheses have been built:

4 Ho: There is no connection between Innovation and knowledge & technology output.

5 H1: There is a connection between Innovation and knowledge & technology output.

1. …Considering that the literature review of this research paper lists little research on the relationships between innovation and knowledge and technology outcomes, and considering that theoretical approaches to the relationships between innovation and knowledge exist, numerical, statistical, and algebraic arguments for the relationships between innovation and knowledge & technology output does not exist.

3. Methodology

While recognizing the importance of innovation, knowledge & technology output, and quality management for the business and entrepreneurial ecosystem, empirical research to date does not explain how innovation and knowledge, and technology output influence and link quality management, apart from the fact that few serious theoretical studies show the strong link between innovation and knowledge & technology output, but not numerical, statistical and algebraic studies. Therefore, theory building supported by analysis and evidence is required. An exploratory approach should be taken using a single in-depth case study approach, capable of building an in-depth understanding of a phenomenon and allowing for a more detailed examination of theoretical constructs (Ceko. 2021).

3.1 Case selection

The case was selected based on three main criteria: a theoretical approach, adequacy of the relationships, and practical positive effects on the relationships between innovation and knowledge & technology output considering innovation as a property of the ISO 56000 family of standards. The case project ran in phases: (1) identifying the

need for innovation and knowledge & technology output (2) identifying the need for quality management and (3) ranking countries for innovation and knowledge & technology output.

3.2 Collection of data

- Innovation data collected from GII 2021.
- Data on knowledge & technology output gathered from GII 2021.

3.3 Data analysis

1. The global data on innovation was extracted from the Global Innovation Index Report 2021 (World Intellectual Property Organization, 14th edition).

2. The global data on knowledge & technology output was extracted from the Global Innovation Index Report 2021 (World Intellectual Property Organization, 14th edition).

3. Descriptive statistics for the innovation index and creativity output and a correlation and regression analysis (inferential statistics) between the innovation index and knowledge & technology output for 132 countries worldwide were carried out.

Relations between innovation and knowledge management (132 countries worldwide)

Table 1. Innovation index and Knowledge management ranking (GII, 2021)

No	Country	Innovation Index	Knowledge management
1.	Swiss	1	1
2.	Sweden	2	2
3.	USA	3	3
4.	UK	4	10
5.	Korea (Republic)	5	8
6.	Netherlands	6	7
7.	Finland	7	5
8.	Singapore	8	13
9.	Denmark	9	14
10.	Germany	10	9
11.	France	11	16
12.	China	12	4
13.	Japan	13	11
14.	Hong Kong, China	14	62
15.	Israel	15	6
16.	Canada	16	23
17.	Iceland	17	25
18.	Austria	18	19
19.	Ireland	19	15
20.	Norway	20	28
21.	Estonia	21	22
22.	Belgium	22	17
23.	Luxembourg	23	38
24.	Czech Republic	24	12
25.	Australia	25	42
26.	New Zealand	26	39
27.	Malta	27	44
28.	Cyprus	28	21
29.	Italy	29	18
30.	Spain	30	26
31.	Portugal	31	34
32.	Slovenia	32	32
33.	United Arab Emirates	33	59
34.	Hungary	34	20
35.	Bulgaria	35	27
36.	Malaysia	36	31
37.	Slovakia	37	30
38.	Latvia	38	45
39.	Lithuania	39	49
40.	Poland	40	36
41.	Turkey	41	50
42.	Croatia	42	47

43.	Thailand	43	40
44.	Viet Nam	44	41
45.	Russian Federation	45	48
46.	India	46	29
47.	Greece	47	52
48.	Romania	48	35
49.	Ukraine	49	33
50.	Montenegro	50	78
51.	Philippines	51	24
52.	Mauritius	52	93
53.	Chile	53	58
54.	Serbia	54	43
55.	Mexico	55	53
56.	Costa Rica	56	56
57.	Brazil	57	51
58.	Mongolia	58	85
59.	North Macedonia	59	57
60.	Iran	60	46
61.	South Africa	61	61
62.	Belarus	62	37
63.	Georgia	63	75
64.	Republic of Moldova	64	54
65.	Uruguay	65	63
66.	Saudi Arabia	66	69
67.	Colombia	67	72
68.	Qatar	68	79
69.	Armenia	69	64
70.	Peru	70	87
71.	Tunisia	71	55
72.	Kuwait	72	60
73.	Argentina	73	73
74.	Jamaica	74	95
75.	Bosnia and Herzegovina	75	66
76.	Oman	76	107
77.	Morocco	77	67
78.	Bahrain	78	82
79.	Kazakhstan	79	86
80.	Azerbaijan	80	115
81.	Jordan	81	76
82.	Brunei Darussalam	82	130
83.	Panama	83	113
84.	Albania	84	103
85.	Kenya	85	65
86.	Uzbekistan	86	77
87.	Indonesia	87	74
88.	Paraguay	88	117
89.	Cabo Verde	89	122
90.	Un, Rep. Tanzania	90	100

91.	Ecuador	91	97
92.	Lebanon	92	91
93.	Dominican Republic	93	108
94.	Egypt	94	70
95.	Sri Lanka	95	68
96.	El Salvador	96	124
97.	Trinidad and Tobago	97	83
98.	Kyrgyzstan	98	102
99.	Pakistan	99	71
100.	Namibia	100	119
101.	Guatemala	101	90
102.	Rwanda	102	96
103.	Tajikistan	103	80
104.	Bolivia (Plur. State of)	104	112
105.	Senegal	105	88
106.	Botswana	106	101
107.	Malawi	107	84
108.	Honduras	108	118
109.	Cambodia	109	111
110.	Madagascar	110	99
111.	Nepal	111	121
112.	Ghana	112	104
113.	Zimbabwe	113	109
114.	Côte d'Ivoire	114	110
115.	Burkina Faso	115	106
116.	Bangladesh	116	92
117.	Lao People's Dem. Rep.	117	127
118.	Nigeria	118	123
119.	Uganda	119	105
120.	Algeria	120	125
121.	Zambia	121	120
122.	Mozambique	122	116
123.	Cameroon	123	98
124.	Mali	124	94
125.	Togo	125	128
126.	Ethiopia	126	81
127.	Myanmar	127	89
128.	Benin	128	131
129.	Niger	129	114
130.	Guinea	130	132
131.	Yemen	131	126
132.	Angola	132	129

Table 2. Descriptive statistics for Innovation Index

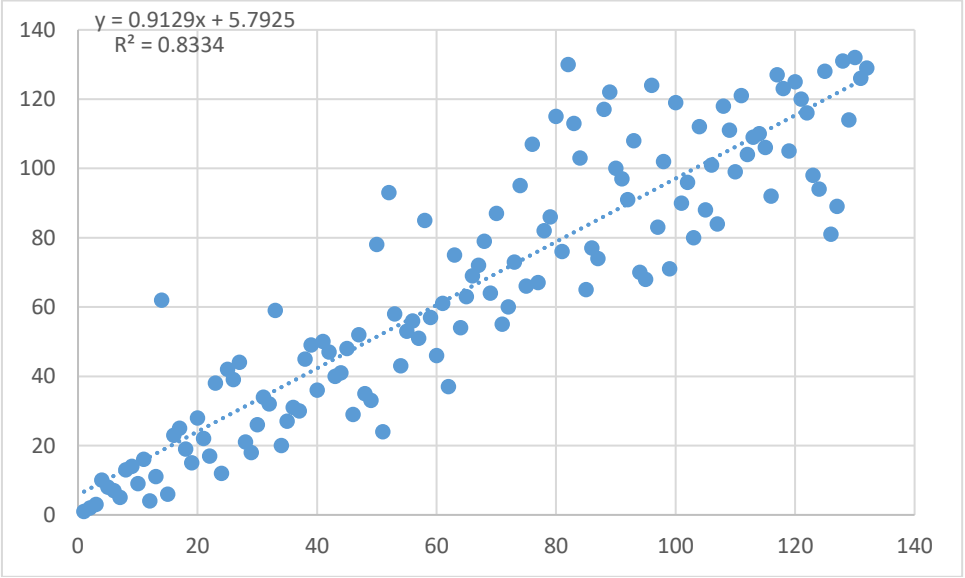
Innovation Index	
Mean	66.5
Standard Error	3.329164059
Median	66.5

Mode	#N/A
Standard Deviation	38.249183
Sample Variance	1463
Kurtosis	-1.2
Skewness	8.94958E-17
Range	131
Minimum	1
Maximum	132
Sum	8778
Count	132
Largest(1)	132
Smallest(1)	1
Confidence Level(95.0%)	6.585880645

Table 3. Descriptive statistics for Knowledge & technology output

Knowledge management	
Mean	66.5
Standard Error	3.329164059
Median	66.5
Mode	#N/A
Standard Deviation	38.249183
Sample Variance	1463
Kurtosis	-1.2
Skewness	-4.26826E-16
Range	131
Minimum	1
Maximum	132
Sum	8778
Count	132
Largest(1)	132
Smallest(1)	1
Confidence Level(95.0%)	6.585880645

Graphic 1. Correlation between Innovation index and Knowledge management (drawn by authors, using GII 2021 data) where at X axes is the innovation index and at Y axes is business sophistication



SUMMARY OUTPUT	
Regression Statistics	
Multiple R	0.912895
R Square	0.833377
Adjusted R Square	0.832095
Standard Error	15.67307
Observations	132

ANOVA					
	df	SS	MS	F	Significance F
Regression	1	159719.1	159719.1	650.2028	1.98E-52
Residual	130	31933.86	245.6451		
Total	131	191653			

		Coefficients	Standard Error	t Stat	P-value	Lower 95%	Upper 95%	Lower 95.0%	Upper 95.0%
b =	Intercept	5.792505	2.743907	2.111043	0.036684	0.364013	11.221	0.364013	11.221
a =	Innvt. Index	0.912895	0.035801	25.49907	1.98E-52	0.842066	0.983723	0.842066	0.983723

$$Y = ax+b$$

$$y = 0.9129x + 5.7925$$
$$R^2 = 0.8334$$
$$r = 0.\ 91291$$

With these results, we have verified that there is a connection between Innovation, Knowledge, and technology output (Hypothesis 1)

- Implications for theory and practice

The theory based on the final results of this research opened a new window for further research in the field of relationships between innovation and knowledge & technology output (Sekuloska. 2014), using it as a way to achieve a competitive advantage approach was considered both as individual companies and for the economy of the country. The article not only contributes to the question of how and how much innovation promotes knowledge but above all how and how much knowledge & technology output promotes innovation and its new forms. The article examines approaches that promote innovative activities. This is a theoretical article based on empirical study, employing quantitative methods, a practice-oriented paper expressing actual changes in the global economy, society, and science, and a debate for the long-term perspective of the issue of the relationships between innovation and knowledge & technology output.

- Limitations and further research

This research was conducted using a large amount of data on the Innovation Index and Knowledge & technology output for 2020-2021. Further research is needed to verify whether these relationships hold for other periods, particularly the future.

Conclusion and recommendations

1. Towards fixedness of natural resources and restrictions on boundless economic growth approach, the direction of innovation and knowledge management, technology developments, and the output are important in overcoming resource constraints.
2. There is a tendency for innovations to save on scarce resources. If technological progress will be fixed-factor saving, then fixed factors may not be a large barrier to growth. The same argument and logic can be applied to knowledge & technology output and quality management, since both of them are not fixed resources, and are strongly connected with innovation.
3. Achieving competitive advantage requires a positive approach towards innovation, knowledge & technology output, and quality management, requiring improvement of innovation, knowledge & technology output, quality management, and business climate in SMEs, seeing this as a general microeconomic perspective too, while, in a broader context, this study extends the general understanding of the innovation, knowledge, and technology output and quality management relations to be used for a future managerial approach/mechanism in real-world situations, suggesting future research could focus on developing and validating the proposed framework and investigate the issue in more contexts and settings.

4. A connection between the innovation index and the knowledge & technology output has not only been demonstrated in theoretical aspects but verified by a regressive analysis and ISO 304040 helps companies to strengthen their commitment to their customers, innovation, and knowledge & technology output Improve activities, processes and procedures and economies around the world to gain a competitive advantage in response to crisis and post-crisis times.

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Exploring human rights violations in post new era Indonesia

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Abstract:

Although human rights have been officially recognized in Indonesia, human rights violations have persisted since Suharto's authoritarian regime. The purpose of this article is to examine why human rights violations that have occurred in Indonesia since the New Order era, when the Suharto regime was in power, but have yet to be resolved. With a human rights perspective, the author employs qualitative research methods in conjunction with secondary data from credible sources. Human rights violations committed during the New Order regime went unpunished, and impunity reigned. To this day, there are challenges to impunity for human rights violations in Indonesia, where the government does not have good faith to fulfil the rights of victims of human rights violations, and civil society organizations both on the national and international levels are powerless to support the resolution of these human rights violations. This situation will have an impact on Indonesia's international standing as one of the largest democratic countries that recognizes, protects, and fulfils human rights.

Keywords: Human rights violation, Suharto, Indonesia, Authoritarianism..

Background

Indonesia has been dealing with both a political transition and an economic crisis. The reliance on foreign assistance on both fronts has sparked strong nationalist sentiments, which have been exacerbated by the loss of East Timor and have perceived Western sympathies for separatist movements within the Aceh and Papua regions. The elements were loyal to Suharto and were accused of inflaming and even starting various conflicts by exploiting such emotions. Economic inequality, lifestyle, religion, national stability, and other aspects all had a substantial impact on Indonesia's political transformation and convergence mechanisms (McGregor & Setiawan, 2019). While there is no clear link between authoritarian or democratic regimes and economic success, widespread economic hardship will undoubtedly erode support for administrations of all stripes. Regional economic crises in 1997-98, which prompted Suharto's resignation in May 1998, continue to stymie reforms of political, legal, judicial, and administrative

institutions and procedures by undermining their popular legitimacy. Religious and ethnic violence in Maluku, Kalimantan, and Central Sulawesi, as well as separatists in Aceh and Irian Jaya, tend to exacerbate political and economic unrest (Van Klinken, 2007).

Both Presidents Sukarno (1945-1965) and Suharto (1965-1998) were staunch opponents of the western-style liberal democracy that Indonesia witnessed in the 1950s. Instead, they resorted to Pancasila's five principles in the form of national philosophy and the 1945 Constitution, which they deemed more acceptable to Indonesian cultural values. This affirms the existence of a single God, national unity, civilized humanitarianism or internationalism, representative government, and social justice. Decisions and disagreements must be made and addressed through debate or *musyawarah* and consensus or *mufakat*, rather than competitive voting and the associated conflicts between majority and minority groups (Eldridge, 2002). Certain cooperative ideals must be applied in all economic and social sectors. While Pancasila can be built in reasonable liberal and pluralistic ways, it is also vulnerable to corporatist and authoritarian interpretations. Integralist beliefs presuppose the oneness of government and people by opposing individual or group rights toward the state, which appears to be envisioned as a large family. The key actors have recognized the parallels with fascist conceptions of the organic state in Europe and Japan. Despite their initial opposition, this was incorporated into New Order doctrine and practice. As a result, the 1985 Law on Social Groups required organizations to explain their goals using Pancasila as their sole foundation (Eldridge, 2002).

Incremental transformational leadership and movement beginning in small civil society groups as well as modest reforms launched from within the government, have created a greater popular foundation from which the change in momentum can be sustained in the face of residually powerful New Order structures and preferences. Concerns about civil and political rights have been traditionally associated with the middle class, and they were seen to have gained popularity by being linked to issues affecting people's daily lives such as land, wages, and working conditions, as well as the environment, violence and harassment against women, and corruption at all levels (Sugiharti et al, 2022).

Specific initiatives appear to span from the lower communities within the development of among the underprivileged populations to major mobilization for demand rights, with advocacy networks connecting at the local, national, and global levels. Suharto's civil society opponents did not always accept Western liberal-democratic values (Hadiz & Robison, 2013). Many people focused on the socioeconomic and political aspects of human rights. However, broad cross-group discussions about goals and techniques, as well as experience with internal self-management, contributed to the improvement of popular democratic ability (Jaffrey, 2020).

The Suharto regime largely ignored the UN human rights system, reacting to foreign criticism with broad defenses based on Indonesia's national sovereignty and its non-interference in domestic affairs. Nonetheless, it ratified the Conventions on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Rights of the Child in 1984 and 1990, respectively. In January 1998, Alatas, the foreign minister, issued a National Plan of Action on Human Rights for the years 1998 to 2003, and the MPR included a broad statement indicating future legal action in the State Policy

Guidelines. In the aftermath of Suharto's demise, the torture and disappearances continued unabated (Walton, 1998; Grzywacz, 2020). The Plan placed a special emphasis on integrating United Nations human rights treaties into national laws, which appears to be a necessary step before ratification. In November 1998, Indonesia appeared to ratify the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatments or Punishments, also known as the CAT, and the Convention on the Elimination of All Forms of Racial Discrimination, also known as the CERD. The timing of each marked significant declarations of intent immediately following Suharto's demise, as well as outbreaks of anti-Chinese sentiment, most likely arranged by members of the armed forces and also some Islamic groups (Rüland, 2022).

The upheaval surrounding President Wahid's resignation and the substitute of President Megawati Sukarnoputri with the optimistic Attorney General Marzuki Darusman, in addition to a designee from the poorly respected Department, appears to have hampered the Plan's execution (Rubenstein, 2017). Indonesia appears unequipped to ratify the International Covenant on Civil and Political Rights with only one year until the Plan's expiration date (ICCPR). Institutional initiative for developing policies and promoting human rights appears to be primarily in the hands of the Foreign Affairs Ministry, with President Wahid's Human Rights Ministry playing an unknown role (Eldridge, 2002).

Around a decade and a half just after fall of President Suharto and the New Order dictatorship, Indonesia has been widely cited as a model of democratic transformation—especially for Muslim majority governments. The nation has a lucrative party political system and has held three successful general elections since 1999, with such a fourth scheduled for 2014. The legislature also passed constitutional amendments, including key provisions to safeguard fundamental human rights such as individual liberties, religious freedom, and women's rights. These changes have resulted in rapid economic growth (Schwarz, 2018). As of 1999, the Indonesian economy had also grown at an annual rate of 4 to 6%. Despite these advancements, Indonesian transitional justice has been largely ineffective. While precise definitions vary, transitional justice here refers to the righting of wrongs committed in the past by holding criminals accountable for their actions. Neither Suharto nor any high-ranking officials or perpetrators have ever been tried or held accountable for human rights violations in Indonesia during the thirty-two years of authoritarian rule and after the democratic era (Liddle, 2002; Eldridge, 2002; Ehito, 2015). Tables 1–3 show the human rights violations and processes that occurred during the New Era and the era of democracy.

Table-1. Human Rights Violations in the New Era

No	Tragedy/Year	Number of Victims (Estimated)	Process
1.	Military Operations Area (DOM) Papua (1963-2003)	200.000	Under Investigation
2.	The tragedy of September 30, 1965 PKI (1965-1966)	500-000-3.000.000	Under Investigation
3.	The Buru Island Case (1965-1966).	250.000	Under Investigation
4.	The Mysterious Shooting (1982-1986)	10.000	Under Investigation

5.	Tanjung Priok Tragedy (1984-1987)	700	Prosecuted/punished
6.	Talangsari Tragedy (1989)	300	Under Investigation
7.	Santa Cruz Massacre, East Timor (1991)	273	Prosecuted/punished
8.	The Tragedy of Rumoh Geudong in Aceh (1989-1998)	3.068	Under Investigation
9.	Trisakti Tragedy (1998)	4	Under Investigation
10.	Activist Kidnapping 97/98 (1997-1998)	23	Under Investigation
11.	The Semanggi Tragedy I & II (1998-1999)	229	Under Investigation
12.	The Murder of Witchcraft Shamans in Banyuwangi (1998-1999)	115	Under Investigation
13.	May riots (1998)	1.308	Under Investigation

Source: Commission for Missing Persons and Victims of Violence (KONTRAS), 2020.

Table-2. Human Rights Violations Following the New Era (Era of Democracy)

No	Tragedy/Year	Number of victims (Estimated)	Process
1.	Abepura Incident (2000)	105	Prosecuted/Punished
2.	Wasior and Wamena Incidents (2001)	51	Under Investigation
3.	The incident of Guava Keupok Aceh (2003)	16	Under Investigation
4.	Paniai Incident (2014).	25	Under Investigation

Source: Commission for Missing Persons and Victims of Violence (KONTRAS), 2020

Table-3. Religious freedom violations after the New Era (2010-2021)

No	Tragedy/Year	Number of Incident	Process
1.	Violations of religious freedom (2010)	216	No Process
2.	Violations of religious freedom (2011)	244	No Process
3.	Violations of religious freedom (2012)	264	No Process
4.	Violations of religious freedom (2013)	222	No Process
	Violations of religious freedom (2014)	134	No Process
5.	Violations of religious freedom (2015)	197	No Process
6.	Violations of religious freedom (2016)	208	No Process
7.	Violations of religious freedom (2017)	201	No Process
8.	Violations of religious freedom (2018)	160	No Process
9.	Violations of religious freedom of minority religions (2019)	200	No Process
10.	Violations of religious freedom	180	No Process

	of minority religions (2020)		
11.	Violations of religious freedom of minority religions (2021)	171	No Process

Source: SETARA Institute for Democracy and Peace (2010-2021)

Tables 1–3 show that from the Suharto regime to the democratic era, only several perpetrators have indeed been held accountable, and impunity reigns.

Method

The data appears to specifically reference the facts and has no numerical restrictions. All secondary sources were used to conduct the research for this study. The study is theoretical in terms of research methods. One of the primary goals of the research is to provide a clear identification of the difficulties, challenges, and consequences of Human Rights Violations in Indonesia after the New Era.

As a result, the study investigates the issues through a review and analysis of the published literature, with a focus on all secondary information on the subject. In this case, the authors use recent major research work on the subject as an example. A researcher appears to create a detailed and complete examination of human rights standards found in primary sources, including cases, statutes, and regulations, using this method. This empirical study is based on relevant peer-reviewed journals published by an authorized publisher, as well as laws, enactments, online portals, websites, committee reports, legal, history, commentary, and the international convention. The method will be based on the author's research findings, and the author will bear full responsibility for conducting the research with academic integrity. A variety of research approaches, tools, and techniques, including content analysis, were used to examine the collected data. The choice of this method was deemed necessary as it provides a unique and valuable approach to understanding the reality of human rights (Caporale, 2019).

Literature Review

Throughout Indonesia's history, there have been numerous demonstrations, conflicts, and wars in the name of liberty and freedom. The ability to freely express oneself is defined as freedom (Trager & Dickerson, 1999; Kim & Sherman, 2007). However, the distinction between liberty and freedom has frequently been erroneous (Berlin, 2002; Cookson, 2022). They may have the same meaning, but there are significant differences. The situation in which a person has the freedom to act according to his or her will is referred to as liberty. Liberty also denotes freedom from oppression, and it is worth noting that liberty has a symbolic meaning (Berlin 2002). The absence of constraints or obstacles, or the right or immunity enjoyed by the prescription or the grant, appears to refer to liberty (Meyers, 1903; Kolnai, 1949; Carter, 2022). Negative liberty has been defined in modern politics as the state of being free within society from the authority's control or oppressive constraints on an individual's way of life, conduct, or political opinions (Carter, 2022). Possessing the ability and resources to act in an environment that overcomes disparities is regarded as positive liberty (Carter, 2022).

The right to life is one of the most fundamental human rights. Several international legal treaties have acknowledged and established this. Article 3 of the Universal

Declaration of Human Rights (UDHR) states, for example, that "everyone has the right to life, liberty, and personal security." The right to life has also been guaranteed by the Indonesian Constitution. According to Article 28A, "every person shall have the right to defend his/her life and living." However, as supreme commander, Suharto has issued repressive attitudes, statements, and policies in order to eliminate various public responses to the New Order's single principle policy of Pancasila. In dealing with this issue, Kontras (2020) assessed Suharto as frequently making statements and policies that allowed violence to control the people's response to the rulers' policies at the time. Suharto, as president and commander of the Operational Command for the Restoration of Security and Order (KOPKAMTIB), is said to have obligated the Indonesian Armed Forces (ABRI) to take repressive measures against Islamic groups which are considered extremist groups that must be prevented and crushed.

The right to religious freedom is also guaranteed by the state, though the law limits its application in a variety of ways, including criminal penalties for defamation, hate speech, blasphemy, obscenity, and spreading false information. The law had been used to keep political criticism of the administration (Hamid, 2019). The law is seen to criminalize communication that is deemed to be defamatory of a person's character or reputation, either through Libel or Slander Laws. By disseminating hate speech and providing false information, obscenity, or encouraging separatism, this tends to insult the religion. Hate speech or the dissemination of false information is punishable by up to a year in prison. Such legislative language also governs pornography, which has been liberally used to limit the content and is thought to be offensive to local morality (Komisi Nasional Hak Asasi Manusia Republik Indonesia, 2020).

Pancasila's ideology and constitutional provisions emphasize the importance of religious and belief freedom for citizens. The founding fathers (founders of the nation) of Indonesia agreed, as a result of their deep thought, not to make one religion the foundation of the nation and state. This demonstrates how freedom of religion and belief is an inalienable right for every individual in Indonesia. The violation of the right to freedom of religion or belief is in violation of Human Rights Law Number 39 of 1999, which states in section considering letter b, "that human rights are basic rights that are naturally inherent in human beings, are universal and lasting, and must be protected, respected, maintained, and must not be ignored, reduced, or taken away by anyone; " The Indonesian nation, as a member of the United Nations, has a moral and legal responsibility to uphold and implement the Universal Declaration of Human Rights, as well as various other international instruments concerning human rights that the Republic of Indonesia has accepted.

Individual freedom has been defined as the ability to act or change without restriction, as well as the power and resources to achieve one's goals (Carter, 2003; Manzi, 2013). Freedom has been associated with the liberty and autonomy to make one's own laws and have certain rights and civil liberties to exercise them without excessive state intervention. In Indonesia, the government also implemented measures that deprive individuals of basic rights, such as restricting press freedom, simplifying political parties, suppressing voters, and allowing the use of torture and other forms of violence against dissenters (European Union, 2022). Under the political-state logic, human rights are only viewed as a requirement for democratizing the state, with no intention of fighting for

further legal changes to defend or strengthen human rights practices (Eldridge, 2002; Punia, 2020). As a result, despite the fact that Reformation (*Reformasi*) has restored democratic rules and prompted the establishment of a national human rights framework, human rights issues such as human rights abuses, inaccessible health care, restrictions on freedom of expression, and persecution of minorities have persisted (Harsono, 2020; Freedom House, 2021).

Analysis

In a number of ways, the fall of Suharto on May 21, 1998, marked the beginning of the transition process in Indonesia. This is referred to as the "democratic transition" in general. This transition is an attempt to change the bleak situation that existed during the Suharto era, when the role of the community was diminished. Society is only used as an object, is thought to only require price stability for economic needs, and is forced to be satisfied with the fulfilment of the economy (McCawley, 2013). The desired transition is one toward a more participatory society in state processes, but human rights violations were rampant both before and after the New Order. As seen from table-1, some of these cases are still being investigated, but they cannot be resolved properly because, even though the case has been around for a long time, the masterminds behind the case may still be present and free to roam. And there were many more human rights violations in Indonesia during the New Order era and in the current Reformation period. Of course, there have been many changes to the laws governing human rights themselves during the reform period, but even though there have been laws that regulate human rights, violations of human rights that occurred during the reform period.

The role of Islam in state and society is always of interest in Indonesia, the world's largest Muslim-majority country, which is frequently positioned as a "model Muslim democracy." Although analysis of Islam and the dangers of extremism can be reductionist at times, this compilation does not misrepresent or attempt to oversimplify the impact of Islam in Indonesia. For example, in the political sector, the authors show how, in addition to differing perspectives on decentralization and center-regional relations, engagement with Islam is a key topic that divides political parties (Fossati, 2017; Fossati, 2019). While acknowledging the importance of religion and center-regional ties, the authors do not exaggerate their significance, stating that political opinions on these issues "should not be understood as absolute," but rather as part of a larger picture. This is demonstrated by the fact that openly Islamic parties in Indonesian elections have historically performed poorly when compared to non-Islamic parties that strategically incorporate elements of an Islamic platform. As evidenced by the A Hok trial and the 2019 elections, the relationship between religion and politics remains a hot topic. However, due to its introductory nature, the collection avoids a thorough examination of the role and nature of Islam in Indonesia, as well as the complexities of decentralization (Peterson, 2020).

Not all Islamic organizations in Indonesia appear to be conservative. Indonesia has a diverse range of Islamic activism, ranging from moderate groups like the Muhammadiyah, which appear to be generally supportive of religious harmony. Certain researchers have pointed out that these groups have minority segments that lean toward conservatism and nonviolence while groups like Hizbut Tahrir Indonesia (HTI) seek the

establishment of a caliphate, dakwah movements like Jemaah Islamiah, and political parties like the Prosperous Justice Party (Munabari *et al*, 2020). The FPI is also known as an Islamic political group founded in 1998 by Muhammad Rizieq Shihab, an Indonesian of Arab descent, who hoped for the assistance of the military, police, and political elites in mobilizing against the reform movement led by students. The document titled Historical Treaty and the Line of Struggle of the FPI details are: First, the suffering of Indonesian Muslims as a result of government human rights violations. Second, every Muslim is obligated to defend and uphold the dignity of Islam. The third point is that every Muslim has an obligation to uphold the principles of commanding the good and forbidding the bad (Irawan, 2017)

Changing the nature of human rights violations

Since Indonesia's independence, ideas about religious and belief freedom have been prevalent. The 1945 Constitution guaranteed everyone the right to practice their religions or beliefs and worship as they saw fit (Article 29). Following 1998, the Law on Human Rights (Law No. 39 of 1999) and constitutional amendments legalized this concept (Article 28 E). However, in the post-new order or democratic era, violations of the right to expression and the right to life that occurred during the new order era changed significantly. As seen from table-3, actions that interfere with a person's or group's religious freedom, whether carried out by the state or by non-state actors, occur as a result of restrictions on the right to freedom of religion. Unconstitutional regulations or legal norms that violate human rights, lax law enforcement, and intolerance movements One of the consequences of the democratic changes enacted after 1998 has been the creation of space for religious groups with widely divergent viewpoints (Bourchier, 2019; Diprose, McRae & Hadiz, 2019).

In practice, the government could be a source of contention. When officials refuse to follow the law in order to protect minorities, they are frequently disadvantaged. Other policies, however, which the government continues to support, actually encourage hatred of minority groups. The Religious Affairs Ministry's book *Moderasi Beragama* discusses this topic. Many religious policies, it should be admitted, have neither strengthened moderate attitudes in religious practice nor avoided conflict. However, removing these religious rules would exacerbate religious strife. The lack of a solid foundation for guaranteeing human rights raises concerns about the variety of human rights violations that could emerge in the future; there is no guarantee that a solid foundation for upholding human rights will eliminate violations. This statement is certainly consistent with the findings of the SETARA Institute for Democracy and Peace from 2010 to 2021, which state that one of the conditions for declaring human rights violations is that the state sided with the majority while discriminating against the minority.

Furthermore, Indonesia was viewed as being under disunity, or a lack of agreement among ASEAN member states on the UNGPs, which has hampered the possibility of combining business and human rights within the ASEAN Economic Community (Nandyatama & Rum, 2020). According to ASEAN Charter Article 1(7), the Association is committed to promoting and protecting human rights and fundamental freedoms, as well as advancing democracy and good governance. This article holds ASEAN accountable for upholding and internalizing human rights ideals. Nonetheless,

the ASEAN Charter supports the approaches to human rights of individual member governments. As a result, member countries now have a lot of leeway in deciding how to handle human rights issues.

National reactions to the UNDP have been diverse, as have broader concerns about business and the environment. Myanmar, the Philippines, and Indonesia appear to be merging a draught NAP developed by the National Human Rights Commission rather than developing a NAP on business and human rights (United Nations Development Program, 2018). The Human Rights Commission (KOMNAS HAM) collaborated with the human rights civil society group ELSAM to develop, finalize, and implement the National Strategy in tandem with the current NAP on human rights (National Actions Plans on Business and Human Rights, 2017). It is argued that combining two national action plans is the most straightforward way to gain government approval. President Joko Widodo is widely regarded as a supporter of commercial sector deregulation in Indonesia, as well as the imposition of a new and mandatory tax. The government expects that regulating corporate sectors will be difficult.

Continuing Human Rights Violations

Indonesia bears direct and indirect international legal responsibility for violations of human rights committed by its police and military, even when operating for economic gain. The discovery of low corporate social responsibility (CSR) compliance had been operating in Indonesia's natural resource sectors involving agricultural commodities (Gunawan, 2021). This is also true of more developed legal regimes applicable to private security actors, not to mention current business and human rights standards. It was investigated whether access to justice had been provided to address such violations. According to the data, neither the state, in terms of recognizing state accountability or ensuring the prosecution of security actors who commit human rights violations while working for the business sector, nor the corporate actors themselves, have provided adequate remedies (United States Department of State, 2021).

During Suharto's reign, inequality improved, but not as much as poverty reduction. However, inequality began to rise in the late 1980s, as Suharto's developmentalism was gradually supplanted by the emergence of his family businesses and crony capitalism. During the period of economic recovery from the Asian financial crisis and political democratization, this rising trend did not reverse (Gellert, 2010). In 1999, the Gini coefficient fell to the same level as in the late 1980s, but then began to steadily rise. Inequality rose from 31 points in 1999 to 41 points in 2011 and has since remained stable. During this time period, only China experienced greater growth in the Gini coefficient. Indonesia's growing inequality is notable because inequality in neighbouring countries such as Malaysia, Thailand, and Vietnam remained stable or decreased during the same time period. Given the persistence of poverty and the rise in inequality, the government has a variety of options. The government should redistribute the economic benefits of the commodities boom to the lower classes while also developing pro-poor policies in areas such as social security, health care, and education.

Regardless of that perhaps the Indonesian government has set in place poverty eradication measures, the actual fact of severe poverty as well as growing inequality clearly demonstrates that these efforts have failed to address social needs. The question

here is what the democratic government of Indonesia has taken to address societal economic disparities. The government has put in place to reduce poverty and how much growth has been shifted away from the wealthy, who benefit the most (Hill, 2021).

Indonesia has also seen its fairness in human rights fluctuations as a result of successive administrations. Following the September 30th coup, the Army of Indonesia and civilian vigilantes killed approximately three million people while President Sukarno was in power, as a result of the conflict with the Communist Party of Indonesia. In addition to the killings, the individuals were tortured and imprisoned without a trial. Furthermore, since the invasion of Indonesian territory in 1975, the Indonesian military has committed human rights violations such as torture, mass arrests, sexual assaults, and long-term incarceration within East Timor under the government of the succeeding president Suharto (Frederic, 2011). Pluralism, fundamental freedoms, and a vibrant civil society have been critical components of Indonesia's positive human rights record in recent years (Ministry of Foreign Affairs of the Republic of Indonesia. (2022).

Despite serving on the United Nations Security Council from 2019 to 2020 and the United Nations Human Rights Council from 2020 to 2022, Indonesia has demonstrated one of the strongest commitments to global human rights improvement. However, the Indonesian government's lack of seriousness is reflected in the Indonesian government's continued disregard for various progressive international human rights conventions (KONTRAS, 2021).

Indonesia appears to be attempting to improve the lives of West Papuans as a result of Jokowi's current administration, who have been frequently overlooked by administrations in the past due to economic growth. Despite the continued presence of military forces, which may or may not impede the process, the Jokowi administration has made special efforts to address Indonesia's past human rights violations by establishing a non-judicial special agency to ensure such a process, which appears to be more peaceful and reconciliatory (Latif & Koswaraputra, 2022). To maintain national unity and integrity, as well as security and public order, human rights restrictions remain in place. As a result, human rights violations continue to occur across generations because the Indonesian government refuses to recognize that human rights violations are human rights issues that must be recognized as such and corrected.

The persistence of cases of human rights violations until the democratic era was due to the lack of commitment of state administrators, particularly the security forces, to upholding human rights principles in carrying out their duties and responsibilities. Cases of extrajudicial killings and enforced disappearance, for example, demonstrate how the government and security forces are unclear about how human rights principles and standards should be prioritized in problem solving. The shootings, arrests, torture, and extrajudicial killings demonstrate how the security forces continue to prioritize repression over persuasion and fair law enforcement. Meanwhile, cases of monotheism intimidation, persecution, and prohibition of religious activities demonstrate how the security forces and the government are often negligent in ensuring every citizen's right to security.

The strength of legal impunity

With the passage of Law (UU) No. 26 of 2000 establishing the Human Rights Court, Indonesia has completed its legal system and national institution of human rights

(HAM). The Act "adopted" the International Criminal Court's (ICC) jurisdiction as defined in Section 2 of the Rome Statute, specifically Articles 5 to 8. Despite being "imperfect," the law was initially welcomed because it was hoped that it would provide a legal framework for resolving cases of past gross human rights violations through the courts. However, this is far from the case. As seen from table-1 to 3, no serious human rights violation in the past has been fully disclosed, unless the perpetrators are rewarded with decisions that satisfy a sense of justice.

The formation of a Non-Judicial Settlement Team for Past Serious Human Rights Violations (PAHAM) was only an initiative to boost immunity from prosecution and redress past human rights violations that the state had not fully resolved (Insiyah, 2020). Moreover, there are some perpetrators of heinous human rights violations who are policymakers or serve in present government (Wicaksana, 2022). The actions of the government demonstrate that the state is unable and unwilling to resolve cases of human rights violations, including those investigated by the National Human Rights Commission (KOMNAS HAM RI).

The main obstacles to completing cases of human rights violations are a lack of commitment from certain parties to resolving cases, a legal system in some countries that is inadequate to prosecute perpetrators, and a political process riddled with competing interests. The power relations of the parties in power are frequently stronger, putting political interests ahead of humanity, while human rights violations continue to occur and more victims suffer. The back-and-forth between Komnas HAM (investigators) and the Attorney General (investigators and prosecutors) in Indonesia has become an impediment to resolving cases of serious human rights violations. The Attorney General's Office frequently cites a lack of evidence in investigations, as well as the loss of investigative documents, as factors impeding the resolution of cases involving grave human rights violations. Furthermore, some of the alleged perpetrators of heinous human rights violations have risen to positions of power in the government. In fact, perpetrators or suspected perpetrators should not be actively involved in policymaking. For example, if they manipulate law enforcement to their advantage or to avoid punishment, they are difficult to punish (Amnesty International, 2021).

Conclusion

The reliance on foreign assistance has sparked strong nationalist sentiments, which have been exacerbated by the loss of East Timor and perceived Western sympathies for separatist movements in Aceh and Papua. The regional economic crises that prompted Suharto's resignation in 1997-98 continue to stymie reforms of political, legal, judicial, and administrative institutions and procedures. Concerns about civil and political rights have long been associated with the middle class. They were thought to have gained popularity by being associated with issues that affected people's daily lives. Suharto's civil society opponents did not always accept Western liberal-democratic values.

The Suharto regime largely ignored the UN human rights system. It ratified the Conventions on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Rights of the Child in 1984 and 1990, respectively. Following his demise, the torture and disappearances continued unabated. The International Covenant on Civil and Political Rights appears to be unprepared for ratification by Indonesia.

President Wahid's Human Rights Ministry's role remains unknown. Since 1999, the Indonesian economy has grown at an annual rate of 4 to 6%. Despite these advances, transitional justice has largely failed.

Finally, under the political-state logic, human rights are only seen as a requirement for democratizing the state, with no desire to fight for further legal changes to protect human rights. *Reformasi* has restored democratic rules and prompted the creation of a national human rights framework. In terms of religious freedom, human rights violations, and relevance, Indonesia has faced numerous challenges. Freedom of religion is a human right that is protected by international, regional, and national legal frameworks. Religious minorities would be unable to profess their religion and belief as a result of a lack of access to religious freedom. Indonesia is the world's most populous Muslim-majority country. The role of Islam in state and society has long been a source of debate, with Indonesia frequently positioned as a "model Muslim democracy."

Conflicts of Interest

The authors have no conflicts of interest to disclose.

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COVID-19 vaccine equity for the Global South: Vaccination challenges and opportunities for small and poor countries

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Abstract:

The effects of COVID-19 have significantly interrupted countries and the social order across the globe. However, the developing countries which could not manufacture or even buy the most wanted commodity: COVID-19 Vaccine, looked on as the situation got worse even in the wealthy nations. Diplomacy seems a ray of hope among developing countries as wealthy nations have used almost all the vaccines themselves. The goal of this study was to critically analyze the challenges and opportunities around the COVID-19 pandemic, especially vaccine distribution and access, and the role of diplomacy in this process in selected countries in Africa. We used the narrative literature review approach. We examined the cases of Uganda, Ghana, and South Africa on the COVID-19 vaccine distribution. We found minimal accessibility and affordability of vaccines in developing nations. African and other developing countries have since depended on vaccine donations. Affordability makes it challenging for wealthy countries to lend a hand while ensuring their population and market needs are catered for. We propose that nationals in the Global South must strengthen their diplomatic systems and negotiation skills with wealthy countries while reinforcing public health systems. Developing countries must build alliances to engage with high-income countries as equal partners.

Keywords: COVID-19 Vaccine inequity, public health, diplomacy, economic accessibility.

Introduction

The impacts of the COVID-19 pandemic have affected many facets of human life globally. There have been deaths of more than 5 million people with more than 600 infections across the globe (Worldometer, 2022, Bamwesigye D, et al. 2021, Yamada, Y., et al. 2021). While there are individual impacts, the social, political, cultural, economic, and environmental effects are creating many challenges to the health and wellbeing of people. Scholars such as (Worldometer, 2022, Bamwesigye D, et al. 2021, Yamada, Y., et al. 2021, Lieberoth, A., et al. 2021, Cooke, S. J. et al. 2021) argued that the pandemic had caused a dramatic change in human behaviors, economies, and societies. It also focuses the attention on the important role of public health diplomacy, including its international dimensions (Tinh, L. D., 2022). One of the significant impacts of COVID-19 is the economic decline in both the Global North and South. According to Cooke et al. (2021), the COVID-19 is responsible for causing challenges in production processes. Global travel restrictions to local transport challenges have influenced slow economic recovery (Varghese, H. S. 2020). According to IMF (2020), although the COVID-19 has increased a substantial level of mortality, it also causes national economies to plummet into deep recessions. This means that the countries in the Global South may become more vulnerable.

The fact that as a public health pandemic, the COVID-19 can be prevented through physical distancing, hand washing, face covering, and testing and tracking. However, without administering effective vaccines to a large proportion of the global population, the halt of the transmission of the virus cannot be achieved (Wouters, O. J., et al. 2021). Therefore, populations must have access to safe and effective COVID-19 vaccines. However, Wouters et el. (2021) argue that the vaccine will not be helpful to populations if they cannot get vaccinated on time. They further point out that this needs accessible, affordable and available vaccines to all the countries. Which rely on administrative, logistical, and political capacities of national governments to implement or provide them. However, this article argued that geopolitical and geo-economic issues influence global, regional, and national decision-making processes (Wouters, O.J., et al. 2021) with public health politics.

This article critically discusses the observed challenges and opportunities around the COVID-19 pandemic, especially vaccine production and distribution, and the role of diplomacy in this process. The discussion taking the cases of Uganda, Ghana, and South Africa were examined to understand the challenges and opportunities in COVID-19 vaccination, especially vaccine access and vaccine process for the Global South. Global South as a term does not identify the geographical distribution of the world's countries. Because those countries are defined as poor or low-income economies by the World Bank with a GNI per capita (World Bank, Worldometer, inance Center for South-South Cooperation).

In this article the authors attempted to point towards realistic and practical determinations that low-income countries can employ within global platforms to deal with the COVID-19 pandemic and future challenges and similar issues. Moreover, this paper is paramount with the rise of Omicron (B.1.1.529): SARS-CoV-2 variant given the developing nations' low vaccination levels in the Global South. The severe and acute implications of the Omicron (B.1.1.529): SARS-CoV-2 Variant (Karim, S.S.A. and Karim, Q.A., 2021, Gu, H., et al. 2021, Kannan, S.R., et al. 2022, Chen, J., 2021) infection

could devastate the non-vaccinated population in many developing countries. Besides, the recent variants can even infect the vaccinated, especially in the developed nations (S.R., et al. 2022, Chen, J., 2021, Gardner. J.B and Kilpatrick. A. M. 2021). We discussed the situation that could lead to vaccine inequity for being distributed by income levels not only in Africa but also globally.

Methods

This article employed qualitative methods (Creswell, J. W. 2009, Creswell, J. W. 2011, Creswell JW and Clark VL. 2017, Creswell JW, Creswell JD., 2017, Nachmias, D. & Nachmias, C. 1976). Qualitative research procedures have the core essentials of exploration, case studies, ethnography, narrative research, and phenomenology. Precisely, we used literature, exploratory technique, and secondary data analysis (Creswell, J. W. 2009, Creswell, J. W. 2011, Creswell JW and Clark VL. 2017, Creswell JW, Creswell JD., 2017, Nachmias, D. & Nachmias, C. 1976, Bamwesigye D, 2020). Furthermore, to showcase the vaccination developments in Africa, challenges, and opportunities the authors obtained materials from major scientific databases, and web pages such as the World Health Organization (WHO), World Bank, Worldometers and ReliefWeb.

This article critically examined the literature from databases with a narrative literature review approach. As defined by Green et al. (2006) and Ferrari (2015), the narrative literature review is a far-reaching, analytical, and objective analysis of the current knowledge on a topic. This article adapted the narrative literature review approach to establish a theoretical framework and focus on the context of the topic at hand. This approach has helped the authors to identify patterns and trends in the existing literature.

This article is based on the general debates, appraisal of previous studies, and the current lack of knowledge, which points towards future and further research in this subject.

Results

As the globe continues to deal with the Pandemic, the COVID-19 Vaccines Global Health Facility (COVAX), co-led by CEPU, Gavi under the WHO was created to ensure fair access to vaccines for 92 low- and middle-income countries through donations (Lee S. T. 2021, Jennings, M. 2021, Gavi, 2021a., Gavi, 2021b., Gavi, 2021c.). So far, COVAX has secured 2.8 billion vaccines through contracts with manufacturers and aims to have about 5 billion vaccines available through 2021 and 2022 (Gavi, 2021c). However, developing nations in the African continent are not necessarily receiving enough vaccines. The 1.4 billion population of the African continent had only 46.79 million COVID-19 vaccines administered to them (Gavi, 2021c.).

Against this backdrop, this article attempts to critically analyze COVID-19 diplomacy by examining the cases of Uganda, Ghana, and South Africa to understand the challenges and opportunities. The authors are trying to point towards a positive and practical framework for low-income countries where they turn their vulnerabilities to strength. The idea is to take the pandemic as an opportunity to deal with global challenges through diplomacy beyond COVID-19.

This article analyzes the current efforts in the given countries, i.e., the promises made by the end of 2020 versus the deliveries by August 2021 by both Governments of studied nations and the COVAX facility. COVAX has played a great role in coordinating the availability of excess vaccines from the wealthy nations and the willingness to be donated to the poor nations, especially in the Global south. Herein we capture vaccines delivered to the selected countries of Uganda, Ghana, and South Africa. Delivered vaccines and the number of vaccinated percentages for both one-shot and full vaccination percentages. Below are the findings. It is self-evident that there are many challenges in securing these vaccine donations to the poorest nations and mostly the global south.

Vaccination in Uganda

As one of the low income countries (World Bank, 2022) in Uganda, the vaccination process kicked off on the 10th of March 2021 at the national referral hospital in Mulago. After securing 864,000 doses of AstraZeneca through the COVAX initiative, the country outlined a schedule for this first batch. According to the ministry of health of Uganda, Uganda was allocated 3,552,000 doses by COVAX, and the remaining dose was expected by June 2021. Doctor Jane Ruth Aceng outlined that administering the vaccine will start with public and private facilitated health workers with the support personnel making 150,000 (Buwembos, J. 2021). Starting with health workers is to ensure that protected individuals support the national roll-out of the vaccine. The next category included all security personnel totaling 250,000 teachers and education institution staff from public, private, and not-for-profit entities estimated at 550,000 (Buwembos, J. 2021). The ministry of health of Uganda intended to vaccinate all essential workers in the service industry with multiple interactive levels due to the nature of their work. These would be followed by people above 50 years, whose number was estimated at 3.3 million (Buwembos, J. 2021). The tasking is challenging, but the ministry has promised to ensure that it transparently takes care of its people.

According to a press release from the Ministry of Health, Uganda ordered 18 million doses from the Serum Institute of India, and mid-March 2021 expected 400,000 doses (Table 1). The second source is a donation of 3,552,000 of COVAX under a program by WHO from AstraZeneca that is expected in full by June 2021. Part of this donation has already been received and distributed for vaccination, amounting to 864,000 doses. The country also expects 17,872,037 doses from COVAX to cover 20% of the population. More so, Uganda had received 100,000 doses of AstraZeneca from the Government of India and 300,000 doses of CoronaVac from China (Buwembos, J. 2021).

Table 1. *Some of the Vaccination received by Uganda*

Country	**Doses Received**	**Donor**	**Total doses administered**
Uganda	647,080	United States of America (USA)	1,436,264 (People fully vaccinated 367,000 [0.8%])
	299,520	United Kingdom (UK) AstraZeneca (AZD1222)	

	864,000	India-AstraZeneca-COVISHIELD COVAX (WHO)	
	175,200	France (AstraZeneca (AZD1222)	
	286,080	Norway (AstraZeneca (AZD1222)	
	1,725,280	Total COVAX scheme (15/8/2021)	

Sources: Gavi, 2021a., Reliefweb, 2021a., Reliefweb, 2021b.

According to Uganda's vaccination projects, it is projected that 21,936,011 people representing 49.6% of the population, will be vaccinated. The process is likely to be in phases covering 20% of the population (4,387,202), with eligibility starting from 18 years and above. According to the ministry, the vaccination process is reconciled with the national identification and registration authority to prevent outsiders from benefiting ("Update on COVID-19 Vaccination in Uganda," 2021).

Although EU member states have suspended the vaccination of people with AstraZeneca due to alleged clot concerns, the Government of Uganda has not taken drastic steps to follow in the same direction [44]. Moreover, the Government of Uganda's target shifted from 482,000 to 964,000 people who were to be vaccinated given the available vaccines (The Independent. 2021). There is potential to administer the two eight-day apart doses while waiting for another batch. Further, the tabloid reports that over 100,000 people have received the vaccine nationwide. Uganda is in a position to receive the second shipment in May 2021. There is hope that the current vaccination process can cover more people because the second round can commence after 90 days following the first jab. Minister Aceng expects increasing the number of people vaccinated will handle the infection level to limit further spreading. Overall, the exercise has not faced any concerns among the vaccinated groups, and more people are anticipated to be served (Buwembos, J. 2021).

Most of the above promises seem to come true. The COVAX facility has so far delivered on most of these promises making the dream of vaccination come true before the economy can fully open, given the fact that for almost a year and more, there were several lockdowns among other restrictions (Gavi, 2021a., Gavi, 2021c., Buwembos, J. 2021, Reliefweb, 2021a., Reliefweb, 2021b., UNICEF 2021). It was clear that the Government has not been able to purchase any vaccines and the current efforts rely on donations by richer countries through the Gavi COVAX facility.

Vaccination in Ghana

As a lower middle income economy (World Bank, 2022) Ghana was one of the first African countries to receive COVID-19 vaccines through WHO's COVAX initiative (Gavi, 2021b.). According to Quakyi et al. (2021), Ghana plans to vaccinate 20 million people from a total population of 32 million residents by October 2021. Part of acquiring the COVID-19 vaccine will be through bilateral deals and multilateral agreements. The

country received its first batch of the Oxford-AstraZeneca 600,000 doses from the COVAX facility (Quakyi, N. K., 2021).

Ghana started its vaccination program by administering the dose to frontline healthcare workers, security personnel, government officials, and persons over 60 with comorbidities. The goal has been first to target priority groups essential in providing services to people. However, the limited number of doses being received by the country does not represent the current situation since financing vaccination acquisition cannot compare with other countries without donor financing (Megiddo, I., et al. 2020). The level of Vaccination in Ghana has been in phases, with the respective vaccine batches covering the rest of the supposed population.

Nachega et al. (2021), established that the interference of outside forces in the health institutions compromises the possibility of implementing interventions that extend to the lower levels. The cost of vaccines has remained a concern for countries like Ghana, which has to compete with wealthy countries that have made more orders than their counterparts. Megiddo et al. (Megiddo, I., et al. 2020) explained that vaccination's impact will allow many sectors to open, leading to national recovery. The plan initiated in Ghana proposes to help people return to a new normal with the hope that the pandemic can be stopped from affecting more people. Therefore, Ghana has adopted a vaccination program alongside the COVAX initiative to deal with the virus (Table 2). Moreover, the nation has received numerous vaccine donations through the facility, among others.

Table 2. *Some of the COVID-19 vaccine donations to Ghana*

Country	**Doses Received**	**Country Of Origin/Donor**	**Total doses administered**
Ghana	600,000	COVAX facility (WHO)	1.270,000 (People fully vaccinated 406,000)
	950,000	SII-AstraZeneca (COVISHIELD)	
	249,600	AstraZeneca (AZD1222) UK)	
	1,229,620	Moderna vaccine (USA)	

Sources: Gavi, 2021b., Reliefweb, 2021b.

From the numbers of vaccines so far received, a simple analysis showed a similar situation as in Uganda, with the Government of Ghana having vaccinated people approximately an equivalent number to the donated vaccines. Already this showed that there is a problem, and this can be either there are no vaccines to be bought on the market or the Government does not have the resources or not willing to purchase the vaccines. This is observed in the figures of the fully vaccinated people by the end of August 2021 of less than half a million (Gavi, 2021b., Reliefweb, 2021b.). On the other hand, the number of vaccinated seems to correlate with the donated vaccines (Table 2).

Vaccination in South Africa

The vaccination process has been essential to South Africa after reporting two variants of the coronavirus in the country with overwhelming deaths (Bangalee, V., & Suleman, F. 2020, Powell, A. 2021, Venter, W. D. F., et al. 2021). As an upper middle income country (World Bank, 2022) and one of the most affected African countries, discovering a vaccine came as good news to two-tiered healthcare. This is because, by the end of 2020, South Africa suffered severe new cases and COVID-19 deaths. The health sector was stretched beyond its capacity to treat the sick and take care of the dead bodies (Bangalee, V., & Suleman, F. 2020, Powell, A. 2021, Venter, W. D. F., 2021).

Funding the vaccination process threatened to create an opportunity cost to forego one health program to accommodate the COVID-19 dose (Bangalee, V., & Suleman, F. 2020, Powell, A. 2021, Venter, W. D. F., 2021). It is essential to consider that poverty levels in South Africa impact community awareness about the pandemic. However, South Africa has embarked on the continent's most extensive vaccination program to target 40 million people of its 59 million (Powell, A. 2021). Unlike many of its African counterparts, South Africa has taken drastic steps towards addressing the vaccination program because of a more dangerous variant (Powell, A. 2021).

The country's top researchers praised the Government for ending the use of the AstraZeneca vaccine since it was not effective against the most recent contagious variant (Powell, A. 2021). In some dire situations, a combination of more than one vaccine was recommended to curb the spread of the new deadly variants, which had a high mortality rate. The various developments made by vaccine producers such as Moderna, Pfizer/BioNTech had been cited as showing signs of effectiveness alongside vaccines from Russia and China (Powell, A. 2021). The Government discontinued the use of AstraZeneca while referring to the dose from Johnson & Johnson because it offered a strong immune against the latest variants (Powell, A. 2021).

The challenges of having a poor healthcare system have affected the vaccination process in the country. With over one million cases reported, South Africa had been a leading member in acquiring doses to vaccinate her people. Bangalee & Suleman (Bangalee, V., & Suleman, F. 2020), explained that the overwhelming pressure on the public health sector paints a different picture for the private sector as access to vaccines was high due to demand. The country needed the contribution of private sector institutions to address people's concerns in accessing the vaccine because this could increase efforts in fighting the virus. Moreover, transferring the vaccine payment to co-payments is an opportunity that can see more people get the jab from accredited private hospitals. Bangalee & Suleman (Bangalee, V., & Suleman, F. 2020) suggested that the Government make changes in its patent law to allow partners such as Global Alliance for Vaccines and Immunization (GAVI) to find distribution solutions.

The existing threshold of the virus in South Africa has made it essential for the Government to seek available vaccines. Due to the low efficacy levels of AstraZeneca, the Government gave away one million doses to the African Union, a decision that prevented the country from safeguarding over one million people (Powell, A. 2021). This means that the vaccination process had to rely on acquiring the vaccine from Johnson & Johnson. Yet, Russia's Sputnik and Sinopharm, and Moderna vaccines had not been tested to determine the effectiveness against the new variant. South Africa had to move quickly

to vaccinate more people because the effect of lockdowns and other SOPs does not provide adequate safety (Powell, A. 2021).

GAVI and other development partners donated over 3 million doses of the vaccine to fight the Pandemic in South Africa (Gavi, 2021c., U.S. Embassy Pretoria press team. 2021). According to the current vaccination rate in South Africa, it is evident that the vaccination donations have been a perfect addition to the country's efforts to increase their vaccination rate and process (Table 3).

Table 3. *Some of the vaccination received by South Africa*

Country	**Doses Received**	**Country Of Origin/Donor**	**Total doses administered**
South Africa	2,200,000	USA	15,700,000 (People fully vaccinated 7,730,000 [13.2%])
	1,000,000	India	

Source: Gavi, 2021c., U.S. Embassy Pretoria press team. 2021

The role played by the diplomatic partners in availing the vaccination in the heat of COVID-19 cases and death to the deadly pandemic cannot be underestimated. However, regarding the South African COVID-19 problem, and given her financial strength, the nation ought to have even bought more vaccines for the population. Again, this shows a problem either in the production capacity, supply, or availability.

Discussion

African countries have received most vaccines under the United Nations and the World Health Organization COVAX facility. Each African country is expected to receive doses covering 20% of the population. In Ghana, the first to receive the COVAX package of 600,000 doses, the vaccination process has received more batches as plans to provide a second shot are in progress. The impact of COVID-19 on different sectors reinforces the prospect of receiving vaccine donations to help communities impacted by the pandemic. Ghana has received more vaccine donations from other nations and other sources, such as South African telecom company MTN, which donated 165,000 doses under the COVAX program. It intends to provide similar packages to other nations. The country continues to focus on the promised doses from COVAX for its national vaccination plan as more vaccines are received (Gavi, 2021a., Gavi, 2021b., Gavi, 2021c., Buwembos, J. 2021, Reliefweb, 2021a., Reliefweb, 2021b.).

In Uganda, multiple donations have been received from foreign countries. Through bilateral relations (Gavi, 2021a., Buwembos, J. 2021, Reliefweb, 2021a., Reliefweb, 2021b., The Independent. 2021, UNICEF 2021). Under the ministry of health, the Government of Uganda has received over 1.7 million doses from various countries under the COVAX Facility (Gavi, 2021a., Buwembos, J. 2021, Reliefweb, 2021a., Reliefweb, 2021b., The Independent. 2021, UNICEF 2021). These doses have already been rolled out on a national plan targeting over four million people starting with essential

individuals. According to Richman (Richman D. D. 2021), countries focus on vaccines with high efficacy in dealing with the virus following an outbreak of another unsuspecting variant. However, these are not the final packages because the facility expects to provide more packages, while efforts to procure additional doses have been promised (Richman D. D. 2021).

The efforts of South Africa rolling out a large-scale vaccination program were curtailed by the low efficacy levels of the Oxford-AstraZeneca vaccine against the deadly variant of COVID-19 found in the country. Although South Africa received over one million doses from the UK drugmaker, it was sold to the African Union with the prospect of distributing it to other countries that were yet to encounter the new variant. The South African Government received 80,000 Johnson & Johnson vaccine doses from the US. The Government of South Africa had received approximately 8million or even more vaccines, given that over 7.7million are fully vaccinated by the end of October 2021. About 15million people (Table 3) had received their first vaccine shot (Gavi, 2021c., U.S. Embassy Pretoria press team. 2021) by the end of the same period.

The situation in other African countries is similar as many wait for donations from COVAX, foreign governments, and the African Union. Samarasekera (Samarasekera U. 2021) noted that variation in the willingness to receive the COVID-19 vaccine among African countries is a challenge that must be addressed too. There remain skeptical individuals about the vaccine's effect, affecting plans to acquire vaccines. Due to past vaccination experiences in Africa, the continent is ready to ensure sustainable vaccine uptake to lower household effects caused by the pandemic (Afolabi, A. A., & Ilesanmi, O. S. 2021). The challenge of procuring vaccines by African countries underscores efforts to fight the pandemic without the help of donations and facilitation from international organizations and other development partners.

Challenges of COVID-19 Vaccine Diplomacy: Uganda, Ghana, and South Africa

The success in eradicating COVID-19 lies in accessing vaccines equally by all countries globally alike (Khan MI, et al. 2021). It is challenging to fund vaccine development programs because of the costs involved in administration and revenue generation. In the process of producing and distributing COVID-19 vaccines, it is a daunting experience in mass drug development because finding financial support requires a collective approach (Wouters, O. J., et al. 2021, Wouters, O.J., et al. 2021, Khan MI, 2021). The situation has come when the pandemic has caused economic crises in every country, increasing financial pressure. In resource-constrained countries, diverting healthcare budgets from other programs to cover vaccine development can have long-term adverse effects on the health care setting. Manufacturing a vaccine is a lengthy and complex process with challenges in producing medicines when resources are channeled to deal with current issues (El Bagoury, M., et al. 2021). It is problematic if all aspects of healthcare are shifted to addressing COVID-19 and leaving other matters outside. Therefore, funding is a challenge that threatens the stability of the healthcare system globally. It is demonstrated in Table 4 for the countries in the case study.

Table 4. *Comparison of countries in the Case Study*

Country	Doses	Administered	Vaccinated	Percentage	Population	GDP	HDI	GINI
Uganda	1.725.280	1.436.264	367.000	0,8%	42 M	46,4 B	0,544	42,0
Ghana	3.029.220	1.270.000	406.000	0,13 %	30 M	73,6 B	0,611	43,5
South Africa	3.200.000	15.700.000	7.730.000	13,2 %	60 M	419 B	0,709	63,0

The affordability of the vaccine is a challenge that should be addressed to ensure equitability in accessing COVID-19 drugs. Due to the enormous investment in vaccines, it is expensive for economically constrained countries to compete with wealthy nations. According to Wouters et al. [9], the income disparity in many countries poses a threat to acquiring vaccines because companies charge no relative to the income levels. The questions about the affordability of the vaccines make it challenging for wealthy countries to lend a hand while ensuring that prices are not hiked. In distributing the vaccine, the obstacle of receiving more than one dose is a concern many countries are likely to encounter in terms of logistics as travel restrictions continue to pose a challenge (Wang, J., 2020). The prospect of having vaccine roll-out programs to help countries in need presents the best solution to concerns about production and distribution. Hence, COVID-19 remains a challenge as countries seek vaccines to ensure accessibility at all national levels. This is long overdue given Omicron (B.1.1.529): SARS-CoV-2 Variant and the developing nations' low vaccination levels.

The African nations have not shown any efforts towards purchasing the scarce vaccines, and this is also evidenced by relying on vaccination donation ceteris paribus. The other challenge is the production and availability, whereby the cost of production is also very high, affecting the supply chain due to limited production versus high demand across the globe.

Opportunities of COVID-19 Vaccine Diplomacy: Uganda, Ghana, and South Africa

Relying on foreign aid for COVID-19 vaccine donation is one enormous problem for the African continent (Mahase, E. 2021). The current vaccination process has been largely achieved with the WHO's COVAX initiative to help countries access the vaccine. However, this is both a challenge and an opportunity. There is a problem with access to the vaccines; however, through the COVAX system, developing countries could access some vaccines (Gavi, 2021a., Gavi, 2021b., Gavi, 2021c., Buwembos, J. 2021, Reliefweb, 2021a., Reliefweb, 2021b., The Independent. 2021, UNICEF 2021). This gives hope as some older adults and adults have been vaccinated through these donations, including health workers.

Different governments have collaborated on developing a vaccine and distributing them in many of the ongoing discoveries. In a report by El Bagoury et al. (2021), healthcare professionals from different countries such as Germany, China, the UK, the

USA, and many others had collaborated on the current vaccines, making them more efficient in building the immune system to fight the virus. Through approaches that focus on resource utilization fostering mass production of vaccines from different manufacturers. Creating an international initiative to distribute vaccines without restrictions is an opportunity.

The WHO started the COVAX initiative to help countries access the vaccine, which has provided opportunities for easing distribution. Companies seeking to build global trust are keeping prices low to ensure affordability, and this is an opportunity for many countries to acquire large doses of the vaccine (Burki, T. 2021). In this case, keeping the costs low allows wealthy countries to donate excess vaccines to developing countries. Herzog et al. (Herzog, L. M., et al. 2021) posited that ensuring efficient vaccine distribution can reduce mortality rates in the healthcare sector. Opportunities should be explored to ensure that production and distribution remain cost-effective to allow economically affected countries to access the same vaccines. Thus, the vaccination process has created opportunities for equitability among countries in the scramble for vaccines.

Towards a Practical Solution

The idea that poor nations are disadvantaged in COVID-19 vaccine diplomacy must be critically thought through. Small and developing countries in the Caribbean, Pacific, Asia and Africa are essential to the international community with similar social, economic, cultural, political, and environmental aspirations as more prominent and wealthy countries. Roughly about two-thirds of the member states of the United Nations come under this category, which is a more significant amount. Needless to mention that these smaller and developing countries aim to promote the security, economics, and overall well being of their citizens. They use the same diplomatic methods as larger and wealthy nations.

This article suggests that COVID-19 is an opportunity for the countries in the Global South to strengthen their diplomatic skills and establish more substantial diplomatic processes to negotiate. In Africa, no country is poor. They are rich with resources; therefore, negotiating well is needed. In a global context, the wealthy and powerful nations cannot survive without the resources from the Global South. This is considerable power and opportunity.

Second, the countries in the Global South have to strengthen their public health policies and practices based on the Alma Ata Declaration (1979). As COVID-19 is a public health crisis, which many countries in Europe and North America ignore, this is an opportunity for the countries in the Global South.

Third, the most significant opportunity is that Africa, Asia, and Latin America should consider creating alliances and coalitions. This can be like the Non-Aligned Movement during the Cold War period. That way, they can negotiate better trade and COVID-19 vaccine programs in their countries.

Politics of COVID-19 Pandemic

The COVID-19 has created a global pandemic, facilitating social, political, economic, cultural, and environmental disruptions unlike anything experienced

for roughly a century. Compared to many other infectious diseases, such as Tuberculosis, Avian Influenza, and Ebola, COVID -19 is less lethal. Our daily behaviors have not been affected but also had to change to the advice of experts and politicians' rules (Alyanak, O., 2020, Callaway, E. 2020, Fancourt, D., et al. 2020, Greer, S.L., et al. 2020, Mukhtar, S., 2021). However, the COVID -19 has spread rapidly due to global transport networks. It has become very clear that although health experts should deal with this disease, politics have taken over the science and expert knowledge (Fancourt, D., et al. Mukhtar, S., 2021, Hale, T. 2020). Over the year 2020 and most of 2021, the global experience has shown that low-income countries are more vulnerable to the impacts of the pandemic and the nationalization and politics of the vaccines (Lipscy, P.Y., 2020, Dearden, N. 2021, Sabahelzain, M.M.,et a. 2021). The COVID-19 has increased inequalities between countries. The high-income nations have created a situation where it was predicted that nearly 70 lower-income countries would be able to vaccinate only one in ten people (Lipscy, P.Y., 2020, da Fonseca, E.M., et al. 2021, Sabahelzain, M.M., et al., 2021, Mwai, P. 2021, Cohen, R. 2021). According to Cohen (2021), various European and North American nations have stocked vaccinations more than their populations over the past year. What does this mean for the low-income countries regarding production, affordability, allocation, and deployment? While there are no direct answers to this question, the authors of this article want to examine the challenges and opportunities the COVID-19 pandemic has created, especially for low-income countries. Moreover, low-income countries do not have the technology and resources to produce their own vaccinations. To make the matter worse, most high-income countries signed contracts with production companies, which meant that they would receive all the benefits of the vaccine production before any low-income country could access them (Lipscy, P.Y., 2020, da Fonseca, E.M., et al. 2021, Sabahelzain, M.M., et al. 2021). This is the lack of economic accessibility, and the necessities and circumstances of vaccination distribution needs to be analyzed from a political perspective. Because in this condition high-income countries have already started to use the pandemic and vaccine for their political gain by using financial packages, vaccines, and other aid mechanisms to gain political allies by monopolizing developing nations' health and economic vulnerabilities seen over the past 12 months (Lipscy, P.Y., 2020, da Fonseca, E.M., et al. 2021, Sabahelzain, M.M., et al. 2021). However, this article argues that the deadly threat of COVID-19 has created new opportunities for low-income countries to build new horizontal collaborations and establish innovative actions on the global political stage for health emergencies.

Health Diplomacy

The term of diplomacy correlates with the prospect of countries sharing mutual understanding on specific entities. Brown (Brown, S. 2001) defined diplomacy as art used in obtaining agreements among countries with the potential of cooperating to produce results in which they have shared interests. Diplomacy is considered a solution to war, conflict, and failure to reach a consensus lead to war. Brown (2001) claimed that diplomacy could be served in non-adversarial interaction situations to gain the best results in a shared project. Although diplomacy condones violence during bargaining, it involves additive and coercive approaches, with the target being to influence decision-making by another participating party. This comes with benefits and costs in discussed arrangements

to ensure that each participating country obtains results (Brown, S. 2001). Modern diplomacy uses dialogue, negotiations, and other non-violent methods to influence foreign governments' decisions and actions. According to Freeman (2020), diplomacy aims to support the nation or organization it serves to promote interests without risking using force and instead without offending countries. However, Freeman (2020) argues that diplomacy may use intimidating tactics of social, and economical, or other retaliatory tactics against another nation.

Diplomacy is a political process by which political entities conduct official relations in an international environment (Hart, D., & Siniver, A. 2020). This definition considers the changing environment in which different situations force state players to review the causes and radical changes. For instance, the rise in terrorism and other activities serves as reasons for diplomacy's importance in avoiding violence. It remains certain for better political, economic, and social output, and countries must find common ground to benefit from shared activities (Hart, D., & Siniver, A. 2020). These changes to the typology of diplomacy remain significant to necessitating all countries' mutual inclusion in finding solutions towards global pandemic health issues. Therefore, health diplomacy is defined from a global perspective to understand its role in ensuring safety and compliance for the world by the World Health Organization (WHO) (Cohen, R. 2021): "Global health diplomacy focuses on those health issues that need the cooperation of many countries to address issues of common concern, but health diplomacy can also play a central role at the regional, bilateral and national level." As globalization and geopolitical shifts continue to create new dimensions of the links between health and security, global public health has focused on diseases, care, prevention and research and monitoring in recent decades. It is stated by WHO that all countries, regardless of income or level of development, face systemic risks, such as disease outbreaks, with the potential for very significant impact on health, tourism, trade, exports and international relations.

COVID-19 Vaccination Diplomacy

While the world continues to struggle with the ongoing impacts of the Pandemic, COVID-19 vaccinations have become the only methods to establish normalcy and recovery. In many ways, producing and distributing vaccines create an opportunity for high-income nations to develop soft power within the global system. In this, COVID-19 vaccines are emerging as a public diplomacy tool to compete to establish influence through donations or loans (Lee S. T. 2021). According to Jennings (Jennings, M. 2021), vaccine diplomacy has also engaged in efforts to undermine trust regarding the purpose and effectiveness of rival nations.

The development of a COVID-19 vaccine presents vulnerable countries with an opportunity to recover from the high infection rates. When a vaccine was absent, countries were less involved in diplomatic affairs, making it challenging to build relationships. However, with over two million deaths and one hundred million people affected worldwide, it is expected that interest in the distribution of COVID-19 vaccines will focus on diplomatic interests. Balasubramanian (Balasubramanian, S. 2021) claimed that poorer countries are at a disadvantage because they cannot develop their vaccines, and acquiring purchasing rights may be difficult, thus pushing them to focus on diplomacy. Countries

like India and China have undertaken diplomatic means to help low income economies with vaccine roll-outs since it is one of the world's leading drug makers. For example, the Government of India has received requests for its manufactured vaccine from partner states and neighbors, making it a leading country in vaccine donations (Balasubramanian, S. 2021). In such cases, having a cordial relationship with another country proves significant in acquiring the vaccine on goodwill terms. Hence, diplomatic affairs between countries remain essential in the struggle to ensure COVID-19 vaccination (Balasubramanian, S. 2021).

The role of coalitions and alliances manifests during COVID-19 vaccines as a sign of diplomacy. In countries where vaccinations started due to manufacturing abilities, sharing vaccines with fellow members has become essential. The number of global infections is reducing due to mass vaccination due to the promising strategy between countries sharing the vaccine. In weak diplomatic relationships, governments focus on national vaccination before sharing their vaccines. The delay in helping low-income countries by the high-income nations has left many allies questioning their intentions for low income economies' life emergencies (Mwai, P. 2021, Cohen, R. 2021).

Conclusion

The COVID-19 pandemic has presented many challenges to poor and small nations across the globe. However, in this article, the key argument is that opportunities came with this pandemic. The key opportunity is for the poor and small nations to re-think their engagement strategies with wealthy and powerful nations. Examining the case of vaccine diplomacy, it is evident that educating future diplomats and strengthening diplomatic approaches are vital in negotiations, especially between poor and wealthy nations. Keeping in line with the modern diplomatic approaches of dialogue, negotiations, and other non-violent methods, small and developing countries can demand what they need from wealthy and powerful nations.

This article observed that even though some African countries, among other developing nations, would have been able to afford the COVID-19 vaccines, there were still hardships with access to the suppliers and or producers. Some wealthy countries have been able to vaccinate up to 70% of their populations, whereas Africa could not vaccinate more than 5% of its people (Lipscy, P.Y., 2020, da Fonseca, E.M., et al. 2021, Dearden, N. 2021, Sabahelzain, M.M., 2021, Euronews. 2021, UNAIDS, 2021). Dearden (2021) referred to this kind of vaccine inequality as an "apartheid", he calls on global leaders to negotiate fairer distribution with the Global South (Dearden, N. 2021). The authors agree with Dearden’s (2021) conclusions as similar conclusions can be drawn through the examination within this article.

This article also recommends that developing nations strengthen their diplomatic skills and relations to achieve their people's best trade and social needs. Secondly, the governments in the Global South must improve their health systems to mitigate any pandemic of such magnitude.

Instead of pointing at high-income countries, this article attempts to suggest some practical solutions to low-income countries to deal with the current pandemic and future crises. Of course, as the WHO Director-General (WHO 2021) mentioned, low-income countries have become second and third priorities in the vaccination process. According to the UDHR (United Nations, 1948), Article 1, all human beings are born free and equal

in dignity and rights. However, some countries are more equal in rights than other countries. In a divided world, low-income countries must take responsibility for their destinies. This needs alliance-building and collaborating with like-minded nations across the globe. Of course, as an idea, this may be a possibility; however, in practice, there are many social, political, and economic challenges. A famous African proverb says, "*if you want to go fast, go it alone. If you want to go long, go with others*". We see this situation with the Omicron (B.1.1.529): SARS-CoV-2 Variant given the developing nations' low vaccination levels and the dangers it presents globally.

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The authors of this paper certify that they have NO affiliations with or involvement in any organization or entity with any financial or non-financial interest (such as honoraria; educational grants; membership, employment; affiliations, knowledge or beliefs) in the subject matter or materials discussed in this manuscript.