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## An overview of the North Macedonian Non-discrimination Law

Mirjana Ristovska\*

Faculty of Law, University “St.Kliment Ohridski” – Bitola,  
“Partizanska” bb, 7000 Bitola, Republic of North Macedonia  
mirjana.ristovska@uklo.edu.mk

Natasha Trajkova Najdovska

Faculty of Economics, University “St.Kliment Ohridski” – Bitola,  
“Prilepski Braniteli” 143, 7500 Prilep, Republic of North Macedonia  
natasha.trajkova@uklo.edu.mk

### Abstract

**Research Question (RQ):** The research question is whether the legislation alone is a *conditio sine qua non* for preventing discrimination in a society? Is North Macedonian Law aligned respectably with European standards in the field of prevention and protection against discrimination? Is there an effective and efficient application of non-discrimination legislation in practice? Is it necessary to supplement and amend this legislation in the direction of improving the protection of basic human rights and freedoms in North Macedonian society and in which trend?

**Purpose:** This paper aims to assess the North Macedonian non-discriminatory legislation, examine citizens' perceptions on discrimination-related matters, and identify potential measures that could be taken in order to prevent discrimination.

**Method:** For the purposes of this paper, several methods will be applied: method of normative analysis, empirical research, using survey data from 316 citizens, method of comparison, method of analogy, and case law method.

**Results:** The results indicate that legislation alone is not condition *sine qua non* to eliminate the discrimination within the society. Although, the Republic of North Macedonia has legal regulations that comply with European standards, the respondents' perception is that discrimination is present in our society, and it is most prevalent in the field of labour relations. Considering the low awareness of discrimination in the society, respondents are not sufficiently familiar with the legal means available to them and do not trust the institutions. The normative analysis indicates that it is necessary to amend the Law, especially in the direction of greater efficiency of the misdemeanour procedure conducted by the Commission for Prevention and Protection against Discrimination.

**Organization:** The results obtained from the conducted research indicate that competent institutions and organizations are not efficient and proactive enough in preventing discrimination in individual sectors. The respondent's perception particularly pertains to the Commission for Prevention and Protection against Discrimination.

**Society:** The respondents' perception is that North Macedonian society faces discrimination in all sectors (employment and labour relations, education, science, sports, social security, including the area of social protection, pension, disability insurance, health insurance, health care, justice and administration, housing, public information and media, access to goods and services, membership and activity in political parties, associations, foundations, trade unions, or other membership-based organizations, culture) and that an efficient mechanism is needed to minimize the number of cases of discrimination and to implement efficient procedures in which responsibility will be individualized.

\* Korespondenčni avtor / Correspondence author

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**Originality:** The research presents new and original data related to empirical research and recommendations related to the new North Macedonian non-discrimination legislation, appropriate for future comparison.

**Limitations / further research:** Many people in North Macedonia still do not fully understand the various forms of discrimination, nor they are able to recognize it in everyday interactions, suggesting low awareness of it on a societal level. In addition, the research was conducted using an online survey, so as limiting factors we would mention all the weaknesses of this type of research, compared to the survey in person. A limiting factor is the fact that there are not enough cases related to the new Law, so in the future, the focus should be put on the judicial practice and the Commission's practice related to discrimination.

**Keywords:** commission, discrimination, equality, human rights, law, non-discrimination, survey.

## 1 INTRODUCTION

The Republic of North Macedonia is a sovereign, independent, democratic and social state, with a Constitution adopted on November 17, 1991, following a referendum on independence and separation from the Yugoslav federation on September 8, 1991. The Republic of North Macedonia is a unitary republic that places a high value on social equality, freedom, the rule of law, and human rights for all citizens, regardless on their ethnicity. The political system is based on the separation of powers into three branches: legislative, executive, and judicial. It operates as a parliamentary democracy, with the president serving as the head of the state both domestically and internationally. North Macedonia is a diverse society with multiple ethnic groups and religions, including Macedonians, Albanians, Turks, Serbs, Vlachs, Roma, Orthodox Christians, Muslims, Catholics, and others. The Republic of North Macedonia is an EU candidate country since 2005.

The North Macedonian legal system places significant emphasizes on the principle of equality and the principal of non-discrimination, as fundamental mechanisms for protecting individuals from discrimination and unequal treatment in the exercises of their rights and freedoms. The new Law on Prevention and Protection against Discrimination (hereinafter: LPPD) was adopted on October 27, 2020, and entered into force on October 30, 2020, after the signing of the Decree by the President (Official Gazette, No.258/2020). The new LPPD is a fundamental, *lex generalis* act against discrimination, but also it is a *lex specialis* act to other acts that govern the protection against discrimination, which implies that they must be substantially harmonized with its text. The new LPPD has replaced the previous LPPD from 2010 (Official Gazette, No.50/2010), which was practically the first non-discrimination Law adopted after the North Macedonian independence.

In the North Macedonian legal system, there are four independent mechanisms that are designed to protect human rights and freedoms against discrimination: a) Submitting a request for the protection of rights and freedoms due to discrimination to the Constitutional Court; (Article 51 of the Rules of Procedure of the Constitutional Court of the); b) Submitting a petition for the protection of the constitutional and legal rights and freedoms to the Public Attorney; (Article

13 of the Law on the Public Attorney); c) Submitting an application about suffered discrimination to the Commission for Prevention and Protection against Discrimination; (Article 23 of the Law on Prevention and Protection against Discrimination); and d) Submitting an application for violation of the rights recognized by the ECHR to the ECtHR (Article 25 of the Law on the Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms, The First Protocol, Protocol No. 4, Protocol No. 6, Protocol No. 7 and Protocol No. 11).

According to the EU Commission Progress Report 2022, the North Macedonia has a numerous logistical and financial challenges regarding the non-discrimination issues (North Macedonia Report 2022, p. 31). The Report generally indicates that the legal framework on the protection of fundamental rights is largely in line with European standards. The Report emphasizes that “there has been criticism concerning the lack of independence of the Commission for Prevention and Protection against Discrimination” and that “the Ombudsman’s Office and the Commission for the Prevention and Protection against Discrimination still need to establish regular and effective coordination in order to ensure that the non-discrimination principle is properly addressed” (North Macedonia Report 2022, p. 32). Additionally, the Report also states that “there should be a systematic practice of collecting data on hate speech and a more proactive and holistic approach in addressing hate speech and hate crime is needed” (North Macedonia Report 2022, p. 32). In summary, the EU Commission suggests that despite progress in the legal framework, there are practical challenges that need to be addressed in order to ensure effective implementation of non-discrimination measures and protection of fundamental rights in North Macedonian society.

The paper has a two-fold purpose. Firstly, it aims to analyse the non-discrimination legal framework in North Macedonia. Secondly, it seeks to evaluate the effectiveness and efficiency of North Macedonian institutions in cases related to protection against discrimination, through the citizens’ perception. This research is intended to contribute to the efficient reform of the legal system and the evolutionary development of a non-discrimination judiciary. This research falls within the field of human rights law.

## **2 THEORETICAL FRAMEWORK**

Throughout the history, the prohibition of discrimination, the principle of equality, and the principle of non-discrimination have sparked thought-provoking discussions, within social communities, that continue to this day. While, these terms are often considered as synonymous, each has its unique characteristics and specifics. Nonetheless, their shared attribute is their vital connection to the exercises of human rights and freedoms.

Discrimination (Latin: *discriminare*), in its broadest sense, may be defined as the treatment of one person less favourably compared to other persons, based on their characteristics. In the 1980s the term discrimination acquired an unambiguously negative meaning. It conjures up the

image of racial and/or sexual prejudice. Strictly speaking, however, the term is neutral in the application. Discriminatory behaviour may have consequences that are benign, malevolent, or innocuous (Becker, Sowell, Vonnegut, Jr., 1982, p. 6). According to Sowell (2018, p. 21), discrimination can be conceptualized in two distinct ways: a broader meaning and a narrower meaning. In its broader sense, discrimination refers to the capacity to differentiate between people and things based on their unique characteristics and selecting accordingly (Discrimination I), which involves fact-based distinctions. The more commonly used meaning of discrimination, however, pertains to treating individuals unfairly or negatively due to an arbitrary basis or prejudices related to their race or gender, which is referred to as Discrimination II. This type of discrimination has resulted in the implementation of non-discrimination laws and policies. The principle of non-discrimination, as an integral part of the principle of equality, represents a mechanism for equal treatment of subjects and the absence of discriminatory behaviour towards them. By Besson (2005, p. 436) “the principle of non-discrimination prohibits discrimination as an intentional unjustified distinction of similar situations and prohibits, unintentional distinctions which result in an effect in a discrimination.” Castellino (2010, p. 40) considers that the fundamental basis of human rights law is the principle of non-discrimination, which asserts that every human being is entitled to human rights, regardless of personal characteristics such as gender, race, religion, ethnicity, nationality, descent, class, caste, membership of a minority or indigenous group, age or disability. The principle of non-discrimination also applies regardless of an individual's current personal or civil status or their particular circumstances.

The principle of equality, in general terms, may be defined as the equal treatment of human beings, regardless of their differences. As Solanke (2017, p. 160) explains “the principle of equality for all is a popular idea in modern democracies. Thus, there has in recent years been public support for the introduction of legal protection against discrimination for groups united, for example, by religious or political belief, sexual orientation, and age.” The principle of equality, in a legal context, encompasses a wider scope than the principle of non-discrimination.

Currently, discrimination is explicitly forbidden in both national and international frameworks. Meanwhile, the principles of equality and the principle of non-discrimination act as underlying foundations for national and international measures aimed at protecting human rights. Judge Tanaka, based on the court's reasoning in the advisory opinion on *Reservations to the Genocide Convention*, concluded that treaties do not create human rights, but rather declare them, as they exist independently of the will of the state. Furthermore, he observed that the principle of equality and non-discrimination were explicitly included in the list of human rights recognized by the legal systems of almost every country and had been incorporated into the constitutions of the majority of the world's civilized nations (Shelton, 2013, p. 195). The obligation of non-discrimination law places four distinct responsibilities on states, which include: (a) guarantee equality before the law, by ensuring that law enforcement authorities shall treat all people without discrimination; (b) guarantee the equal protection of the law, by removing any

discriminatory provision from applicable laws and regulations; (c) prohibit any discrimination in private relationships; and (d) guarantee to all persons equal and effective protection against discrimination, if necessary, by the adoption of positive action measures in response to situations of structural discrimination (De Schuter, 2010, p. 674).

In addition, this paper will also present decisions delivered by the North Macedonian Constitutional Court, the North Macedonian Public Attorney, the Commission for Prevention and Protection against Discrimination, and ECtHR regarding cases where discrimination has been proven in particular cases.

### **3 METHOD**

In general, the methodological framework is centred around the normative assessment of the non-discriminatory legislation in North Macedonia, including its alignment with European and international standards, with the focus on discrimination protection, i.e. the efficiency of legislation in protecting individuals against discrimination in practice, as well as the level of protection of basic human rights and freedoms in North Macedonian society. The mediating factor used to assess the legislation efficiency is citizen perceptions, attitudes, and awareness regarding discrimination-related matters in North Macedonia.

In general, the research adopted a mixed-methods approach, combining qualitative methods and statistical descriptive method to assess the relationship between legislation, discrimination, discrimination protection, human rights and freedoms, and perceptions on discrimination in North Macedonia. Data on legislation, discrimination prevention, discrimination protection, human rights and freedoms were collected through a thorough review of existing laws, policies, regulations, and relevant acts from North Macedonia and European standards, while the quantitative data on perceptions on discrimination were collected through structured survey administered online. A sample of 316 individuals from North Macedonian society participated in the study. However, main drawback is the online character of the questionnaire that was used in order to initially assess their awareness of discrimination. In addition, it should be mentioned that the sample was imbalanced in several categories, posing serious caution in drawing conclusions and generalization of the results. Finally, the sample size did not allow for multivariate analysis, hence, the descriptive statistical analysis is provided.

The main characteristics of the sample are summarized in the following Table.

Table 1. Sample Characteristics

Category	Category	Frequency	Ratio (%)
Gender	Female	213	67.4%
	Male	103	32.6%
Age (years)	Under 18	5	1.6
	19 – 30	176	55.7
	31 - 50	92	29.1
	Over 51	43	13.6
Education	Primary education	4	1.3
	Secondary education	101	32
	High education	187	59.2
	Graduate or master	17	5.4
	Doctor of philosophy	7	2.2
Ethnicity	Macedonian	254	80.4
	Albanian	20	6.3
	Turkish	13	4.1
	Roma	13	4.1
	Bosniak	3	0.9
	Vlahos	6	1.9
	Serbian	6	1.9

The data were analysed using descriptive statistical techniques and thematic analysis to identify patterns and themes related to perceptions on discrimination, and to generate qualitative evidence to support the research findings. The mediating role of perceptions on discrimination in the relationship between legislation and the discrimination protection helped in understanding the mechanisms through which legislation influences the outcomes related to discrimination.

Perceived discrimination is usually defined as a negative attitude, judgment, or unfair treatment toward the subject that is reporting the discrimination (Pascoe & Richman, 2009). The meaning



and measurement of perceived discrimination are debatable regarding the possible biases that can occur due to fact that it is perceived and reported by subjects without any verification of actual events. Perceptions of discriminatory treatment based on self-reporting are usually used in psychological studies or as a last resort in other fields. The latter is especially in cases of lack of data, which is our case. One of the most widely used measures for perceived discrimination is the Everyday Discrimination Scale (EDS) which has been developed by Williams et al. (1997). Originally, the EDS consisted of no questions on a 6-point Likert-type response format, which had to capture aspects of interpersonal perceived discrimination. Later modified versions of EDS have been developed, having different numbers of questions or response formats. Questions included in the EDS are daily experiences with unfair treatment such as being treated with less respect, being treated with less courtesy, being called names or insulted, and being threatened or harassed.

Drawing from the EDS survey this paper explored similar questions to assess the level and types of perceived individual discrimination by the respondents, as well as their awareness of the role of institutions and laws and their effectiveness. Furthermore, the effort was made to assess with the conducted online survey consisting of 17 items that asked participants to indicate whether they had experienced various forms of day-to-day mistreatment, and also whether they were informed and aware of any legal and institutional support. Main questions included: “Are you aware of the term discrimination?”, “Are you familiar with a concrete example of discrimination?”, “Have you ever felt discriminated?”, “In which sphere of everyday life have you felt discriminated?” and “Do you refer to some institution for help?”, “Were you satisfied with the help provided?” The responses were kept simple, as Yes, No and Do not know.

Education was used as a marker of socioeconomic status rather than income, because of potential misreporting of the income. The background characteristics of the respondents varied. With most of the respondents belonging to the age group of between 31 and 50 years and satisfactory representation of the main ethnical groups, the survey led to several main indicative implications. Statistical descriptive analysis was conducted concerning the main forms of discrimination given in the literature, with graphs being accompanied by appropriate tables with the 95% level of confidence and standard error indicator. The results of the conducted analysis are not conclusive, due to sample limitations mentioned above, but they are indicative of the general societal sensitivity to the issue of discrimination.

The methodological framework is depicted in the Figure below.



Figure 1. Methodological framework

Some study limitations should be noted at this instance. Because the issue of discrimination is relatively novel in North Macedonia, not only in terms of its scientific analysis but also in terms of its recognition and treatment in real life and legal framework, this study made an effort to discuss mainly the legal aspects as well as to make an initial assessment of the perception of discrimination in North Macedonia. The main limitation of the conducted analysis is the fact that the questionnaire was conducted online, hence not a completely random sample and cannot be considered representative of the whole population. Hence, the results could be taken only as illustrative and descriptive. 316 respondents in total responded to the online survey. The weakness of the sample and data did not allow for econometric modelling, but only for

indicative descriptive analysis. Additionally, the self-assessment surveys are prone to self-reporting bias when the respondents are prone to respond following the expectations of the questionnaire.

## 4 RESULTS AND DISCUSSION

The North Macedonian Constitution includes the three aforementioned terms - the prohibition of discrimination, the principle of equality, and the principle of non-discrimination – within the different context, but with the same objective of upholding the human rights and freedoms. The Article 9 of the Constitution defines the principle of equality by stating that: “Citizens of the Republic of North Macedonia are equal in their freedoms and rights, regardless of sex, race, the colour of skin, national and social origin, political and religious beliefs, property and social status. All citizens are equal before the Constitution and law.” Furthermore, Article 54 paragraph 3 of the Constitution establishes the prohibition of discrimination in the context of limitations on human rights and freedoms by stating that: “The restriction of freedoms and rights cannot discriminate on grounds of sex, race, the colour of skin, language, religion, national or social origin, property or social status.”

The term “prohibition of discrimination” is used again in Article 110 paragraph 1 item 3 of the Constitution when defining the jurisdiction of the Constitutional Court. It states that the Constitutional Court “protects the freedoms and rights of the individual and citizen relating to the freedom of conviction, conscience, thought and public expression of thought, political association and activity as well as to the prohibition of discrimination among citizens on the ground of sex, race, religion or national, social or political affiliation.” In Amendment XI of the Constitution, the term “non-discrimination” is used to define the scope of competence of the Ombudsman. It states that “the Public Attorney protects the constitutional rights and legal rights of citizens when these are violated by bodies of state administration and by other bodies and organizations with public mandates. The Public Attorney shall give particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in public bodies at all levels and in other areas of public life.”

The new LPPD is systematized into seven parts and includes a total of 49 articles. This law is harmonized with the following EU equal treatment directives, as secondary sources:

- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2 December 2000).
- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to, and supply of, goods and services (OJ L 373, 21 December 2004).
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (OJ L 204, 26 July 2006).

Also, the new LPPD, *de iure*, is allegiant with the following international acts and standards: the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its Protocol 12, the case law of the European Court of Human Rights, the Paris principles relating to the status of national human rights institutions and specific attention was paid to ECRI's General Policy Recommendation (GPR) No. 2 on Equality bodies to combat racism and intolerance at the national level, adopted on 7 December 2017, and ECRI's GPR No. 7 on National legislation to combat racism and racial discrimination, adopted on 13 December 2002 (Venice Commission Opinion, 2018, p. 4-5).

*Ratione materiae* of the LPPD is defined in Article 1, according to which, this Law regulates the following areas: a) prevention of discrimination; b) prohibition of discrimination; c) forms and types of discrimination; d) the procedures for protection against discrimination and e) the composition and work of the Commission for Prevention and Protection against Discrimination (hereinafter: CPPD). The new LPPD, unlike the previous one, explicitly states its objective, which is to ensure the principle of equality and prevent and protect against discrimination in the enjoyment of human rights and freedoms (Article 2).

An improvement in the new LPPD is evident in the Article 3, which specifies the entities that are protected by the Law, (both natural and legal persons), those that are required to comply with it (including state authorities, local self-government bodies, legal entities with public authorities and all other legal and natural entities), and the areas to which it applies (identical to the previous LPPD as outlined in Article 2):

- Employment and labour relations.
- Education, science, and sports.
- Social security, including the area of social protection, pension, disability insurance, health insurance, and health care.
- Justice and administration.
- Housing.
- Public information and media.
- Access to goods and services.
- Membership and activity in political parties, associations, foundations, trade unions, or other membership-based organizations.
- Culture and
- Any other areas.

So, comparing Article 3 of the LPPD with Article 9 of the Constitution it can be concluded that while, the LPPD provides protection against discrimination for all natural and legal persons, the Constitution only protects the citizens of the Republic of North Macedonia. Therefore, legal entities, foreigners, stateless persons, recognized refugees, persons under subsidiary protection,

and persons under temporary protection are not covered by the Constitutional principle of equality in the exercises of human rights and freedoms.

A significant improvement that aligns with international and European standards is reflected in Article 5 of the Law, which specifies the prohibited discriminatory grounds: “Any discrimination based on race, skin colour, national or ethnic origin, sex, gender, sexual orientation, gender identity, belonging to a marginalized group, language, nationality, social background, education, religion or religious belief, political conviction, other beliefs, disability, age, family or marital status, property status, health status, personal capacity, and social status, or any other grounds shall be prohibited.” The new LPPD includes an expanded list of prohibited discriminatory grounds, which now includes gender identity and sexual orientation, in addition to the list of grounds that were present in the previous version. Moreover, the new LPPD has replaced the previous provision of Article 3 which addressed discrimination based on mental and physical disability, with a broader category of disability that covers all types of disabilities. Regarding this provision, a note was submitted by the OSCE/ODIHR (Comments, 2018, p. 5), suggesting that it would be more effective for the Law “to adopt a shorter list of discriminatory grounds” and to provide clarity on the meaning of “any other grounds” to avoid arbitrary interpretations. When compared to Article 9 of the Constitution, it can be inferred that the constitutional provision lists only a limited number of discriminatory grounds, namely gender, race, skin colour, national and social origin, political and religious belief, property, and social status.

The new LPPD provides a definition of the term discrimination in Article 6: “Discrimination shall mean any distinction, exclusion, restriction, or preference based on any discriminatory grounds, whether by doing or not, aimed at or resulting in preventing, restricting, recognizing, enjoying or exercising the rights and freedoms of any person or group on an equal basis with the others. This shall cover all forms of discrimination, including disabling the reasonable accommodation and disabling the accessibility and availability of infrastructure, goods, and services.” According to the Venice Commission notes, the definition of the term discrimination in the new LPPD aligns with international acts, with the exception of the definition provided in Article 1 paragraph 1 of the International Convention on the Elimination of all forms of Racial Discrimination (Venice Commission Opinion, 2018, p. 7).

The new LPPD offers improved legal solutions compared to its predecessor, by defining the types of discrimination, distinguishing between intersectional and multiple, and introducing segregation as a distinct form of discrimination (Nikolovska, 2020, p. 11).

The new LPPD provides a more precise framework for the organization and competencies of the CPPD. The CPPD is an independent body with legal entity status, composed of seven members who are elected and dismissed by the Assembly of the Republic of North Macedonia. Each member of the CPPD serves a five-year term and is eligible for one additional re-election. CPPD members are appointed professionals and are prohibited from holding another public

office, profession, or political party position simultaneously. Article 21 of the LPPD outlines the powers of the CPPD, which includes the novel ability to request permission from a court to act as *amicus curiae*, at the request of a party or on its own initiative.

The new LPPD also sets forth the procedures for filling complaints with the CPPD and the civil courts. Individuals who believe they have been subject to discrimination may submit a written or oral application to the CPPD, without paying the fee or other compensation. They may also be represented by an association, foundation, or trade union with prior consent. Additionally, associations, foundations, unions, or other civil society organizations and institutions, that have a justified interest in protecting the interests of a specific group or work towards preventing discrimination, may submit an application to the CPPD on behalf of individuals who have been subject to discrimination by a larger group or entity. Individuals who believe they have experienced discrimination may file a lawsuit with a competent civil court, with the process being urgent. Additionally, Article 35 allows for the possibility of a joint lawsuit (*actio popularis*). The burden of proof differs significantly depending on the situation. If the civil court or CPPD finds that the discrimination claim is likely, the burden of proof shifts to the respondent (as stated in Articles 26 and 37). However, when the criminal court decides in misdemeanour and criminal proceedings, the burden of proof is on the plaintiff (as noted in Article 37). According to the OSCE/ODIHR notes, this provision is partially in line with the EU *acquis*, which, however, excludes only criminal proceedings from the scope of this rule (Comments, 2018, p. 25-26). The adoption of the new LPPD is considered a significant step towards promoting the rule of law and strengthening legal reforms in North Macedonia, and it presents a challenging task for legal experts and the judiciary alike.

This section of our study focuses on the decisions delivered by the Constitutional Court, the Public Attorney, the CPPD, and ECtHR regarding cases related to discrimination. In the case U. no. 116/2017, the Constitutional Court held a public hearing on May 3, 2018, to address a request for the protection of freedoms and rights under Article 110 paragraph 3 of the Constitution. The request was submitted by G.M and G.M from Skopje, who claimed that their right to freedom of thought and public expression of thought were violated, and that they were discriminated against based on their political affiliation. The request was made in relation to peaceful protest organized by the petitioners, who were members of the “Left” political party, along with two others, during the presentation of military equipment by the United States and the Macedonian Army on July 29, 2017. The protesters wanted to convey a message by displaying a banner with words “Against the war for profits” on canvas. The members of the political party aimed to demonstrate their opposition to the militarization of society and the demonstration of power by the USA in North Macedonia. They believed that displaying their slogan would convey the message that the country is incapable of handling major threats and that the resource should be allocated to education and healthcare instead. While moving through the “Macedonia” square towards the Triumphal Gate, they were approached by police officers responsible for monitoring the military equipment presentation event. The officers instructed

them to remove the banner from the square, but they proceeded towards the City Shopping Center - Skopje and attempt to display the banner on the second floor. At the time, the police officers had their freedom taken away when handcuffs were placed on them. They remained in that state for approximately 15 minutes before they were identified, and the handcuffs were removed in consultation with their superiors. According to the claim, the deprivation of their liberty hindered them for displaying their banner and conveying their message to the public. The Constitutional Court ruled that the right to freedom of thought and public expression of thought, as well as the prohibition of discrimination based on political affiliation, were breached in accordance with Article 110 paragraph 3 of the Constitution of the Republic of Macedonia. The Court stressed that the police officers' discriminatory behaviour in using physical force, handcuffs, and depriving them of their freedom, was a form of discrimination that placed the claimants at a disadvantage and unequal position compared to other present at the event. This included those who publicly expressed their opinions with military equipment, who were treated no less favourably and had none of their civil rights restricted unlike the applicants. Based on the established legal and factual circumstances, the Court concluded that there was discrimination in the exercises of rights guaranteed by the Constitution of the Republic of Macedonia and the ratified international agreement. Specifically, the discrimination was due to the political affiliation of the claimants while exercise in their right to freedom of thought and public expression of thought, which violates Articles 9, 16 and 21 of the Constitution of the Republic of Macedonia, Articles 3 and 6 of the 2010 Law on Prevention and Protection against Discrimination, as well as Article 14 in conjunction with Article 10 of the European Convention on Human Rights.”

According to the Annual Report of the Public Attorney, 43 citizens have submitted petitions in 2021 for protection against discrimination and implementation of the principle of equitable representation. One of the cases presented involved the Public Attorney taking action to eliminate irregularities that resulted in segregation of Roma pupils in a primary school in Shtip. It was discovered that the Decision on the rezoning public primary schools in the Municipality of Shtip was not adhered to, as parents of Macedonian pupils enrolled them in other primary schools in the city, instead of the OOU “Goce Delcev”, where the largest Roma community resides. This practice was found to be a violation of Article 63 paragraph 3 and 9 of the Law on Basic Education, and leads to segregation, a specific form of discrimination, where people are separated based on discriminatory factors without a legitimate purpose. As a result of the established violations that led to segregation and discrimination based on ethnicity, race, and skin colour against the Roma community in the Municipality of Shtip, the Public Attorney recommended taking measures to address this issue. The mayor of Shtip accepted the recommendations and reported that a meeting was held with a relevant authorities and primary school principals in the Municipality. They concluded that a team should be formed to develop an Action Plan to overcome the problem (Annual Report, 2021, p. 85).

On its website, the CPPD announced that it was able to secure a punishment for a discriminatory following a request that they have submitted, as per the new LPPD. Specifically, in Opinion no. 0801-111/14 of 15.10.2021, the CPPD acted on an application filed by person X against the employees of the Ministry of the Interior – SVR Kumanovo for direct discrimination based on a political conviction in the field of employment and labour relations. The CPPD identified harassment based on political conviction and recommended that discriminators should apologize to the applicant in the presence of a superior manager and should inform CPPD, within 30 days. Due to failure to act on the recommendation, CPPD initiated misdemeanour proceedings before the Basic Court in Kumanovo. Based on the evidence submitted by CPPD, the Court found the four discriminators guilty and imposed misdemeanour sanctions, which included a fine.

Person X submitted an application for prevention and protection against discrimination to CPPD against OOU “Goce Delchev” in Shtip, for protection against direct discrimination based on Article 8 of LPPD, which was carried out based on ethnic origin. This is the same case that the Public Attorney made a decision about. The CPPD adopted the same opinion as the Public Attorney, stating that the particular case involves indirect discrimination causing segregation based on ethnic origin in the field of education. The applicant noted that Roma pupils were being segregated from non-Roma pupils, which violated their constitutional right to education, and led to “ethnically clean classes.” The CPPD recommended to the competent authorities of the local self-government to take necessary actions.

In the case of *Elmazova and others v. North Macedonia* (Applications no. 11811/20 and 13550/20), the ECtHR found “that there has been a violation of Article 14 of the Convention in conjunction with Article 2 of Protocol No. 1 to the Convention” emphasizing that the segregation of Roma children in the primary schools during the relevant period cannot be considered as objectively and reasonably justified by a legitimate aim. The case involves allegations of segregation of Roma pupils in two public primary schools in Bitola and Shtip. The applicants argued that their rights under Article 1 of Protocol No. 12 to the Convention and Article 14 of the Convention were violated (Judgment, 2022, p. 20-23).

The initial findings of the first group applied methods (method of normative analyses, method of comparison, method of analogy, and case law method) indicate that the constitutional provisions should be reviewed, specifically Article 9, in order to broaden protection against discrimination to a wider range of individuals. Additionally, several amendments should be made to the LPPD, including shortening the list of discriminatory grounds to increase the effectiveness of the law, clarifying the phrase “any other grounds” in Article 3, aligning the definition of discrimination in Article 6 with Article 1 paragraph 1 of the International Convention on the Elimination of all forms of Racial Discrimination and excluding the shift of the burden of proof only for criminal proceeding in Article 37 paragraph 2, to align with EU law.



Given that discrimination is a relatively new issue in North Macedonia, both in terms of academic analysis and recognition and treatment in real-life and legal contexts, this study aimed to provide an initial assessment of its perception in North Macedonia, especially with respect to main types of discrimination – gender, ethnical, or with respect to spheres of discrimination. In general gender discrimination usually encompasses exclusion or restriction based on gender that creates barriers for people in recognizing and exercising their human rights is the most prominent topic nowadays. However, in the traditional patriarchal setting in the Western Balkans, North Macedonia including, gender discrimination become an issue of research only recently. Our research confirmed the previous studies' findings suggesting that females feel more discriminated against as compared to males, with almost 48 percent of females responding that they have been discriminated against, while 12 percent of them gave an indecisive answer, suggesting that they possibly do not understand the term, they have fear to respond, or cannot recognize discrimination even if it happens to them. On the other side, males revealed a lower level of being discriminated against, with 38% of them answering that felt discriminated against. The reported finding aligns with Browne's perspective, which affirms that the Western Balkans remains a region dominated by patriarchal gender norms (Browne, 2017, p. 2). In similar vein, Primorac (2019, p. 3) suggested that women in general feel less privileged in all aspects of gender equality-related human rights in the workplace in the case of Slovenia. He related this situation with the strong presence of gender stereotypes in the Slovenian society, according to which women are responsible for family and care responsibilities. Therefore, it is more difficult for women to achieve the balance of work and life which does not apply to men. This women's issue is even more emphasized in other Balkan countries, hence higher the level of perceived discrimination.

Table 2. Have you ever felt discriminated?

	Female					Male				
	Count	Column N %	95.0% Lower CL for Column N %	95.0% Upper CL for Column N %	Standard Error of Column N %	Count	Column N %	95.0% Lower CL for Column N %	95.0% Upper CL for Column N %	Standard Error of Column N %
Yes	99	47,6%	40,9%	54,4%	3,5%	39	37,9%	28,9%	47,5%	4,8%
No	83	39,9%	33,4%	46,7%	3,4%	56	54,4%	44,7%	63,8%	4,9%
Do not know	25	12,0%	8,1%	17,0%	2,3%	7	6,8%	3,1%	12,9%	2,5%

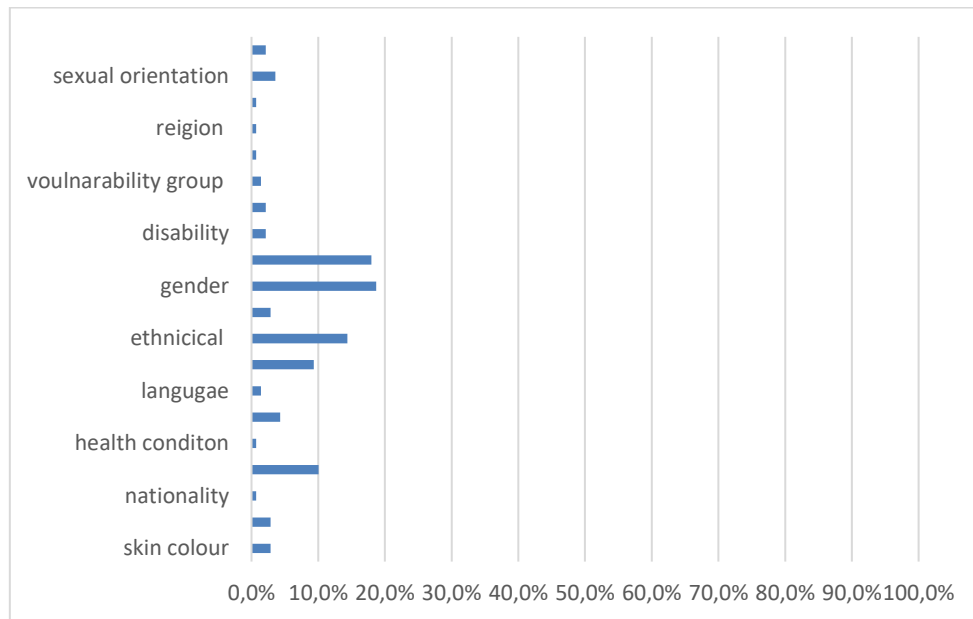
Unfair, differential treatment based on ethnicity was and seems to remain the main hot topic in Western Balkans, North Macedonia especially (Contrada et al., 2000). It can involve a spectrum of discriminative experiences ranging from systemic or structural inequities to indirect forms of day-to-day mistreatment. Many studies have found a link between ethnic discrimination and poor societal outcomes, on a societal but also individual level (Pascoe & Smart Richman, 2009). Concerning ethnic discrimination in our survey, the perceived discrimination is highest among the Roma population, with 91.7% of Roma people responding that they have experienced day-to-day discrimination, among Albanians the percentage is lower – 50%, among Macedonians the percentage is 43.6%. The results are in line with the previous studies that treat specifically the discrimination of the Roma population in North Macedonia (Sali et al, 2023). Interestingly, the ethnical group of Macedonians feels a comparably high level of discrimination to other ethnical groups, suggesting that the reasons for discrimination originate mainly from reasons other than ethnicity (Table 1 in Appendix).



Figure 2. Ethnical discrimination in North Macedonia, (2022, in percent of the group)

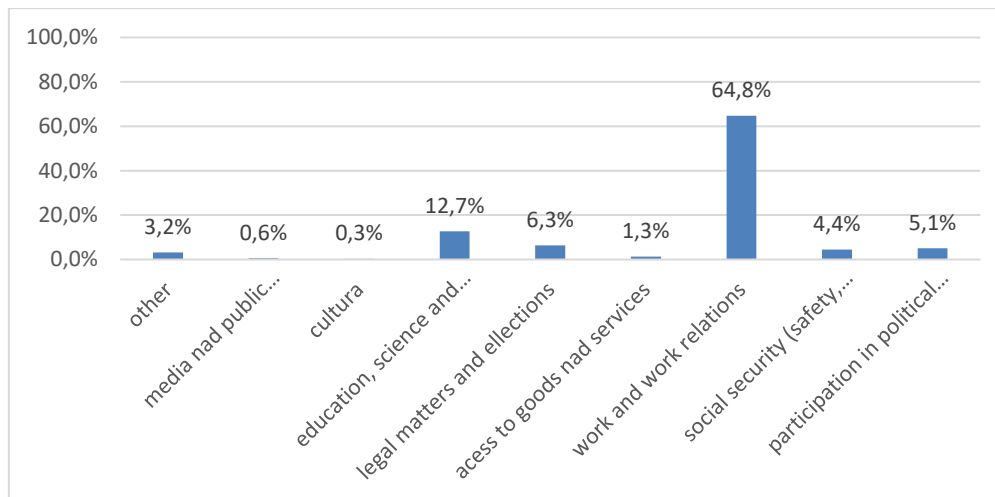
Interestingly, the survey reveals that among the main reason for discrimination, two main reasons are listed with around 18% naming them as the reason for discrimination such as gender and political beliefs. The discrimination on the basis of political beliefs is not very much known nor explored in European countries; however, it seems relevant for Balkan countries, where specific social conditions created a relatively peculiar form of discrimination. According to MCMR, almost 90 per cent of Macedonians believe discrimination based on political affiliation is widespread (Macedonian Centre for International Cooperation, 2011, p. 20). Ethnical origin

comes as the third reason, with 14% of respondents naming it as the main reason for feeling discriminated against, amongst which most respondents come from Roma and Albanian origin.



*Figure 3.* The reasons for discrimination In North Macedonia (2022, in percent of the respondents that felt discriminated)

Finally, the findings suggest that the main sphere of discrimination as identified by the survey responses, is employment and labour relations, with approximately 64.8 % of respondents identifying it as the main sphere they felt discriminated against. Access to education, science, and sport is the second sphere of discrimination, with the rest spheres having smaller shares. It seems that economic discrimination or discrimination based on economic factors predominate Macedonian society. The factors usually include job availability, differences in wages, differences in availability of goods and services, and the amount of capital available to people for business. Discrimination in the labour market should be of particular concern because labour earnings are by far the most important source of income that people can obtain. The reported findings align closely with the results put forth by the North Macedonian CPPD (Annual Report, 2021, p. 18). Specifically, regarding complaints where CPPD has issued an Opinion on Discrimination, the majority of them pertain to labour and labour relations (15 cases) as well as access to goods and services (11 cases), accounting for more than 65% in total.



*Figure 4.* The spheres of discrimination in North Macedonia  
(2022, in percent of the respondents that felt discriminated)

Concerning perception of the efficiency of the institutions and the precision and execution of relevant Laws concerning discrimination, the vast majority of respondents (around 90%) responded that they are not satisfied with both, suggesting low trust in the institutions and also a low level of awareness of the relevant Laws, as well as low level of the prevalent rule of law. Concerning awareness of the existing LPPD and special body – CPPD, high 40 and 48% of the respondents responded that they are not aware of the Law, or the Commission. This is similar to the findings of Gacesha (2021, p. 113) for the case of assessment of age discrimination in Croatia, where 76% of respondents, mainly highly educated group in her specific research, said that are not familiar with the contents of the Law and therefore neither with their rights. Stingingly, in our research, vast 73.3 percents of the respondents believe that the Commission is not effective in doing its work, while above 50 % believe that the Law is not very precise to ensure discrimination prevention and protection. Interestingly, around third of the respondents cannot make judgments of the Law, probably because they are not aware of it. In similar vein, Gacesha (2021, p. 118) research showed that similar distrust in legal institutions in Croatia, where 44.74% of the respondents in her survey would not go to court because they do not trust it, while 42.86% of them would not go to court due to the length of the proceedings.

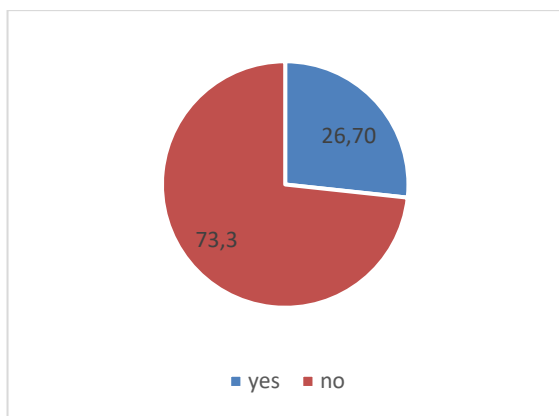


Figure 5. Do you believe that the Commission is effective in doing its work?

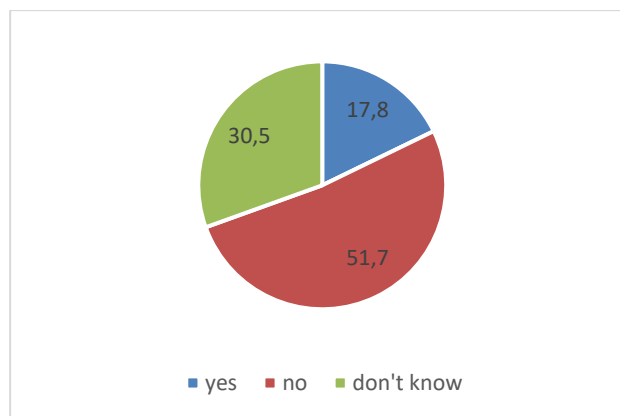


Figure 6. Do you believe that the non-discrimination Law is precise and effective in prevention and protection from discrimination?

(2022, in percent of the respondents that felt discriminated)

In our attempt to assess the overall discrimination in North Macedonian society, we found evidence for its presence, especially in employment and labour relations. This suggests that perceived discrimination regardless of the sources of perceived discrimination (e.g., ethnicity, gender, political beliefs) is in general perceived equivalently across society, except for the Roma population. Roma people by far feel most discriminated against in North Macedonian society. Similar, Bašić (2021) found out that in Serbia, Roma most often face discrimination in daily contacts with neighbours, colleagues at work, and while performing routine social activities. This situation seems to be common in the Balkan countries, although it should be mentioned that statistical offices and professional organizations do not collect ethnically disaggregated data on the situation and exercise of the rights of Roma, which makes it difficult to assess the real level of discrimination. In addition, it should be mentioned that discrimination is very often not reported by Roma people due to several reasons, among which low level of awareness and distrust in institutions are the main ones. However, findings suggest that the perceived discrimination construct needs to be adjusted to encompass the wider social context the society, which requires researchers' careful attention. The most intriguing finding was the similar level of discrimination among the Albanian population, suggesting that the society has made successful efforts in the past to decrease the systematic discrimination of this ethnical group (Griessler, 2014). When interpreting this figure, researchers should first understand that many Law reforms have been made in the past to decrease discrimination. Additional ethnic-specific findings warrant further discussion. Following previous research, evidence from the present study suggests that Roma people experience to a greater extent unfair treatment in their day-to-day life than all other ethnic groups, which may be related to their history of lower social status. Bašić (2021) suggests that also the prejudice that Roma are less worthy and unable to integrate into society due to their specific lifestyle is also to blame for the discrimination. This issue requires further research to understand the real causes of their discrimination.

Finally, it seems that economic discrimination is the biggest concern in Macedonian society. It can be long-lasting inequality in economic well-being among individuals based on their age, gender, family status, or ethnicity, but it can be also defined as differences or unequal treatment unavailability of jobs, and wages for equally productive groups. These definitions represent theoretical abstractions because “well-being” and “productive” are not easily assessed. Nevertheless, to assess the magnitude of the problem of discrimination carefully gather data and use statistics on, initially, visible economic outcomes for various groups, to subtle and delicate mistreatments and differences. It should be mentioned that the structural reforms in the course of the transition, have produced stark and persistent inequities in economic well-being in long term for some people. Eliminating these disparities will require long-term, targeted interventions to expand access to opportunities for various people. At a minimum, Government must defend workers' rights by repealing “right-to-work” laws, since at the present their execution is very weak. It must dismantle all exclusions from labour protections, especially on the grey labour market, and increase the minimum wage. They must also increase employment protections by including non-discrimination laws in all employment relations and matching spending on discrimination to EU spending. These steps are not a complete answer and will not solve the countless economic and social disparities that exist in North Macedonia, but they would put the country on a path toward approaching the EU standards, Laws, and reality.

It's important to note that discrimination in the Balkans is a complex and multifaceted issue, and the perspectives and findings of different authors may vary depending on their research focus, methodology, and context. Nevertheless, the literature generally highlights the presence of discrimination in various forms and against different groups in the Balkans, and the need for continued efforts to address and combat discrimination.

## **5 CONCLUSION**

Notwithstanding the limitations, the present study holds significant implications and strengths. It should be emphasized that this may be one a broad and thorough review of the legal framework was conducted, accompanied by the assessment of the societal awareness of discrimination.

Given the objectives outlined in this paper, it can be inferred that there is a need to revise and augment the non-discrimination legal framework in North Macedonia and to redesign the relevant institutions, especially in the direction of greater efficiency of the misdemeanour procedure conducted by the Commission for Prevention and Protection against Discrimination. We believe that this will enhance the handling with cases related to discrimination within our legal system. Findings from the present study indicate that people, in general, perceive, experience, and report their everyday discrimination similarly, which may also imply that researchers can compare the concept of perceived discrimination meaningfully across different

ethnic groups with relatively little risk of cultural bias, with an accent on discrimination in employment and labour relations.

In addition, given the responses to day-to-day discrimination, the findings suggest that there is a perception of discrimination. Especially empathized is discrimination based on ethnicity, both historical and contemporary, this includes discrimination against ethnic minorities, such as Roma, Albanians, based on their ethnicity, language, religion, or culture. Gender discrimination is another area of concern highlighted by this research. This includes discrimination against women in various spheres, such as employment, education, politics, and domestic settings. Gender-based violence, unequal pay, limited access to leadership positions, and other forms of discrimination against women are usual ways of discrimination. Discrimination Against LGBTQ+ Communities is often related to social stigma, self-censure, discrimination, and limited legal protections in the region, North Macedonia including. Maybe that is the possible reason why the questionnaire was not able to capture any glimpse of it. Finally, as mentioned, discrimination in North Macedonia often occurs at the intersection of multiple factors, such as ethnicity, gender, religion, sexual orientation, disability, and socio-economic status. This intersectional discrimination can compound the challenges faced by marginalized groups, leading to further inequalities and injustices.

In conclusion, discrimination is an important issue, especially in Western Balkans countries. It's an issue that can raise tensions, and political problems, especially because it is hard to measure and assess, especially in such young democracies. Discrimination in North Macedonia is deeply entrenched in societal norms and practices, and the country lacks established mechanisms, organizations, and institutions to effectively address discrimination. In addition, the analysis provides valuable insights into how discrimination operates within institutional settings, and how organizations and institutions can play a role in addressing and preventing discrimination. In general, institutions, but also organizations, whether they are private, public, or non-profit, play a significant role in shaping societal norms, practices, and policies. They can serve as both perpetrators and victims of discrimination, and their actions and policies can have far-reaching impacts on individuals and communities. Therefore, analysing discrimination from an organizational perspective can offer important insights into the dynamics, causes, and consequences of discrimination. Further studying of discrimination with a focus in organizations can contribute to the development of strategies and interventions to address discrimination in the workplace, which was especially emphasized in this research.

Assessing discrimination is by large simplified in this paper; however, it needs additional research to assess the full picture. Researchers should pay more attention to measuring perceived discrimination accurately and comprehensively. Given that discrimination experiences are influenced by many factors and thus should be understood in cultural, historical, and social contexts, cross-national studies of the perceived discrimination should be further conducted with representative samples and also with data collection on regular basis.

Studying discrimination in North Macedonia bears huge importance. It can help identify the various forms and manifestations of discrimination that occur. Understanding how discrimination operates can shed light on the mechanisms and processes that contribute to discriminatory practices, policies, and behaviours, and help identify potential areas for intervention. Discrimination can have serious consequences, including negative effects on mental health, well-being, career opportunities, and social relationships. By examining the impacts of discrimination researchers can better understand the magnitude and nature of these impacts and identify strategies for mitigating or preventing them. It can inform policies and practices that promote equality, diversity, and inclusion in various settings, and contribute to efforts to prevent and address discrimination at various levels. There are several reasons why future research is needed. A review of the literature could help quantify the actual size of the discrimination as well as indicate the possible outcomes and proposed pathways. In addition, existing reviews have left some questions unanswered, taking into account the peculiarities of discrimination in Western Balkan countries. One imperative remains, discrimination cannot be fought without the tools and the methods for adequately measuring and assessing it.

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## Appendices: Online survey tables

Table 1. What is your ethnicity?

Albanian				Macedonian				Roma				Serbian				Turkish			
95.	0%	95.		95.	0%	95.		95.	0%	95.		95.	0%	95.		95.	0%	95.	
Lo	0%	Sta		Lo	0%	Sta		Lo	0%	Sta		Lo	0%	Sta		Lo	0%	Sta	
we	Up	nda		we	Up	nda		we	Up	nda		we	Up	nda		we	Up	nda	
r	per	rd		r	per	rd		r	per	rd		r	per	rd		r	per	rd	
CL	CL	Err		CL	CL	Err		CL	CL	Err		CL	CL	Err		CL	CL	Err	
for	for	or		for	for	or		for	for	or		for	for	or		for	for	or	
Co	Co	Co	of	Co	Co	Co	of	Co	Co	Co	of	Co	Co	Co	of	Co	Co	Co	of
lu	lu	lu	Col	lu	um	um	Col	um	um	um	Col	um	um	um	Col	um	um	um	Col
mn	mn	mn	um	mn	n	n	um	n	n	n	um	n	n	n	um	n	n	n	um
N	N	N	nN	N	N	N	nN	N	N	N	nN	N	N	N	nN	N	N	N	nN
%	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%
0,0				0,8	0,2	2,5	0,6	0,0				0,0				0,0			
%				%	%	%	%	%				%				%			
50,	29,	70,	11,	43,	37,	49,	3,1	91,	67,	99,	8,0	16,	1,9	55,	15,	30,	11,	57,	12,
0%	3%	7%	2%	6%	6%	8%	%	7%	2%	1%	%	7%	%	8%	2%	8%	4%	7%	8%
30,	13,	51,	10,	45,	39,	51,	3,2	0,0				66,	28,	92,	19,	69,	42,	88,	12,
0%	6%	7%	2%	6%	5%	8%	%	%				7%	6%	3%	2%	2%	3%	6%	8%
20,	7,2	40,	8,9	10,	6,7	14,	1,9	8,3	0,9	32,	8,0	16,	1,9	55,	15,	0,0			
0%	%	8%	%	0%	%	2%	%	%	%	8%	%	7%	%	8%	2%	%			

Table 2. The main reasons for discrimination (If you have responded Yes to the previous question, please name the grounds for being discriminated.)

		Column N %	95.0% Lower CL for Column N %	95.0% Upper CL for Column N %	Standard Error of Column N %
If you have responded Yes to previous question, please name the grounds for being discriminated	skin color	2,9%	1,0%	6,7%	1,4%
	age	2,9%	1,0%	6,7%	1,4%
	nationality	0,7%	0,1%	3,3%	0,7%
	other	10,1%	5,9%	15,9%	2,6%
	health condition	0,7%	0,1%	3,3%	0,7%
	wealth	4,3%	1,8%	8,7%	1,7%
	language	1,4%	0,3%	4,5%	1,0%
	personal characteristic	9,4%	5,3%	15,0%	2,5%
	ethnic	14,4%	9,3%	20,9%	3,0%
	education	2,9%	1,0%	6,7%	1,4%
	gender	18,7%	12,9%	25,8%	3,3%
	political beliefs	18,0%	12,3%	25,0%	3,3%
	disability	2,2%	0,6%	5,6%	1,2%
	origin	2,2%	0,6%	5,6%	1,2%
	Vulnerable group	1,4%	0,3%	4,5%	1,0%
	rase	0,7%	0,1%	3,3%	0,7%
	religion	0,7%	0,1%	3,3%	0,7%
	sex	0,7%	0,1%	3,3%	0,7%
	sexual orientation	3,6%	1,4%	7,7%	1,6%
family status	2,2%	0,6%	5,6%	1,2%	

Table 3. Main spheres of discrimination in North Macedonia

		Count	Column N %	95.0% Lower CL for Column N %	95.0% Upper CL for Column N %	Standard Error of Column N %
According to your opinion, what are the main spheres of discrimination	Street	4	1,3%	0,4%	3,0%	0,6%
	other	10	3,2%	1,6%	5,6%	1,0%
	media and public information	2	0,6%	0,1%	2,0%	0,4%
	culture	1	0,3%	0,0%	1,5%	0,3%
	education, science, and sport	40	12,7%	9,4%	16,7%	1,9%
	legal matters and elections	20	6,3%	4,0%	9,4%	1,4%
	access to goods and services	4	1,3%	0,4%	3,0%	0,6%
	work and work relations	204	64,8%	59,4%	69,9%	2,7%
	social security (safety, pension funds, health insurance)	14	4,4%	2,6%	7,1%	1,2%
	participation in political parties, associations, and other organizations	16	5,1%	3,1%	7,9%	1,2%

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**Mirjana Ristovska**, Ph.D. is an Associate Professor of Private International Law at the Faculty of Law, "St. Kliment Ohridski" University, where she works since 2007. She obtained her Ph.D. degree in 2015 from the Faculty of Law "Iustinianus Primus"-Skopje. Her research interests are in the area of Private International Law, International Human Rights Law, and European Union Law. Mirjana Ristovska is an author and co-author of several scientific and professional papers published in national and international journals. In 2015 she received Basileus Staff Mobility Grant at the University of Ljubljana and in 2019 and 2022 she was granted Erasmus + staff mobility scholarships. She served as a Vice Dean for Academic Affairs for two consecutive terms. She is a coordinator of EUI at the University of St. Kliment Ohridski – Bitola.

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**Natasha Trajkova Najdovska** is an associate professor of Economics at the Faculty of Economics, University St. Kliment Ohridski in Bitola. She obtained her Ph.D. degree in Economics from Staffordshire University, UK in 2013. Her primary interest is economic growth and determinants that cause instability of growth. Lately, she becomes more interested in development issues, such as inequality, discrimination, and rural development, with a focus on the socio-economic aspects and causal relationships.

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## **Povzetek:**

### **Pregled severno makedonskega zakona o nediskriminaciji**

**Raziskovalno vprašanje (VR):** Raziskovalno vprašanje je, ali je zakonodaja sama po sebi *conditio sine qua non* za preprečevanje diskriminacije v družbi? Ali je severno makedonska zakonodaja ustrezno usklajena z evropskimi standardi na področju preprečevanja in zaščite pred diskriminacijo? Ali se nediskriminacijska zakonodaja v praksi uspešno in učinkovito uporablja? Ali je potrebno to zakonodajo dopolnjevati in spreminjati v smeri izboljšanja varstva osnovnih človekovih pravic in svoboščin v severno makedonski družbi in v katerem trendu?

**Namen:** Namen tega članka je oceniti nediskriminatorno zakonodajo Severne Makedonije, preučiti dojetje državljanov o zadevah, povezanih z diskriminacijo, in opredeliti morebitne ukrepe, ki bi jih lahko sprejeli za preprečevanje diskriminacije.

**Metoda:** Za namene priprave tega članka bo uporabljenih več metod: metoda normativne analize, empirična raziskava z uporabo anketnih podatkov 316 državljanov, metoda primerjave, metoda analogije in metoda sodne prakse.

**Rezultati:** Rezultati kažejo, da samo zakonodaja ni pogoj *sine qua non* za odpravo diskriminacije v družbi. Čeprav ima Republika Severna Makedonija pravne predpise, ki so v skladu z evropskimi standardi, anketiranci menijo, da je diskriminacija v naši družbi prisotna, najbolj razširjena pa je na področju delovnih razmerij. Glede na nizko ozaveščenost o diskriminaciji v družbi anketiranci niso dovolj seznanjeni s pravnimi sredstvi, ki so jim na voljo, in ne zaupajo institucijam. Normativna analiza kaže, da je treba zakon spremeniti predvsem v smeri večje učinkovitosti postopka o prekršku, ki ga vodi Komisija za preprečevanje in varstvo pred diskriminacijo.

**Družba:** Anketiranci menijo, da se severno makedonska družba sooča z diskriminacijo na vseh področjih - zaposlovanje in delovna razmerja, izobraževanje, znanost, šport, socialna varnost, vključno s področjem socialne zaščite, pokojninskega, invalidskega zavarovanja, zdravstvenega zavarovanja, zdravstva, pravosodja in uprave, stanovanja, javne informacije in mediji, dostop do blaga in storitev, članstvo in delovanje v političnih strankah, združenjih, fundacijah, sindikatih ali drugih članskih organizacijah, kultura, in da je potreben učinkovit mehanizem za zmanjšanje števila primerov. diskriminacije in izvajati učinkovite postopke, v katerih bo odgovornost individualizirana.

**Izvirnost:** Raziskava predstavlja nove in izvirne podatke v zvezi z empiričnimi raziskavami in priporočila v zvezi z novo severno makedonsko zakonodajo o nediskriminaciji, primerna pa je za nadaljnje primerjave.

**Omejitve/nadaljnje raziskovanje:** Mnogi ljudje v Severni Makedoniji še vedno ne razumejo popolnoma različnih oblik diskriminacije, niti jih ne morejo prepoznati v vsakodnevnih interakcijah, kar kaže na nizko ozaveščenost o tem na družbeni ravni. Poleg tega je bila raziskava izvedena s pomočjo spletne ankete, zato bi kot omejitvene dejavnike navedli vse slabosti tovrstne raziskave v primerjavi z osebno anketo. Omejitveni dejavnik je dejstvo, da je zadev, povezanih z novim zakonom, premalo, zato se je v prihodnje treba osredotočiti na sodno prakso in prakso Komisije v zvezi z diskriminacijo.

**Ključne besede:** Komisija, diskriminacija, enakost, človekove pravice, pravo, nediskriminacija, anketa

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## Brazilian's Supreme Court in a Democratic Coup d'état

Maurício Sullivan Balhe Guedes\*

Federal University of Minas Gerais (UFMG), Belo Horizonte, State of Minas Gerais, Brazil,  
Postal Code: 30130-180,  
mauriciosullivan1@gmail.com

Luisa de Boucherville Ferreira Lombardi

Pontifical Catholic University of Minas Gerais (PUC/MG), Belo Horizonte, State of Minas  
Gerais, Brazil, Postal Code: 30140-002,  
luisabflombardi@gmail.com

### Abstract

**Research Question (RQ):** Would such attacks on the democratic game be sufficient grounds for restrictive decisions made by the court? If so, or if not, what are the resulting effects on the democratic game itself?

**Purpose:** Understanding the movements of the Brazilian constitutional court during the 2022 presidential elections.

**Method:** The measures adopted by the STF are characteristics of what Issacharoff (2015) read as a “fragile democracy”, in which the discourse during the electoral process needs to be linked to democratic achievement, where everything that contrasts with it is out of the possibility of the exercise of the right, on the grounds of guaranteeing the freedom to vote. Challenging the conventional view, Varol (2017) understands that there are measures usually used in authoritarian regimes that, sometimes, promote and help to develop the democratic game more and better than those typically used by the democratic system itself. The research proposes a dialogue between the authors.

**Results:** The research is able to demonstrate that, despite having taken authoritarian decisions, the court managed to contribute to guaranteeing the normality of the elections.

**Organization:** Debating the limits of the court's action, as well as the legitimacy of its decision-making is a key element of the very possibility of the existence of a constitutional state, it impacts the work of judges, lawyers, and prosecutors, and allows for better social scrutiny.

**Society:** Bolsonarism raised its tone against the court and reinforced questions about the legitimacy of the institutions and the voting process. The issue, however, is that Bolsonaro's campaign was largely based on fighting a democratically established system, in the same tone in which he attacked the human rights of minority groups. Understanding these complex dynamics of power in the social context, the impact on future elections, or even the quality of the democracy game is an essential part of the contribution of this work.

**Originality:** It is correct to say that Bolsonaro was not able to conceive his re-election bid as he would have liked, much of it due to the decision-making expansionism of the STF. The method employed does not necessarily see such a situation, even if it is atypical, as negative, as long as it enhances democracy.

**Limitations / further research:** This research is limited by its specific temporal scope, unable to accurately predict the behavior of the Brazilian Supreme Court beyond the 2022 electoral period. Furthermore, the theoretical framework is also insufficient to anticipate or fully represent the nuances of the Brazilian democratic system. A research suggestion would be the continuous monitoring of the Supreme Court and its decisions regarding fundamental rights, particularly considering the political landscape beyond the studied period, to determine whether it was an idiosyncrasy specific to that moment or something that has become entrenched in the court's ideology.

**Keywords:** brazilian's supreme court, democratic coup d'état, elections, bolsonaro.

\* Korespondenčni avtor / Correspondence author

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## 1 INTRODUCTION

During the 2022 electoral period in Brazil, the stance taken by the Federal Supreme Court (STF) was the subject of intense criticism from supporters of President Bolsonaro who have now been defeated in the polls. The court was able to exercise significant control over the possibilities of political-electoral discourse through a series of decisions that restricted the scope of protection for freedom of expression. Before this, the court tended towards a more expansive and comprehensive interpretation of freedoms, however, this changed when the current president began attacking the polls and raising doubts about the reliability of the electoral process, which prompted the STF to investigate him for “undemocratic acts”. In response, Bolsonarism increased its opposition to the court and reinforced questions about the legitimacy of the institutions and the voting process, sometimes calling for the military's intervention.

The measures taken by the Brazilian Constitutional Court are indicative of what Issacharoff (2015) referred to as a “fragile democracy” in which discourse during the electoral process must be aligned with democratic values and anything that contrasts with these values is excluded from the realm of exercising rights in the interest of preserving the freedom to vote. However, it is worth noting that Bolsonaro's campaign was largely focused on fighting against the established democratic system, including the functioning of institutions and the culture of corruption, as well as attacking the human rights of minority groups. Based on populist narratives, it is correct to say that his re-election bid did not unfold as he had hoped, in part due to the expansive decision-making of the Supreme Court.

Challenging conventional views, Varol (2017) argued that there are measures typically used in authoritarian regimes that, under certain circumstances, can promote and enhance the democratic process more effectively than measures typically used by democratic systems themselves. The research aims to facilitate a dialogue between these authors while considering the actions of the Brazilian constitutional court and demonstrates that, despite having taken authoritarian decisions, the court was able to contribute to ensuring the normalcy of the elections.

The research presents the positions of former President Bolsonaro throughout his extensive political career, including controversial events and statements opposing human rights. When he became the president of the republic, he directed his attention to the Federal Supreme Court (STF) and its justices, as well as the entire electoral system, to the point where he was ultimately prevented from continuing his re-election campaign due to decisions made by the Supreme Court. The work then addresses relevant aspects of the democratic process arising from the interaction between the court and Bolsonaro and his supporters and concludes with considerations regarding the possibilities of a supreme court's actions in cases like Brazil's.

## 2 THEORETICAL FRAMEWORK

The phenomenon of Bolsonarism cannot be fully comprehended through isolated analysis, as it is intertwined with the political history of Latin America and its long-standing relationship with authoritarian regimes, as well as the growing trend of flirtation with such regimes globally. Bolsonaro holds a Bachelor's Degree in Physical Education from the Brazilian Army and a Master's Degree from the Rio de Janeiro's Parachute Brigade. He held the rank of Captain in the 8th Campaign Artillery Group during his tenure in the military. However, he was apprehended for contravening army disciplinary regulations. Specifically, he published an article titled "The Salary is Down", in which he censured his remuneration and intimated that it could have been a contributing factor to certain dismissals, as opposed to the supposed wrongdoing by the army leadership. Consequently, he was sentenced to a term of 15 days in jail (InfoMoney, 2022). Another significant infraction was Bolsonaro's and his associates' plan to bomb units at *Vila Militar*, the Military Academy of the Black Needles, and other locations if their salary adjustment was less than 60%. Despite substantial evidence linking him to the plan and the conclusion of an army investigation that led to his exclusion from the military, Bolsonaro was acquitted by the Superior Military Court (STM) in 1988 due to procedural deficiencies (FGV, 2019).

His political career began in 1988 when he became a reserve officer with the rank of Captain and was elected to the Rio de Janeiro Municipal Chamber as a member of the Christian Democratic Party (PDC). He concluded his term when he was elected as a federal deputy in 1990. In 1993, he established the Progressive Reformist Party (PPR), which later merged with the Progressive Party (PP) to become the Brazilian Progressive Party (PPB). During the same year, he caused bewilderment in the National Congress by advocating for a state of emergency and the closure of the National Congress, and he repeated this position the following year when he was reelected (FGV, 2019).

In 1998, he ran for the position of President of the House of Representatives Human Rights Commission, a decision that sparked controversy due to his views, which were not in line with the commission's objectives, including support for the death penalty, life imprisonment, birth control as a solution to poverty and violence, revision of indigenous lands, etc. In August 1999, after being reelected, Bolsonaro was accused of nepotism for employing his then-girlfriend, father-in-law, and cousin in his office. He defended himself by claiming that he was not married to her. In December of the same year, he even advocated for the shooting of then-President Fernando Henrique Cardoso (FGV, 2019). In 2000, he supported the death penalty for premeditated crimes and the use of torture in drug trafficking and kidnapping cases.

In 2005, the *mensalão* scandal brought some notoriety to Bolsonaro as he criticized the Workers' Party (PT) and the politicians involved in the corruption scheme. Initially, Bolsonaro was a declared supporter of former President Lula and a backer of his

administration during his first term. However, he soon began to have political disagreements with Lula, and this tension only escalated over time.

Although Bolsonaro was the 11th most voted federal deputy in Rio de Janeiro during his fifth re-election, he only received 9 votes in a bid to become the president of the Chamber of Deputies. In 2011, he referred to an educational material produced by the Ministry of Education to combat homophobia as a “gay kit”. The same year, while Senator Marta Suplicy was being interviewed about a bill aimed at making homophobia a crime, Bolsonaro positioned himself at the back with a flyer that accused the government of promoting homosexuality in schools. When approached by another parliamentarian, he accused her of being “heterophobic”. In 2014, he claimed that Brazilians do not like homosexuals and that they were a result of drug use, or were born with a “factory defect” (FGV, 2019).

During his seven-term tenure as a deputy, Bolsonaro: voted in support of the impeachment of former Presidents Fernando Collor and Dilma Rousseff; voted in favor of ending the state monopoly in the distribution of piped gas, telecommunications, and oil exploration sectors; opposed the opening of cabotage navigation to foreign vessels, the Provisional Contribution on Financial Movement (CPMF), and the provisions of the 1999 pension reform; was the sole deputy to vote against the creation of the Anti-Poverty Fund, which is funded by the CPMF; and opposed the disarmament campaign that was put to a popular vote (FGV, 2019).

The absence of civility and a lack of proper etiquette were defining characteristics of his political career. In 2000, he insulted the then-appointed Defense Minister, Geraldo Quintão, calling him “incompetent”, “disreputable” and “immoral”. In 2006, he referred to Defense Minister Tarso Genro as a “terrorist” and a “liar”. In 2011, he made a derogatory remark about Deputy Jean Willys' sexual orientation, saying he “would not be proud to have a son like him” (FGV, 2019). In 2014, during a discussion on the age of criminal responsibility, after being referred to as a rapist by Deputy Maria do Rosário, he retorted by saying “I would never rape you ‘cause you’re not worth it” (Alter, 2014).

Despite serving 27 years as a member of the Chamber of Deputies, Bolsonaro only succeeded in passing two out of the 171 bill proposals he presented.

In 2018, Jair Messias Bolsonaro sought to run for the presidency of the republic and joined the Social Liberal Party (PSL). During his political campaign, Bolsonaro advocated for the right to bear arms, the legalization of gold mining, the privatization of state-owned companies, the adoption of a capitalization system for social security, the elimination of “fine industry”, referring to regulatory bodies, and the opposition to gender ideology. During a campaign event in Juiz de Fora, Minas Gerais, Bolsonaro suffered a serious stabbing incident in the lower abdomen that required hospitalization and several surgical procedures, which temporarily disrupted his campaign. In the end, Bolsonaro was elected president with 55% of valid votes in the second round. (FGV, 2019).

Upon assuming office, the president encountered challenges in maintaining stability within his administration. Several of his ministers, including the former federal judge and Minister of Justice, Sérgio Moro, resigned from their positions. Moro was a prominent figure in the president's political campaign, particularly regarding his efforts to combat corruption, but his resignation was due to allegations of the president's interference in the Federal Police and ongoing investigations (FGV, 2019).

The origin of the Jair Bolsonaro phenomenon can be traced to the political representation crisis that Brazil is currently facing. The recent history of the country can be summarized as follows: After a period of economic growth and reduction of poverty during the first two terms of President Lula, disappointment set in quickly due to the subsequent scandals, which led many Brazilians to lose faith in the government and the Workers' Party (PT). This resulted in a polarized political landscape, marked by anti-corruption demonstrations in 2013 and Operation Car Wash in 2014. This tension was further heightened by the rise of Bolsonaroism, with many people supporting him even if they did not agree with his other policies, due to his stance against corruption and the anti-Workers' Party sentiment.

The demonization of the Workers' Party, which functioned as a unifying element for the masses in the last election, led to the feeling that what the Workers' Party produced in government was bad, or more precisely, that the movements directed towards democratization were misguided or even attacks on the Brazilian family (Casara, 2020, pp. 98-99).

In this scenario, there was a sense of disbelief in the Brazilian Supreme Court, when the nullification of the Car Wash proceedings resulted in the release of former President Lula, leading many Brazilians to feel a sense of impunity and a disconnect with the concept of representation. The anti-corruption discourse served as a rallying point, reinforcing the narrative against the institutions of Brazilian democracy and targeting the Supreme Court. The central aspect of the anti-democratic discourse is its emotional appeal, attracting those who have lost faith in the political system, empowering irrationality, and fueling numerous radical demonstrations:

As the perception of corruption increases in the state due to the colonization of representative democracy by the economy, so does the popular appeal for measures to eliminate corruption. The commodity of 'anti-corruption' has captive consumers, a public that has been conditioned to applaud any act that claims to be 'against corruption,' even if it is ineffective or draconian (Casara, 2020, p. 55).

It is through the perception of the military as heroic, a symbol of breaking away from the establishment, that the image of "myth" emerges and becomes a hallmark of the subversion of the state embodied by Jair Messias Bolsonaro. In a ripple effect, upon realizing that he had support, he radicalized and broadened his discourse:

Bolsonaro's campaign was based on a fantasy, where he would be the character responsible for realizing the childish desires of his voters. Fantasy, by definition, is a substitute for reality. Bolsonaro was the old presented as new, the insubordinate military who was sold to the

electorate as a defender of order, etc. Produced as a commodity, candidate Bolsonaro was presented, especially to the younger ones, as pure positivity (Casara, 2020, p. 204).

The image of myth was reinforced in events organized (or at least attempts at events) by the former president. In the early days of his administration in 2019, plans were made to celebrate the 55th anniversary of the establishment of the Military Dictatorship (1964-1985), however, these plans were prevented by the judiciary. In 2021, a parade was held featuring 150 vehicles from the Brazilian Navy in an attempt to bolster the former president's image through military symbols. The effort to politicize the armed forces was a distinct endeavor during the Bolsonaro government, but not always successful. For example, in March 2021, the commanding officers of the Army, Navy, and Air Force were jointly dismissed following the departure of the defense minister due to dissatisfaction with the political shift of the forces and suggestions of a possible alliance with the government in support of military intervention.

Based on a highly conservative agenda, former President Jair Messias Bolsonaro consistently engaged his voters by promoting the protection of traditional Brazilian families, speaking out against homosexuality and abortion, emphasizing religion, and advocating for the establishment of a military regime as the new political order in Brazil. By incorporating religious themes into his political discourse, he particularly appealed to the Evangelical electorate, using the slogan in his presidential campaign, "Brazil Above All, God Above Everyone". Bolsonaro's often-provocative speeches created a platform for events such as motorcycle rides and photographs making gun symbols, including with children present.

The construction of Bolsonaro's political image was marked by the idea of a myth, which occupied a prominent place in the perception of part of his electorate. Some of his supporters viewed him as an extraordinary character with heroic touches, embodying exceptional powers (Casara, 2020, p. 204). The Bolsonaroist slogan "God, Fatherland, and Family", although appearing to be merely conservative, was actually created and widely used by the Brazilian fascist movement *Ação Integralista Brasileira* (AIB), founded and led by Plínio Salgado in 1932, inspired by Mussolini's Italian fascism :

On October 7, 1932, the Brazilian Integralist Action (AIB) launched a manifesto in which it advocated for the Christian character of Brazilian society as the guiding political principle of the nation. The manifesto begins with (...): "God directs the destiny of peoples". Throughout the text, the supernatural Christian force is repeatedly praised as the doctrine to be followed to achieve an ideal model of family, society, and a supposed indivisibility of classes, and thus economic and social functioning. As put by the AIB, this "deeply Brazilian thought" comes from "the Christian roots of our History": this is the meaning of the integralist program for a univocal model of fatherland, which came to be synthesized in the slogan "God, Fatherland and Family" (Almeida, 2022).

In his writing, Almeida (2022) delves into the underlying meaning of the slogan "God, Fatherland, and Family". He argues that the usage of the Christian Orthodox religion and its values as a way to determine social order and values is evident, creating an imbalanced

relationship between the speaker, the representative, and the listener, where the former is seen as connected to the divine and should not be questioned, fostering a vertical and authoritative discourse. The inclusion of “God” in the Bolsonarist slogan aligns Bolsonaro with the image of a myth, of the savior of traditional Brazilian family values and the hero of the homeland who will protect the nation from “Communist” threats.

However, Bolsonaro’s image is not solely based on the fascist slogan. The members of AIB were known for their green shirts, and Bolsonarist supporters have adopted the colors green and yellow as a uniform for the movement, by using the famous shirt worn by the Brazilian football team and fans. This appropriation of the patriotic feeling that connects the Brazilian people to their passion for sports further strengthens Bolsonaro’s image.

In 2018, when Bolsonaro was elected, it was already possible to anticipate what was to come. Even before significant popular discontent with the direction of Brazilian politics, the then-deputy had already expressed anti-democratic beliefs without hesitation. For example, in a 1999 interview with *Rede Bandeirantes*, when asked if he would close the National Congress, he replied, “There is no doubt. I would stage a coup on the same day. It doesn't work! And I'm sure that at least 90% of the population would celebrate and clap. The Congress today is good for nothing, buddy. It only votes for what the president wants. If he is the person who decides, who commands, who tramples on Congress, then give the coup and move on to dictatorship”. At the time, this response did not cause much concern, as the idea of a coup seemed far-fetched, and few people knew who the deputy was, much less the anti-democratic views he had proclaimed (Oyama, 2020, p. 64).

Bolsonaro’s notoriety gradually increased, largely due to his actions lacking parliamentary decorum, which, amidst one controversy after another, began to draw attention. One of the many atrocities he committed was invoking the name of Carlos Brilhante Ustra, who was notorious for torturing prisoners during the military dictatorship when voting in favor of the impeachment of Dilma Rousseff, who had also been arrested and tortured during that regime: “For the memory of Colonel Carlos Brilhante Ustra, the fear of Dilma Rousseff” (Souza, 2022, p. 93).

It can be argued that the pinnacle of Bolsonaro's political trajectory occurred during his 2018 election campaign, during which his popularity grew exponentially. There are two crucial elements to understanding the phenomenon known as “bolsonarism”: the first, is the dissatisfaction of many Brazilians with the exposure of various corruption schemes through Operation Car Wash; the second is the growth of conservative, often radical rhetoric that pointed to a new military dictatorship as the solution to a variety of problems plaguing Brazil.

Even after being elected, the then-president did not waste time criticizing the electoral system, which he repeatedly claimed was susceptible to fraud, despite never presenting any evidence to support his allegations.

In 2019, commenting on the situation in Bolivia, President Bolsonaro tweeted: “The allegations of election fraud that led to the resignation of President Evo Morales serve as a reminder of the importance of ensuring democracy and transparency through auditable vote counts. PRINTED VOTE is the key to a clear and fair election process in Brazil!” (Folha de São Paulo, 2023). During a live broadcast on his Instagram, he stated: “Many people believed that I was going to win the election by a landslide, but in the end, the results were 55% for me and 45% for the other candidate. What if the outcome had been different? How would we have been able to audit those votes? This is why we need to adopt a secure voting system in Brazil to prevent manipulation and fraud” (Folha de São Paulo, 2023).

In 2020, President Bolsonaro claimed to have evidence of election fraud: “I have in my possession evidence that I was elected in the first round, but I believe that there was fraud involved. I will soon be presenting this evidence to show why we need to adopt a secure voting system in Brazil to prevent manipulation and fraud”. (Folha de São Paulo, 2023). However, no evidence was ever provided to support these claims, and in November 2022, the Brazilian Armed Forces released a report on the electronic voting machine process to the Superior Electoral Court (TSE), which found no irregularities, only excuses such as lack of data and technical clarification, and the complexity of the voting system.

In 2021, the tone escalated, and subtle threats, offenses, and attacks against representatives of the Federal Supreme Court (STF) and some other democratic institutions began. When commenting on the invasion of the U.S. Capitol, Bolsonaro stated: “If we don't have the printed vote by '22...a way to audit the vote, we will have a worse problem than the United States” (Folha de São Paulo, 2023). And: “Only in fraud the nine fingers return. Now, if Congress promulgates, we will have printed voting. It won't be a pen stroke from a citizen like this one, who won't have printed voting. You can forget that” (Folha de São Paulo 2023). In an interview with a radio station, also in the same year, he claimed: “They will find problems for next year. If this method continues here, without even public counting, they will have problems. Because one side may not accept the result. This one side is our side, may not accept the result” (Folha de São Paulo, 2023).

In the same year, in front of the Alvorada Palace, Bolsonaro said: “The fraud is at the TSE, without a doubt (...). I am not afraid of elections, I hand over the band to whoever wins, in the auditable and trustworthy vote. In this way, we run the risk of not having elections next year” (Folha de São Paulo, 2023). During a live stream on his social media, in which he had promised to present evidence of his allegations, the President dodged and claimed: “It is not possible to prove that the elections were not or were fraudulent. They are indications. Crime is revealed with many indications” (Folha de São Paulo, 2023). At a later point, Bolsonaro, also in a live stream, backed down and stated: “The election system is unauditable. It is not possible to compare if there was or was not fraud in the elections” (Angelo & Fagundes, 2021). In 2022, the election year, Bolsonaro, in an interview with *SBT*, stated that: “From my travels around the country, especially in the last two months, if we do not win in the first round, something abnormal happened inside the TSE (Superior Electoral Court)” (Correio

Braziliense, 2022). Similarly, on January 10th, 2023, two days after the Bolsonaro protesters invaded the headquarters of the Three Powers, causing the destruction of public property in the Executive, Judiciary, and Legislative branches, Bolsonaro posted a video on his Twitter account that claimed election fraud with the caption: “Lula was not elected by the people, he was chosen and elected by the STF and TSE” (Vasconcelos, 2023). Later, the video was deleted. On March 31st, 2022, during a ceremony at the *Planalto Palace*, Bolsonaro made the statement: “What would Brazil be without the contributions of the military government? It would be nothing! We would be a small republic...” (Valadares & Schuch, 2022).

The attacks were not limited to the Brazilian electoral system, as the Supreme Federal Court was also subjected to hate and misinformation. The relationship between then-President Bolsonaro and the court became strained as a result of Bolsonaro’s attacks on the election process and the developments in the Fake News Investigation. This is an inquiry that was initiated by the Supreme Federal Tribunal, commonly referred to as the “Inquiry of the End of the World”. The primary objective of this investigation was to scrutinize the propagation of misinformation regarding Supreme Court justices and their families, as well as the disclosure of their personal information and threats against them. Additionally, the inquiry sought to uncover the existence of the so-called Hate Bureau, a scheme within the National Congress that was created to fund and disseminate fake news. As a consequence of the inquiry, two federal deputies, Daniel Silveira, and Roberto Jefferson were apprehended. The latter, in response to his preventive arrest, fired shots from an assault rifle when confronted by the federal police.

The investigation involved the breaking of confidentiality and the search and seizure of several Bolsonaro-aligned lawmakers suspected of being involved in a massive fake news dissemination scheme. In June 2020, during a conversation with his supporters, Bolsonaro stated, “I won't be the first to go. They are overstepping their bounds, and that is clear. The breaking of parliamentary confidentiality that happened yesterday and today has no parallel in democratic history, no matter how fragile it may be. The time has come for everything to be put in its proper place”. (UOL, 2020)

In response to the Justice of the STF Luís Roberto Barroso, who criticized him for his controversial speeches, the former president replied: “The response is from an individual lacking intelligence. I regret making such a statement about the authority of the Supreme Federal Court. Only a foolish person would do so. Our future and livelihood are at stake and a person cannot seek to determine the future of Brazil through fraud”, and later in the following month, he stated: “That individual (...) is targeting me. That individual is Barroso”. (Peixoto, 2021). The climax of the personal attacks on justice occurred in August 2021, when Bolsonaro linked him to pedophilia: “I did not insult any minister, I simply spoke about Mr. Barroso’s record. Advocating for abortion, drug legalization, and reducing the age for sexual abuse of vulnerable persons. He wants our daughters and granddaughters of 12 years to engage in sexual relationships without any issue” (Carta Capital, 2021).



Amid the numerous attacks, the most insulting ones were directed at Justice Alexandre de Moraes. In September 2021, Bolsonaro proclaimed: “This President will no longer comply with any decision made by Mr. Alexandre de Moraes” (Ferraz, 2021). He later added: “There's still time for him to submit his inquiries, or better yet, his time is up. Get out, Alexandre de Moraes. Stop being a rogue” (Mendonça & Peixoto, 2021). The following year, Bolsonaro publicly challenged the justice, stating: “A few weeks ago, Alexandre de Moraes said that anyone who distrusts the election process would be impeached and arrested. Oh, Alexandre, I am suspicious. Will you arrest me? Will you revoke my registration? What kind of democracy is this? We can distrust everything, and when we distrust, we are perfect” (Ferraz, 2021). Later that same month, the former president made another statement: “And then Alexandre de Moraes comes with these low-downs, breaking the confidentiality of my order aide. It was my confidentiality that was broken, Alexandre. That's not a man's role, it's a child's (...) Stop being a rogue, Alexandre de Moraes, a rogue (...) cheeky (...) Be a man once in your life” (Porcella, 2022).

The Federal Supreme Court did not remain passive in the face of Bolsonaro's attacks on various democratic institutions in Brazil, particularly his attacks on the court itself, which called into question its legitimacy and competence, and the moral integrity of its justices. The actions taken by the STF during Bolsonaro's presidency, particularly during the election period, have been the subject of intense controversy, criticism, and debate.

One of the initial decisions that caused friction between the former president and the Supreme Court was in 2020 when the appointment of Alexandre Ramagem as the director-general of the Federal Police was suspended, pending a decision based on non-compliance with the constitutional principles of impartiality, morality, and public interest (MS 37097). This decision was in response to accusations by the former Minister of Justice, Sérgio Moro, of Bolsonaro's interference with the police, which was being investigated by the Supreme Court.

During the COVID-19 pandemic, the tensions were further escalated by the measures taken by the former president, such as vetoing the publication of patient data, suspending provisions of a Provisional Measure that did not consider COVID-19 infection in the workplace as an occupational disease, recognizing the autonomy of states and municipalities to maintain isolation and determining concurrent competence for federal entities to adopt COVID-19 combat measures (ADI 6341), as Bolsonaro only supported vertical isolation, prohibiting the “Brazil Cannot Stop” campaign that advocated against isolation (ADPF 668), and opening an investigation against the then-president for associating the COVID-19 vaccination with the risk of developing AIDS.

The Supreme Court also suspended parts of decrees aimed at expanding the carrying of weapons, one of Bolsonaro's most strongly held positions, declared a Provisional Measure that made changes to the Access to Information Law unconstitutional (ADI 6351), and suspended the expulsion of employees from the Venezuelan Embassy (HC 184.828).

Among various legal disputes, it can be stated that the ring of the greatest confrontation between the justices of the Brazilian Supreme Court and the former president was the aforementioned Fake News Inquiry, which placed its reporter at the center and symbol of the conflicts, Justice Alexandre de Moraes. One of the most controversial aspects of this inquiry lies in the fact that its initiation was carried out *ex officio* by the Brazilian constitutional court, based on its internal regulations that allow such a situation when investigating crimes against the court itself. With the inclusion of the former president in the inquiry, he was investigated for the following crimes:

- libel;
- slander;
- injury;
- incitement to crime;
- advocacy of crime;
- criminal association;
- malicious prosecution; attempting to change, with the use of violence or serious threat, the order, the prevailing regime or the rule of law;
- publicly advocating violent or illegal processes to change the political or social order, etc.

In addition to launching new attacks on the STF and its justices, Bolsonaro appealed the decision and filed an Action Against a Violation of a Constitutional Fundamental Right (ADPF), challenging the opening of the inquiry, the lack of exceptionality for such, and interposing various appeals.

It is noteworthy to mention certain actions resulting from the Fake News Inquiry, which were perceived by the former president and his supporters as personal persecution. These actions include the decision to block profiles on social media associated with the former president, which was criticized as censorship against those who oppose the court; the decision to shut down websites that propagated extreme views such as the closure of the National Congress and the Supreme Federal Court, seen as a violation of freedom of expression; and the violation of confidentiality of parliamentarians who support the former president, among others.

Another controversial moment of direct friction between the supreme court and Bolsonaro was the imprisonment of Deputy Daniel Silveira, who had been sentenced to 8 years in prison due to the Deputy's demonstrations for the closing of the National Congress and the STF, as well as for recording videos on his social media inciting a coup d'etat. It is worth noting that one of the most emblematic issues surrounding Daniel Silveira's arrest is that it was determined *ex-officio* by Minister Alexandre de Moraes, after the posting of a video criticizing STF ministers and supporting the Institutional Act No. 5 (AI-5). In response to the act which can be seen as tyrannical, since it was not provoked by a competent body (Judicial Police or Federal Public Prosecutor's Office), Silveira received a pardon from the former President almost instantly.

In 2021, the Superior Electoral Court (TSE), approved the initiation of an inquiry into former President Bolsonaro regarding allegations of attacks on the Brazilian electoral system and electronic voting machines. The investigation was initiated to examine several charges against the former President, including libel, defamation, incitement to crime, criminal association, malicious prosecution, and violations of the National Security Law and the Electoral Code. The inquiry was conducted in conjunction with the Fake News Inquiry, with Alexandre de Moraes serving as the rapporteur, who had already become one of Bolsonaro's main adversaries at the time.

In response to the investigation, Bolsonaro stated that "His time will come. Because he has been playing outside the boundaries of the Constitution for a long time. I do not intend to leave the boundaries to question these authorities, but I believe that the moment is coming" (Folha de São Paulo, 2023).

In August 2021, Bolsonaro became the subject of another investigation, this time for his attacks on the credibility of the voting machines and the spread of false information and offenses against democratic institutions. In response, Bolsonaro stated that: "I am President 24 hours a day. My game is within the boundaries, but if I leave the boundaries, I am forced to leave the boundaries. It's like Alexandre de Moraes's inquiry: he investigates, he punishes, and he imprisons. If I lose, will I appeal to the TSE itself? That doesn't make any sense" (Folha de São Paulo, 2023).

The TSE's actions during the 2022 election campaign dealt a fatal blow to Bolsonarism. For example, the airing of a documentary about Jair Messias Bolsonaro's knife attack was suspended, the analogy between former President Lula as the mastermind behind the murder of leftist Celso Daniel was prohibited, the use of images of a speech given by Jair Bolsonaro in London during his election campaign was prohibited, and the use of images of September 7 celebrations was also prohibited. Additionally, the TSE reduced the television network election campaign by 10 minutes to allow for Lula to have more airtime, after Bolsonaro made false accusations about his opponent. These measures, among others, were viewed by Bolsonaro and his supporters as an imbalance in the elections in favor of the other candidate and a violation of the Right to Reply (Abramo, 2022).

The stance of the Brazilian Federal Supreme Court (STF), during the 2022 electoral period, was heavily criticized by supporters, now defeated at the polls, of President Bolsonaro. From a block of decisions, the court was able to control the possibilities of political-electoral discourse, restricting the scope of protection of freedom of expression. The turning point in the institutional behavior took place when the current president began to attack the polls and put in check the reliability of the electoral process, a reason that proved to be sufficient for the STF to investigate him for "undemocratic acts". The RQ is: Would such attacks on the democratic game be sufficient grounds for restrictive decisions made by the court? If so, or if not, what are the resulting effects on the democratic game itself?

### 3 METHOD

The measures implemented by the STF align with the concept of a “fragile democracy” as described by Issacharoff (2015). According to this perspective, in a fragile democracy, the discourse during the electoral process must be connected to democratic progress. Anything that contradicts this notion is deemed incompatible with the exercise of the right to vote, as it aims to ensure freedom in the electoral process. In contrast to the conventional view, Varol (2017) argues that there are measures commonly employed in authoritarian regimes that, at times, foster and enhance the democratic game more effectively than those typically used by democratic systems themselves. This research aims to facilitate a dialogue between these two authors.

Thus far, this work has constructed a narrative that, to a greater or lesser extent, attempts to demonstrate the necessary nuances for understanding the historical context that informs its conclusions. In line with what Burke (1993, p. 28) would refer to as a “model of a model”, it presents a complex syncretic narrative aimed at enabling diverse conclusions regarding the elements contained within it. It is a retrospective examination that considers present challenges to establishing a model for envisioning the future. Burke identifies this as the method of historical-cultural revision, which allows for a (re)interpretation of knowledge to simplify reality – a structured model of what is real. The outcome of this approach is a micro-model of the constructed reality. The proposed dialogue between the ideas of Issacharoff (2015) and Varol (2017) only makes sense when considered within the framework of the preceding narrative model. Therefore, they are constrained by the reality that the narrative seeks to induce (based on the narrative constructed thus far) and the deductions derived from the authors' literature review.

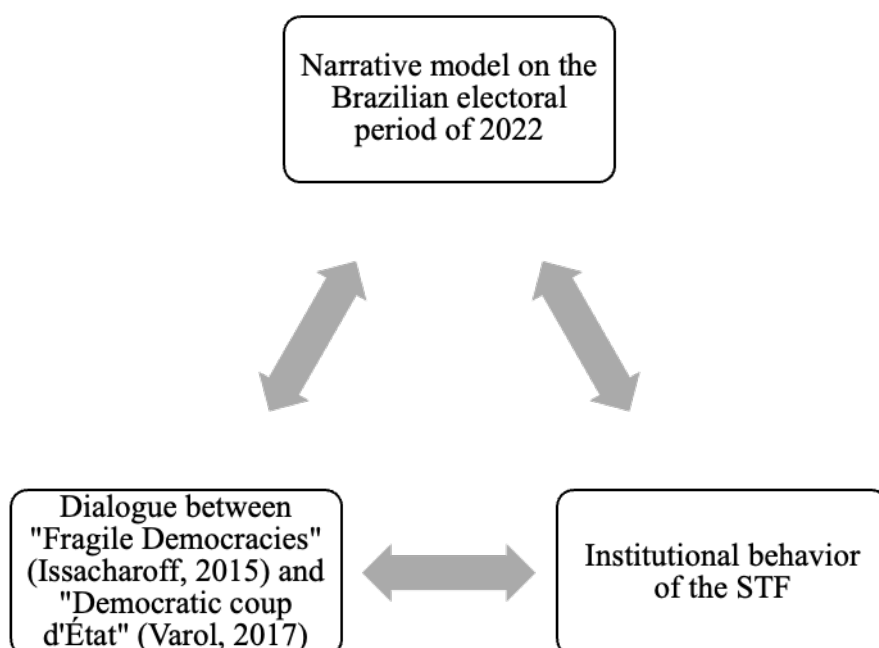


Figure 1. Research model

## 4 RESULTS

The research explores the impact of the decision-making expansionism of the Federal Supreme Court (STF) on the re-election bid of Bolsonaro. The approach employed does not view this situation as necessarily negative, as long as it strengthens democracy. The measures taken by the STF are a hallmark of what is referred to as a “fragile democracy” by Issacharoff (2015), where the discourse during the electoral process must be aligned with democratic values, and any deviation from this is deemed unacceptable for the exercise of the right to free speech. However, Varol (2017) challenges this conventional view and argues that sometimes measures typically employed in authoritarian regimes can better promote and develop democracy than those used by democratic systems.

Although it is possible to conclude from the reading of Issacharoff and Varol that there may be moments when a country's supreme court should or must intervene to defend the democratic game, it is not clear that such circumstances were present in the Brazilian case, even with the attacks by Bolsonaro and his supporters on the electoral system or the democratic governance. It is necessary for the court to maintain a pacifying tone and to ensure parity and equality among competitors, especially during the second round when the choices are limited to only two candidates. Otherwise, the court, which should act as the guardian of the constitutional text, risks violating the constitution itself by indirectly favouring the campaign of one candidate over another.

The research aims to initiate a dialogue between these two perspectives. The findings suggest that despite the STF taking authoritarian decisions, it was able to contribute to the normalization of the elections. Bolsonaro's campaign, which was largely based on challenging the democratic system and attacking the human rights of minority groups, raised concerns about the legitimacy of institutions and the voting process. Further research is needed to fully understand the complex dynamics of power in the social context and the impact on future elections and the quality of democracy. The study is limited in that it only focuses on the Brazilian's 2022 elections and does not take into account past events.

## 5 DISCUSSION

The Brazilian Constitution of 1988 established a new system that disregarded the country's constitutional history and relegated it to being unreliable (Barroso, 2012, p. 111). The idea of effectiveness argues that there is a tradition of ineffectiveness in the Brazilian constitutions, resulting from the flaws of the elites, leading to a lack of trust in norms (Bonavides & Andrade, 1991, p. 12). To address this issue, a new model of constitutionalism was introduced, which gave a lot of power to the Supreme Court. The court was meant to play a significant role in politics and law and be seen as the guardian of democracy. However, this decision was made for political reasons and ignored that many of the political and legal institutions had already existed in previous constitutions. There is debate about whether there is an ineffectual constitutional order or if it's just some provisions that are less effective (Lynch & Mendonça, 2017).

Thirty-five years later, the Brazilian Constitution that was meant to be effective is facing questions about its efficiency and legitimacy. The “emancipatory” order appears to be repeating history by becoming a mere tool for domination and formal legitimization of the arbitrary will of those in power. Brazilian’s Federal Supreme Court Justice, Luís Roberto Barroso (2008, pp. 327-329), advocates that:

Brazil's political and constitutional experience, from independence to 1988, is the melancholic history of a country's misalignment with its people and destiny. Almost two centuries of persistent illegitimate power, lack of effectiveness of multiple Constitutions, and an endless succession of violations of constitutional legality. An accumulation of lost generations. The ancestral illegitimacy materialized in the domination of a narrow-sighted, patrimonialism elite that never had a country project for everyone. (...) The lack of effectiveness of successive Brazilian constitutions resulted from the non-recognition of normative force to their texts and the lack of political will to give them direct and immediate current applicability. The European tradition of the first half of the century prevailed among us, which saw the fundamental law as merely an ordering of action programs, calls to the ordinary legislator, and public powers in general. Hence, the Brazilian Charters have always allowed themselves to be inflated by promises of action and pretended rights that never came to fruition in practice. A history marked by insincerity and frustration. Disrespect for constitutional legality accompanied the Brazilian political evolution like a curse (...). Intolerance, immaturity, and social insensitivity defeat the Constitution. A country that didn't work out. The 1988 Constitution was the zero milestones of a restart, from the perspective of a new history.

Barroso (2012, p. 57-58) raises the expectation of a “new history” by asking "Why not a constitution 'to be effective'?" His original publication in 1987 helped to establish the Brazilian doctrine of effectiveness, which represented a change in mentality toward the role of the Constitution. It helped to address the chronic problems of Brazilian constitutionalism, such as the lack of trust in norms, ideological mystification, and neglect by the public powers. In the words of Barroso (2012, p. 58):

After denouncing the chronic lack of real compliance with constitutional norms, and seeking to overcome it, the article elaborates on the concept of effectiveness and formulates a classification for constitutional norms (...). This text was one of the pioneers in defending the ascent and centrality of the Judiciary in the protection and realization of the Constitution (...). The conquest of effectiveness by constitutional norms was the rite of passage to the material and axiological supremacy of the Constitution, which opened the way for democratic constitutionalism in the country.

The process that resulted in the constitutional text of 1988 cannot be solely attributed to popular forces, as they were not organized or capable of exerting this type of pressure (Sodré, 1984, p. 131). However, participation from civil society gradually increased and became relevant in the political process after the opening (Barbosa, 2012, p. 145). The constitution emerged from a process with significant popular participation, broke with the past, and brought together diverse political and ideological forces into a reasonably advanced text.

Neglecting the past, however, is a thankless task: it implies renouncing one's own identity to emptiness (Burke and Stets, 2009, pp. 112 et seq.) - worse, it means not learning from its lessons (Burke, 2000, pp. 70 et seq.). The Brazilian doctrine of effectiveness ignores that a Constitution distorted from the historical and democratic constitutionalism is a mere fantasy of normativity - it contributes to a symbol of organized power, with low legitimacy and deficient social participation: "it is not the monologue from the top or the political-strategic agreements that shape constitutionalism and affirm democracy" (Benvindo, 2014), it is the social experience that builds the law and the interpretation that it must be given, it is necessary to live the Constitution.

The "approach of constitutionalism from Latin American constitutional sociology aims to critically investigate its development, not in its normative sense, but as it faces political and social challenges" (Vieira, 2016). Whereas before the issue of the narrative of the failure of Brazilian constitutionalism was focused on a "non-effective" constitutional order, the 1988 Constitution resolves this formally by enhancing the functions and competencies of the Judiciary - the protagonism would be based on the "inexorability of fundamental rights, which are not exhausted in the constitutional text, and on the sophistication of the instruments of constitutional control and constitutional process" (Moreira & Da Escossia, 2016).

In the Brazilian system, the judiciary has become a crucial component in ensuring the legitimacy and effectiveness of the constitutional text. The Brazilian constitution, crafted in 1988, prioritized the role of the judiciary in enforcing the constitution and safeguarding fundamental rights. However, it is important to note that the constitution was written by a third of the senators who were not elected, with strong influence from conservative business sectors, and its language was designed to avoid conflict (Aráujo & Maués, 2016).

The rise of the judiciary as a key player in constitutional systems is not unique to Brazil and can be seen globally. The concept of judicial review, where the judiciary has the power to review and potentially strike down legislation that is deemed unconstitutional, has become the dominant model in many countries in the past century. This trend is a result of the recent wave of democratization and can be observed in the creation of constitutional courts or the expansion of existing ones in many countries.

The post-World War II era inaugurated, in the Western world, a second wave of democratization (Huntington, 1991, pp. 579-616), with a liberal bias, with political-social sentiments that favored democratic quality and the majoritarian political game, while at the same time allowing for the coexistence and strengthening of the participation and safeguarding of the fundamental rights of minority groups in institutionalized desires, in the paths of the state. Just like the first, once imagined as consolidated, a process of deconstruction of political gains was perceived, as well as a mischaracterization of the systems of government or the quality of the power political game for authoritarian or low popular participation regimes, such as military coups in Latin America or the suffocating context of the Cold War (1947-1991).

The Carnation Revolution (April 25, 1974) in Portugal marked the start of the third wave of democratization (Huntington, 1991, pp. 579-616), which influenced the political and ideological turning point in various parts of the world, from then-called Eastern Europe to countries such as Argentina (1994 constitutional reform), Chile (1990), and Brazil (1985, resulting in the 1988 Constitution), with transformative effects on diplomatic, commercial, and cultural relationships in the most influential and stable process of reshaping the world's power order. Countries that remained aloof from its foundational cornerstone (democracy as a system of government) were left on the margins of subsequent and frequent technological, political-legal, socio-economic innovation processes, etc.

The impacts resulting from September 11, with subsequent and ongoing upheavals in the Middle East dominated by ideologies and practices contrary to human rights, as universalized by the West, posed the first challenges to the democratic paths of the third wave in the 21st century. However, nothing was as severe from a political-ideological perspective as the rise of conservatism in the 2010s, a phenomenon observable from one of the intrinsic virtues of the democratic model, the vote. Ultra-right populists, ultra-conservative groups that, by preaching easy solutions with outrageous rhetoric, to complex economic issues or the reordering of social customs, were able to garner considerable and relevant popular support, while conquering power, especially in the executive and legislative branches typically elected by the majority logic.

Many thinkers have reached the same conclusion: “something is happening” (Przeworski, 2019, p. 12), some previously disregarded and weak force has grown and begun to act acutely to discredit the liberal conception of the state and democracy. Even “matured” systems have begun to experience “anti-system feelings” (Przeworski, 2019, p. 13), resulting in a decrease in electoral participation and the electorate’s confidence in institutions or even in democracy as the best (or least bad) form of government. This has led to the resurgence of sentiments from the first quarter of the 20th century, where “people of different political orientations, values, and cultures saw each other increasingly as enemies” (Przeworski, 2019, p. 23) as a hindrance to the civilization process, deserving of extermination instead of equal respect and consideration.

There is a contemporary dilemma within liberal thought: has democracy ceased to be an active subject in the realization of human rights, a characteristic feature of globalization for the stabilization of more fundamental political aspirations, and instead become a pejorative adjective to be combated? Whether yes or no, what does this scene reveal as a narrative of power and possibilities for the future of political organization of government systems in contemporary states: is democracy doomed to succumb under current conditions? (Przeworski, 2019, p. 33).

The contemporary understanding of democracy goes beyond simply being a system in which government occupants lose elections and leave. Today, the term seems to indicate a type of representative, an indirect political system that allows (or should allow) pluralistic



participation in the formation of relevant and irrelevant public interest political choices in a given society, including clear delimitation of the limits and conditions of participation in public, political life. In other words, the system must establish what is or is not within the possibilities of the democratic game. If it does not do so, it will necessarily be subject to the dictates of political-party eventuality or to the traps of other interests that are not those of legitimate people.

The concept of “democracy” has been the center of various conceptual disputes and narratives of power, and has become a central element in Western political, legal, socio-economic, and political-ideological debates, especially as a stabilizing factor and a minimum element for the effective implementation and protection of human rights on a global level. It is from this point on that the conceptual construction goes beyond being just a more or less representative system of government and becomes an object of desire for those who wish to see their political project within the realm of state accomplishments, as a stable and mature democracy is seen as the way to follow the steps of the civilizing process, moving further away from authoritarianism.

In addition, in a constitutional system that privileges the centralizing position of the Judiciary as a source of political power disputes and stabilization of constitutional legal norms, distortions will be present if the limits and possibilities are not properly delimited by the legislative or by the Constitution itself. What can be perceived, when analyzing the relevant events that composed the 2022 election, is that Bolsonaro, in his attempt to be reelected, stretched the acceptable limits as far as he could in a democratic political game. The same can be said, with some clarity, of the institutional posture of the Supreme Court, as it felt that more than just a mere antagonistic political interest dispute or different state projects was at stake, and began to act as if democracy itself was under attack and needed its institutional support. Democracy, as if the STF were the only owner of it, chose a side.

The critique of the performance of democratic institutions as actors that negatively impact democracy is not new, they can be organized into two major trends of constitutional thought: In the first, the focus is on the actions of spheres composed of representatives of the popular vote, which establish an abusive dynamic by “representing” particular interests in acts of political power to the detriment of the popular will and at the risk of erosion or, for some, destruction of democracy, even under the constitutional umbrella – another variation of constitutionalism that would be beyond its genesis. The second says that constitutional jurisdiction under the competence of the court implies an authoritarian or dysfunctional relationship with democracy, leading to another variation of liberal constitutionalism that diverges from its concept of limiting the exercise of power.

In Brazil, the Supreme Federal Court (STF) and the legislative and executive branches of power have not been immune to such criticisms, and various voices have risen against the actors with significant political-legal actions. “Judicial activism”, “supremocracy” (Vieira, 2008, pp. 444-464), and “ministrocracy” (Arguelhes & Ribeiro, 2018, pp. 13-32) are some of

the Brazilian versions to question elements of judicial supremacy and their impact on democracy; “representation crisis”, “outdated coalition presidentialism” are some of the terms that warn of the problematic relationship of representative voting powers to a democratic society. Diversifications arising from universalized criticisms that transcend borders and models of legal systems (Brinks & Blass, 2017, pp. 296-331): wherever there is constitutional jurisdiction, there are voices opposing the activity as “counter-majoritarian” (Brown & Waller, 2016, pp. 817-850); wherever there is a legislative or executive power, there will be opposition or political minorities that will attempt to attack the democratic legitimacy of the government or parliament.

Worse still, the younger and less experienced a democracy or a country's re-democratization process is, the more daunting the observation is of authoritarian elements and nostalgic remnants of different, already surpassed times, disregarding humanitarian dictums or even satisfactory political representation. Bolsonaro is, in a sense, the result of such dissatisfaction with Brazil's recent democratic history, and was able to represent “those who were frustrated with unfulfilled constitutional promises; and, on the other hand, those dissatisfied with promises that were fulfilled” (Barroso, 2022, pp. 1-34). As Luis Roberto Barroso (2022, pp. 1-34) analyzed, the populist discourse of Bolsonarism would not find refuge in constitutional terms, as populism in its essence represents a march against sophisticated and corrupt elites: “Bolsonaro was elected following the traditional populist doctrine: the simple, pure and conservative people against the sophisticated, corrupt and "leftist" elites. As inevitable, the conflict that marks the relationship between populism and democracy was soon placed: there is no way to fulfill campaign promises without confronting the institutions supposedly occupied by representatives of these elites”.

That Jair Bolsonaro acted contrary to democratic principles and public interest, including using aggressive language incompatible with the office he held, seems undeniable. However, there is another relevant part of this story. At the same time that the former president moved the political-institutional scenario to less republican paths, it is possible to say that the STF acted in the same way.

The striking difference between the actions of power of the actors in question is that Bolsonaro used the public machinery in an authoritarian manner, attacked the democratic system of government as an end in itself, and there did not seem to be a well-elaborated coup plan, but rather a kind of authoritarian sadism aimed at weakening a democratic model with empty speeches and words of order to the wind, for those who follow him, not necessarily for the construction of a different legal order, even though it is authoritarian. The Federal Supreme Court, in turn, upon identifying Bolsonaro's moves, acted in an authoritarian manner to protect the democratic game. An authoritarian posture does not justify another, but without the energetic reaction of the court concerning the acts committed by the then-president, it is possible to consider a political scenario very different from the current one for Brazil, perhaps, who knows, with antidemocratic intentions in power. According to Justice Luís

Roberto Barroso (2022, pp. 1-34), the STF played a relevant role in curbing Bolsonaro, but it was not the only one to act to prevent coup attempts:

The repeated threats to constitutional legality and the stability of institutions have generated a strong reaction from multiple sectors. First, the press, despite advertising boycotts and the contemporary difficulties of its business model, was a bastion of resistance. Properly distinguishing between fact and opinion, it maintained a critical tone and performed its role of watchdog with unflinching courage. Despite many fears of involvement by the Armed Forces, their leaders also resisted undue temptations. The defense minister and military commanders left their positions with dignity, reportedly because they disagreed with the political and intimidatory use of the institution. The Supreme Federal Court, which had been divided on the issue of combating corruption, united in defense of democracy. In this line, it reaffirmed its commitments to freedom of expression, preservation of civil society councils, the due legislative process, and above all, confronting attacks on institutions by extremist groups. In different investigations, which were later combined into a single inquiry into the activities of criminal organizations, the Court prevented threats of violence against its Ministers and facilities with hearings, searches and seizures, and even preventive arrests. The Higher Electoral Court, composed of three Supreme Court Justices, also faced undemocratic behavior by instituting procedures to investigate false allegations of fraud against the electronic voting system, as well as ordering the “de-monetization” of websites and channels that spread disinformation against the electoral process and democracy.

What Barroso treats as a union of the STF in favor of democracy, with repeated commitments to freedom of expression, can be read as follows: a zero-tolerance exercise to any speech contrary to the democratic game or offensive to the members of the court. It is an institutional behavior that in Samuel Issacharoff's fragile democracy, is related to the judiciary as an inability to effectively dispose of institutionalized mechanisms for democratic protection, which places the author in an interesting interlocution with his contemporaries, as he assumes that “strong democracies need strong institutions” (Issacharoff, 2015, p. 196).

Issacharoff's theory posits that contemporary democracies are vulnerable to diverse pressures that may undermine their stability and compromise their democratic values and institutions. In his view, democracies that exhibit weak institutions, low levels of legitimacy, and an inability to adequately manage crises and challenges are considered fragile (Issacharoff, 2015, pp. 12-23). The challenges faced by fragile democracies, according to Issacharoff, stem from their difficulty in balancing the fundamental principles of democracy, such as individual rights and liberties, with the rule of law and the need to address security and safety threats. In many cases, democracies are faced with the dilemma of choosing between safeguarding individual rights and liberties and preserving national security, a situation that may have adverse effects on democratic institutions and values. Issacharoff contends that the court system plays a critical role in maintaining stability and legitimacy in fragile democracies by upholding the rule of law and safeguarding individual rights and liberties (Issacharoff, 2015, pp. 120-124).

The problem, however, is when, in the name of the fundamental rights and freedom of citizens, the court enters directly into the political-electoral field, in order to, with its

decisions, actively affect the outcome of the elections because it understands that one side is more democratic than the other. It is for the defense of democracy that the Supreme Court, as an institution dedicated to defending the Constitution, acts in such a way as to weaken one of the sides, in the Brazilian case, which is what happened to Bolsonaro in his campaign.

In an attempt to strengthen the democratic game, the result represents a curious paradox, in which, while the court's decisions helped to strengthen a candidate seen as the best for democracy, in an undemocratic way they help to undermine the opponent's campaign. "The problem goes beyond the restrictions on ideological commitments of a democratic state" (Issacharoff, 2015, p. 146), Issacharoff (2015, p. 146) argues that: "Political parties play a key role in providing a mechanism for informed popular participation in a democracy precisely because they are organizationally independent of the state".

Although it is correct to state that Issacharoff accepts the court to interfere in the electoral dispute to protect democracy, he envisions the possibility of interference based on the so-called "Procedural Protections", which refers to the legal principles regarding the protection of constitutional rights during the election period. These protections include measures to ensure that voters have equal access to the ballot, that their votes are counted accurately, and that election disputes are resolved fairly and efficiently. These procedural protections are crucial for ensuring the integrity and fairness of elections:

The more difficult concern is with parties that genuinely vie for governmental office and even majority status to unwind liberal democracy. It is easy to imagine what may go wrong with party prohibitions. The ability to cordon off certain areas of democratic deliberation from particular kinds of speech invites censorship or suppression of political opposition, a move that can be utilized to insulate incumbents from an electoral challenge or as a pretext to impose the ruling majority's form of orthodoxy on political exchange. But if history is a guide, excessive tolerance is dangerous as well. We can begin to test the range of permissible state responses to antidemocratic mass movements through the familiar categories of procedural limitations and substantive definitions of prohibited conduct (Issacharoff, 2015, p. 153).

Three procedural concerns emerge in cases where democratic regimes try to prevent antidemocratic elements from gaining advantages through the electoral process. First: the most important safeguard is the concentration of power to suppress away from self-interested political actors to an independent judicial review (Issacharoff, 2015, p. 164). It is interesting to note that, for Issacharoff, the main defense that the democratic system can have is the political choice made by Brazil: a judicial system that strongly concentrates the decision-making powers over constitutional issues, a type of legal constitutionalism in which the court, under the argument of protecting democracy, can do a lot, almost everything, which becomes accentuated and quite public when using its powers during the electoral game:

Independent judicial review takes on particular significance in parliamentary systems. There is an ever-present risk in democratic systems that the claimed exigencies necessitating the use of emergency powers, including the power to suppress antagonistic political speech, will become

the rule that swallows the exception. Too many putative democracies, particularly in the immediate post-colonial world, have succumbed to one-party rule under the claimed necessity of domestic emergencies for any prescriptive account to ignore this threat. The common feature of fledgling democracies that collapse into strongman regimes is the concentration of unilateral power in the executive, an inherent risk whenever there is a claimed threat to national security (Issacharoff, 2015, p. 164).

The second is preventing antidemocratic elements in the form of governmental action taken, which should not include criminal sanctions. The typical sanctions are removing members from legislative office, disbanding parties, and seizing party assets. The evidentiary requirements for the government's action are tied to the interests and potential severity of punishment. In discussions of thwarting antidemocratic elements, there should also be consideration of whether the government's conduct is excessive in light of the perceived threat, and that the least restrictive means should be employed to achieve the objective (Issacharoff, 2015, p. 164).

The solution of Issacharoff appears, once again, excessive and consistent with the possibilities presented by the Brazilian case of the 2022 elections. However, the problem is that the author only accepts the use of such extreme resources to ensure that voters have equal access to the ballot, that their votes are counted accurately, and that election disputes are resolved fairly and efficiently, which does not seem to be the case. The Supreme Court acted in a way to prevent a potential threat, Bolsonaro's offensive speeches helped to build an image of a "myth" for his voters, while also allowing an authoritarian view in the general public. For the court, it is clear to say that Bolsonaro, myth or not, was more than someone bluffing, but a figure to be repelled from democracy.

This is the key issue of the problem: that Bolsonaro is an authoritarian figure, with repugnant speeches that manifested disdain for human rights and the democratic rule of law, is something that proves to be unquestioned. However, his criticisms of the Supreme Court, although disrespectful, and lacking in decorum, have at their core a respectable concern about the limits of a supreme court's actions in the name of democracy, when, it is worth remembering, even with all its negative points, Bolsonaro was and continues to be a politically influential figure with a significant democratic base of voters.

Varol's (2017, p. 6) research explores a rarely studied phenomenon referred to as the "democratic coup d'etat". Traditionally, academic legal literature has viewed all military coups as anti-democratic and carried out by power-hungry military officers looking to establish a long-lasting rule. However, Varol argues that not all military coups are anti-democratic and that some may even promote democracy by overthrowing authoritarian regimes and facilitating free elections. After a democratic coup, the military serves as the interim government until elections occur and during the transition, they may try to influence the new constitution being drafted (p. 7). This influence can take form in three ways: (i) institutional, (ii) substantive, and (iii) procedural.

Varol (2017, p. 128) explains that the concept of constitutional entrenchment, from an institutional perspective, involves the establishment of counter-majoritarian institutions that have significant supervisory power over elected officials. These changes divide the exercise of political power between political institutions and independent counter-majoritarian institutions that align with the policy views of the military and virtually mark the end of Parliament's supremacy. This can allow the military in power to protect certain types of basic principles in society: "In establishing these institutions, the military sought to protect the founding principles of the Republic—primarily secularism and national unity—which, according to the military, had preserved stability the face of threats to revert to theocratic governance structures". Citing the case of the Turkish coup (1960), the author concludes that such institutions should be a constitutional court and a National Security Council. Regarding the constitutional court:

The military leaders believed that an independent judiciary was necessary to prevent government oppression and abuse of power by elected officials and to protect the founding principles of the Republic, primarily secularism and national unity, much cherished by the military. As Cener Belge and Hootan Shambayati have observed, the formation of the Turkish Constitutional Court supports Ran Hirschl's hegemonic preservation thesis. The military leaders, foreseeing their inevitable loss of power through democratic elections, created and empowered a sympathetic Constitutional Court to preserve their values and interests (Varol, 2017, p. 129).

From a substantive perspective, Varol (2017, p. 159) refers to how a military junta or an institution that has staged a coup may appropriate the constitutional terms by directly controlling the work of the constituent assembly. Using the example of the Portuguese coup (1974), he argues that this way of influencing a constitution may be viewed as more democratic than allowing authoritarian elements and interests contrary to the popular will to spread through society as political choices of government:

The substantive entrenchment found in the post-coup constitution in Portugal is the most drastic example of constitutional entrenchment. Despite its drastic nature, or perhaps because of it, the entrenchment did not have long-lasting effects. Under the constitution, the Council of the Revolution would perform its functions until at least the end of the first legislative session of five years. In 1982, it thus became possible to amend the constitution and eliminate the Council. That year, a coalition of the existing political parties garnered the requisite two-thirds majority to revise the constitution. The amendments decreased the powers of the President, transferred them to the Parliament or other institutions, and most importantly, abolished the Council of the Revolution. The Council of the Revolution was replaced with "a civilian advisory body, the Council of State, and the Constitutional Court." The amendments also established a legal framework for democratic civilian control of the military. Following the amendments, Portugal has remained "not simply a democracy, but a relatively high-quality democracy. (Varol, 2017, p. 159)

With regards to procedural ways, the author explains that it refers to the control over the method in which a constitutional text will be drafted, who will do it, the way it will (if at all)

be put to a popular referendum, and he also uses the example of the Egyptian coup (2011) to show how the takeover of power can lead to a better enshrining of democratic principles:

To date, the military has influenced the constitution-making process in Egypt through procedural entrenchment, orchestrating the transition process so that the new constitution that will eventually be drafted will favor its institutional and policy preferences. The military has attempted to achieve that outcome in four primary ways: (1) by holding elections under a condensed timeframe, (2) by holding parliamentary elections before the constitution drafting process begins, (3) by influencing the political makeup of the first People's Assembly and Shura Council, and (4) by favoring a presidential system over a parliamentary system (Varol, 2017, p. 175).

It can be perceived that all of Varol's concerns can be summarized in an institutional view of how a democratic game can function from an authoritarian intervention in the direction of the state. It is necessary to draw some considerations about the Brazilian case based on the insights of Issacharoff and Varol. Brazil was dominated by a military dictatorship from 1964 to 1985, and since then has been a democratic republic. Nevertheless, the legacy of the dictatorship can still be felt in the country's political institutions, such as the justice system, the legislative, and the executive. In light of the insights of Varol and Issacharoff, it is important to question the role played by the Brazilian Supreme Court in the democratization process and the consolidation of democratic institutions.

The essence of the thought corresponds to considering the possibilities of the court to move to repress extreme acts aimed at putting the democratic nature of the political-electoral game into question while insisting on the implementation of preventive barriers, legal obstacles aimed at not allowing authoritarian incursions, at which time the author recognizes that the pluralistic deliberation necessary for the maintenance of democracy, may be at risk when there is a narrowing in the public space for the circulation of ideas (Issacharoff, 2015, p. 196).

## **6 CONCLUSION**

It is noteworthy that both Varol and Issacharoff seem to share a romanticized, utopian view of the role played by a supreme court in a democracy: the court is seen as a moral virtue of any and every system that prides itself on being democratic, acting in opposition to the illicit interests of those who seek to distort an undefined sense of democracy, a sense that only the supreme court under the constitutional aegis would be authorized to reveal to society. It is striking how, despite intriguing research, they fail to present democratically satisfying answers to the problems that drive them. Instead of being viewed with distrust, the constitutional court is treated as synonymous with hope and civilizational evolution. The authors ignore that, despite playing an essential role in the stability and democratic gameplay, the supreme court has its political-ideological preferences that, when manifested in a political-electoral context, considering the powers of the institution, can create an unnecessary, inappropriate, or even intentional imbalance to the outcome of the vote.

In the same vein, to assert that a supreme court can protect a democratic game better than well-defined political choices made by the people themselves is contrary to the very essence of democracy. Similarly, considering that military interventions can legitimately represent popular aspirations is equally a fantasy. Brazil has undergone a long period of military regimes in its history, the most recent from 1964-1985, which culminated in the so-called democratic opening with the creation of a new constitution. The framers, elected there, were various representatives of the former authoritarian militarism, which refused to relinquish power. Many said that the current 1988 Constitution would be the consecration of the coup d'état victory.

Varol's notion is flawed when he believes that history has only one side. For each military figure who takes power, or for each institutional act that is not safeguarded by a popular vote, democracy fails, the system fails, and, worse, it is the same as allowing a strong concentration of power in the hands of a few. In the Brazilian case, what military interventions revealed, all of them, were deaths, tortures, and daydreams. Everything that democracy should not be.

It should be noted that, despite the theoretical efforts made by the authors, both Varol and Issacharoff do not provide a description or even a solution that appears to be suitable for the Brazilian case. This is a legal extravagance, in which the supreme court moves according to what it understands to be the most correct for the defense of the democratic game without taking into account the degrading effects that its decision-making acts may have on the democracy itself.

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**Maurício Sullivan Balhe Guedes** (Doctoral student with a Master's degree in Constitutional Law at Federal University of Minas Gerais – UFMG. Constitutional Lawyer).

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**Luisa de Boucherville Ferreira Lombardi** (Law Graduate at Pontifical Catholic University of Minas Gerais – PUC/MG. Lawyer with experience in public law and human rights litigation).

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## **Povzetek:**

### **Brazilsko vrhovno sodišče v demokratičnem državnem udaru**

**Raziskovalno vprašanje (RV):** Ali bi bili takšni napadi na demokracijo zadostna podlaga za omejevalne odločitve sodišča? Če je tako ali če ne, kakšni so posledični učinki na samo demokracijo?

**Namen:** Razumevanje premislekov brazilskega ustavnega sodišča med predsedniškimi volitvami leta 2022.

**Metoda:** Ukrepi, ki jih je sprejelo sodišče, so značilnosti tega, kar je Issacharoff (2015) razlagal kot »krhko demokracijo«, v kateri mora biti diskurz med volilnim procesom povezan z demokratičnimi dosežki, kjer je vse, kar je v nasprotju z njim, zunaj možnosti uresničevanja pravice na podlagi zagotavljanja volilne svobode. V nasprotju s konvencionalnim pogledom Varol (2017) razume, da obstajajo ukrepi, ki se običajno uporabljajo v avtoritarnih režimih, ki včasih bolj in bolje spodbujajo in pomagajo pri razvoju demokratične igre od tistih, ki jih običajno uporablja sam demokratični sistem. Raziskava predlaga dialog med avtorjema.

**Rezultati:** Raziskava lahko dokaže, da je sodišče kljub avtoritarnim odločitvam uspelo prispevati k zagotavljanju normalnosti volitev.

**Organiziranost:** Razprava o mejah delovanja sodišča, pa tudi o legitimnosti njegovega odločanja je ključni element same možnosti obstoja ustavne države, vpliva na delo sodnikov, odvetnikov in tožilcev ter omogoča za boljši družbeni nadzor.

**Družba:** Bolsonarizem je okrepil diskurz proti sodišču in okrepil vprašanja o legitimnosti institucij in volilnega postopka. Težava pa je v tem, da je Bolsonarova kampanja v veliki meri temeljila na boju proti demokratično vzpostavljenemu sistemu, v enakem tonu, v katerem je napadel človekove pravice manjšinskih skupin. Razumevanje te kompleksne dinamike moči v družbenem kontekstu, vpliv na prihodnje volitve ali celo kakovost demokratične igre je bistven del prispevka tega dela.

**Izvirnost:** Pravilno je reči, da Bolsonaro ni mogel zamisliti svoje kandidature za ponovno izvolitev, kot bi si želel, večinoma zaradi ekspanzionizma odločanja sodišča. Uporabljena metoda takšne situacije, tudi če je netipična, ne vidi nujno kot negativno, če le krepi demokracijo.

**Omejitve/nadaljnje raziskave:** Ta raziskava je omejena s posebnim časovnim obsegom, saj ne more natančno napovedati vedenja brazilskega vrhovnega sodišča po volilnem obdobju 2022. Poleg tega je tudi teoretični okvir nezadosten za predvidevanje ali popolno predstavitev raznolikosti brazilskega demokratičnega sistema. Raziskovalni predlog bi bil nenehno spremljanje vrhovnega sodišča in njegovih odločitev v zvezi s temeljnimi pravicami, zlasti ob upoštevanju politične pokrajine izven preučevanega obdobja, da bi ugotovili, ali je šlo za posebnost tistega trenutka ali za nekaj, kar se je zasedrilo v ideologiji sodišča.

**Ključne besede:** brazilsko vrhovno sodišče, demokratični državni udar, volitve, Bolsonaro.

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## The dimensions of quality of healthcare of children/adolescents with disabilities

Andreja Vovk\*

Faculty of Organization Studies in Novo mesto, Ulica talcev 3, 8000 Novo mesto  
andreja.vovk@fos-unm.si

### Abstract

**Research Question (RQ):** Which factors have a positive respectively a negative impact on parental satisfaction with the quality of healthcare of children and adolescents with disabilities?

**Purpose:** The aim of the study is to identify the dimensions of satisfaction with the quality of healthcare based on the findings of different authors, and, at the same time, to define the factors that influence the extent to which parents of children and adolescents with disabilities are satisfied with the quality of healthcare provided to their children and adolescents.

**Method:** The research is based on a systematic review of the existing literature. A search for peer-reviewed and open-access scientific articles was conducted in SpringerLink, Science Direct, ProQuest, PubMed, and Scopus. The time frame of the search was publications between 2012 and 2023 with the exception of relevant literature in the field of research. The search offered 106 such articles. For further consideration we included articles in which different authors reported factors that positively or negatively influence parents' satisfaction with the healthcare of their child and adolescent with disabilities. The criteria were met in 57 articles. The results of the main findings are shown in the tables.

**Results:** The perceived factors that have a positive impact on parental satisfaction are communication and cooperation between the parties involved, stress reduction activities, knowledge and skills of healthcare professionals, use of modern technologies, measurement of user satisfaction of healthcare services, approaches to healthcare and patient-centred care. Among the negative factors perceived are disadvantages in the healthcare process, lack of communication and cooperation between healthcare professionals and parents, lack of patient-centredness, insufficient quality of healthcare services, no user satisfaction measurements and lack of knowledge of healthcare professionals.

**Organization:** The findings of the research may help the management of healthcare institutions to find solutions to improve the satisfaction of parents of children and adolescents with disabilities.

**Society:** This article contributes to the understanding of the importance of monitoring the satisfaction of parents of children and adolescents with disabilities who are users of healthcare services. The results of our research show positive impacts on children and adolescents, their parents and the healthcare professionals involved in the healthcare process. The negative impacts shown give an idea of how to think ahead to improve the quality of work.

**Originality:** It is the first study of its kind in Slovenia. Its originality lies in the fact that it looks at a very relevant social issue of children and adolescents with disabilities and their parents, who have both positive and negative experiences while being in the process of healthcare.

**Limitations / further research:** The research is limited to a review of existing literature in electronic databases. The results of the survey provide an idea and a basis for further research, where the results obtained in our study could be implemented in a healthcare facility and a survey on satisfaction with the healthcare of this population could be conducted there.

**Keywords:** disabilities, handicap, children and adolescents, healthcare, quality, satisfaction, parents, patient-centred-care.

## 1 INTRODUCTION

Data show that 15 % of the world's population has some form of disability (World Health Organization, 2011 in Vovk, 2020, p. 2), in the European Union 87 million people are estimated to have some form of disability (European Commission, 2021, p. 4), while in Slovenia 170,000 of the total population is estimated to live with a disability (Ministry of Labour, Family, Social Affairs and Equal Opportunities, 2021, p. 3). Their ability to contribute to the success of society is no different from the rest of the population, and they are not always able to fulfil their potential due to various disabilities, barriers and reduced accessibility. This is not a homogeneous group of people, as they have different functional limitations such as intellectual disabilities, sensory impairments (vision, hearing), mobility impairments, etc. (Ministry of Labour, Family, Social Affairs and Equal Opportunities, 2021, p. 4). It is assumed that each type of disability has specific, complex problems and needs in the area of health, rehabilitation, education, social life and support. It is important to recognise that not even two people have exactly the same experiences and needs (World Health Organization, 2011 in Vovk, 2020, p. 2). Attitude towards people with disabilities is extremely important, as they face many difficulties (Khan, Umar, Naeem, & Marryam, 2016, p. 18).

In 2006, the United Nations Convention on the Rights of Persons with Disabilities was adopted (United Nations, 2006). The Slovenian translation of the Convention is *The Convention on the Rights of Invalid Persons* and according to Zaviršek (2018a, p. 143), the translation is inappropriate as "disability" is properly translated as "handicap, hindrance"; "invalidus" (Latin) means dependence, infirmity (Zaviršek, 2014a, p. 124). In Slovenian law and also in the public domain (e.g. in healthcare institutions), the term "invalid" is still being used, suggesting that these people are considered helpless, weak, frail, unable to do their jobs. It would be more appropriate to use the term "handicapped persons" or "persons with various types of disabilities" (Gosenca, Lipovec Čebren, & Zaviršek, 2016, p. 59).

Mental crises and distresses, physical, sensory and intellectual disabilities, as the concept of disability or handicap emphasises, limit individuals in their normal functioning, but become a problem when the individual is confronted with a society or environment that represents a deviation from his or her normality (Zaviršek, 2014b, p. 134). As Rutar (2018, p. 23) states, a disability is always associated with suffering, and a person is bound to suffer as a result. The Action Programme for People with Disabilities 2022-2030 (Ministry of Labour, Family, Social Affairs and Equal Opportunities, 2021, p. 3) states that the Constitution of the Republic of Slovenia, in its chapter on Human Rights and Fundamental Freedoms, in Article 14 on equality before the law, states that human rights and freedoms are guaranteed to everyone, regardless of personal circumstances, with disability being considered as a personal circumstance. Thus, the right to equality before the law for people with disabilities is explicitly emphasised here, as no one should be disadvantaged because of their disability. In this context, the specific needs of persons with disabilities must be taken into account and they must be treated equally and guaranteed the enjoyment of all human rights. In this context, the State is committed to taking

effective and appropriate measures to enable persons with disabilities to achieve and maintain maximum independence, physical, mental, social and vocational capacities, and to achieve full inclusion and participation in all areas of life. Furthermore, the Law on Patients' Rights (2008), in the chapter on patients' rights, in Article 7, under the right to equal access to and treatment in healthcare, states that a patient »shall have the right to equal treatment in healthcare irrespective of sex, nationality, racial or ethnic origin, religion or belief, disability, age, sexual orientation or any other personal circumstance«. The Code of Ethics in Healthcare of Slovenia (2014, p. 2) states in Principle I that »Healthcare providers shall take care to preserve human life and health. They are obliged to carry out their work in a humane, professional, high-quality, safe, compassionate, responsible and conscientious manner and to respect the needs, values and beliefs of the patient. Factors such as race, ethnicity, religion, political beliefs, social status, age, gender, sexual orientation, medical condition, disability must not in any way influence their attitude towards the patient. The patient must be treated individually and holistically. Not only his physical needs, but also his psychological, social and spiritual needs must be taken into account and his culture and personal beliefs respected. «

A person needs to be treated as a unique being, according to Rutar (2018, p. 23-26). When treating a patient, healthcare professionals need to take into account the cultural and social factors that affect the patient, as well as act in accordance with the individual's needs (Jelenc, Keršič Svetel, & Lipovec Čebren, 2016, p. 21). Openness to accepting differences is important in coexistence (Rutar, 2018, p. 23-26). Despite differences in many areas, people share basic needs and desires, human dignity, security and, above all, an equal position in society, to which we all have an equal right. A nurse is a person who must, in addition to professional competence, also possess certain personal qualities that are manifested by an internal acceptance of the values of the profession (Mlinšek, 2012, p. 20-21).

The aim of the study is to identify the dimensions of satisfaction with the quality of healthcare based on the findings of different authors, and at the same time to define the factors that influence the extent to which parents of children and adolescents with disabilities are satisfied with the quality of healthcare provided to their children and adolescents.

While preparing this paper, we have encountered problems with the naming of people with disabilities - it ranges from special needs, disability, handicap, impairment to handicap. For children and adolescents, the Institute of Education of the Republic of Slovenia defines criteria for classification (Institute of Education of the Republic of Slovenia, 2015, p. 4), but for adults there are no such criteria. As the terms are sometimes complementary in the course of the paper, it has made sense to use one of the above-mentioned descriptions in certain places.

## **2 Theoretical framework**

The first records of disabled, according to Veronique Dasen (1993 in Zaviršek, 2000, p. 187-188), come from Egypt. Descriptions of illness, mental retardation, epilepsy, blindness and the

first known mention of deafness are given in the Eber papyrus of 1550 BC. One also reads that the blind was best treated by the priests who taught them music, art and massage, because the priests saw the loss of sight as a positive religious sign; the blind thus took part in religious ceremonies, temples, funerals, and were harpists and singers in aristocratic households, as the aristocrats did not consider them a danger to their women. People with mental disorders were treated less favourably because they were considered to be possessed by the souls of the dead and were therefore not allowed in the temples. People with physical disabilities were depicted in Egypt in a similar way to and alongside children.

There is no reliable information on the treatment of people with disabilities in antiquity, but various sources record that all those who were unable to care for themselves were put to death. For Sparta, Athens and Rome, information on the treatment of those persons is known for the 4<sup>th</sup> and 5<sup>th</sup> centuries BC. In Sparta and Athens, the educational systems forbade the education of handicapped persons because it was believed that they would not be able to achieve what was required in the educational system of that time. In Sparta, these children were dumped in the Taygetos mountains and in Athens they were left to die by the roadside. In Rome, handicapped children were placed in baskets and thrown into the Tiber River (Novljan, 1997).

In the 2<sup>nd</sup> century AD, the Romans began to value the handicapped as an object of amusement, because in special markets you could buy such a person and have him as a pet fool (there was no humanity here, of course) (Winzer, 1997 in Zaviršek, 2000, p. 192). Natural scientists studied various pathological phenomena as far back as antiquity, proving that disease was not the result of supernatural forces, but rather a disorder in the development of the organism. At the same time, they stressed that the development of handicapped persons is specific. At the beginning of the Middle Ages, the influence of the Church on the situation of handicapped people was very negative, since it was proclaimed that maldevelopment was a sign of an "evil spirit", and the Inquisition demanded that all handicapped children are removed from social life, regardless of class. The Renaissance period that followed changed the way people thought about their goals and the meaning of life. Man, with his intellect and strength, became important, and at the same time the position of people with disabilities began to change. The first beginnings of education and training for people with disabilities also belong to this period (Novljan, 1997).

There are many barriers and obstacles to quality patient care, as Ilkhani states (2013, p. 7-8): lack of sufficient knowledge and clinical skills, disrespectful attitudes towards health professionals and accusations that their condition is the result of unprofessional work, inadequate nursing care plan, lack of empathy and understanding from hospital staff, lack of trust in health professionals, which is likely to lead to mistrust and negative opinion of both patients and their families, dependence on caregivers, inadequate equipment and accessories, negative attitudes towards people with disabilities, lack of effective communication skills and reassurance from nurses, insufficient time to provide care, reduction in quality of care, lack of information sharing, problems with the admission process, inadequate coordination between



different service providers, inaccessibility of health services and unwillingness to provide care and support.

Admission to hospital, whatever the reason for the admission is, is stressful for everyone involved, both the patient and their loved ones. People are unfamiliar with the environment around them and, of course, the language that is being used in the hospital. Being unwell and ill makes them all more vulnerable, and this is even worse when it comes to a person with a disability. There are communication difficulties, problems with expressing discomfort, pain, problems with self-management, problems due to comorbid conditions (e.g. epilepsy, intellectual disability) (Guidelines and Audit Implementation Network, 2010 in Vovk, 2020, p. 18).

Aston, Breau, & MacLeod (2014a, p. 301-302; 2014b, p. 221), Ilkhani (2013, p. 2015) and Sharkey et al. (2014, p. 748) state that nurses need to improve their knowledge and gain experience to work with patients with barriers, as working with these patients is challenging for nurses, and frustration and discomfort arise. They stress the need for nurses to establish a positive relationship with both patients and their parents. The establishment of a positive therapeutic relationship between the care providers and the users, i.e. the patients, is of great importance for a positive treatment outcome (Aston, Breau, & MacLeod, 2014b, p. 221).

Jelenc, Keršič Svetel & Lipovec Čebren (2016, p. 26) have developed recommendations to help all health professionals, not just nurses. They recommend that:

- healthcare must always go back to basics, to conscious care and preserving the dignity of the human being as a psycho-physical whole;
- the time pressure of working in healthcare is huge, but the time invested in understanding others is never lost and contributes significantly to the effectiveness of the work;
- the two basic questions that an individual can be asked are: »Tell me, please, what do you need? How can I help you?«;
- each individual has to be understood as a unique person, his or her needs, wishes, beliefs, understandings and perceptions taken into account as much as possible, and care tailored accordingly to all of those;
- healthcare professionals must be aware of one's own personality, perceptions, beliefs and understandings, both personal and professional, and always take into account the impact of the wider environment on the individual;
- it is necessary to show our affection for the user and to build a relationship of trust with them;

- we should take into account the user's wishes and the needs of those close to him/her to be involved;
- we should strive for respectful relations and communication within the team and create an atmosphere of trust, regardless of the differences between team members;
- we should see one's own work, helping and caring for others as enriching and, moreover, as offering personal and professional growth and personal satisfaction.

Good communication skills are essential for nursing practice and patient-centred care and are an important part of nurses' competencies (Boykins, 2014, p. 40).

Based on the examined literature we formulated the following research questions in the theoretical part of the article:

RQ1: Which factors have a positive impact on parental satisfaction with the quality of healthcare of children and adolescents with disabilities?

RQ2: Which factors have a negative impact on parental satisfaction with the quality of healthcare for children and adolescents with disabilities?

### 3 METHOD

The research is based on a systematic review of the existing literature. A search was conducted in Springerlink, Science Direct, ProQuest, PubMed and Scopus. Based on the research questions, we identified the keywords shown in Table 1.

Table 1. Key words

Key words
»disabilities«
»handicap«
»special needs«
»children + adolescents + disabilities«
»children + adolescents + handicap«
»children + adolescents + special needs«
»children + disabilities + healthcare«
»children + handicap + healthcare«
»children + special needs + healthcare«
»adolescents + disabilities + healthcare«
»adolescents + handicap + healthcare«
»adolescents + special needs + healthcare«
»child + family centred healthcare«
»child + patient centred healthcare«
»parental satisfaction + hospital«
»quality + healthcare«

In order to narrow down the number of hits, we used the following inclusion criteria:

- peer-reviewed original and reviewed scientific articles,
- open-access articles,

- articles available in Slovene, Serbo-Croatian or English,
- topical relevance (articles dealing with children and adolescents with disabilities, handicap or special needs); and
- age of the literature up to 10 years (with the exception of relevant peer-reviewed literature in the field of research).

The exclusion criteria were:

- the article's irrelevance to the topic,
- articles in a foreign language other than English or Serbo-Croatian,
- repetitive articles,
- availability of the abstract only; and
- literature more than 10 years old (with the exception of relevant literature in the field of research).

The search returned 106 such articles. In each of the articles, we looked at the abstract and the results. Out of those 57 articles met the criteria. The results of the main findings are shown in the tables.

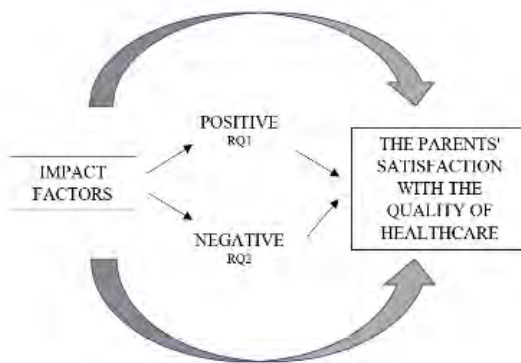


Figure 1. The research model

The reliability of the results was checked with a repeatability step of seven days, and there was no difference between the two examinations. The key findings were based on inductive inference conclusion.

## 4 RESULTS

### 4.1 Factors with a positive impact on parental satisfaction with the quality of healthcare of children and adolescents with disabilities

Table 2 shows the key findings of different authors, identifying factors that have a positive impact on parental satisfaction with the quality of healthcare of children and adolescents with disabilities, relating to the first research question (RQ1). The authors' views are presented in a review of 29 articles.

Table 2. Factors that have a positive impact on parental satisfaction with the quality of healthcare of children and adolescents with disabilities

<b>Authors</b>	<b>Findings</b>
Arcuri et al. (2015)	<b>The importance of parents and health professionals working together</b> in the process of health care of children.
Bayat et al. (2022)	<b>Measuring parental satisfaction</b> is an important factor in paediatric healthcare because parents play a central role in their children's lives. Parents' decisions are the basis for success or failure in large-scale cases of child treatment.
Birkett, Liddle, Jones, & Paulson (2022)	<b>Individualized care plans</b> are an innovative method of providing care for children and adolescents with developmental disabilities, who face many challenges in the course of their care.
Bock et al. (2022)	<b>Individualised dental hygiene training</b> improved plaque status in hospitalised children and adolescents with mental disorders, but self-monitoring by children and adolescents did not improve.
Brannon, Ray, Lark, & Kindratt (2022)	<b>The importance of good communication and time</b> for the child and his/her parents when it comes to a child with special needs or a chronically ill child.
Jannes et al. (2020)	<b>Promoting parent-infant interaction</b> through the provision of developmentally supportive care and <b>non-intermittent visits</b> for parents whose babies are hospitalised in the NICU contributes significantly to parental satisfaction.
Johnson et al. (2022)	<b>Introducing a new conceptualisation and interdisciplinary approach</b> to the management of adolescents with chronic pain.
Kruszecka-Krówka et al. (2019)	<b>The age of the child, the type of admission and the educational level of the respondents</b> are factors that influence parental satisfaction with health care.
Lee & Korczak (2014)	<b>Parental satisfaction with their visit to the paediatric psychiatric emergency room</b> (time between referral and admission, feeling listened to, amount of psychoeducation received and duration of visit).
Leroy & Declercq (2013)	<b>Taking care of dental health and visiting the dentist regularly.</b>
Liddle & Sonnentag (2020)	<b>Applying an individualized care plan</b> to children and adolescents (patient-centred) with developmental disabilities.
Martins, Aldiss, Taylor, & Gibson (2022)	<b>The key role of the case coordinator</b> in paediatric oncology care. Coordination, consistency and continuity of care mean better outcomes for the whole family.
Mayland et al. (2022)	<b>The circumstances and care at the end of a child's life</b> can have a profound impact on parents and siblings. <b>Measuring experiences and outcomes</b> during this period is challenging but extremely important to ensure high quality.
McAnuff, Boyes, & Kolehmainen (2015)	<b>The importance of appropriate communication and interactions</b> between family members and health professionals. Two types of interaction: relational (listening, empathy, respect) and collaborative (sharing, planning, problem solving).
McGill & Rea (2015)	A key factor determining whether healthcare services are provided or whether their needs are adequately met is based on <b>communication between all partners in the healthcare system</b> , and in particular between the child/adolescent and their parents/guardians.
McPherson et al. (2018)	The importance of <b>appropriate communication</b> in the healthcare process of children with and without disabilities and their parents.
McPherson, Oake, & Stinson (2020)	<b>Mobile applications</b> can empower young people with disabilities and provide them with adapted support for a healthy lifestyle.
Miller & Harris (2012)	<b>Introducing an instrument</b> to measure the involvement of children and adolescents in decisions related to their chronic illness.
Moonen, Festen, Bakker-vanGijssel, & Vervoort-Schel (2022)	<b>The introduction of a specialist doctor for children with special needs</b> , working with a multidisciplinary team to support the child and his/her family. In addition to behavioural, physical and mental health problems, specialists should also focus on the context of the child's family and the associated social determinants of health.
Morris, Muskat, & Greenblatt (2018)	<b>Involving the social worker</b> in the healthcare of children with autism in the context of hospital treatment (crisis intervention, counselling, collaboration, advocacy, information resource for patients and their parents).

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<b>Authors</b>	<b>Findings</b>
O'Connor, Brenner, & Coyne (2019)	All health professionals caring for children need to be aware of <b>patient-centred care</b> , which can benefit the child, their family, healthcare professionals and the organisation.
Ong et al. (2020)	<b>The importance of continuing education and professional development</b> of healthcare professionals working with children with developmental disabilities.
Schmidt, Reis, Schulte, & Fricke (2022)	<b>Introducing a curriculum</b> for the dental care of children and adolescents with special needs into dental training.
Shafer et al. (2018)	<b>Lower parental anxiety and better social integration of children</b> predicted higher parent satisfaction scores with perioperative care (anaesthesia). There is a need to work on <b>reducing parental anxiety in</b> parents of children requiring anaesthesia.
Sukhov, Asante, & Ilizarov (2020)	<b>Telemedicine</b> can reduce health inequalities and increase access to care for children with disabilities. Further research is needed to demonstrate the effectiveness of telemedicine in cases of complex medical conditions in children.
Taylor, Kong, Foster, Badawi & Novak (2022)	Health professionals need to take <b>an individualised approach</b> to parents and their children, especially in cases where parents have no one close by to support them or where there is social isolation.
Thunberg, Johnson, Bornman, Öhlén, & Nilsson (2021)	<b>Use of a unified communication system, including pictorial aids and easy-to-read texts</b> , as an aid to patient-centred communication and the healthcare process.
Top (2022)	<b>Sexual health education</b> for adolescents with disabilities and their mothers leads to more effective sexual health management for this group of adolescents.
Woodman, Simon, Hauari, & Gilbert (2020)	<b>Involving parents</b> in their child's healthcare.

Note. \*NICU – Neonatal Intensive Care Unit

Factors that have a positive impact on parental satisfaction with the quality of healthcare for children and adolescents with disabilities:

- communication and cooperation between the parties involved (healthcare professionals, children and adolescents with disabilities, parents and other family members);
- stress reduction activities (reduction of parental anxiety when the child is hospitalised, positive circumstances and care at the end of the child's life, no restrictions on visits to the child, etc.);
- the knowledge and skills of healthcare professionals (continuous training of healthcare professionals and professional development, recruitment of healthcare professionals specialised in working with children and adolescents with special needs);
- the use of modern technology (use of mobile applications, use of telemedicine, etc.);
- measurement of user satisfaction of healthcare services (children and adolescents, their parents, etc.);
- approaches to healthcare (introduction of a new conceptualisation of healthcare and an interdisciplinary approach, identification of the involvement of children and adolescents in decisions regarding their own illness, introduction of a case coordinator, parental satisfaction with healthcare in terms of accessibility, duration of treatment and sense of acceptance, etc.);

- patient-centred care (patient-centred care and individualised approach, the use of personalised care and nursing care plans, use of a single communication system, including pictorial aids and easy-to-read texts, etc.).

#### 4.2 Factors with a negative impact on parental satisfaction with the quality of healthcare of children and adolescents with disabilities

Table 3 shows the key findings of different authors identifying factors that have a negative impact on parental satisfaction with the quality of healthcare for children and adolescents with disabilities, which relate to the second research question (RQ2). The views of the authors of the review of 28 articles are presented.

Table 3. Factors that have a negative impact on parental satisfaction with the quality of healthcare for children and adolescents with disabilities

Authors	Findings
Alle, Akenaw, Seid, & Bayable (2022)	<b>Parents' sex, place of residence, hospital stay, birth weight and gestational age of the baby</b> were factors associated with parental satisfaction in the ICU*. They were most satisfied with the organisation of work.
Chua & Cyna (2020)	Satisfaction in <b>paediatric perioperative care (anaesthesia)</b> is not considered a priority or a primary outcome.
Culnane et al. (2020)	<b>Differences in transition planning, systemic disconnection between health and disability, lack of services and expertise, high levels of parental anxiety about transition, high levels of dissatisfaction and unmet needs during transition to adult care</b> are barriers to ensuring an optimal transition from adolescence to adulthood.
Eichinger et al. (2022)	<b>Participation is an important dimension</b> of children's healthy development and is linked to better self-rated health, educational attainment and social inclusion. Many children with disabilities are not able to participate in health care and are therefore at <b>risk of adverse events</b> .
Engelen, Knoll, Rabsztyn, Maas-van Schaaijk, & van Gaal (2019)	Adolescents with chronic diseases and health professionals find it difficult to start a discussion on <b>adolescent sexual health</b> . <b>Discussions on adolescent sexual health</b> should become part of the routine, healthcare professionals should be properly trained in the field, and sexual health should be integrated into education and hospital policy.
Fergus, Zambeli-Ljepović, Hampson, Copp, & Nagata (2022)	Failure to meet the health needs of adolescents with disabilities - <b>inadequate health education</b> .
Gauthier-Boudreault, Couture, & Gallagher (2018)	<b>Inconsistency</b> in the transition from adolescence to adulthood and <b>poor communication between different institutions</b> .
Hand, Boan, Bradley, Charles, & Arnstein Carpenter (2019)	<b>Due to poor diagnosis and unmet health needs</b> adolescents with ASD and/or a mental disorder are more likely to use emergency services, leading to higher health care costs.
Hart, Van Deusen, & Gonzaga (2017)	<b>Lack of knowledge among healthcare professionals</b> on the transition from adolescence to adulthood, <b>need for recommendations on the appropriate age</b> to start the transition process to adulthood.
Heron et al. (2019)	<b>Inadequate support</b> for adolescents with disabilities from healthcare professionals during the transition to adult healthcare.
Hinton & Kirk (2014)	<b>Exposure to the risk of sub-optimal healthcare and support</b> because children and adolescents <b>lack a medical diagnosis</b> .
Khanlou et al. (2022)	<b>Nurses play a key role in tackling health inequalities</b> in the treatment of patients with developmental disabilities, but they <b>lack specific education and training</b> to work in this field.
Kruszecka-Krówka et al. (2021)	There is a need to <b>optimise nursing care, especially in the area of parental involvement</b> . A plan to <b>improve the quality of care</b> in paediatric wards should focus in particular on early childhood patients and their parents, who are the most critical in assessing satisfaction.

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<b>Authors</b>	<b>Findings</b>
Lung et al. (2021)	<b>Discussing sexuality with healthcare professionals</b> is important for positive adolescent development, including for adolescents with special needs or chronic medical conditions. There is a perceived <b>deficit</b> in this area, especially when it comes to adolescents with special needs and/or chronic medical conditions.
MacNeill, Doucet, & Luke (2022)	<b>Lack of support, lack of continuous care, need for participation and difficulties in the transition from adolescence to adulthood.</b> The need for early and coordinated planning between collaborating health teams, team communication throughout the transition process and coordination between health, education and social institutions.
Madeo, O'Brien, Bernhardt, & Biesecker (2012)	<b>Uncertainty</b> about an undiagnosed genetic condition of a child.
Malapela, Thupayagale-Tshweneagae, & Ibitoye (2020)	<b>The need for a strong supportive healthcare system</b> to enable a successful transition from adolescence to adulthood. <b>Nurses</b> play a key role in helping individuals and their families with the health care challenges of the transition from adolescence to adulthood.
Menezes, Robinson, Harkins, Sadikova, & Mazurek (2021)	<b>Unmet health needs and poorer quality of care</b> for children and adolescents with ASD** with and without a mental disorder.
Mol, Argent, Paed, & Morrow (2018)	<b>Lack of communication and support for parents of children in intensive care by health professionals and parental involvement in healthcare.</b>
Muskat et al. (2015)	Communication difficulties, increased sensory sensitivity due to an overload of sensory experiences, waiting for treatment, and transitions between treatment for children and adolescents with autism spectrum disorder and their parents. <b>The need for adaptation to the situation by the healthcare workers.</b>
Nguyen, Nguyen, Phan, van Eeuwijk, & Fink (2020)	When <b>the hospital stay was prolonged and the newborn's health deteriorated, parental satisfaction</b> with the quality of care in the healthcare facility decreased.
Ong et al. (2017)	<b>Lack of skills of healthcare workers</b> to work with children with disabilities.
Park, Jang, Lee, Kim, & Park (2020)	Greater efforts are needed to <b>provide quality healthcare services</b> to respond to the health problems of children with ADHD*** and to improve their health care when needed.
Semovski, King, & Stewart (2021)	<b>Late access to mental health services</b> for children and adolescents is associated with <b>increased risk of harm and non-attendance</b> at planned appointments.
Shanahan, Ollis, Balla, Pate, & Lang (2020)	<b>Lack of continuity in adolescents' healthcare</b> as they transition to adulthood. Lack of planning, consistency, availability of care leads to feelings of anxiety, poor treatment outcomes, reduced support and, for some patients, non-adherence to care.
Siuba, Patel, Guilonard, & Pratt (2020)	<b>Providing health care</b> for children and adolescents with chronic illness requires the coordinated work of <b>a multidisciplinary team</b> . Children and adolescents and their families face many challenges in a complex health system.
Soltau, Biedermann, Hennicke, & Fydrich (2015)	<b>Feelings of irresponsibility and lack of knowledge</b> of mental healthcare professionals when dealing with children with disabilities.
Srivastva et al. (2021)	<b>Standardised protocols for analysing parental satisfaction need to be developed.</b> This will help to better understanding parents' expectations and improve patient care in intensive care units.

Note. \*ICU – Intensive Care Unit; \*\*ASD – Autism Spectrum Disorder; \*\*\*ADHD – attention deficit hyperactivity disorder; \*\*\*

Factors that have a negative impact on parental satisfaction with the quality of healthcare for children and adolescents with disabilities include:

- disadvantages in the healthcare process (failure to diagnose the child, bad diagnosis, prolonged hospitalisation and deterioration in the child's or adolescent's health, ...);

- lack of communication and cooperation between healthcare professionals and parents (inadequate communication, lack of support from healthcare professionals, inconsistency in the transition from adolescence to adulthood and poor communication between different institutions, poor cooperation between healthcare professionals and parents, etc.);
- lack of patient-centredness (untouchability of certain topics (e.g. sexuality) - lack of health education, inflexibility of healthcare personnel in relation to the situation, etc.);
- insufficient quality of healthcare services (lack of effort to provide and improve quality healthcare services when it comes to children and adolescents with special needs, lack of continuity in healthcare, lack of multidisciplinary team cooperation and coordination, unmet health needs and poorer quality of care, inaccessibility to services, increased risk of harm, etc.);
- no user satisfaction measurements (no standardised procedures for analysing parental satisfaction);
- lack of knowledge of healthcare professionals (feeling of irresponsibility and lack of knowledge of healthcare professionals, lack of specific knowledge - education and training for working with children and adolescents with special needs, etc.).

## 5 DISCUSSION

The answer to the first research question "Which factors have a positive impact on parental satisfaction with the quality of healthcare for children and adolescents with disabilities?" is presented on Figure 2. The perceived factors that have a positive impact on parental satisfaction with the quality of healthcare for children and adolescents with disabilities are communication and cooperation between the parties involved (healthcare professionals, children and adolescents with disabilities, parents and other family members), stress reduction activities (reduction of parental anxiety when the child is hospitalised, positive circumstances and care at the end of the child's life, no restrictions on visits to the child, ...), the knowledge and skills of healthcare professionals (continuous training of healthcare professionals and professional development, recruitment of healthcare professionals specialised in working with children and adolescents with special needs), the use of modern technology (use of mobile applications, use of telemedicine, ...), measurement of user satisfaction of healthcare services (children and adolescents, their parents, ...), approaches to healthcare (introduction of a new conceptualisation of healthcare and an interdisciplinary approach, identification of the involvement of children and adolescents in decisions regarding their own illness, introduction of a case coordinator, parental satisfaction with healthcare in terms of accessibility, duration of treatment and sense of acceptance, ...) and patient-centred care (patient-centred care and individualised approach, the use of personalised care and nursing care plans, use of a single communication system, including pictorial aids and easy-to-read texts, etc.)



The answer to the second research question "Which factors have a negative impact on parental satisfaction with the quality of healthcare for children and adolescents with disabilities?" is shown on Figure 2. The perceived factors that have a negative impact on parental satisfaction with the quality of healthcare for children and adolescents with disabilities are the disadvantages in the healthcare process (failure to diagnose the child, bad diagnosis, prolonged hospitalisation and deterioration of the child's or adolescent's health, ...), lack of communication and cooperation between healthcare professionals and parents (inadequate communication, lack of support from healthcare professionals, inconsistency in the transition from adolescence to adulthood and poor communication between different institutions, poor cooperation between healthcare professionals and parents, ...), lack of patient-centredness (untouchability of certain topics (e.g. sexuality) - lack of health education, inflexibility of healthcare personnel in relation to the situation, ...), insufficient quality of healthcare services (lack of effort to provide and improve quality healthcare services when it comes to children and adolescents with special needs, lack of continuity in healthcare, lack of multidisciplinary team cooperation and coordination, unmet health needs and poorer quality of care, inaccessibility to services, increased risk of harm, ...), no user satisfaction measurements (no standardised procedures for analysing parental satisfaction) and lack of knowledge of healthcare professionals (feeling of irresponsibility and lack of knowledge of healthcare professionals, lack of specific knowledge - education and training for working with children and adolescents with special needs, ...).

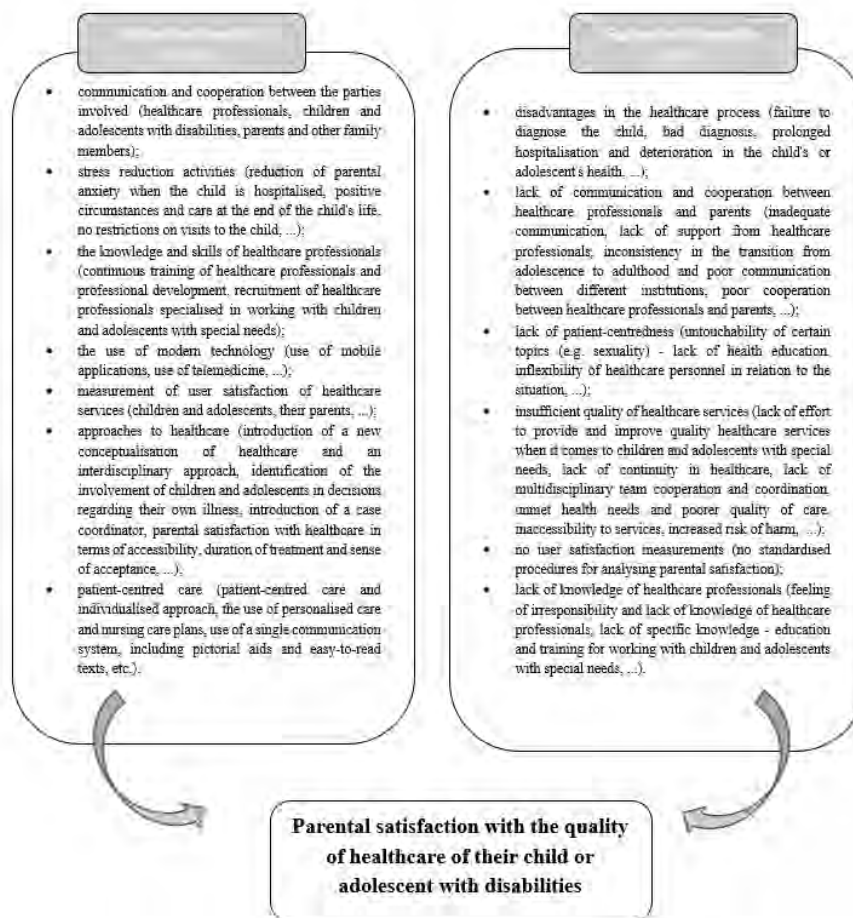


Figure 2. Presentation of positive and negative factors influencing parental satisfaction with the quality of healthcare for their child and adolescent with disabilities

McAnuff, Boyes, & Kolehmainen (2015) see adequate communication and interactions between family members and healthcare professionals as a positive factor of satisfaction with the quality of care. They highlight two types of interaction: relational (listening, empathy, respect) and collaborative (sharing, planning, problem solving). The importance of appropriate communication between all participants in the process is also discussed by Brannon, Ray, Lark, & Kindratt (2022), McGill & Rea (2015) and McPherson et al. (2018), with Thunberg, Johnson, Bornman, Öhlén, & Nilsson (2021) suggesting the use of a unified communication system, including visual aids and easy-to-read texts, as an aid to patient-centred communication and the healthcare process. Furthermore, O'Connor, Brenner, & Coyne (2019) write about patient-centred care, of which communication is an important part, stating that it can have benefits for the child, the family, the healthcare professionals and the organisation. In this context, an individualized treatment plan is important for children and adolescents with disabilities (Birkett, Liddle, Jones, & Paulson, 2022; Bock et al, 2022; Liddle & Sonnentag, 2020), which is particularly necessary in cases where parents have no one close by to support them or where there is social isolation (Taylor, Kong, Foster, Badawi & Novak, 2022), as well as when topics are not part of the routine (e.g. sex education for adolescents with disabilities) (Top, 2022). Collaboration during the healthcare process is important both between providers and children/adolescents and their parents (Arcuri et al., 2015; Woodman, Simon, Hauari, & Gilbert, 2020), involving professionals from different disciplines has an impact on treatment success (Morris, Muskat, & Greenblatt, 2018). Parental involvement in care and the possibility of unrestricted visits with the child also have an impact on increased satisfaction with healthcare (Jannes et al., 2020; Shafer et al., 2018), which also contributes to reduced parental anxiety. Adequate knowledge and training of healthcare professionals are also among the positive factors for parental satisfaction (Moonen, Festen, Bakker-vanGijssel, & Vervoort-Schel, 2022; Ong et al., 2020), and the use of certain innovations in the treatment, such as the introduction of an instrument to identify the involvement of children and adolescents in decisions related to their chronic illness (Miller & Harris, 2012), the use of mobile applications that can empower adolescents with disabilities and provide them with tailored support for healthy lifestyles (McPherson, Oake, & Stinson, 2020), the use of telemedicine that can reduce health inequalities and increase access to care for children with disabilities (Sukhov, Asante, & Ilizarov, 2020), new conceptualisations and interdisciplinary approaches in the management of adolescents with chronic pain (Johnson et al., 2022) and the introduction of a case coordinator, e.g. in the case of paediatric oncology care, where coordination, consistency and continuity of care mean better outcomes for the whole family (Martins, Aldiss, Taylor, & Gibson, 2022). Of course, all of this is facilitated by monitoring parental satisfaction through various tools (surveys, focus groups, etc.) that give feedback to staff on the work done and its performance (Bayat et al., 2022; Kruszecka-Krówka et al., 2019; Mayland et al., 2022).

What about negative factors? Several articles address the problem of knowledge deficits, in particular specific knowledge for working with children and adolescents with disabilities (Hart, Van Deusen, & Gonzaga, 2017; Khanlou et al., 2022; Lung et al., 2021; Ong et al., 2017; Soltau, Biedermann, Hennicke, & Fydrich, 2015). A lot has also been written about the difficulties of

the transition from adolescence to adulthood, as there is a lack of communication between providers, and healthcare professionals lack knowledge in this area and therefore do not provide support that adolescents and their parents need, there is no continuity of care (Culnane et al., 2020; Gauthier-Boudreault, Couture, & Gallagher, 2018; Heron et al., 2019; MacNeill, Doucet, & Luke, 2022; Malapela, Thupayagale-Tshweneagae, & Ibitoye, 2020; Shanahan, Ollis, Balla, Pate, & Lang, 2020). Uncertainty about a child's failure to receive a genetic diagnosis and the resulting risk of suboptimal healthcare and support is also an issue (Hinton & Kirk, 2014; Madeo, O'Brien, Bernhardt, & Biesecker, 2012), and due to poor diagnosis and unmet health needs, adolescents with Autism Spectrum Disorder (ASD) and/or a mental disorder are more likely to use emergency services, leading to higher healthcare costs (Hand, Boan, Bradley, Charles, & Arnstein Carpenter, 2019). There is a lack of communication and support to parents of children by healthcare professionals and a lack of parental involvement in Intensive Care Unit management (Mol, Argent, Paed, & Morrow, 2018). There is a need to optimise healthcare, particularly in the area of parental involvement. A plan to improve the quality of nursing care in paediatric wards should focus in particular on patients in early childhood and their parents, who are the most critical in assessing satisfaction (Kruszecka-Krówka et al., 2021). Authors also cite delayed access to child and adolescent mental health services (Semovski, King, & Stewart, 2022), unmet health needs and poorer quality of care in children and adolescents with and without ASD (Menezes, Robinson, Harkins, Sadikova, & Mazurek, 2021) and attention deficit hyperactivity disorder (ADHD) (Park, Jang, Lee, Kim, & Park, 2020) as risk factors. Many children with disabilities are unable to participate in medical treatment and are therefore at risk of adverse events (Eichinger et al., 2022), there is also the problem of unmet health needs of these adolescents - inadequate health education (Fergus, Zambeli-Ljepović, Hampson, Copp, & Nagata, 2022), especially in the area of adolescent sexuality education (Engelen, Knoll, Rabsztyń, Maas-van Schaaijk, & van Gaal, 2019), and the lack of adaptation to the situation by healthcare personnel (Muskat et al., 2015). Authors also report that healthcare facilities do not monitor the satisfaction of parents whose child is undergoing medical treatment using standardised questionnaires (Chua & Cyna, 2020; Srivastva et al, 2021); and in follow-up cases, longer hospitalisations and deterioration in the child's health, parental gender, parental residence, parental hospital stay, birth weight and gestational age have been found to affect parental satisfaction (Alle, Akenaw, Seid, & Bayable, 2022; Nguyen, Nguyen, Phan, van Eeuwijk, & Fink, 2020). Children and adolescents and their families face many challenges in a complex healthcare system that could be addressed through coordinated collaboration of a multidisciplinary team (Siuba, Patel, Guilonard, & Pratt, 2020).

Parental satisfaction with the quality of healthcare for children and adolescents with disabilities is of paramount importance for the child or adolescent and his or her whole family, as well as for the healthcare professionals involved in the process of care.

## 6 Conclusion

We believe that the quality of healthcare for children, adolescents and their parents is equivalent to the feeling of satisfaction with the care. One of the most important objectives of modern healthcare management is to take a progressive approach to solving the health problems of children and adolescents, especially in the case of deprived persons, including children and adolescents with special needs. Satisfaction with healthcare, which includes nursing care, is a multidimensional concept that depends on the relationship between the expectations of the child or adolescent and his/her parents and family and the perception of the healthcare he/she receives. It is the parents of the child or adolescent who have the right to be present during the treatment, to participate in the process and to make decisions about the treatment. Other factors may also influence parental satisfaction, such as the child's or adolescent's state of health, the impact of the situation on the family's functioning, the child's or adolescent's emotional state, the maintenance of the continuity of the treatment process. Determining parental satisfaction is an important part of holistic or patient-centred care. The assumption is that a satisfied patient, in our case a child or young person with special needs and his/her parents, will follow the instructions of healthcare professionals more consistently, cooperate during the treatment and come back later if necessary. Satisfaction with the treatment reported by parents of children and adolescents has an impact on the whole healthcare team and works in a motivational sense.

The survey was conducted to identify factors that influence parental satisfaction with the quality of healthcare for children and adolescents with disabilities, based on a review of the views of different authors. We identified factors that positively respectively negatively influence parental satisfaction.

This article contributes to the understanding of the importance of monitoring the satisfaction of parents of children and adolescents with disabilities who are users of healthcare services. The results of our research show positive impacts on patients, i.e. children and adolescents, as well as on their parents and healthcare professionals involved in the healthcare process. The negative impacts shown are those that give an idea for reflection on how to move forward in order to improve the quality of the work. The findings may help the management of healthcare institutions to find solutions to improve the satisfaction of parents of children and adolescents with disabilities.

The research is limited to a review of existing literature in electronic databases. We believe that the results provide an idea and a basis for further research, when the results obtained in our study could be applied to an actual healthcare facility and a survey about satisfaction with the healthcare of this population could be conducted there.

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**Andreja Vovk** graduated from the Faculty of Health Sciences in Ljubljana, majoring in nursing, in 2001 and obtained her master's degree in nursing from the Faculty of Healthcare Angela Boškin Jesenice in 2020. Since 1996, she has been employed at the University Medical Centre Ljubljana, department of Gynaecology and Obstetrics, and currently performs the duties and tasks of a consultant in the field of quality and development in healthcare and midwifery and coordinator of the quality management system. She is a quality systems manager, external and internal auditor according to ISO 9001, lecturer on quality and safety topics and head of the quality and safety module at the Nurse and Midwifery Organization of Ljubljana.

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## **Povzetek:**

### **Dimenzije kakovosti zdravstvene obravnave otrok/mladostnikov s posebnimi potrebami**

**Raziskovalno vprašanje (RV):** Kateri dejavniki imajo pozitiven in kateri negativen vpliv na zadovoljstvo staršev s kakovostjo zdravstvene obravnave otrok in mladostnikov s posebnimi potrebami?

**Namen:** Namen raziskave je opredeliti dimenzije zadovoljstva s kakovostjo zdravstvene obravnave na podlagi ugotovitev različnih avtorjev in hkrati definirati dejavnike, ki vplivajo na to, v kolikšni meri so starši otrok in mladostnikov s posebnimi potrebami oz. oviranostmi zadovoljni s kakovostjo zdravstvene obravnave njihovih otrok in mladostnikov.

**Metoda:** Raziskava temelji na sistematičnem pregledu obstoječe literature. Iskanje strokovnih in znanstvenih člankov odprtega tipa je potekalo v iskalnih bazah Springerlink, Science Direct, ProQuest, PubMed in Scopus. Časovni okvir iskanja so bile objave v obdobju med leti 2012 in 2023 z izjemo za področje relevantne literature. Iskalni niz je ponudil 106 takšnih člankov. V nadaljnjo obravnavo smo vključili le članke, v katerih različni avtorji prikazujejo dejavnike, ki pozitivno oziroma negativno vplivajo na zadovoljstvo staršev z zdravstveno obravnavo njihovega otroka in mladostnika s posebnimi potrebami. Kriterijem je ustrezalo 57 člankov. Rezultati glavnih ugotovitev so prikazani v tabelah.

**Rezultati:** Zaznani dejavniki, ki pozitivno vplivajo na zadovoljstvo staršev, so komunikacija in sodelovanje med vpletenimi stranmi, dejavnosti za zmanjševanje stresa, znanje in veščine zdravstvenih delavcev, uporaba sodobnih tehnologij, merjenje zadovoljstva uporabnikov zdravstvenih storitev, pristopi k zdravstveni oskrbi in na pacienta osredotočena oskrba. Med zaznanimi negativnimi dejavniki so pomanjkljivosti v procesu zdravstvenega varstva, pomanjkanje komunikacije in sodelovanja med zdravstvenimi delavci in starši, pomanjkanje osredotočenosti na pacienta, nezadostna kakovost zdravstvenih storitev, odsotnost merjenja zadovoljstva uporabnikov in pomanjkanje znanja zdravstvenih delavcev.

**Organizacija:** Podane ugotovitve so lahko v pomoč vodstvu zdravstvenih ustanov pri iskanju rešitev za izboljšanje zadovoljstva staršev otrok in mladostnikov s posebnimi potrebami.

**Družba:** Članek predstavlja doprinos k razumevanju pomembnosti spremljanja zadovoljstva staršev otrok in mladostnikov s posebnimi potrebami, ki so uporabniki zdravstvenih storitev. Rezultati naše raziskave prikazujejo pozitivne vplive tako na otroke in mladostnike, na njihove starše kot tudi na zdravstvene delavce, ki sodelujejo v procesu obravnave. Prikazani negativni vplivi pa dajejo idejo za razmislek, kako naprej, da bo delo še bolj kakovostno opravljeno. Podane ugotovitve so lahko v pomoč vodstvu zdravstvenih ustanov pri iskanju rešitev za izboljšanje zadovoljstva staršev otrok in mladostnikov s posebnimi potrebami.

**Originalnost:** Gre za prvo tovrstno raziskavo v Sloveniji. Njena izvirnost je v tem, da obravnava zelo aktualno družbeno problematiko otrok in mladostnikov s posebnimi potrebami ter njihovih staršev, ki imajo v procesu zdravstvene obravnave tako pozitivne kot negativne izkušnje.

**Omejitve/nadaljnje raziskovanje:** Raziskava je omejena na pregled obstoječe literature v elektronskih podatkovnih bazah. Rezultati raziskave podajajo idejo in osnovo za nadaljnje raziskovanje, kjer bi lahko v naši raziskavi dobljene rezultate implementirali na zdravstveno ustanovo in tam izvedli raziskavo o zadovoljstvu z zdravstveno obravnavo te populacije.

**Ključne besede:** posebne potrebe, oviranost, otroci in mladostniki, zdravstvena obravnava, kakovost, zadovoljstvo, starši, na pacienta osredotočena zdravstvena obravnava

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## The Concept of Identifying Factors of Quiet Quitting in Organizations: An Integrative Literature Review

Nastja Pevec\*

Faculty of organisation studies Novo mesto, Ulica talcev 3, 8000 Novo mesto, Slovenija  
nastja.pevec@fos-unm.si

### Abstract

**Research Question (RQ):** Which factors have a significant impact on the concept of quiet quitting in organizations?

**Purpose:** The purpose of the integrative literature review is to examine in more detail the concept of quiet quitting in organizations. The objective of the comprehensive review is to identify the dimensions of the concept and to identify the factors influencing it, based on the relevant literature.

**Method:** The primary research methodology is based on an integrative literature review. Data collection followed the guidelines dictated by the established formal procedure or standard PRISMA. The main tool for retrieving relevant literature for our study is the prepared matrix of research databases and the keywords used in the search. Literature was searched in SpringerLink, Scopus, ProQuest, ScienceDirect, Cobiss, dLib, Google Scholar, Emerald, and ResearchGate databases. We defined the timeframe of the search as 2019 to 2023. We excluded literature that is not directly relevant to our field of research and does not have open access. We analysed the collected data using the meta-synthesis method.

**Results:** Among the factors that have a significant impact on the concept of quiet quitting, we identified: poorly valued employees, lack of organizational commitment to employee career development, disengagement of employees, exclusion of employees in organizational decisions, lack of autonomy at work, and a decline in trust in the organization. It follows that identifying the needs of employees is a key concept on which to build strategies that lead to successful and effective management of quiet quitting.

**Organization:** Our research provides insights into the dimension of the concept and illustrates the influencing factors that enable organisations to identify the concept in their midst in a timely and successful manner.

**Society:** The potential reduction in the contribution of individuals to the economy has a negative impact on the economy and also on society as a whole.

**Originality:** The topic is under-researched and we consider that further in-depth research in this area is needed.

**Limitations / further research:** There is a perception that the topic is being studied, but at the same time, it is noted that this is not being followed up by scientific research. Original articles were included in the analysis and all non-open access literature was excluded. The integrative review prepared allows for further in-depth research in this area and forms the basis for the elaboration of a Ph.D. thesis.

**Keywords:** quiet quitting, employees, organization, employee retention, covid-19 pandemic, workplace, working environment, human resources management.

## **1 INTRODUCTION**

The business world is currently marked by three key moments. First, the breakthrough of Industry 4.0 and the related development of technologies and digitalization. Second, the Covid-19 pandemic, and third, the geopolitical crisis. All three key moments have a common denominator: a turbulent period with a significant impact not only on organizations, but also on employees.

Organizations represent an environment where people spend a large portion of their time. And there is a need for a tendency towards appropriate relationships and behaviours that do not create a negative or even hostile environment, which can adversely affect the personal experience of employees, the quality of work performed, and the organization's overall functioning.

Employees are a key factor in every organization and therefore an important source of competitive advantage if they are motivated and engaged in their work. Organizations that develop an organizational culture that promotes the creation of an environment where employees feel good have a significantly greater advantage in terms of engaged and committed employees.

Therefore, observing and researching employers' and employees' behaviors and taking timely and appropriate actions are crucial.

The purpose of the integrative literature review is to examine in detail the concept of quiet quitting from an organization. The main goal of the comprehensive review is to research the dimensions of the concept and to identify the key factors that contribute to quiet quitting, based on the relevant literature.

## **2 THEORETICAL FRAMEWORK**

### **2.1 Employees' commitment and engagement**

There is a growing need for organizations to treat employees as a source of added value, rather than as a cost. And it is this awareness that is a key element of well-functioning organizations. Shafiq and Aburub (2020, p. 2805) find that organizations are generally aware of the importance of a supportive work environment, opportunities for learning and growth, good supervision and good interpersonal relationships. However, they point to a gap between the knowledge of the factors and needs and the actual realization or effectiveness of the design and implementation of a talent attraction and retention plan.

Wilkinson (2022, p. 48) highlights the importance of understanding employee needs to promote engagement. He cites the high levels of employee disengagement following the Covid-19 pandemic and the consequences for both employees and employers. She attributes

this to individuals rethinking their own values and priorities in life. She sees the possibility of successfully managing disengagement in the design and implementation of an effective change model based on humanistic and person-centered methods. In this, she emphasizes clear and effective communication as a key tool for connecting employees and the organization through shared goals, vision, motivation and understanding.

Na-Nan et al. (2021) examined the impacts of self-efficacy, in terms of the degree of commitment, engagement and job satisfaction on the organization. The self-efficacy of employees defines confidence, determination and motivation for work. These qualities lead employees to energetic behaviour, commitment and active personal contribution. Researchers define three forms of commitment. Affective commitment defines an individual's sense of belonging to the organization and, therefore, their willingness to invest all their potential. Continuance commitment excludes an individual's tendency to change organizations because they believe that working in the organization is a matter of time investment, and they will receive higher payment for their work. Normative commitment is understood in terms of loyalty to the organization and refers to the degree of alignment of individual emotions with the organization's goals, values, culture-and norms. They also find that self-efficacy leads to dedicated and committed work, resulting in job satisfaction, as employees understand their work as a challenge to develop their abilities. Job satisfaction subsequently encourages the expression of positive emotions and behaviours. (p. 13-14)

In his study, Rameshkumar (2020) identifies a link between commitment and engagement, where engagement is significantly associated with most work and organizational outcomes. Achieving engagement and consequently achieving goals is associated with working conditions and interpersonal cooperation within the organization. (p. 111)

Commitment to an organization is achieved by creating an environment where employees feel a sense of belonging and where their personal values align with the values of the organization. This strengthens job satisfaction among employees and encourages their effectiveness in this way.

## **2.2 The influence of a turbulent period on the behavior of employees**

The Covid-19 pandemic and the industry 4.0 (I4.0) era act as pivotal moments in the changing work patterns of service organizations. They note that the consequences of the COVID-19 pandemic have a direct impact on the performance of employees, particularly in terms of remote work. By simultaneously introducing I4.0 technology and virtual connectivity practices, and thereby changing work processes and routines, greater employee performance could be achieved. (Narayanamurthy & Tortorella, 2021, p. 7)

Ninaus et al. (2021, p. 664) found that Information and Communication Technologies (ICT) significantly impact employees. According to the Job Demands-Resources model (JD-R), perceiving ICT demands, defined as a reduced balance between work and private life,

increased levels of burnout directly and indirectly related to work-family balance and job satisfaction, have strongly negative effects. Meanwhile, perceiving ICT as a resource is mixed and less clear. They concluded that ICT mostly has a negative impact on burnout, work-life balance and job satisfaction. Therefore, leadership should take measures to help employees manage ICT demands. This way, employees would perceive ICT as an opportunity rather than perceiving it as stressful demand.

The Covid-19 pandemic has prompted companies to adopt new ways of working. Many employees need to work from home, supported by ICT. Andrulli & Gerards (2023, p. 7) found a relationship between new forms of work and well-being at work. They controlled for the effects of technostress, recovery needs, and work engagement. The results show that the higher the level of teleworking, the higher the level of employee well-being. This is indirectly related to lower levels of technostress and the need for recovery and higher levels of work engagement. Pronk (2022, p. 54) notes that the improvement of worker health and well-being can be achieved through a redesign of work, and employers should involve workers in this process from the beginning to enhance participation and success. A participatory approach will engage workers, build ownership in the solution, and lead to sustained participation.

Meanwhile Marsh et al. (2022) list five negative effects of technology on workers: stress, overwork, anxiety, distraction and diversion, addiction and overuse (p. 14). They list 6 cognitive and affective outcomes (tension, work-family conflict, burnout, job satisfaction, end-user well-being and satisfaction) and 4 behavioral outcomes (productivity, performance, organizational commitment, and turnover intention) (p. 15).

The Covid-19 pandemic and accompanying governmental and organizational measures have marked both personal and business areas. Limitations on everyday rituals have caused numerous psychological consequences. Most employees have been exposed to additional pressures in the workplace during this time, resulting in high levels of stress, burnout and an imbalance between their professional and personal lives. (Aydın & Azizoğlu, 2022, p. 285)

Meanwhile, Cao and Hamori (2022, p. 15) note that the pandemic raises questions of safety and health in the workplace for employees. They investigated the impact of Covid-19 on employees' career orientations using event systems theory and the literature on career orientations and career shocks. The study classifies career orientations into needs-based categories (safety, lifestyle and health) and talent- and values-based categories (job content) and uses a three-wave survey of Chinese employees to analyse their evolution during the pandemic. The study finds that needs-based career orientations were more important than talent- and values-based orientations during the crisis, and that the importance of needs-based orientations did not decrease as the strength of the event diminished. Personal exposure to the crisis had a positive effect on the importance of needs-based orientations, while the importance of needs-based orientations varied between employee groups. It was weaker

among more experienced and successful employees (those who were higher up in the management hierarchy and had received more salary increases in the past). (p. 1)

The success of any company depends on its healthy, skilled, and motivated employees. Thus, protecting workers from illness and injury through safety practices and preventive actions is crucial for the long-term success of a company. Even for employees working remotely, access to meaningful social interactions and safe working conditions is important. (Pronk 2022, p. 54)

### **2.3 Challenges for employers and organization in the turbulent period**

Formica and Sfodera (2022, p. 1) observed that the academic community is attempting to make sense of the new world we live in after the Covid-19 pandemic, with many changes affecting organizations, including the workforce. Two shifts, the "great resignation" and "quiet quitting," are forcing hospitality managers to rethink their approaches to internal marketing and human resources. Meanwhile, Liu-Lastres et al. (2023, p. 1) argue that the key to creating a sustainable, resilient, and engaged workforce in the hospitality industry is to establish positive relationships with employees, both during regular operations and in times of crisis. Hospitality practitioners must make a commitment to prioritize the well-being and engagement of their workforce to achieve long-term success.

The Great Resignation is a term coined by Professor Anthony Klotz of Texas A&M University, predicting that many employees would leave their jobs as the Covid pandemic ends and life returns to normal. This trend is now happening, with employees re-evaluating their careers and leaving their jobs in record numbers. Companies are facing a high number of open positions, especially in the technology and healthcare industries, with mid-career employees being the most likely to resign. While the pandemic initially caused job market uncertainty and layoffs, privileged workers who can afford to leave are now doing so as the economy recovers. However, those in non-developed economies may still be facing duress and frustration from the pandemic's disruption but lack the luxury to resign due to the absence of social security and unemployment benefits. (Chugh, 2021)

The trend of quiet quitting is a new term to describe an increasingly common alternative to a great resignation where employees continue to do their job but refuse to engage in extra tasks or citizenship behaviors, can harm both employers and employees. While this may not be an issue for jobs with well-defined responsibilities, many companies rely on workers who are willing to go above and beyond. (Klotz & Bolino, 2022)

Economists and business leaders recognize the duration of the Covid-19 pandemic as exceptional in terms of increased productivity in the United States. However, data from the first half of the year 2022 show the opposite results (Telford, 2022). Meanwhile Schweyer (2022, p. 1) notes that the interpretation of these results is based on a change in employees' supposedly casual attitude towards work, called "quiet quitting". The authors attributed the



quiet quitting of employees to their lack of engagement, primarily due to the Gallup model of measuring engagement. (Harter, 2022) However, Schweyer disagrees with this and in his study finds different dimensions of this phenomenon.

The shortage of talent and issues around motivating employees are challenges that organizations face in the post-pandemic period. Some leaders see this as a transitional phase, while others expect that the predicted recession in the year 2023 will change the current state of the job market, affecting employees' attitudes toward work. (Schweyer, 2022, p. 1)

Rock and Dixit (2023) note that Quiet quitting is a new term for an old phenomenon, where employees disengage from work, withdraw from their team, and become passive when they feel they have no control over their work. This behaviour is a classic indicator of low motivation and engagement. Known as “learned helplessness,” the response to persistent, inescapable stressors is to give up. Studies suggest that passivity is our default hardwired response to prolonged adversity. The antidote to learned helplessness is to offer employees direct experiences of autonomy, allowing them to feel in control of their life and choices. This can be done by giving employees more autonomy and encouraging them to exercise the autonomy they already have, in order to develop an internal locus of control. The more freedom employees have, the less likely they are to quietly quit.

Hickok (2022, p. 65) argues that employee surveillance is not a solution for creating equitable work conditions or increasing performance while respecting the needs of employees. The term "Quiet Quitting" has emerged on social media, as employees reevaluate their expectations and attitudes toward work. This change has raised concerns among business leaders, who are looking for solutions to address this shift. One proposed solution is using AI-based employee surveillance systems, which were initially implemented to monitor remote workers during the pandemic. However, these systems are not a viable solution to workers' demands trying to maintain their physical and mental well-being, as they infringe upon fundamental rights such as privacy, autonomy, and dignity.

The Covid-19 pandemic has created a new normal that requires organizations and employers to be more resilient and agile. Researchers and scholars need to find innovative human resource management practices that can engage employees in new work forms, motivate distributed workers, and allow for greater worker voice and empowerment. Employees will need to reskill or upskill for new economy jobs, engage in continuous learning, and become comfortable with new technology to improve their employability. Employers should monitor megatrends such as pandemic disruptions, automation acceleration, reducing ICT costs, and shifting skills requirements to prepare themselves and their workers for an unpredictable future of work. (Ng & Stanton, 2023, p. 405)

The purpose of an integrative review aims to provide a comprehensive synthesis of the available literature on the topic of quiet quitting in an organization and to identify gaps in the

current knowledge base. The main objective is to identify the factors that are significantly related to the concept of quiet quitting.

Based on the relevant literature we formulated the following research question :

RQ: Which factors have a significant impact on the concept of quiet quitting in organizations?

### 3 METHOD

The primary research methodology is based on an integrative literature review. Data collection followed the guidelines dictated by the established formal procedure or standard PRISMA. The main tool for retrieving relevant literature for our study is the prepared matrix of research databases and the keywords used in this research. Literature was searched on the basis of the identified keywords as well as different combinations between them, based on key themes (Table 1) in multiple databases: SpringerLink, Scopus, ProQuest, ScienceDirect, Cobiss, dLib, Google Scholar, Emerald, and ResearchGate. We defined the timeframe of the search as 2019 to 2023. We excluded literature that is not directly relevant to our field of research and does not have open access.

Table 1. Keywords

<b>Keywords:</b>
»quiet quitting«
»quiet quitting + employee«
»quiet quitting + organization«
»quiet quitting + career development«
»quiet quitting + work engagement«
»quiet quitting + employee support«
»quiet quitting + work-life balance«
»quiet quitting + stress«
»quiet quitting + burnout«
»quiet quitting + employee retention«
»quiet quitting + covid 19«
»quiet quitting + pandemic«
»quiet quitting + great resignation«
»quiet quitting + post-pandemic«
»quiet quitting + human resources«
»quiet quitting + transformational changes«
»quiet quitting + organizational culture«
»quiet quitting + workplace well-being«

We have included in the matrix all the contributions in which we detected the concept of quiet quitting (n=23). Each article was screened (abstract + results). This filtering method ensured that the articles were relevant to our study. We excluded all articles that did not relate to the concept of quiet quitting and removed duplicates. We included 17 articles for further

consideration and reviewed the full text. We excluded articles that did not provide a precise definition of the dimensions of quiet quitting and the influencing factors. 15 articles were eligible for a comprehensive review.

Figure 1 shows the research model.

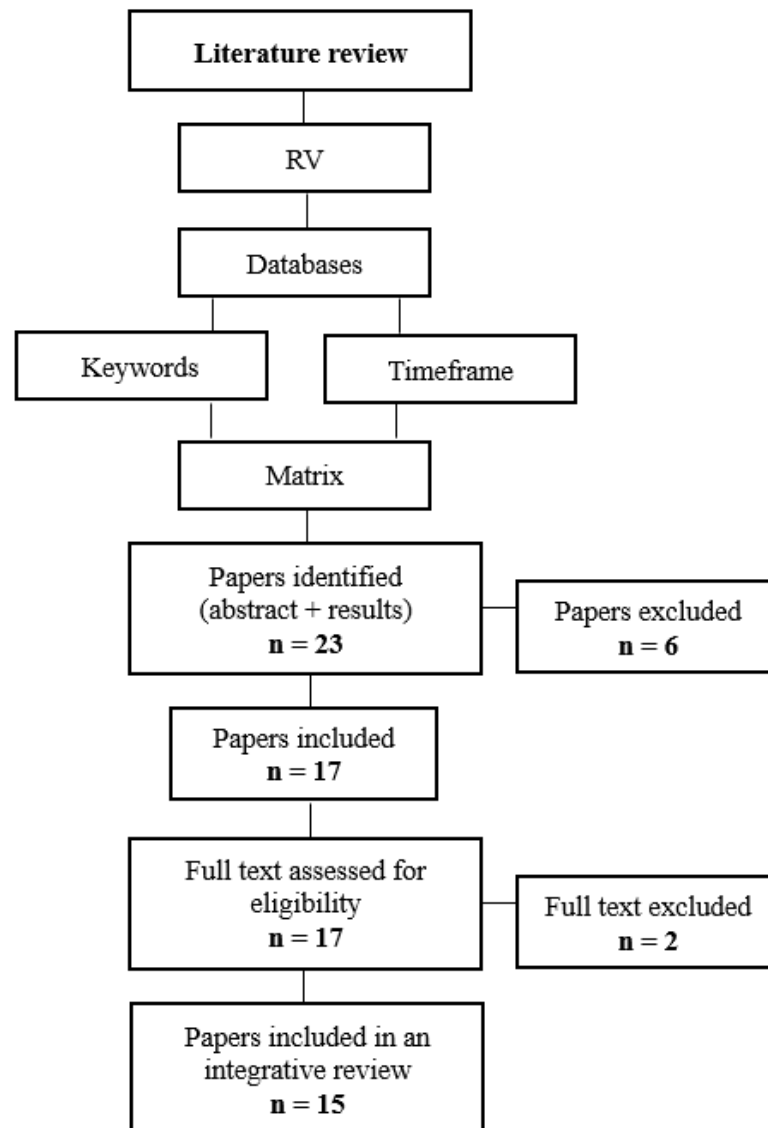


Figure 1. Research model

In the theoretical framework, we have defined the impacts of the turbulent period in the business world on employees and organizations that we have witnessed in recent times. In our research, we have limited ourselves to reviewed scientific articles, dissertations and theses related to the concept of quiet quitting. The study considers the results of individual authors' research. We excluded subjective conclusions from the analysis, thereby ensuring the validity of the study. We verified the reliability of the results with a reproducibility step within a 10-day time frame. There were no differences in the estimates within the specified time frame.

We analysed the collected data using the meta-synthesis method.

## 4 RESULTS

### 4.1 A review of the literature related to the concept of quiet quitting

Table 2 presents the key findings of 8 authors related to the concept of quiet quitting from the organization, which are relevant to the research question.

Table 2. The key findings of the concept of quiet quitting in organizations

Authors	Findings
Luchs (2023)	The author discusses three major workforce trends that are affecting various industries, including educational technology and instructional design. These trends are recognized as the "Great Resignation," "Quiet Quitting," and employee protests <b>over workloads, required overtime, and working conditions.</b>
Patel & Rietveld (2022)	The COVID-19 pandemic has caused changes in work preferences, with some <b>workers seeking more flexibility and reduced work demands.</b> These changes could increase preferences for collective bargaining, despite the potential conflicting forces. As a result, labor market institutions may face increased pressure in the coming years, which could particularly affect smaller and younger firms.
Hofschulte-Beck (2022)	<b>The impact of remote working</b> on communication, including brainstorming, problem-solving, knowledge sharing, camaraderie, socialization, mentoring, and <b>quiet quitting</b> , continues to be a concern. With workers scattered, communication barriers are becoming more challenging, and while tools like Zoom, Skype, Microsoft Teams, and Google Hangouts can assist remote workers in the same time zones, they may not work as effectively for those spread further apart globally.
Engelmann (2022)	The author focuses on the impact of the COVID-19 pandemic on manager and employee behavior. It discusses how the pandemic led to anxiety, insecurity, and self-oriented thinking and acting. As a result, the dissertation addresses <b>the need for improved leadership skills, particularly humble leadership, to manage the impact of the pandemic.</b> This is relevant to <b>the concept of quiet quitting</b> , which has emerged as a trend during the pandemic, where employees leave their jobs quietly without much communication with their employers. <b>The humble leadership approach</b> can help to address this trend by <b>fostering better communication and promoting teamwork, creating a better organizational culture, and empowering employees and managers with additional leadership skills.</b>

»to be continued«

»continued«

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Ali (2017)	<p>The research on middle management during COVID-19 found that they experienced a lack of structure and were expected <b>to be available at all times, leading to difficulties in balancing work and home life.</b> Participants underwent personality changes, and management styles also changed, with many prioritizing survivals over productivity. The study found that participants found it <b>difficult to balance work and home life without making any changes.</b> Successful stress mediators were those who found social support, changed their personalities and management style, and put themselves before their roles. Those who reported no social support, no management style changes, or personality changes reported depression and other health concerns. <b>This highlights the concept of quiet quitting,</b> where employees disengage from their work gradually. without overtly resigning.</p>
Wilkinson (2022)	<p>Successful businesses <b>must adapt to change and maintain their workforce.</b> The COVID-19 pandemic has highlighted <b>the need for proactive approaches to address change, and organizations must understand the current and future drivers of organizational vigor.</b> Employee disengagement is high, and businesses must adopt <b>human-centered approaches to engage their workforce.</b> Antiquated models of hierarchical operations are no longer suitable, and organizations must <b>recognize their employees as individuals with unique circumstances, needs, talents, and expectations.</b> Effective change models and methods must integrate these human elements, and <b>communication</b> is critical to engagement. By bringing employees and organizations together through <b>shared visions, goals, motivations, conversations, and understandings, adaptive capacity will be strengthened in sustainable ways.</b> Engaged organizations and employees will better navigate changes and be more agile and responsive, <b>resulting in innovation and productivity.</b></p>
Harvey (2023)	<p>The article discusses the importance of employee satisfaction for a successful organization. <b>Employees must feel valued, appreciated, rewarded, and compensated to have job satisfaction.</b> Lack of collaboration between management and employees can impact managing workload effectively, resulting in increased stress. Collaboration among team members can help manage the workload, and management can delegate decisions and fill positions to manage workload. Employees need <b>a work-life balance to perform their jobs effectively, and flexible work schedules and time away from work can improve employee job satisfaction.</b></p>
Cieniewicz (2023)	<p>The study found that providing <b>flexible work schedules is crucial for enhancing employee commitment.</b> Almost every participant mentioned that flexibility contributed to their continuance commitment. The study also suggests that <b>Human Resources departments should offer more opportunities for professional development and leadership training, especially for supervisors of teleworking employees.</b> The HR should also help supervisors recognize and address employee disengagement and burnout. <b>Additionally, organizations should invest in helping employees find meaningful work to maintain effective commitment.</b></p>

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These authors focus on various aspects of workforce trends, labour market institutions, employee behaviour, and the impact of Covid-19 on the workplace. While all authors touch on the concept of quiet quitting, some focus more on its effects, while others discuss potential solutions. Luchs (2023, p. 4) discusses three significant workforce trends: Great Resignation, Quiet Quitting, and employee protests over workloads, required overtime, and working conditions. Patel and Rietveld (2022, p. 13) address the changes in work preferences caused by the Covid-19 pandemic, which could increase preferences for collective bargaining, despite the potential conflicting forces. Hofschulte-Beck (2022, p. 26) focuses on the impact of remote working on communication and its potential barriers, while Engelmann (2022, p. 60) addresses the need for improved leadership skills, particularly humble leadership, to manage the impact of the pandemic. Ali (2017, p. 86) examines the effects of Covid-19 on middle management, highlighting the concept of quiet quitting. Wilkinson (2022, p. 48) discusses the need for human-centred approaches to engage the workforce and adapt to change, while Harvey (2023, p. 110) emphasizes the importance of employee satisfaction and collaboration in managing workload effectively. Cieniewicz (2023, p. 189) stresses the significance of providing flexible work schedules and offering professional development and leadership training for supervisors of teleworking employees.

#### 4.2 The key factors with a significant impact on the concept of quiet quitting in organizations

Table 3 shows the key factors influencing the concept of quiet quitting in organizations. The findings of 7 authors are presented and are relevant to the research question.

Table 3. Key factors with a significant impact on the concept of quiet quitting in organizations

Authors	Findings
Ratnatunga (2023)	The author discusses the concept of quiet quitting where employees disengage from work without explicitly resigning. The pandemic covid-19 has resulted in <b>burnout, job creep, and longer working hours, leading employees to prioritize their personal life over their work.</b> However, this approach sacrifices integrity and self-worth and does not serve anyone, including the employee. Organizations need to take responsibility for <b>creating an inspired, dedicated, and supportive environment where people can thrive both at work and in their personal lives.</b> By doing so, organizations can support employee retention and help employees feel more connected to their work and colleagues.
Serenko (2023)	The author discusses the concept of quiet quitting, where employees limit their work activities to their job description and prioritize their well-being over organizational goals. The practice is often driven by <b>poor motivation, burnout, or grudges against managers or organizations.</b> While quiet quitting <b>helps workers avoid burnout,</b> it may also put <b>careers at risk.</b> The author also notes that the concept is not new, but the term itself is relatively recent.

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Mahand & Caldwell (2023)	The authors cite the main reasons for quiet quitting as a <b>decline in organizational trust, importance of employee autonomy, increasing employee disconnection, lack of commitment to career development, failure to value employees, failure to deliver on promises, inability to prioritize workplace culture, lack of focus on employee well-being, failing to address diversity and inclusion, failing to create meaningful work opportunities.</b>
Bell & Kennebrew (2023)	The author concludes that positive employer-employee relationships are a cornerstone principle of successful organizations and that <b>neglecting social and psychological contracts can lead to quiet quitting.</b> Managers can eliminate the problem of quiet quitting by <b>understanding employees' perceptions of the social contract.</b>
Formica & Sfodera (2022)	The authors argue how the coronavirus pandemic has changed the way people view work and life and has deepened underlying problems in industries such as dissatisfaction with work conditions, pay, management, and leadership. The pandemic has accelerated the pace of change and brake down the relationship of work-life balance. Managers and executives are making changes to adjust to the new paradigms, but these changes should <b>prioritize considering employees as whole beings who seek meaning and purpose in their work.</b> To do this, <b>their needs must be met, their values aligned with those of the organization, and they must search for a common purpose that enhances their satisfaction and well-being.</b> The authors hope that the paradigm shift will compel the hospitality industry to prioritize human capital in their strategy.
Boy & Sürmeli (2023)	The authors discuss <b>the rising trend of quiet quitting</b> among healthcare workers, particularly young employees, which could negatively impact the quality of healthcare by creating a toxic organizational culture. The COVID-19 pandemic has led to <b>sudden decisions on social isolation rules and lockdowns, significantly disrupting labor in all sectors and industries.</b> As a result, companies and employees rapidly adopted <b>remote working models.</b> However, <b>job and wage inequities, increased workload, and role conflicts have emerged, resulting in burnout, turnover intention, and disengagement.</b> The authors emphasize the need to understand the causes of employee resignations and take preventive measures. Policymakers must take measures to improve healthcare quality while <b>considering gender, family, occupational, and age differences. Factors that reduce organizational commitment, job satisfaction, productivity, and motivation must also be considered.</b>
Morrison-Beedly (2022)	The author discusses <b>the concept of quiet quitting, which refers to an employee's slow and insidious disengagement from their work, reducing their effort and enthusiasm.</b> This phenomenon has become more prevalent in academic settings and healthcare centers, particularly during the pandemic, as <b>workers prioritize their mental health over work.</b> One-third of students reported putting little to no effort into their studies, with many prioritizing mental health above academic achievement. The author emphasizes the need for evidence-based interventions to reduce workplace and school stress and build healthy academic communities. <b>The implementation of positive, preventive, health-focused interventions is crucial to improving resiliency, coping, and engagement in all persons connected to academic settings.</b>

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All of the authors agree on the concept of quiet quitting, which involves employees disengaging from work without explicitly resigning. However, there are some differences in their perspectives on the key impacts of quiet quitting. All of the authors discuss the concept of quiet quitting, where employees disengage from work without explicitly resigning, as a growing phenomenon that can negatively impact organizational outcomes. Ratnatunga (2023, p. 7); Formica and Sfodera (2022, p. 8) suggest that the pandemic has accelerated the trend of quiet quitting due to burnout, job creep, longer working hours, and an increased desire for work-life balance. Thus, Shafiq and Aburub (2020) argue that organizations need to realize the importance of a supportive work environment, opportunities for learning and growth, good supervision, and good interpersonal relationships to retain their talented employees. If organizations fail to provide such an environment, it can result in employees becoming disengaged and ultimately, quietly quitting.

Ratnatunga (2022, p. 7) emphasizes the need for organizations to create an inspired, dedicated, and supportive environment where people can thrive both at work and in their personal lives, while Formica and Sfodera (2022, p. 8) argue that organizations need to prioritize considering employees as whole beings who seek meaning and purpose in their work. Meanwhile, Na-Nan et al. (2021, p. 13-14) also highlights the importance of job satisfaction in preventing disengagement and potential quiet quitting. They find that self-efficacy and commitment lead to dedicated and committed work, resulting in job satisfaction, which subsequently encourages positive emotions and behaviors. Serenko (2023, p. 14); Mahand and Caldwell (2023, p. 13-14) identify factors that contribute to quiet quitting. Serenko (2023, p. 14) notes that the practice is often driven by poor motivation, burnout, or grudges against managers or organizations. While quiet quitting helps workers avoid burnout, it may also put careers at risk. Mahand & Caldwell (2023, p. 13-14) cite the main reasons for quiet quitting as a decline in organizational trust, increasing employee disconnection, lack of commitment to career development, failure to value employees, and other factors. Bell & Kennebrew (2023, p. 8) highlight the importance of positive employer-employee relationships and the need to understand employees' perceptions of the social contract to eliminate the problem of quiet quitting. Finally, Boy and Sürmeli (2023, p. 3); Morrison-Beedly (2022, p. 1) emphasize the negative impacts of quiet quitting, particularly in healthcare and academic settings. Boy & Sürmeli (2023, p. 3) note that quiet quitting among healthcare workers, particularly young employees, could negatively impact the quality of healthcare by creating a toxic organizational culture. Morrison-Beedly (2022, p. 1) notes that the phenomenon has become more prevalent in academic settings and healthcare centers, particularly during the pandemic, as workers prioritize their mental health over work. Both authors emphasize the need for evidence-based interventions to reduce workplace and school stress and build healthy academic and healthcare communities.



## 5 DISCUSSION

The concept of quiet quitting refers to the situation where employees disengage from their work and become less committed to their jobs without actually resigning. The findings discussed in these sources can be linked to this concept in several ways.

The Great Resignation trend highlighted by Luchs (2023, p. 4) suggests that many employees are choosing to leave their jobs outright, rather than quietly quitting. However, Patel and Rietveld (2022, p. 13) suggest that some employees may still prefer to stay in their jobs but negotiate for better working conditions and collective bargaining. This may be a form of quiet quitting, where employees express their dissatisfaction with their work situation without resigning. Hofschulte-Beck (2022, p. 26) highlights the potential communication barriers that can arise with remote working. If employees feel disconnected from their colleagues and supervisors, they may become less engaged in their work and quietly quit. To prevent this, leaders need to ensure that communication channels are open and that remote employees feel included in team activities. Engelmann (2022, p. 60) stresses the importance of humble leadership in managing the impact of the pandemic. This type of leadership can help prevent quiet quitting by creating a positive work environment where employees feel valued and supported. Similarly, Wilkinson (2022, p. 48) emphasizes the need for human-centred approaches to engage the workforce and adapt to change, which can also help prevent quiet quitting. Finally, Ali (2017, p. 86) examines the effects of Covid-19 on middle management and highlights the concept of quiet quitting. Middle managers may be particularly vulnerable to quiet quitting as they may feel disconnected from senior leadership and overburdened with responsibilities. Providing professional development and leadership training for supervisors, as suggested by Cieniewicz (2023, p. 189), can help prevent quiet quitting by ensuring that middle managers have the skills and support they need to lead their teams effectively.

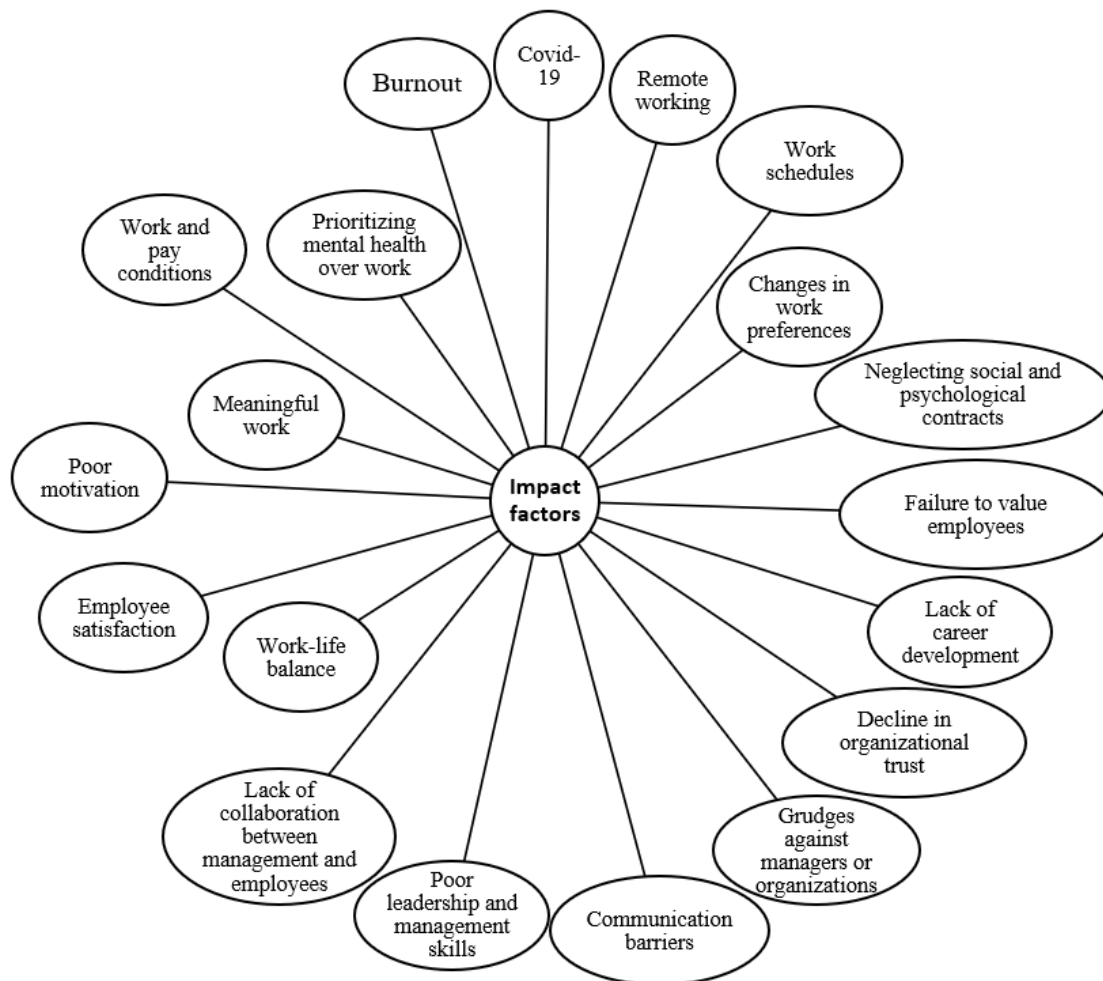
Overall, these findings suggest that quiet quitting can be a significant issue in the modern workforce, particularly in the context of the Covid-19 pandemic. To prevent quiet quitting, leaders need to create a positive work environment, ensure open communication channels, and provide support and development opportunities for employees and middle managers.

All of the authors, including Ratnatunga, Formica and Sfodera, Serenko, Mahand and Caldwell, Bell & Kennebrew, Boy and Sürmeli, and Morrison-Beedly, discuss the concept of quiet quitting, where employees disengage from work without explicitly resigning. They agree that it is a growing phenomenon that can negatively impact organizational outcomes. The pandemic has accelerated this trend due to burnout, job creep, longer working hours, and an increased desire for work-life balance. As, Marsh et al. (2022, p. 14) lists several negative effects of technology on workers, including stress and burnout, which can contribute to disengagement and potential quiet quitting, Ninaus et al. (2021, p. 664) warn of the negative impacts of ICT on employees, particularly in terms of burnout and work-life balance. If employers fail to take measures to help employees manage ICT demands, it can result in

employees becoming disengaged and quietly quitting. Thus, Andrulli and Gerards (2023, p. 7); Pronk (2022, p. 54) suggests that employers should involve workers in the redesign of work processes to enhance participation and success. A participatory approach can engage workers, build ownership in the solution, and ultimately prevent quiet quitting from occurring.

Ratnatunga (2023, p. 7) emphasizes the need for organizations to create an inspired, dedicated, and supportive environment where people can thrive both at work and in their personal lives. Formica and Sfodera (2022, p. 8) argue that organizations need to prioritize considering employees as whole beings who seek meaning and purpose in their work. Serenko (2023, p. 14) notes that the practice of quiet quitting is often driven by poor motivation, burnout, or grudges against managers or organizations, and it may put careers at risk. Mahand and Caldwell (2023, p. 13-14) cite the main reasons for quiet quitting as a decline in organizational trust, increasing employee disconnection, lack of commitment to career development, failure to value employees, and other factors. Bell & Kennebrew (2023, p. 8) highlight the importance of positive employer-employee relationships and the need to understand employees' perceptions of the social contract to eliminate the problem of quiet quitting. Boy and Sürmeli (2023, p. 3) note that quiet quitting among healthcare workers, particularly young employees, could negatively impact the quality of healthcare by creating a toxic organizational culture. Morrison-Beedly (2022, p. 1) notes that the phenomenon has become more prevalent in academic settings and healthcare centers, particularly during the pandemic, as workers prioritize their mental health over work. Both authors emphasize the need for evidence-based interventions to reduce workplace and school stress and build healthy academic and healthcare communities. Overall, the authors suggest that organizations need to prioritize the well-being of their employees and create supportive environments to reduce the incidence of quiet quitting and its negative impacts on organizational outcomes.

Figure 2 shows the factors with significant impact on the concept of the quiet quitting in organizations.



*Figure 2.* Factors with significant impact on the concept of the quiet quitting in organizations

The concept of quiet quitting has recently become an important topic in organizational behaviour research, as it can have detrimental effects on the organization and the employees.

While there are many different approaches to understanding and preventing quiet quitting, it is clear that it is a complex and multifaceted phenomenon that requires a comprehensive approach. It is important that organizations develop and implement strategies based on a positive working environment, proactive communication between supervisors and employees, and career development opportunities to prevent quiet quitting and ensure employee engagement and commitment and organizational productivity.

The rise of paradigm shifts across various human domains presents significant challenges for humanity. These shifts are marked by unpredictability, individualism, shifting values and

principles, declining empathy, and the prioritization of the individual. Successfully navigating these changes requires a high degree of tolerance, competence, and knowledge.

## 6 CONCLUSION

The results show that quiet quitting is a common concept in organizations around the world. Various studies have shown that quiet quitting is linked to a variety of factors such as job dissatisfaction, poor communication with colleagues and supervisors, lack of promotion opportunities, poor organizational culture and inadequate rewards. In addition, they found that quiet quitting can lead to a number of negative effects, such as reduced productivity, increased employee turnover and poor quality of work.

The topic is under-researched and we believe that further in-depth research is needed in this area. There is a perception that the topic is being studied, but at the same time, it is noted that this is not being followed up by scientific research. Original articles were included in the analysis and all non-open access literature was excluded. The integrative review prepared allows for further in-depth research in this area and forms the basis for the elaboration of a Ph.D. thesis.

The potential reduction in the contribution of individuals to the economy has a negative impact on the economy itself and on society as a whole. Our research provides insights into the dimension of the concept and illustrates the influencing factors that enable organisations to identify the concept in their midst in a timely and successful manner.

Further research is needed to understand the factors that contribute to quiet quitting and to develop effective strategies to prevent it.

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**Nastja Pevec** has a Master's degree from the Faculty of Organisational Studies in Novo mesto and is continuing her Ph.D. at the same faculty. Since 2008 she has been employed at Krka, d. d. - Purchasing Department. Acquired competencies and certificates: In 2012 Internationally valid certificate for the profession (competence) ECQA Certified Social Responsibility Manager, in 2021 certificate FOŠ Coaching Animator in the Organisation and Certificate for Internal Auditor, in 2022 certificate for Workplace Well-being Manager.

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## **Povzetek:**

### **Koncept prepoznavanja dejavnikov tihe odpovedi v organizacijah: Integrativni pregled literature**

**Raziskovalno vprašanje (RV):** Kateri dejavniki pomembno vplivajo na koncept tihe odpovedi v organizacijah?

**Namen:** Namen integrativnega pregleda literature je podrobneje preučiti koncept tihe odpovedi v organizacijah. Cilj izčrpnega pregleda je na podlagi relevantne literature identificirati dimenzije koncepta in prepoznati dejavnike, ki nanj vplivajo.

**Metoda:** Primarna raziskovalna metodologija temelji na integrativnem pregledu literature. Zbiranje podatkov je potekalo v skladu s smernicami, ki jih narekuje uveljavljen formalen postopek oziroma standard PRISMA. Osnovno orodje za pridobivanje relevantne in za našo raziskavo ustrezne literature predstavlja pripravljena matrika raziskovalnih baz in uporabljenih ključnih besed iskanja. Literatura je bila iskana v podatkovnih bazah SpringerLink, Scopus, ProQuest, ScienceDirect, Cobiss, dLib, Google Učenjak, Emerald in ResearchGate. Časovni okvir iskanja smo opredelili od leta 2019 do leta 2023. Izločili smo literaturo, ki se neposredno ne nanaša na naše področje raziskovanja in nima odprtega dostopa. Zbrane podatke smo analizirali z metodo metasinteze.

**Rezultati:** Med dejavnike, ki pomembno vplivajo na koncept tihe odpovedi smo identificirali: slabo cenjeni zaposleni, pomanjkanje zavezanosti organizacij h kariernemu razvoju zaposlenih, neupoštevanje zaposlenih, izključenost zaposlenih pri organizacijskih odločitvah, nezadostna avtonomija pri delu in upad zaupanja v organizacijo. Iz tega sledi, da je prepoznavanje potreb zaposlenih ključni koncept na katerih je potrebno graditi strategije, ki vodijo v uspešno in učinkovito upravljanje tihe odpovedi.

**Organizacija:** Naša raziskava ponuja vpogled v razsežnost koncepta in prikazuje dejavnike vpliva, ki organizacijam omogočajo pravočasno in uspešno prepoznavanje koncepta v svojih sredinah.

**Družba:** Potencialno zmanjševanje prispevka posameznikov v gospodarstvu, v negativnem smislu vpliva tako na samo gospodarstvo, kot tudi na celotno družbo.

**Originalnost:** Tema je podraziskana, zato ocenjujemo, da je potrebno nadaljnje poglobljeno raziskovanje navedenega področja.

**Omejitve/nadaljnje raziskovanje:** Preučevanje teme je zaznano, istočasno pa opaženo, da temu ne sledijo znanstvene raziskave. V analizo so bili uvrščeni izvorni članki, izločena pa je bila vsa literatura brez odprtega dostopa. Pripravljen integrativni pregled omogoča nadaljnje poglobljeno raziskovanje tega področja in predstavlja podlago za izdelavo doktorske disertacije.

**Ključne besede:** tiha odpoved dela, zaposleni, organizacija, zadržanje zaposlenih, pandemija covid-19, delovno mesto, delovno okolje, ravnanje z ljudmi.

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