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THE ETHICAL-JURIDICAL HORIZON IN THE ERA OF ARTIFICIAL INTELLIGENCE

ABSTRACT

The digital world is more rapidly expanding and the progress of artificial intelligence, in every field of knowledge, increasingly constitutes hope for the benefits it could bring to humanity; but at the same time there is a need for ethical-legal regulation that can allow correct use and positive fruition inspired by the protection of the dignity of the person and own fundamental rights.

KEYWORDS: *artificial intelligence, person, human rights, ethical responsibility*

The Fourth Industrial Revolution, a concept introduced by the European initiative 4.0 on the row of the German Government project *Zukunftsprojekt Industrie 4.0* [1], is increasingly characterizing an innovative techno-scientific framework that intersects the following elements: *Big Data* (availability and access to the *Cloud*) , Artificial Intelligence, interconnection of things (Internet of Things) and Robotics. A new robotic era is increasingly emerging which, as Carrozza claims, coming out the factories and starts to inhabit other places: the entire human body, the underwater world, the space. It is the era of robots that live in the middle us, they help us, they connect us and sometimes they replace us[2], dangerously calling into question the concepts of identity, otherness and freedom of the person himself [3].

The advantages of artificial intelligence are not questioned, what must be decisively rejected is its misuse or abuse without any ethical limit, without any legal limit. This is the pressing ethicaljuridical problem to be addressed in the era of the digital revolution [4].

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[1] Henning Kagermann, Wolf – Dieter Lukas, Wolgang Wahlster report at the Hannover Messe 2011, and later published as *Industrie 4.0: Mit dem Internet der Dinge auf dem Weg zur 4. Industriellen Revolution ,* in «VDI – Nachtrichten» 13 (2011).

[2] See M. C. Carrozza , *I Robot e noi ,* Il Mulino, Bologna 2017. See on this topic A. Fabris , *Lorizzonte umano nell'epoca della rivoluzione digitale,* in E.De Bellis , *La natura e l'umano. Quale rapporto?,* Annali del Centro Studi Filosofici di Gallarate, 2021 I (1-2), pp.53-61, Roma 2021; cfr. J.Kaplan, *Intelligenza artificale. Guida al futuro prossimo,* Luiss University Press, Roma 2018.

[3] For an in-depth analysis of the identity-otherness theme, see M.Centrone , *Dall'identità all'alterità: un percorso possibile,* Cacucci, Bari 2023.

[4] See M. S. Cataleta, *Diritti umani e algoritmi. Dal regolamento UE sulla protezione dei diritti alla proposta di Regolamento UE sull'intelligenza artificiale,* Nuova Editrice Universitaria, Roma 2021.

It should be noted that studies on artificial intelligence are multiplying in international organizations and other institutions (think for example of degree courses in universities) [5]. In all these documents the common thread is the fact that artificial intelligence can be very useful for humanity and to respond to the challenges that complex society continually poses, but as long as its use is regulated and oriented ethically and legally. and that man remains the main actor responsible for his actions to avoid risks that could compromise his own identity and harm his dignity.

Kantianly considering humanity, both in one's own person and in that of others, always also as an end and never as a simple means is a prescription that has meaning and value only if the human being must remain the terminal of every action and cannot become the through a being that is other than the same human being.

Tommaso Campanella maintained that man's destiny is that *to think*. Pascal spoke of man as a *thinking reed* to indicate his fragility but at the same time his greatness consisting in the ability to think which is exclusively man's. Perhaps never before have these warnings been so shockingly relevant today. We must commit ourselves to the ability to carry out this important exercise of thinking to continue to be subjects, morally responsible, equipped with the discernment between the good to do and the evil to avoid, in the awareness that not *everything that is technically possible, ipso facto is morally lawful*, to at the same time guarantee future generations the same opportunities of choice that we have enjoyed and prevent homo *sapiens* from transforming himself into *homo materia* to be disposed of at will, thus overcoming the increasingly looming threat of our time: the denial of the human being by the excess of artifice.

Totaro writes: «If the recognition of the right to be and the right not to be is valid for the human, on this basis of ontological dignity one can support

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[5] Among the countless international documents developed recently we can mention *The New Guidelines on data protection and «artificial intelligence» (Council of Europe 2019); the revolution on the «comprehensive European industrial policy on robotics and artificial intelligence» (EU Parliament-2019); "a recommendation on artificial intelligence to stimulate innovation* (OECD-2019); the *White Paper on Artificial Intelligence» (EU Commission2020); the Recommendation on the "Ethics of Artificial Intelligence* (UNESCO-2020); the recommendation on the *impact of algorithmic systems on human rights* (Council of Europe-2020), on 21 April 2021 the EU Commission published a proposal for a regulation on artificial intelligence.

an *ethical normativeness order* that counteracts the omnipotence of artifice and its destructive involutions.»[6].

Micheal Foucault had spoken of the human – empirical-transcendental *allotrope* – as a face drawn in the sand that can be erased by the inrushing wave [7].

When we talk about the responsibility of thinking it is necessary to point out that this belongs only and exclusively to man. Human intelligence is an opening of possibilities, it is divergent thinking, in Guilford's words it is a place of creativity, of a critical spirit, of original innovative choices. Unlike the machine, the human being can change the rules he is following, he can modify them, create others. The machine, even one equipped with AI, cannot do all this. To work it needs to follow a procedure and be programmed by a single thought.

There is a need for a thought that affirms guiding principles that allow man to live, think, do and act with others in ways that avoid self-destruction. Orientation, Kant reminds us, means distinguishing and seeking the East both in the proper sense, in reference to the cardinal points of terrestrial space, and in a translated sense, that is referring to what reason postulates as truth. [8]. It is necessary in the era of the artificial intelligence revolution to monitor with ethical responsibility the use that man himself must make to ensure that it brings benefits and avoids risks that can cause damage to humanity itself. «The main danger of artificial intelligence is undoubtedly represented by the possibility that people too quickly come to the conclusion that they have understood it» [9]. For this reason it is appropriate that all disciplinary knowledge takes advantage of the interconnection and gives its contribution

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[6] F.Totaro , *Natura, artificialità e relativismo etico*, in M.Signore (ed.), *Natura e etica* , PensaMultimedia , Lecce, 2010, p.115; See also M. Signore ,. *Lo sguardo della responsabilità. Politica, economia ed etica per un antropocentrismo relazionale,* Studium, Roma 2006.

[7] See M.Foucault , *Les mot and les choses* , Éditions Gallimard, Paris 1966; tr.it.di EAPanaitescu , , *Le parole e le cose. Un'archeologia delle scienze umane*, Rizzoli, Segrate 2016.

[8] See I. Kant , *Was heisst im denken will we orient ourselves* ? (1786) in *Kants Werke . Akademie texstausgabe* , Abran Slungen after 1781, Band VIII dé Gryter , Berlin 1968, pp. 13-148; tr . it . by M.Giorgiantonio , *Che cosa significa orientarsi nel pensare,*R.Carabba Editore, Lanciano 1990, pp.47-70.

[9] E.Yudkowsky , *L'Intelligenza artificiale al servizio del cittadino*, «AGID-Task Force IA» (2019) p.20.

for a use, regulated legally as well as ethically, which has positive repercussions both for safety and for the common good. [10].

It is to be believed that the human species certainly has a future entirely to be discovered and that its current condition is absolutely temporary. [11].

The theme of the human is certainly in transition [12], but this should not frighten us if only human intelligence is committed to orienting it with responsibility for the truth and the good of *humanity.* All themes, the latter, which find an echo in the thoughts of Teilhard de Chardin: *Perhaps we thought that the human species, already mature, had reached its maximum altitude. And here it reveals itself to us, so to speak, still in its embryonic state. In addition to the human we know, our scientific knowledge now extends to a deep, although still dark, area of the " Ultrahuman* , covering hundreds of thousands of (and more probably millions of) years [13]. „ N. Bostrom also seems to reiterate that the current form of the human species is only a transitory stage, so much so that he states that «human nature is a work in progress, a project begun but not completed that we can learn to reshape in desirable directions. It is not certain that today's humanity should be the final point of evolution (…). We will ultimately become post-humans, beings with capacities enormously superior to those of today's humans [14]. „ Rediscovering the ethical category of the limit of the human condition means preserving and guarding the human being as *homo imago dei,* and not as *homo deus,* as a creative man without any limit, legitimized to operate demiurgically on nature and on the human being himself. We must question ourselves about the meaning of care and respect for life, in the face of possible apocalyptic scenarios due to an immoderate use of artificial intelligence which develops the productive and technological dimension above all else, so much so that *homo faber* Promeitically he dreams of

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[10] For an in-depth analysis of the topic of AI from an interdisciplinary perspective, see G.Chimirri, *Intelligenza artificiale. Etica delle macchine pensanti*, Asterios , Triente 2021.

[11] See A.Schiavone , *Storia e destino*, Einaudi, Torino 2007, p.40..

[12] See FM-2030, *Are you a Transhuman ? Monitoring and Stimulating your Personal Rate of Growth in a Rapidly Changing World* , Warner Books, New York 1989.

[13] P.Teilhard de Chardin, *L'avvenire dell'uomo*, in R.Campa , *Credere nel futuro. Il lato mistico del transumanesimo,,* Orbia Idearum Press, Krakow 2019, p.22.

[14] N. Bostrom , *Transhumanist Values* , «Journal of Philosophical Research », 30 (2005), pp.3-14.

being able to produce everything he needs, forgetful of the constitutive limits of his being and his existence, as Hanna Arendt argues well in *Vita Activa* [15].

It is necessary and proper, therefore, that *AI systems conform to an anthropocentric approach, for the benefit of the community* [16].

Hans Jonas, in *The Responsibility Principle* , is peremptory in this sense: «Act in such a way that the consequences of your action are compatible with the permanence of authentic human life on earth» [17].

The right of the individual to decide the use and methods of use of AI on himself and in his activities must be the subject of ethical-legal regulation both for the protection of subjective rights and for the protection of the common good of the community.

It can be said that the Universal Declaration of Human Rights still expresses the best ethical-legal reflection on which to base potential international agreements on AI in which the ethical dimension must prevail as a constant in every phase of the AI regulation chain [18].

Faced with an aggravated situation caused by the sudden development of the digital world, AI and robotics, an ethical imperative that protects the dignity of the person and his very existence becomes urgent, because a world without humanity would be devoid of beings who have the capacity of responsible autonomy. For this reason, that spiritual and ethical responsibility which ensures that the possibility of responsibility itself remains with the existence of the human being belongs to man and only to man.

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[15] See H.Arendt , *The human condition* , University of Chicago Press, Chicago 1958, p.274 ff ; tr . it . by S. Finzi, *Vita Activa . La condizione umana,,* in tr . by A.Dal Lago, Bompiani, Milano 1991, p.230.

[16] See *Ethical and Legal Statute of AI,* «The Civilization of Machines», November 2019, p.4

[17] C fr. H.Jonas , *Il principio responsabilità, Un'etica per la civiltà tecnologica,,* tr.it. by P. Rinaudo, Einaudi, Turin 1990. p.16.

[18] See the Universal Declaration of Human Rights, especially articles 1,12,19 and cf. also the ethical charter on the use of AI in judicial systems approved in the context of the Council of Europe by the *European Commission for the Science of Justice* (CE-PEJ) in December 2018, which outlines the risks and opportunities that l AI presents itself to contemporary society and defines the ethical principles to which research and use must be adapted.

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